

16 September 2008

To:
Australian Securities Exchange
Company Announcements Office
4th Floor, 20 Bridge Street
Sydney, NSW Australia 2000

2008 US ANNUAL REPORT (Form 20-F)

Please find attached a copy of BHP Billiton's 2008 US Annual Report (Form 20-F), which has been filed with the US Securities and Exchange Commission.



Fiona Smith
Deputy Company Secretary

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 20-F

(Mark One)

☐ REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR 12(g) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE FISCAL YEAR ENDED 30 JUNE 2008

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES AND EXCHANGE ACT OF 1934

☐ SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of event requiring this shell company report _____

For the transition period from _____ to _____

Commission file number: 001-09526

Commission file number: 001-31714

BHP BILLITON LIMITED
(ABN 49 004 028 077)

(Exact name of Registrant as specified in its charter)

VICTORIA, AUSTRALIA
(Jurisdiction of incorporation or organisation)

180 LONSDALE STREET, MELBOURNE, VICTORIA
3000 AUSTRALIA
(Address of principal executive offices)

BHP BILLITON PLC
(REG. NO. 3196209)

(Exact name of Registrant as specified in its charter)

ENGLAND AND WALES
(Jurisdiction of incorporation or organisation)

NEATHOUSE PLACE, VICTORIA, LONDON, UNITED
KINGDOM
(Address of principal executive offices)

Securities registered or to be registered pursuant to section 12(b) of the Act.

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>	<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
American Depositary Shares*	New York Stock Exchange	American Depositary Shares*	New York Stock Exchange
Ordinary Shares**	New York Stock Exchange	Ordinary Shares, nominal value US\$0.50 each**	New York Stock Exchange

* Evidenced by American Depositary Receipts. Each American Depositary Receipt represents two ordinary shares of BHP Billiton Limited or BHP Billiton Plc, as the case may be.

** Not for trading, but only in connection with the listing of the applicable American Depositary Shares.

Securities registered or to be registered pursuant to Section 12(g) of the Act.

None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

None

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report.

	<u>BHP Billiton Limited</u>	<u>BHP Billiton Plc</u>
Fully Paid Ordinary Shares	3,358,359,496	2,231,121,202

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.

Yes ☐ No ☒

Note – Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 from their obligations under those Sections.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of “accelerated filer and large accelerated filer” in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP ☐ International Financial Reporting Standards as issued by the International Accounting Standards Board ☒ Other ☐

If “Other” has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow.

Item 17 ☐ Item 18 ☐

If this is an annual report, indicate by checkmark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes ☐ No ☒

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Form 20-F Cross Reference Table

Item Number	Description	Report section reference
1.	Identity of directors, senior management and advisors	Not applicable
2.	Offer statistics and expected timetable	Not applicable
3.	Key Information	
A	Selected financial information	1.4.1
B	Capitalisation and indebtedness	Not applicable
C	Reasons for the offer and use of proceeds	Not applicable
D	Risk factors	1.5
4.	Information on the company	
A	History and development of the company	2.2.1
B	Business overview	2.2.1 to 2.9
C	Organisational structure	2.12
D	Property, plant and equipment	2.2.2, 2.2.3, 2.2.4, 2.2.5, 2.2.6, 2.2.7, 2.2.8, 2.2.9, 2.2.10, 2.15.1, 2.15.2 and 3.7.2
4A.	Unresolved staff comments	None
5.	Operating and financial review and prospects	
A	Operating results	3.6
B	Liquidity and capital resources	3.7
C	Research and development, patents and licenses etc	2.5, 2.6, 2.7
D	Trend information	3.4.1 to 3.4.7
E	Off-balance sheet arrangements	3.8
F	Tabular disclosure of contractual obligations	3.8, Notes 27 and 28 to the Financial Statements
6.	Directors, senior management and employees	
A	Directors and senior management	4.1, 4.2
B	Compensation	6
C	Board practices	5.1 to 5.11
D	Employees	2.11, 7.8
E	Share ownership	7.19, 7.20
7.	Major shareholders and related party transactions	
A	Major shareholders	11.2
B	Related party transactions	3.9, Note 32 to the Financial Statements
C	Interests of experts and counsel	Not applicable
8.	Financial Information	
A	Consolidated statements and other financial information	F-1 to F-80
B	Significant changes	3.10
9.	The offer and listing	
A	Offer and listing details	11.1
B	Plan of distribution	Not applicable
C	Markets	11.1
D	Selling shareholders	Not applicable
E	Dilution	Not applicable
F	Expenses of the issue	Not applicable
10.	Additional Information	
A	Share capital	Not applicable
B	Memorandum and articles of association	2.14
C	Material contracts	2.13
D	Exchange controls	2.8.3
E	Taxation	11.5

Item Number	Description	Report section reference
F	Dividends and paying agents	Not applicable
G	Statement by experts	Not applicable
H	Documents on display	2.14.13
I	Subsidiary information	3.9, Note 37 to the Financial Statements
11.	Quantitative and qualitative disclosures about market risk	3.7.4
12.	Description of securities other than equity securities	Not applicable
13.	Defaults, dividend arrearages and delinquencies	There have been no defaults, dividend arrearages or delinquencies
14.	Material modifications to the rights of security holders and use of proceeds	There have been no material modifications to the rights of security holders and use of proceeds since our last Annual Report
15.	Controls and procedures	5.11
16.		
16A.	Audit committee financial expert	5.5.1
16B.	Code of ethics	5.8
16C.	Principal accountant fees and services	5.11, Note 33 to the Financial Statements
16D.	Exemptions from the listing standards for audit committees	Not applicable
16E.	Purchases of equity securities by the issuer and affiliated purchasers	7.2
17.	Financial statements	Not applicable as Item 18 complied with
18.	Financial statements	F-1 to F-80, Exhibit 15.3
19.	Exhibits	13

Information Relating to the US Offer for Rio Tinto plc

BHP Billiton Limited and BHP Billiton Plc (“BHP Billiton”) plan to register the offer and sale of securities it would issue to Rio Tinto plc US shareholders and Rio Tinto plc ADS holders by filing with the U.S. Securities and Exchange Commission (the “SEC”) a Registration Statement (the “Registration Statement”), which will contain a prospectus (the “Prospectus”), as well as other relevant materials. No such materials have yet been filed. This communication is not a substitute for any Registration Statement or Prospectus that BHP Billiton may file with the SEC.

U.S. INVESTORS AND U.S. HOLDERS OF RIO TINTO PLC SECURITIES AND ALL HOLDERS OF RIO TINTO PLC ADSs ARE URGED TO READ ANY REGISTRATION STATEMENT, PROSPECTUS AND ANY OTHER DOCUMENTS MADE AVAILABLE TO THEM AND/OR FILED WITH THE SEC REGARDING THE POTENTIAL TRANSACTION, AS WELL AS ANY AMENDMENTS AND SUPPLEMENTS TO THOSE DOCUMENTS, WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION.

Investors and security holders will be able to obtain a free copy of the Registration Statement and the Prospectus as well as other relevant documents filed with the SEC at the SEC’s website (<http://www.sec.gov>), once such documents are filed with the SEC. Copies of such documents may also be obtained from BHP Billiton without charge, once they are filed with the SEC.

Information for US Holders of Rio Tinto Limited Shares

BHP Billiton Limited is not required to, and does not plan to, prepare and file with the SEC a registration statement in respect of the Rio Tinto Limited Offer. Accordingly, Rio Tinto Limited shareholders should carefully consider the following:

The Rio Tinto Limited Offer will be an exchange offer made for the securities of a foreign company. Such offer is subject to disclosure requirements of a foreign country that are different from those of the United States. Financial statements included in the document will be prepared in accordance with foreign accounting standards that may not be comparable to the financial statements of United States companies.

Information Relating to the US Offer for Rio Tinto plc and the Rio Tinto Limited Offer for Rio Tinto shareholders located in the US

It may be difficult for you to enforce your rights and any claim you may have arising under the U.S. federal securities laws, since the issuers are located in a foreign country, and some or all of their officers and directors may be residents of foreign countries. You may not be able to sue a foreign company or its officers or directors in a foreign court for violations of the U.S. securities laws. It may be difficult to compel a foreign company and its affiliates to subject themselves to a U.S. court’s judgment.

You should be aware that BHP Billiton may purchase securities of either Rio Tinto plc or Rio Tinto Limited otherwise than under the exchange offer, such as in open market or privately negotiated purchases.

This Report is issued subject to the Important Notices appearing on page 188 of this Report.

1 KEY INFORMATION

1.1 *Our business*

We are the world's largest diversified natural resources company, our objective being to create long-term value through the discovery, development and conversion of natural resources, and the provision of innovative customer and market-focused solutions.

We have significant businesses producing alumina and aluminium, copper, energy (thermal) coal, iron ore, nickel, manganese, metallurgical coal, oil and gas and uranium, as well as gold, zinc, lead, silver and diamonds. We have approximately 41,000 employees, and 61,000 contractors, working in more than 100 operations in over 25 countries.

The Group is headquartered in Melbourne, Australia, and consists of the BHP Billiton Limited Group and the BHP Billiton Plc Group as a combined enterprise, following the completion of the Dual Listed Company (DLC) merger in June 2001. BHP Billiton Limited and BHP Billiton Plc have each retained their separate corporate identities and maintained their separate stock exchange listings, but they are operated and managed as if they are a single unified economic entity, with their boards and senior executive management comprising the same people.

BHP Billiton Limited has a primary listing on the Australian Securities Exchange (ASX) in Australia and secondary listings on the Frankfurt Stock Exchange in Germany and the Zurich Stock Exchange in Switzerland. BHP Billiton Plc has a primary listing on the London Stock Exchange (LSE) in the UK and a secondary listing on the Johannesburg Stock Exchange in South Africa. In addition, BHP Billiton Limited American Depositary Receipts (ADRs) and BHP Billiton Plc ADRs trade on the New York Stock Exchange (NYSE) in the US.

As at 30 June 2008, we had a market capitalisation of approximately US\$225 billion. For the year ended 30 June 2008, we reported revenue of US\$59.5 billion, profit from operations of US\$24.1 billion, net profit attributable to shareholders of US\$15.4 billion and net operating cash flow of US\$18.2 billion.

We operate nine Customer Sector Groups (CSGs) aligned with the commodities which we extract and market, being:

- Petroleum
- Aluminium
- Base Metals
- Diamonds and Specialty Products
- Stainless Steel Materials
- Iron Ore
- Manganese
- Metallurgical Coal
- Energy Coal

Pre-conditional offers for Rio Tinto

On 6 February 2008, we announced the terms of two inter-conditional offers for the entire ordinary share capital of Rio Tinto plc and Rio Tinto Limited, which, together with their respective subsidiaries operate as a single economic entity under a dual listed company structure known as Rio Tinto.

Rio Tinto is a leading international mining group, producing alumina and aluminium, bauxite, copper, diamonds, iron ore, metallurgical and energy coal and uranium as well as other base metals and industrial minerals. In 2007, Rio Tinto acquired Alcan, Inc., making its aluminium product group a global leader in aluminium. The total cost of the acquisition amounted to US\$38.7 billion in cash, including fees.

Under the announced offers, we will offer 3.4 BHP Billiton shares for each Rio Tinto share tendered.

The offers are subject to certain pre-conditions relating to merger control and regulatory approvals in a number of jurisdictions, including the approval of anti-trust authorities in the European Union, the United States, Australia, Canada

and South Africa and foreign investment authorities in Australia. On 2 July 2008, the US Department of Justice and the Federal Trade Commission granted early termination of the Hart-Scott-Rodino waiting period for the offers, which satisfied part of the merger control pre-conditions. We

can only invoke a pre-condition to allow the offers not to proceed or to be withdrawn where it is of material significance to us in the context of the offers and the UK Panel on Takeovers and Mergers has given its prior approval.

Once the pre-conditions have been satisfied or waived, we will be obliged to make the offers on the terms announced (or terms not substantially less favourable to Rio Tinto shareholders). The offers will be subject to certain conditions being satisfied or waived, including:

- acceptances for more than 50 per cent of the ordinary shares in Rio Tinto plc and for more than 50 per cent of the publicly held shares in Rio Tinto Limited,
- the passing by BHP Billiton shareholders of all necessary resolutions to implement and effect the offers, and
- the receipt of all necessary outstanding regulatory approvals.

We believe the combination of BHP Billiton and Rio Tinto is a logical and compelling combination for both companies and will unlock unique value and substantial benefits to BHP Billiton shareholders and Rio Tinto shareholders. If we are successful in acquiring all of the shares of Rio Tinto on the announced terms, our current intention is to return up to US\$30 billion to shareholders through a share buyback within 12 months of completion of the acquisition.

1.2 Chairman's Review

This year, we reported another record profit of US\$15.4 billion, the seventh consecutive full-year profit increase. This represents a 602 per cent increase in attributable profit since 2001. Over the same period, Total Shareholder Returns, the movement in our share price plus dividends, have increased by 863 per cent, reflecting progressive dividend increases and the market value of the Company. We also rebased our dividend for the second successive year. This represents a 150 per cent increase over the past three years.

Unfortunately, mining stocks have seen a significant de-rating since May this year on the back of short-term uncertainty. This is disappointing for the management and shareholders of BHP Billiton.

While we expect commodity markets to remain volatile in the short term, we are confident that longer-term market fundamentals should support growth in commodity demand and, therefore, our revenues.

Margins and cash flow will be impacted by cost inflation. But our strategy to ensure we have a suite of long-life, low-cost assets, diversified by geography and commodity, that can be expanded and are largely export oriented, is proving successful at delivering consistent results for all our stakeholders.

To fully appreciate the role BHP Billiton and the resources industry generally is playing today, it is essential to look at what is happening to the world's economies.

Central to the world's economic growth is the development of the new economies – China in particular, Russia, India and, to a lesser extent, Brazil. Counteracting these forces is the relative shrinkage of the United States' economy and the lessening influence of the United Kingdom and Europe. Asia is becoming increasingly dominant, today accounting for nearly 30 per cent of global Gross Domestic Product (GDP).

These economic shifts are having many consequences. For BHP Billiton, rapid and continuing Asian growth has put pressure on demand for our products, which are essential for the building and production of city infrastructure and personal goods that characterise Asia's urbanisation and industrialisation.

I have no doubt that economic growth in the Asian region will slow at some point but, if I look at China specifically, the slow down is concentrated in regions oriented to the light export sector. The sectors of the economy oriented more towards domestic consumption are still performing well despite increasing input costs, particularly for energy.

We expect Asian demand for our products to continue. Our response has been to streamline our business to enable us to produce as much product as fast as possible within the non-negotiable framework of the highest safety and environmental standards.

In operating our business at full capacity and continually seeking opportunities to increase the volumes of product available to our customers, it is the Board's duty to ensure we are creating real and tangible value for shareholders. We are proud to report that during the year we continued to deliver new projects to boost product volumes and we achieved strong profit margins across our businesses.

It is not only demand for our products that is being impacted by global economic shifts. As the world's largest diversified

resources company, we are watching the creation of competitor companies that are spearheading the economic emergence of countries like Russia, Brazil and China.

It is in this global context that the Board endorsed a proposal to combine BHP Billiton and Rio Tinto, two leading resources companies that together could help meet the developing economies' demand for resources better and faster than the two companies do apart. A combined company would have a greater ability to develop the next generation of large-scale projects to provide greater volumes of product for the benefit of its customers, the communities in which it operates and its shareholders.

In making the pre-conditional offer for Rio Tinto, the Board remains absolutely focused on value for shareholders. We are confident that both sets of shareholders would share the value of a combined company.

On behalf of the Board, I want to thank our senior management team for their efforts this year. They have performed magnificently and, under the new leadership of Marius Kloppers, the Company has stepped up efforts to meet a new realm of global challenges and opportunities.

BOARD RENEWAL

Building an exceptional board is a cornerstone of an effective corporate governance system and planning for board renewal is a continuous process.

The process of putting together the best board for the business has to start with the business strategy and an assessment of the strengths and weaknesses of current members. New non-executive Directors must fill an essential role in line with the strategic intent of the business and bring to the Company the skills determined by the Board.

Attracting exceptional people will not of itself create exceptional directors; the candidates have to fit together as a team.

BHP Billiton has an exceptional group of high-performing, skilful, professional people, diverse in knowledge, gender and geography, who have overseen incredible growth in the business over the last seven years.

The tone at the top and within the Board has fostered an environment in which we are committed to high ethical standards, fairness, full compliance with legal requirements and resistance to market pressures for short-term results.

During the year, we engaged external search firms to assist with Board renewal, which resulted in the appointment of David Morgan, Keith Rumble and Alan Boeckmann. These non-executive Directors have the required functional expertise; they are independent of thought and satisfy the independence test of the various jurisdictional codes of corporate governance.

We also completed a review of the Board Committees, including an examination of the respective Committee charters, and a performance review of each Director, including the Chairman, to ensure that our Board criteria is maintained. These reviews were facilitated by external advisers.

In conclusion, it has been a stellar year for the Company and its stakeholders and I compliment my Board colleagues and senior management team for their commitment and dedication to the delivery of our strategy.

1.3 Chief Executive Officer's Report

BHP Billiton shareholders can look back on the 2008 financial year with a real sense of pride in what we've achieved and in the performance of our people.

Since my appointment as CEO in October 2007, we have continued to follow our strategy to own and operate world-class assets across a diverse range of mineral, metal and energy products, focused on the upstream end of the production process. From the combination of our strategy, the efforts of our people and a favorable commodity price environment, we have been able to deliver record financial performance.

While we can report financial success, I regret to report we have not performed well on safety. In FY2008, 11 of our employees died at work. Many more lives will have been impacted, some forever, by these tragic and avoidable events. We have reflected deeply on what more we must do to reach our goal of Zero Harm. In FY2009, we are making even greater efforts to improve our safety performance.

Despite turbulent global economic conditions, we continue to see enormous opportunity for the Company. While continuing to further our existing strategy, we have refined our operational focus in order to give maximum clarity of responsibility to our operating units. We are also embracing the concept of 'simplicity' even more deeply, ensuring that we focus our effort and resources on key opportunities and value drivers. For our shareholders, this means the Company is easier to understand, more focused and more valuable.

In the past year, our strategy has produced stronger annual production in 13 of our commodities, with record production in seven of those. This was achieved in an environment of industry-wide supply disruptions and input cost pressures. Our strong track record of project delivery also continued through the year, enabling, for example, our Western Australia Iron Ore business to post an eighth consecutive annual production record. A record performance in our Petroleum business reflected the successful commissioning of three new major projects. We expect volume growth from our Petroleum business to continue at around 10 per cent a year, a significant value creator at a time of historically high oil prices.

Ten major projects, spanning five commodities, started production during the year. The Board approved a further seven for development, bringing our total number of projects in either execution or feasibility to 28, representing an expected capital investment of US\$24.8 billion. We also have other medium-term growth options with expected capital commitments in excess of US\$90 billion, spanning our existing commodity range and beyond.

Our results were outstanding in the context of a challenging supply environment which was characterised by unexpected disruptions, rising input prices, skills shortages and the further devaluation of the US dollar. Our strong performance demonstrates the power of our uniquely diversified and high-margin portfolio across the energy, steelmaking and non-ferrous product suites.

Given this future growth pipeline, you may question why we are pursuing a combination with Rio Tinto. Within our industry, the two companies are uniquely complementary, and, as such, we believe a combined company would unlock synergies and provide greater value than the two companies can provide separately. BHP Billiton does not need Rio Tinto to have a great future, but we believe the two companies combined will be better placed to meet the world's future need for our products.

We have a critical role in providing the raw materials for growth that so many economies need; economies going through industrialisation and urbanisation on a scale and intensity not experienced before. We are resourcing the future.

I have been fortunate to take the helm of a well-run business, focused on its customers' needs, with a great team responding well to the opportunities for our sector. In a year's time, I hope to report we have been able to improve our Company even further.

1.4 Selected key measures

1.4.1 Financial information

Our selected financial information reflects the operations of the BHP Billiton Group, and should be read in conjunction with the 2008 financial statements, together with the accompanying notes.

We prepare our financial statements in accordance with International Financial Reporting Standards (IFRS), as issued by the International Accounting Standards Board, and as outlined in note 1 'Accounting Policies' to the financial statements. We publish our consolidated financial statements in US dollars.

	2008	2007 ^(a)	2006 ^(a)	2005 ^(a)
Consolidated Income Statement (US\$M except per share data)				
Revenue	59,473	47,473	39,099	31,150
Profit from operations	24,145	19,724	15,716	9,810
Profit attributable to members of BHP Billiton Group	15,390	13,416	10,450	6,396
Dividends per ordinary share – paid during the period (US cents)	56.0	38.5	32.0	23.0
Dividends per ordinary share – declared in respect of the period (US cents)	70.0	47.0	36.0	28.0
Earnings per ordinary share (basic) (US cents) ^(b)	275.3	229.5	173.2	104.4
Earnings per ordinary share (diluted) (US cents) ^(b)	275.1	229.0	172.4	104.0
Number of ordinary shares (millions)				
– At period end	5,589	5,724	5,964	6,056
– Weighted average	5,590	5,846	6,035	6,124
– Diluted	5,605	5,866	6,066	6,156
Consolidated Balance Sheet (US\$M)				
Total assets	75,889	61,404	51,343	45,077
Share capital	2,861	2,922	3,242	2,845
Total equity attributable to members of BHP Billiton Group	38,335	29,667	24,218	17,575
Other financial information				
Net operating cash flow (US\$M)	18,159	15,957	11,325	9,117
Gearing ^(c)	17.8%	25.0%	27.2%	32.8%

(a) On 1 July 2007, the Group adopted the policy of recognising its proportionate interest in the assets, liabilities, revenues and expenses of jointly controlled entities within each applicable line item of the financial statements. All such interests were previously recognised using the equity method. Comparative figures for the years 2007 to 2005 that are affected by the policy change have been restated. Total assets for 2006 and 2005, Profit from operations for 2005 and Net operating cash flow for 2005 have been restated but are unaudited.

(b) The calculation of the number of ordinary shares used in the computation of basic earnings per share is the aggregate of the weighted average number of ordinary shares outstanding during the period of BHP Billiton Limited and BHP Billiton Plc after deduction of the number of shares held by the Billiton share repurchase scheme and the Billiton Employee Share Ownership Trust, the BHP Performance Share Plan Trust and the BHP Bonus Equity Plan Trust and adjusting for the BHP Billiton Limited bonus share issue. Included in the calculation of fully diluted earnings per share are shares and options contingently issuable under Employee Share Ownership Plans.

(c) Refer to section 10 'Glossary' for definitions

1.4.2 Operational information

Our Board and Group Management Committee monitor a range of financial and operational performance indicators, reported on a monthly basis, to measure performance over time. We also monitor a comprehensive set of health, safety, environment and community contribution indicators.

	2008	2007	2006
People and Licence to operate - Health, safety, environment and community			
Total Recordable Injury Frequency Rate (TRIFR) ^(a)	5.9	7.4	8.7
Voluntary community contribution (US\$M) ^(a)	141.0	103.4	81.3
Production			
Total petroleum products (million barrels of oil equivalent)	129.50	116.19	117.36
Alumina ('000 tonnes)	4,554	4,460	4,187
Aluminium ('000 tonnes)	1,298	1,340	1,362
Copper cathode and concentrate ('000 tonnes)	1,375.5	1,250.1	1,267.8
Nickel ('000 tonnes)	167.9	187.2	176.2
Iron ore ('000 tonnes)	112,260	99,424	97,072
Metallurgical coal ('000 tonnes)	35,193	38,429	35,643
Energy coal ('000 tonnes)	80,868	87,025	85,756

(a) Refer to section 10 'Glossary' for definitions

1.5 Risk factors

We believe that, because of the international scope of our operations and the industries in which we are engaged, there are numerous factors which may have an effect on our results and operations. The following describes the material risks that could affect the BHP Billiton Group.

Fluctuations in commodity prices may negatively impact our results

The prices we obtain for our oil, gas, minerals and other commodities are determined by, or linked to, prices in world markets, which have historically been subject to substantial variations. The Group's usual policy is to sell its products at the prevailing market prices. The diversity provided by the Group's broad portfolio of commodities may not fully insulate the effects of price changes. Fluctuations in commodity prices can occur due to sustained price shifts reflecting underlying global economic and geopolitical factors, industry demand and supply balances, product substitution and national tariffs. Additionally, the volatility in prices for most of our commodities will occur. The synchronisation of global commodity markets and influence of demand from China has in recent years impacted and may continue to impact price volatility. The impact on global economic growth, particularly in the developed economies, of the US sub-prime-induced global liquidity crisis may impact demand and prices for commodities. The influence of hedge and other financial investment funds participating in commodity markets has increased in recent years contributing to higher levels of price volatility. The impact of potential longer-term sustained price shifts and shorter-term price volatility creates the risk that our financial and operating results and asset values will be materially and adversely affected by unforeseen declines in the prevailing prices of our products.

Our profits may be negatively affected by currency exchange rate fluctuations

Our assets, earnings and cash flows are influenced by a wide variety of currencies due to the geographic diversity of the countries in which we operate. Fluctuations in the exchange rates of those currencies may have a significant impact on our financial results. The US dollar is the currency in which the majority of our sales are denominated. Operating costs are influenced by the currencies of those countries where our mines and processing plants are located and also by those currencies in which the costs of imported equipment and services are determined. The Australian dollar, South African rand, Chilean peso, Brazilian real and US dollar are the most important currencies influencing our operating costs. Given the dominant role of the US currency in our affairs, the US dollar is the currency in which we present financial performance. It is also the natural currency for borrowing and holding surplus cash. We do not generally believe that active currency hedging provides long-term benefits to our shareholders. We may consider currency protection measures appropriate in specific commercial circumstances, subject to strict limits established by our Board. Therefore, in any particular year, currency fluctuations may have a significant impact on our financial results.

Failure to discover new reserves, maintain or enhance existing reserves or develop new operations could negatively affect our future results and financial condition

The increased demand for commodities in recent years has resulted in existing reserves being depleted at an accelerated rate. Because our revenues and profits are related to our oil and gas and minerals operations, our results and financial conditions are directly related to the success of our exploration and acquisition efforts, and our ability to replace existing reserves. The depletion of reserves has necessitated increased exploration adjacent to established operations and development of new operations in less-developed countries. Additionally these activities may increase land tenure, infrastructure and related political risks. The rapid growth in demand for mining and petroleum industry related technical skills, supplies and critical equipment has led to shortages and delays in these areas. A failure in our ability to discover

new reserves, enhance existing reserves or develop new operations in sufficient quantities to maintain or grow the current level of our reserves could negatively affect our results, financial condition and prospects.

There are numerous uncertainties inherent in estimating ore and oil and gas reserves and geological, technical and economic assumptions that are valid at the time of estimation may change significantly when new information becomes available. Reserve restatements could negatively affect our reputation, results, financial condition and prospects.

Reduction in Chinese demand may negatively impact our results

The Chinese market has become a significant source of global demand for commodities. China now represents in excess of 53 per cent of global seaborne iron ore demand, 25 per cent of copper demand, 24 per cent of nickel demand and 16 per cent of energy demand. China's demand for these commodities has been driving global materials demand over the past decade.

While this increase represents a significant business opportunity, our exposure to China's economic fortunes and economic policies has increased. Sales into China generated US\$11.7 billion or 19.8 per cent of revenue in the year ended 30 June 2008.

In recent years, strong economic growth and infrastructure development in China has resulted in higher prices for the commodities we produce. A slowing in China's economic growth, potentially impacted by slowing developed economies, could result in lower prices for our products and therefore reduce our revenues.

In response to its increased demand for commodities, China is increasingly seeking strategic self-sufficiency in key commodities, including investments in additional developments in other countries. These investments may impact future commodity demand and supply balances and prices.

Actions by governments or political events in the countries in which we operate could have a negative impact on our business

We have operations in many countries around the globe some of which have varying degrees of political and commercial stability. We operate in emerging markets, which may involve additional risks that could have an adverse impact upon the profitability of an operation. These risks could include terrorism, civil unrest, nationalisation, renegotiation or nullification of existing contracts, leases, permits or other agreements, and changes in laws and policy as well as other unforeseeable risks. Risks relating to bribery and corruption may be prevalent in some of the countries in which we operate. If one or more of these risks occurs at one of our major projects, it could have a negative effect on the operations in those countries as well as the Group's overall operating results and financial condition.

Our business could be adversely affected by new government regulation such as controls on imports, exports and prices, new forms or rates of taxation and royalties. Increasing requirements relating to regulatory, environmental and social approvals can potentially result in significant delays in construction and may adversely impact upon the economics of new mining and oil and gas projects, the expansion of existing operations and results of our operations.

Infrastructure such as rail, ports, power and water is critical to our business operations. We have operations or potential development projects in countries where government provided infrastructure or regulatory regimes for access to infrastructure, including our own privately operated infrastructure, may be inadequate or uncertain. These may adversely impact the efficient operations and expansion of our businesses.

In South Africa, the Mineral and Petroleum Resources Development Act (2002) (MPRDA) came into effect on 1 May 2004. The law provides for the conversion of existing mining rights (so called 'Old Order Rights') to rights under the new regime ('New Order Rights') subject to certain undertakings to be made by the company applying for such conversion. The Mining Charter requires that mining companies achieve 15 per cent ownership by historically disadvantaged South Africans of South African mining assets within five years and 26 per cent ownership within 10 years. If we are unable to convert our South African mining rights in accordance with the MPRDA and the Mining Charter, we could lose some of those rights.

We operate in several countries where ownership of land is uncertain and where disputes may arise in relation to ownership. In Australia, the Native Title Act (1993) provides for the establishment and recognition of native title under certain circumstances. In South Africa, the Extension of Security of Tenure Act (1997) and the Restitution of Land Rights Act (1994) provide for various landholding rights. Such legislation could negatively affect new or existing projects.

We may not be able to successfully integrate our acquired businesses

We have grown our business in part through acquisitions. We expect that some of our future growth will stem from acquisitions. There are numerous risks encountered in business combinations. These include adverse regulatory conditions and obligations, commercial objectives not achieved due to minority interests, unforeseen liabilities arising from the acquired businesses, retention of key staff, anticipated synergies and cost savings being delayed or not being

achieved, uncertainty in sales proceeds from planned divestments, and planned expansion projects are delayed or higher cost than anticipated. These factors could negatively affect our financial condition and results of operations.

We may not recover our investments in mining and oil and gas projects

Our operations may be impacted by changed market or industry structures, commodity prices, technical operating difficulties, inability to recover our mineral, oil or gas reserves and increased operating cost levels. These may impact the ability for assets to recover their historical investment and may require financial write-downs adversely impacting our financial results.

Our non-controlled assets may not comply with our standards

Some of our assets are controlled and managed by joint venture partners or by other companies. Some joint venture partners may have divergent business objectives which may impact business and financial results. Management of our non-controlled assets may not comply with our management and operating standards, controls and procedures (including health, safety, environment). Failure to adopt equivalent standards, controls and procedures at these assets could lead to higher costs and reduced production and adversely impact our results and reputation.

Operating cost pressures and shortages could negatively impact our operations and expansion plans

The strong commodity cycle and large numbers of projects being developed in the resources industry has led to increased demand for and shortages in skilled personnel, contractors, materials and supplies that are required as critical inputs to our existing operations and planned developments. Labour unions may seek to secure an increased share of the economic rent in the current environment. A number of key cost inputs consumed in our operations are commodity price-linked and have consequently been impacted by the higher commodity price environment.

A number of our operations are energy or water intensive and, as a result, the Group's costs and earnings could be adversely affected by rising costs or by supply interruptions. These could include: the unavailability of energy, fuel or water due to a variety of reasons including fluctuations in climate, significant increase in costs, inadequate infrastructure capacity, interruptions in supply due to equipment failure or other causes, and the inability to extend supply contracts on economical terms.

These factors have led, and could continue to lead to, increased capital and operating costs at existing operations, as well as impacting the cost and schedule of projects under development. Industrial action may impact our operations resulting in lost production and revenues.

Health, safety and environmental exposures and related regulations may impact our operations and reputation negatively

The nature of the industries in which we operate means that our activities are highly regulated by health, safety and environmental laws. As regulatory standards and expectations are constantly developing, we may be exposed to increased litigation, compliance costs and unforeseen environmental remediation expenses.

Potential health, safety and environmental events that may materially impact our operations include rockfall incidents in underground mining operations, aircraft incidents, light vehicle incidents, explosions or gas leaks, incidents involving mobile equipment, uncontrolled tailings breaches or escape of polluting substances.

Longer-term health impacts may arise due to unanticipated workplace exposures by employees or site contractors. These effects may create future financial compensation obligations.

We provide for mine and site remediation. We have mine closure plans for all of our operating and closed mine sites. Changes in regulatory or community expectations may result in the relevant plans not being adequate. This may impact financial provisioning and costs at the affected operations.

We contribute to the communities in which we operate by providing skilled employment opportunities, salaries and wages, taxes and royalties and community development programs. Notwithstanding these actions, local communities may become dissatisfied with the impact of our operations, potentially affecting costs and production, and in extreme cases viability.

Legislation requiring manufacturers, importers and downstream users of chemical substances, including metals and minerals, to establish that the substances can be used without negatively affecting health or the environment may impact our operations and markets. These potential compliance costs, litigation expenses, regulatory delays, remediation expenses and operational costs could negatively affect our financial results.

We may continue to be exposed to increased operational costs due to the costs and lost time associated with the HIV/AIDS and malaria infection rate mainly within our African workforce. Because we operate globally, we may be

affected by potential avian flu outbreaks in any of the regions in which we operate.

Despite our best efforts and best intentions, there remains a risk that health, safety and/or environmental incidents or accidents may occur that may negatively impact our reputation or licence to operate.

Unexpected natural and operational catastrophes may impact our operations

We operate extractive, processing and logistical operations in many geographic locations both onshore and offshore. Our operational processes and geographic locations may be subject to operational accidents such as port and shipping incidents, fire and explosion, pitwall failures, loss of power supply, railroad incidents and mechanical failures. Our operations may also be subject to unexpected natural catastrophes such as earthquakes, flood, hurricanes and tsunamis. Existing business continuity plans and insurance arrangements may not provide protection for all of the costs that may arise from such events. The impact of these events could lead to disruptions in production and loss of facilities adversely affecting our financial results.

Climate change and greenhouse effects may adversely impact our operations and markets

We are a major producer of energy-related products such as energy coal, oil, gas, liquefied natural gas and uranium. Energy is also a significant input in a number of the Group's mining and processing operations. There is a substantial weight of scientific evidence concluding that CO₂ emissions from fossil fuel based energy consumption contribute to global warming, greenhouse effects and climate change.

A number of governments or governmental bodies have introduced or are contemplating regulatory change in response to the impacts of climate change. The December 1997 Kyoto Protocol established a set of greenhouse gas emission targets for developed countries that have ratified the Protocol. The European Union Emissions Trading System (EU ETS), which came into effect on 1 January 2005, has had an impact on greenhouse gas and energy-intensive businesses based in the EU. Our Petroleum assets in the UK are currently subject to the EU ETS as are our EU based customers. Elsewhere, there is current and emerging climate change regulation that will affect energy prices, demand and margins for carbon intensive products. The Australian Government's plan of action on climate change includes the introduction of a national emissions trading scheme by 2010 and a mandatory renewable energy target of 20 per cent by the year 2020. From a medium and long-term perspective, we are likely to see changes in the margins of our greenhouse-gas-intensive assets and energy-intensive assets as a result of regulatory impacts in the countries in which we operate. These regulatory mechanisms may be either voluntary or legislated and may impact our operations directly or indirectly via our customers. Inconsistency of regulations particularly between developed and developing countries may also change the attractiveness of the locations of some of our assets. Assessments of the potential impact of future climate change regulation are uncertain given the wide scope of potential regulatory change in the many countries in which we operate.

The physical impacts of climate change on our operations are highly uncertain and will be particular to the geographic circumstances. These may include changes in rainfall patterns, water shortages, rising sea levels, increased storm intensities, and higher average temperature levels. These effects may adversely impact the cost, production and financial performance of our operations.

Our human resource talent pool may not be adequate to support the Group's growth

The current strong commodity cycle and our pipeline of development projects have increased demand for highly skilled executives and staff with relevant industry and technical experience. The inability of the Group and industry to attract and retain such people may adversely impact our ability to adequately resource development projects and fill roles and vacancies in existing operations. Similar shortages have also impacted and may continue to affect key engineering, technical service, construction and maintenance contractors utilised by us in development projects and existing operations. These shortages may adversely impact the cost and schedule of development projects and the cost and efficiency of existing operations.

Breaches in our information technology (IT) security processes may adversely impact the conduct of our business activities

We maintain global IT and communication networks and applications to support our business activities. IT security processes protecting these systems are in place and subject to assessment as part of the review of internal control over financial reporting. These processes may not prevent future malicious action or fraud by individuals or groups, resulting in the corruption of operating systems, theft of commercially sensitive data, misappropriation of funds and disruptions to our business operations.

A breach in our governance processes may lead to regulatory penalties and loss of reputation

We operate in a global environment straddling multiple jurisdictions and complex regulatory frameworks. Our governance and compliance processes, which include the review of control over financial reporting, may not prevent future potential breaches of law, accounting or governance practice. Our business conduct and anti-trust protocols may not prevent instances of fraudulent behaviour and dishonesty nor guarantee compliance with legal or regulatory requirements. This

may lead to regulatory fines, litigation, loss of operating licences or loss of reputation.

1.6 **Forward looking statements**

This Annual Report contains forward looking statements, including statements regarding:

- our proposal to acquire Rio Tinto and associated capital management initiatives
- estimated reserves
- trends in commodity prices
- demand for commodities
- plans, strategies and objectives of management
- closure or divestment of certain operations or facilities (including associated costs)
- anticipated production or construction commencement dates
- expected costs or production output
- anticipated productive lives of projects, mines and facilities
- provisions and contingent liabilities.

Forward looking statements can be identified by the use of terminology such as 'intend', 'aim', 'project', 'anticipate', 'estimate', 'plan', 'believe', 'expect', 'may', 'should', 'will', 'continue' or similar words. These statements discuss future expectations concerning the results of operations or financial condition, or provide other forward looking statements.

These forward looking statements are not guarantees or predictions of future performance, and involve known and unknown risks, uncertainties and other factors, many of which are beyond our control, and which may cause actual results to differ materially from those expressed in the statements contained in this Annual Report. Readers are cautioned not to put undue reliance on forward looking statements.

For example, our future revenues from our operations, projects or mines described in this Annual Report will be based, in part, upon the market price of the minerals, metals or petroleum produced, which may vary significantly from current levels. These variations, if materially adverse, may affect the timing or the feasibility of the development of a particular project or the expansion of certain facilities or mines.

Other factors that may affect the actual construction or production commencement dates, costs or production output and anticipated lives of operations, mines or facilities include our ability to profitably produce and transport the minerals, petroleum and/or metals extracted to applicable markets; the impact of foreign currency exchange rates on the market prices of the minerals, petroleum or metals we produce; activities of government authorities in some of the countries where we are exploring or developing these projects, facilities or mines, including increases in taxes, changes in environmental and other regulations and political uncertainty; and other factors identified in the description of the risk factors above.

We cannot assure you that our estimated economically recoverable reserve figures, closure or divestment of such operations or facilities, including associated costs, actual production or commencement dates, cost or production output or anticipated lives of the projects, mines and facilities discussed in this Annual Report, will not differ materially from the statements contained in this Annual Report.

Except as required by applicable regulations or by law, the Group does not undertake any obligation to publicly update or review any forward looking statements, whether as a result of new information or future events.

2 INFORMATION ON THE COMPANY

2.1 *BHP Billiton locations*

We extract and process minerals, oil and gas from our production operations located primarily in Australia, the Americas and southern Africa. We sell our product globally with our marketing activities centralised in Singapore, The Hague and Antwerp.



BHP Billiton Locations

Offices

<i>Ref</i>	<i>Country</i>	<i>Location</i>
1	Angola	Saurimo ⁽³⁾
2	Angola	Luanda ⁽³⁾
3	Australia	Adelaide ⁽²⁾
4	Australia	Brisbane ⁽²⁾
5	Australia	Melbourne ^{(1) (2) (3)}
6	Australia	Newcastle ⁽²⁾
7	Australia	Perth ^{(2) (3)}
8	Belgium	Antwerp ⁽²⁾
9	Brazil	Rio de Janeiro ⁽²⁾⁽³⁾
10	Burundi	Bujumbura ⁽³⁾
11	Canada	Vancouver ⁽³⁾
12	Chile	Santiago ^{(1) (2) (3)}
13	China	Beijing ^{(2) (3)}
14	China	Lanzhou ⁽²⁾

Petroleum

<i>Ref</i>	<i>Country</i>	<i>Site/Asset</i>	<i>Description</i>	<i>Ownership</i>
39	Algeria	Ohanet	Wet gas development	45%
40	Algeria	ROD	Onshore oil development, comprising development and production of six oil fields	45%
41	Australia	Bass Strait	Production of oil, condensate, LPG, natural gas and ethane	50%
42	Australia	Minerva	Operator of gas field development in the Otway Basin	90%
43	Australia	North West Shelf	One of Australia's largest resource projects, producing liquids, LNG and domestic gas	8.33-16.67%
44	Australia	Offshore Western Australia	Operator of Griffin and Stybarrow oil and gas development, and operator of Pyrenees	45-71.43%

Diamonds and Specialty Products

<i>Ref</i>	<i>Country</i>	<i>Site/Asset</i>	<i>Description</i>	<i>Ownership</i>
64	Canada	EKATI	Diamond mine in Northwest Territories	80%
65	Canada	Potash	Greenfield potash project near Saskatoon, Saskatchewan	100%
66	South Africa	Richards Bay Minerals	Integrated titanium smelter/mineral sands mine	50%

Stainless Steel Materials

<i>Ref</i>	<i>Country</i>	<i>Site/Asset</i>	<i>Description</i>	<i>Ownership</i>
67	Australia	Nickel West	Nickel assets including Mt Keith and Leinster operations, Kalgoorlie nickel smelter and concentrator, Kwinana nickel refinery, Kambalda nickel concentrator,	100%

15	China	Shanghai ⁽²⁾
16	Columbia	Bogota ⁽³⁾
17	DRC	Kinshasa & Lubumbashi ⁽³⁾
18	Gabon	Libreville & Franceville ⁽³⁾
19	Guinea	Conakry ⁽³⁾
20	India	New Delhi ⁽²⁾
21	Indonesia	Jakarta ⁽²⁾
22	Japan	Tokyo ⁽²⁾
23	Kazakhstan	Almaty ⁽³⁾
24	Korea	Seoul ⁽²⁾
25	Liberia	Monrovia ⁽³⁾
26	Mongolia	Ulaanbaatar ⁽³⁾
27	Netherlands	The Hague ⁽²⁾
28	New Caledonia	Noumea ⁽²⁾
29	Philippines	Manila ⁽²⁾
30	Russia	Moscow ⁽³⁾
31	Singapore	Singapore ^{(2) (3)}
32	South Africa	Johannesburg ^{(1) (2) (3)}
33	South Africa	Richards Bay ⁽²⁾
34	Switzerland	Baar ⁽²⁾
35	UK	London ⁽¹⁾
36	UK	Sheffield ⁽²⁾
37	US	Houston ⁽¹⁾⁽²⁾
38	US	Pittsburgh ⁽²⁾

⁽¹⁾ Corporate Centres

⁽²⁾ Marketing Offices

⁽³⁾ Minerals Exploration Offices

45	Pakistan	Zamzama	project, currently under development	
46	Trinidad & Tobago	Angostura	Operator of onshore gas development	38.5%
47	UK	Bruce/Keith	Operator of oil and gas field	45%
48	UK	Liverpool Bay	Oil and gas production in the UK North Sea	16-31.83%
49	US	Gulf of Mexico	Operator of oil and gas developments in the Irish Sea	46.1%
			Interests in several producing assets, including Atlantis, Neptune and Shenzi/Genghis Khan developments, and a significant exploration acreage position	4.95-100%

Aluminium

<i>Ref</i>	<i>Country</i>	<i>Site/Asset</i>	<i>Description</i>	<i>Ownership</i>
50	Australia	Worsley	Integrated alumina refinery/bauxite mine	86%
51	Brazil	Alumar	Alumina refinery and aluminium smelter	36-40%
52	Brazil	MRN	Bauxite mine	14.8%
53	Guinea	Guinea Alumina Project	Integrated alumina refinery/bauxite mine (currently in definition stage)	33.3%
54	Mozambi-que	Mozal	Aluminium smelter	47.1%
55	South Africa	Hillside/Bayside	Two aluminium smelters	100%
56	Suriname	Paranam	Alumina refinery and bauxite mines	45%

Base Metals

<i>Ref</i>	<i>Country</i>	<i>Site/Asset</i>	<i>Description</i>	<i>Ownership</i>
57	Australia	Cannington	Silver, lead and zinc mine in northwest Queensland	100%
58	Australia	Olympic Dam	Underground copper/uranium mine in South Australia	100%
59	Chile	Cerro Colorado	Open-cut mine producing copper cathode	100%
60	Chile	Escondida	Copper mines, located in northern Chile	57.5%
61	Chile	Spence	Open-cut mine producing copper cathode	100%
62	Peru	Antamina	Copper and zinc mine	33.75%
63	US	Pinto Valley	Copper mine	100%

68	Australia	Yabulu Refinery	and Ravensthorpe nickel mine and processing facility	100%
69	Colombia	Cerro Matoso	Laterite nickel and cobalt processing plants northwest of Townsville	99.94%
			Integrated ferronickel mining and smelting complex in northern Colombia	

Iron Ore

<i>Ref</i>	<i>Country</i>	<i>Site/Asset</i>	<i>Description</i>	<i>Ownership</i>
70	Australia	Western Australia Iron Ore	Integrated mine, rail and port operations in the Pilbara	85-100%
71	Brazil	Samarco	Integrated mine, pipeline and port operations producing iron ore pellets	50%

Manganese

<i>Ref</i>	<i>Country</i>	<i>Site/Asset</i>	<i>Description</i>	<i>Ownership</i>
72	Australia	GEMCO	Producer of manganese ore in the Northern Territory	60%
73	Australia	TEMCO	Producer of manganese alloys in Tasmania	60%
74	South Africa	Samancor Manganese	Integrated producer of manganese ore (Hotazel Manganese Mines), alloy (Metalloys) and manganese metal (Manganese Metal Company)	60%

Metallurgical Coal

<i>Ref</i>	<i>Country</i>	<i>Site/Asset</i>	<i>Description</i>	<i>Ownership</i>
75	Australia	Illawarra Coal	Three underground coal mines supplying metallurgical coal primarily to steel industry	100%
76	Australia	Queensland Coal	Production of metallurgical coal for steel industry, including new loading terminal at Hay Point	50-80%
77	Indonesia	Maruwai	Deposit in central and east Kalimantan (currently in development) with first production expected mid-2009	100%

Energy Coal

<i>Ref</i>	<i>Country</i>	<i>Site/Asset</i>	<i>Description</i>	<i>Ownership</i>

78	Australia	Hunter Valley Energy Coal	Mt Arthur Coal open-cut mine	100%
79	Colombia	Cerrejón	Export coal mine in La Guajira province	33.3%
80	South Africa	Energy Coal South Africa	Three energy coal mines	84-100%
81	US	New Mexico Coal	Mine-mouth operations	100%

2.2 Business overview

2.2.1 History and development

Since 29 June 2001, we have operated under a Dual Listed Companies (DLC) structure. Under the DLC structure, the two parent companies, BHP Billiton Limited (formerly BHP Limited and before that The Broken Hill Proprietary Company Limited) and BHP Billiton Plc (formerly Billiton Plc) operate as a single economic entity, run by a unified Board and management team. More details of the DLC structure are located under section 2.12 'Organisational structure' of this Report.

BHP Billiton Limited was incorporated in 1885 and is registered in Australia with ABN 49 004 028 077. BHP Billiton Plc was incorporated in 1996 and is registered in England and Wales with registration number 3196209.

The registered office of BHP Billiton Limited is 180 Lonsdale Street, Melbourne, Victoria 3000, Australia, and its telephone number is 1300 55 47 57 (within Australia) or +61 3 9609 3333 (outside Australia). The registered office of BHP Billiton Plc is Neathouse Place, London SW1V 1BH, UK, and its telephone number is +44 20 7802 4000.

2.2.2 Petroleum Customer Sector Group

Our Petroleum CSG is a global oil and gas business with producing assets in six countries across six continents and exploration opportunities in a further six countries. If it were a stand-alone business, our Petroleum CSG would rank approximately 25th among listed oil and gas exploration and production companies (based on production volumes). We believe that being part of the BHP Billiton Group gives the business the financial resources, risk tolerance and global reach of a much larger company, enabling us to compete for access to large, complex opportunities with the industry super-majors. In addition, we have developed highly specialised capabilities in a number of areas, including deep water exploration and development. As a result, we are able to focus our exploration and development activities on large, potentially high-return opportunities, such as our current development projects in the Gulf of Mexico and offshore Western Australia.

We organise our Petroleum CSG on a functional basis, with exploration, development, production and marketing functions all led out of our Houston headquarters, using common systems and standards.

Our total oil and gas production in FY2008 was 129.5 million barrels of oil equivalent, an increase of 13 per cent over our total production of 115.05 million barrels of oil equivalent from continuing operations in FY2007. Given that our Atlantis project was ramping up during FY2008, our Neptune project in the Gulf of Mexico produced first oil in July 2008 and the Angel and North West Shelf Train 5 projects off Western Australia and the Shenzi project in the Gulf of Mexico are scheduled to commence operations in FY2009, we expect that our total production will continue to increase.

We sell our crude oil production to refiners around the world at market prices. Gas is generally marketed under long-term domestic contracts and we export LNG under long-term contracts. Almost three-quarters of our contracted LNG sales volumes are subject to contracts that are either within four years of expiry or contain provisions allowing prices to be reset. However, more than a quarter of our currently contracted volumes are subject to long-term fixed-price contracts, some of which were priced in a lower price environment. Our production assets are as follows:

Bass Strait

Together with our 50-50 joint venture partner, Esso Australia, a subsidiary of ExxonMobil, we have been producing oil and gas from Bass Strait, off the southeastern coast of the Australian mainland, for almost 40 years, having participated in the original discovery of hydrocarbons there in 1965. We dispatch the majority of our Bass Strait crude oil and condensate production to refineries along the east coast of Australia. Gas is piped ashore to our Longford processing facility, from where we sell our production to domestic distributors under inflation-linked contracts with periodic price reviews.

North West Shelf

We are a joint venture participant in the North West Shelf Project in Western Australia. The North West Shelf Project was developed in phases: the domestic gas phase, which supplies gas to the Western Australian domestic market mainly under long-term contracts, and a series of LNG expansion phases, which supply LNG to buyers in Japan, Korea and China under a series of long-term contracts. We also produce LPG and condensate.

We are also a joint venture participant in four nearby oil fields. Both the North West Shelf gas and oil ventures are operated by Woodside Petroleum Ltd.

Gulf of Mexico

Our production in the Gulf of Mexico has expanded significantly, with the Atlantis field and the Genghis Khan portion of the Shenzi field coming on line in FY2008 and the Neptune field commencing production in July 2008. We now operate five fields in the Gulf of Mexico, and hold non-operating minority interests in a further three fields. We also own 25 per cent and 22 per cent respectively of the companies that own and operate the Caesar oil pipeline and the Cleopatra gas pipeline which transport oil and gas from the Green Canyon area, where a number of our fields are located, to connecting pipelines that transport product to the mainland. We deliver our oil production to refineries along the Gulf Coast of the United States. Our Shenzi project is scheduled to commence operations in FY2009.

Liverpool Bay and Bruce/Keith

The Liverpool Bay integrated development consists of six offshore gas and oil fields in the Irish Sea, the Point of Ayr onshore processing plant in North Wales, and associated infrastructure. We deliver all of the Liverpool Bay gas by pipeline to E.ON's Connah's Quay power station. We own 46 per cent of and operate Liverpool Bay. We also hold a 16 per cent non-operating interest in the Bruce oil and gas field in the North Sea and operate the Keith field, a subsea tie-back, which is processed via the Bruce platform facilities.

Algeria

Our Algerian assets consist of our effective 45 per cent interest in the Ohanet wet gas development and our 45 per cent interest in ROD, the production sharing contract which consists of six satellite oil fields that pump oil back to a dedicated processing train.

Zamzama

We hold a 38.5 per cent interest in and operate the Zamzama gas project in Sindh province of Pakistan. During FY2008, Phase 2 of the project was completed. The design capacity of Zamzama is 470 MMcf/d of gas and 3,150 bbl/d of condensate. Gas is sold domestically.

Stybarrow

During FY2008, first oil was produced at Stybarrow, a nine well subsea development in approximately 825 metres of water approximately 65 kilometres offshore north Western Australia. The project uses a floating production storage and offtake facility with capacity of approximately 80 Mbbl of oil per day. We own 50 per cent of and operate the project.

Other Australia

We are the operator of the Griffin project (45 per cent BHP Billiton) interest where oil and gas are produced via the Griffin venture, a floating production, storage and offloading facility. We pipe natural gas to shore, where it is delivered directly into a pipeline and sold domestically. We also operate the Minerva gas field located offshore Victoria in which we hold a 90 per cent interest.

Trinidad

The Angostura project is an integrated oil and gas development located offshore east Trinidad. We are the operator of the field and have a 45 per cent interest in the production sharing contract for the project.

Information on Petroleum operations

Significant oil and gas assets

Production and reserve information for our most significant oil and gas assets are listed in the table below:

Asset	Location	FY2008 Net Production (MMboe)	Net Proved Reserves (MMboe)
Bass Strait	Offshore SE Australia	41	484
North West Shelf	Offshore NW Australia	29	407
Atlantis	Gulf of Mexico	8	101
Shenzi/Genghis Khan	Gulf of Mexico	1	25
Liverpool Bay and	United Kingdom	12	40

Bruce/Keith			
Ohanet and ROD	Algeria	8	25

The following table contains additional details of our production operations. This table should be read in conjunction with the production and reserve tables.

Name, location and type of asset	Ownership and operation	Title/lease	Facilities
AUSTRALIA/ASIA			
Bass Strait Offshore Victoria, Australia Oil and gas production	We hold a 50% interest in the Bass Strait fields. Esso Australia owns the other 50% interest and is the operator. Oil Basins Ltd holds a 2.5% royalty interest in 18 of the production licences.	The venture holds 20 ¹ production licences and two retention leases issued by the Commonwealth of Australia with expiry dates ranging between 2009 and 2019. ¹ Includes one production licence with additional partner Santos Ltd	There are 20 producing fields with 21 offshore developments (14 steel jacket platforms, three subsea developments, two steel gravity based mono towers and two concrete gravity based platforms). Onshore infrastructure includes the Longford Facility, which includes three gas plants and liquid processing facilities, interconnecting pipelines, the Long Island Point LPG and crude oil storage facilities and an ethane pipeline. The Bass Strait production capacity is as follows: • Crude – 200 Mbbbl/d • Gas – 1,075 MMcf/d • LPG – 5,150 tpd • Ethane – 850 tpd
North West Shelf (NWS) – gas and gas liquids (LPG and condensate) North Rankin, Goodwyn, Perseus, Echo-Yodel and Angel fields offshore, Dampier in northwestern Australia Gas, LPG and condensate production and LNG liquefactions	We are a participant in the North West Shelf (NWS) Project, an unincorporated joint venture. We hold 8.33% of the original domestic gas joint venture. Our share of domestic gas production will progressively increase from 8.33% to 16.67% over the period from 2005 to approximately 2017. We also hold 16.67% of the Incremental Pipeline Gas (IPG) domestic gas joint venture, 16.67% of the original LNG joint venture, 12.5% of the China LNG joint venture, 16.67% of the LPG joint venture and approximately 15% of current condensate production. Other participants in the respective NWS joint ventures are subsidiaries of Woodside Energy, Chevron, BP, Shell, Mitsubishi/Mitsui and the China National Offshore Oil Corporation. Woodside Petroleum Ltd is the operator of the project.	The venture holds nine production licences issued by the Commonwealth of Australia, of which six expire in 2022 and three expire five years after the end of production.	Production from the North Rankin and Perseus fields is currently processed through the North Rankin A platform, which has the capacity to produce 2,300 MMcf/d of gas and 60 Mbbbl/d of condensate. Production from the Goodwyn and Echo-Yodel fields is processed through the Goodwyn A platform, which has the capacity to produce 1,450 MMcf/d of gas and 110 Mbbbl/d of condensate. Four subsea wells in the Perseus field are tied into the Goodwyn A platform. An onshore gas treatment plant at Withnell Bay has a current capacity to process approximately 600 MMcf/d of gas for the domestic market. An existing four train LNG plant has the capacity to produce an average rate of 33,000 tonnes of LNG per day.

North West Shelf – crude oil Approximately 30 kilometres northeast of the North Rankin gas and condensate field, offshore Western Australia, Australia	We hold a 16.67% working interest in oil production from these fields. The other 83.33% is held by Woodside Energy 33.34%, with BP Developments Australia, Chevron Australia, and Japan Australia LNG (MIMI) each holding 16.67%.	The venture holds three production licences issued by the Commonwealth of Australia, with expiry dates ranging between 2012 and 2018.	The oil is produced to a floating production storage and offloading unit, the Cossack Pioneer, which has a capacity of 140 Mbbl/d and a storage capacity of 1.15 MMbbl of crude oil.

Name, location and type of asset	Ownership and operation	Title/lease	Facilities
Crude oil production is from the Wanaea, Cossack, Lambert and Hermes oil fields	Woodside Petroleum Ltd is the operator of the project.		
Griffin Situating in the Carnarvon Basin, 62 kilometres offshore Western Australia, Australia Comprises the Griffin, Chinook and Scindian offshore oil and gas fields.	We hold a 45% interest in the Griffin Venture. The other 55% is held by Mobil Exploration and Producing Australia (35%) and Inpex Alpha (20%). We are the operator of the field.	The venture holds a production licence issued by the Commonwealth of Australia that expires in 2014. The licence may be renewed for a period covering five years after production ceases.	Oil and gas are produced via the Griffin venture, a floating production, storage and offloading facility. We pipe natural gas to shore, where it is delivered directly into a pipeline. The Griffin venture has an original production design capacity of 80 Mbbbl/d of crude oil and 50 MMcf/d of gas.
Minerva Approximately 10 kilometres offshore in the Otway Basin of Victoria, Australia Single offshore gas reservoir with two compartments. Gas plant is situated approximately 4 kilometres inland from Port Campbell.	We hold a 90% share of the Minerva venture. The other 10% is held by Santos (BOL) Pty Ltd. We are the operator of the field.	The venture holds a production licence issued by the Commonwealth of Australia that expires five years after production ceases.	The Minerva development consists of two well completions in 60 metres of water. A single flow line transports gas to an onshore gas processing facility with an original production design capacity of 150 TJ/d and 600 bbl/d of condensate.
Stybarrow Situating in the Exmouth Sub-basin, 30 kilometres offshore Western Australia, Australia. Comprises the Stybarrow and Eskdale oil and gas fields. The Stybarrow project achieved first oil production on 17 November 2007.	We own a 50% share of the Stybarrow venture. The other 50% interest is held by Woodside Energy. We are the operator of the field.	The venture holds a production licence issued by the Commonwealth of Australia that expires five years after production ceases.	Oil is produced by the Stybarrow development which comprises of a floating production, storage and offshore loading facility, nine subsea well completions (including five producers, three water injectors and one gas injector) in 850 metres of water. The Stybarrow facility has a crude oil production and storage capacity of 80 Mbbbl/d and 900 Mbbbl respectively. Gas production is reinjected into the reservoirs.
Zamzama Dadu Block, Sindh Province, Pakistan Onshore gas wells	We hold a 38.5% interest in the joint venture. The other 61.5% is owned by ENI Pakistan (M) Ltd (17.75%), PKP Exploration Ltd (9.375%), PKP Exploration Ltd 2 (9.375%), and Government Holdings (25%). We are the operator.	20-year development and production lease starting April 2002 from the Government of Pakistan (with an option to extend five years beyond the 20-year term).	Zamzama currently consists of five production wells and four process trains, with a total design capacity of 470 MMcf/d of gas and 3,150 bbl/d of condensate.
AMERICAS			

Atlantis (Green Canyon 743) Gulf of Mexico, approximately 200	We hold a 44% working interest in the joint venture. The other owner is BP (56%).	The venture holds a lease from the US as long as oil and gas are produced in paying quantities.	The production facility consists of a semi-submersible platform permanently moored in 2,155 metres of water. The facility has nameplate processing

Name, location and type of asset	Ownership and operation	Title/lease	Facilities
kilometres offshore of Fourchon, Louisiana, US Deepwater oil and gas field	BP is the operator.		capacity of 200 Mbbbl/d of oil and 180 MMcf/d of gas. Production commenced with the commissioning of wells and facilities in October 2007.
Mad Dog (Green Canyon 782) Gulf of Mexico, approximately 210 kilometres offshore of Fourchon, Louisiana, US Deepwater oil and gas field	We hold a 23.9% interest in the joint venture. The other owners are BP (60.5%) and Chevron (15.6%). BP is the operator.	The venture holds a lease from the US as long as oil and gas are produced in paying quantities.	The production facility consists of an integrated truss spar equipped with facilities for simultaneous production and drilling operations, permanently moored in 1,310 metres of water. The facility has the capacity to process 100 Mbbbl/d of oil and 60 MMcf/d of gas.
West Cameron 76 Gulf of Mexico, approximately 20 kilometres offshore, Central Louisiana, US Offshore gas and condensate fields	We hold a 33.76% interest in the joint venture. The other owners are Eni Petroleum (40%), Merit Management Partners (15%) and Ridgewood Energy Company (11.24%). We are the operator.	The venture holds a lease from the US as long as oil and gas are produced in paying quantities.	The production facility consists of two conventional gas platforms with a capacity of 120 MMcf/d of gas and 800 bbl/d of condensate.
Genesis (Green Canyon 205) Gulf of Mexico, approximately 155 kilometres offshore of Fourchon, Louisiana, US Deepwater oil and gas field	We hold a 4.95% interest in the joint venture. The other owners are Chevron (56.67%) and ExxonMobil (38.38%). Chevron is the operator.	The venture holds a lease from the US as long as oil and gas are produced in paying quantities.	The production facility consists of a floating cylindrical hull (spar) moored to the seabed with integrated drilling facilities and a capacity of 55 Mbbbl/d of oil and 72 MMcf/d of gas.
Starlifter (West Cameron 77) Gulf of Mexico, approximately 25 kilometres offshore, Central Louisiana, US Offshore gas and condensate field	We hold a 30.95% interest in the joint venture. The other owners are McMoRan (33.75%), Seneca Resources (11.25%) Merit Management Partners (13.75%) and Ridgewood Energy Company (10.3%). During the year Newfield Exploration sold its interest to McMoRan and tendered its resignation as operator. Following approval by the Minerals Management Service in February 2008, we took over as successor operator.	The venture holds a lease from the US as long as oil and gas are produced in paying quantities.	The production facility consists of a single conventional gas platform with a capacity of 40 MMcf/d of gas and 450 bbl/d of condensate.
Mustang (West Cameron 77) Gulf of Mexico, approximately 25 kilometres offshore, Central Louisiana, US	We hold a 43.66% interest in the joint venture. The other owners are Eni Petroleum (22.4%), Merit Management Partners (15%) and Ridgewood Energy Company (11.24%).	The venture holds a lease from the US as long as oil and gas are produced in paying quantities.	The production facility consists of a single conventional gas platform with a capacity of 40 MMcf/d of gas and 450 bbl/d of condensate.

Name, location and type of asset	Ownership and operation	Title/lease	Facilities
kilometres offshore, Central Louisiana, US Offshore gas and condensate field	Management Partners (19.4%) and Ridgewood Energy Company (14.54%). We are the operator.		
Neptune Gulf of Mexico, approximately 193 kilometres off the Louisiana coastline Deepwater oil and gas field	We hold a 35% interest in the joint venture. The other owners are Marathon Oil (30%), Woodside Energy (20%) and Maxus US Exploration (15%). We are the operator.	The venture holds a lease from the US as long as oil and gas are produced in paying quantities.	The project constructed a stand-alone tension-leg platform with a nominal capacity of 50 Mbbl/d of oil and 50 MMcf/d of gas. First oil was achieved on 6 July 2008 and nominal production capacity of 50Mbbl/d was achieved during the same month.
Greater Angostura Approximately 40 kilometres off the east coast of Trinidad Shallow water oil and gas field	We hold a 45% interest in the joint venture. The other 55% is held by Total (30%) and Talisman Energy (25%). We are the operator.	The venture has entered into a production sharing contract with the Republic of Trinidad and Tobago that entitles the contractor to operate Angostura until 2021.	The Angostura development is an integrated oil and gas development. The infrastructure consists of a steel jacketed central processing platform with three satellite wellhead protector platforms and flow lines. A pipeline connects the processing platform to storage facilities at Guayaguayare, where an export pipeline has been installed to allow for offloading to tankers in Guayaguayare Bay. The facility has the capacity to process 100 Mbbl/d of oil.
EUROPE/AFRICA/MIDDLE EAST			
Liverpool Bay Douglas and Douglas West oil fields, Hamilton, Hamilton North and Hamilton East gas fields, and Lennox oil and gas fields in the Irish Sea, approximately 10 kilometres off the northwest coast of England	We hold a 46.1% interest in the joint venture. The other 53.9% is held by Eni. We are the operator.	The joint venture holds three production licences issued by the Crown of the United Kingdom. One of these licences was extended in July 2007 for a further term which expires in 2025. The other licences expire in 2009 and 2016.	The Liverpool Bay asset is an integrated development of six fields. Oil from the Lennox and Douglas fields is treated at the Douglas complex and piped 17 kilometres to an oil storage barge for export by tankers. Gas from the Hamilton, Hamilton North, Hamilton East and Lennox fields is initially processed at the Douglas complex then piped by subsea pipeline to the Point of Ayr gas terminal for further processing. The facility has the capacity to

			produce 308 MMcf/d of gas and 70 Mbbbl/d of oil and condensate.
Bruce/Keith North Sea, approximately 380 kilometres northeast offshore of Aberdeen, Scotland The Keith field is located adjacent to the Bruce field. Offshore oil and gas fields	We hold a 16% interest in the Bruce field. The other 84% is owned by BP (37%), Total (43.25%) and Marubeni (3.75%). BP is the operator of Bruce. We hold a 31.83% interest in the Keith field. The other 68.17% is owned by BP (34.84%), Total (25%) and Marubeni (8.33%). We are the operator of Keith.	The joint venture holds three production licences issued by the Crown of the United Kingdom, which expire in 2011, 2015 and 2018.	Production is via an integrated oil and gas platform. The throughput of the Bruce facility has, since 2002, been increased to 920 MMcf/d through de-bottlenecking and revising operating envelopes. The Keith field was developed as a tie-back to the Bruce platform facilities.

Name, location and type of asset	Ownership and operation	Title/lease	Facilities
Ohanet Approximately 1,300 kilometres southeast of Algiers, Algeria Four wet gas fields	We have an effective 45% interest in the Ohanet joint venture. The other 55% is held by Japan Ohanet Oil and Gas Co. Ltd. (30%), Woodside Energy (Algeria) Pty. Ltd. (15%) and Petrofac Energy Developments (Ohanet) LLC (10%). The project is operated by a Sonatrach/BHP Billiton staffed organisation.	The venture is party to a risk service contract with the title holder Sonatrach that expires in 2011, with an option to extend under certain conditions. Under this contract, the Ohanet joint venture is reimbursed and remunerated for its investments in liquids.	Ohanet is a wet gas (LPG and condensate) development consisting of four gas and condensate reservoirs and a gas processing plant with the capacity to treat 20 MMcf/d of wet gas and 61 Mbbbl/d of associated liquids (LPG and condensate).
ROD Integrated Development Berkine Basin, 900 kilometres southeast of Algiers, Algeria Six oil fields	We hold a 45% interest in the 401a/402a production sharing contract, with ENI holding the remaining 55%. We have an effective 38% interest in ROD unitised integrated development. ENI owns the remaining 62%. This interest is subject to a contractual determination to ensure that interest from participating association leases is accurately reflected. Future redetermination may be possible under certain conditions. A joint Sonatrach/ENI entity is the operator.	The venture is party to a production sharing contract with the title holder Sonatrach that expires in 2016, with an option for two five-year extensions under certain conditions.	Comprises the development and production of six oil fields, the largest two of which, ROD and SFNE, extend into the neighbouring blocks 403a and 403d. The ROD Integrated Development is being produced through a dedicated processing train located adjacent to BRN processing facilities on block 403, with the capacity to process approximately 80 Mbbbl/d of oil.

Development projects

Australia/Asia

North West Shelf Train 5 expansion

The expansion of the existing LNG processing facilities located on the Burrup Peninsula continues with the construction of the fifth LNG train. In June 2005, our Board approved our 16.67 per cent share of investment in a fifth LNG train expansion of the existing LNG processing facilities located on the Burrup Peninsula, which will increase total LNG production capacity to 43,500 tonnes per day. Our share of development costs, based on the operator's estimate, is approximately US\$350 million, with first production expected by end of first quarter FY2009.

North West Shelf Angel development

Development of the Angel gas and condensate field, approved in December 2005 is nearing completion. The development includes the installation of the venture's third major offshore production platform, which will have a capacity to produce 800 MMcf/d of gas and 50 Mbbbl of condensate per day from the North West Shelf and associated infrastructure, including a new subsea 50 kilometre pipeline, that will be tied in to the first trunk line at the North Rankin platform. Our 16.67 per cent share of development costs, based on the operator's estimate, is approximately US\$200 million. The project is on schedule and budget with first production expected by end of 2008.

North West Shelf North Rankin gas compression project

In March 2008, the Board approved the North West Shelf gas compression project to recover remaining lower pressure gas from the North Rankin and Perseus gas fields. A new gas compression platform, North Rankin B (NRB), capable of producing 2,500 MMcf/d of gas will be constructed adjacent to the existing North Rankin A platform, 135 kilometres offshore from Karratha on the northwest coast of Western Australia. The two platforms will be connected by a 100 metre bridge and operate as a single facility. Our 16.67 per cent share of development costs is approximately US\$850 million. First gas is expected in 2012.

Pyrenees – WA-12-R/WA-155-P

In July 2007, the Board approved the Pyrenees project to develop the WA-12-R permit portion of the Crosby, Stickle and Ravensworth oil fields in the Exmouth Sub-basin, off the northwest coast of Western Australia. Project costs for the WA-12-R permit portion of the Pyrenees development are approximately US\$1.7 billion (approximately US\$1.2 billion our share). The WA-155-P permit portion of the Pyrenees project was approved by the Board in November 2007, incorporating the remainder of the Ravensworth field as it straddles both WA-12-R and WA-155-P permits. The combined development consists of subsea production and injection wells tied back to a floating production storage and offloading (FPSO) facility with an oil processing capacity of 96 Mbbl/d. First production is expected during the second half of FY2010.

We own a 71.43 per cent operated interest in the WA-12-R permit, with Apache Energy Ltd owning the remaining 28.57 per cent. We own a 40 per cent operated interest in the WA-155-P permit, with Apache Energy Ltd owning 31.5 per cent and Inpex owning 28.5 per cent.

Bass Strait Kipper gas field development

Initial development of the Kipper gas field in the Gippsland Basin located offshore Victoria was approved by the Board in December 2007. The first phase of the project includes two new subsea wells, three new pipelines and platform modifications to supply 10 Mbbl/d of condensate and 80 MMcf/d of gas. Gas and liquids will be processed via the existing Gippsland Joint Venture facilities. Our share of development costs, based on the operator's estimate, is approximately US\$500 million. First production is expected in 2011.

We own a 32.5 per cent interest in the Kipper Unit Joint Venture, with Esso Australia and Santos owning the remaining 67.5 per cent. We own a 50 per cent interest in the Gippsland Joint Venture.

Bass Strait Turrum field development

Further expansion of the Gippsland Basin facilities is underway with the Board approving the full field development of the Turrum oil and gas field in July 2008. Our 50 per cent share of the investment, based on the operator's estimate, is approximately US\$625 million and consists of a new platform, Marlin B, linked by a bridge to the existing Marlin A platform. The Turrum field, which will supply 10 Mbbl/d of oil and 200 MMcf/d of gas, is located 42 kilometres from shore in approximately 60 metres of water. First production is expected in 2011.

Scarborough

We have a 50 per cent non-operated interest in the Scarborough gas field in WA-1-R (ExxonMobil holds the remaining 50 per cent and is the operator). We are still examining a number of concepts for field development.

United States

Shenzi/Genghis Khan

We have a 44 per cent interest, and will operate the Shenzi oil and gas project in the deepwater fields of Gulf of Mexico. Other owners of the project are Repsol (28 per cent) and Hess Corporation (28 per cent). The project is constructing a stand-alone tension-leg platform (TLP) with a nominal design capacity of 100 Mbbl/d and 50 MMcf/d of gas. The hull and topsides were installed in July 2008. Installation of subsea equipment and development drilling and completion of wells continues per the approved program. First oil through the Shenzi TLP for the Shenzi Development is expected by the end of FY2009.

The Genghis Khan field is part of the same geological structure as the Shenzi project. As with Shenzi, we are the operator of Genghis Khan and hold a 44 per cent interest. Co-venturers are Hess Corporation and Repsol YPF, each with 28 per cent. The Genghis Khan development consists of a 3,841 metres tie-back to the existing Marco Polo TLP, which is owned in a joint venture by Enterprise and Helix, and is operated by Anadarko. First oil through Marco Polo occurred in October 2007. Gross costs for the Shenzi/Genghis Khan field development (net of acquisition costs) are US\$4.9 billion (US\$2.2 billion our share).

Exploration and appraisal

We are focused on finding significant discoveries through wildcat drilling. We have exploration interests throughout the world, particularly the Gulf of Mexico, Western Australia, Latin America and Malaysia. During the year, our gross expenditure on exploration was US\$692 million. Our major exploration interests are as follows:

Australia/Asia

Thebe

The Thebe-1 exploration well was drilled in July 2007 and is located approximately 300 kilometres off the northwest coast of Western Australia in water depths of 1,173 metres and approximately 50 kilometres north of the Scarborough gas field. The well and subsequent evaluation confirmed a gas column encountered in the Exmouth Plateau of the Carnarvon Basin.

Thebe-2 Appraisal well was drilled in February 2008 to a depth of 2,550 metres to appraise the reservoir discovered by Thebe-1. The results confirmed the presence of a high quality reservoir. Both wells have been plugged and abandoned while further appraisal options are evaluated.

BHP Billiton is the operator of Thebe-1 and Thebe-2 and holds a 100 per cent interest in the field.

Browse

The Browse basin is comprised of the Torosa, Brecknock and Calliance fields and is operated by Woodside Petroleum. It is divided into two joint ventures: East Browse and West Browse. We have an 8.33 per cent non-operated interest in East Browse and a 20 per cent non-operated interest in West Browse. An appraisal program is in progress and concurrently the operator is evaluating options for field development through engineering and site selection studies.

Malaysia

In March 2007, we were awarded two offshore blocks in Malaysia. We are the operator of the blocks under two separate Production Sharing Contracts. The minimum exploration program includes the acquisition and processing of seismic data for approximately 2,300 square kilometres across the two blocks, and the drilling of four exploration wells within the first seven years of the contracts. The initial seismic acquisition program commenced in June 2008.

Americas – Gulf of Mexico

Puma – Green Canyon/Western Atwater Foldbelt exploration

The Puma-1 exploration well was drilled in January 2004. The well was drilled in 1,259 metres of water and encountered hydrocarbons in both the original hole and in two subsequent sidetrack bores. The first appraisal well was re-entered in January 2007 but did not encounter any commercial reserves and has been temporarily abandoned. A second appraisal well drilled in March 2007 also did not discover commercial reserves. An additional appraisal well is planned in FY2009 to further evaluate the Puma prospect.

Following an interim equity agreement, we hold a 29.8 per cent interest in Puma. The other 70.2 per cent is held by BP (46.2 per cent), Chevron (21.75 per cent) and Statoil (2.25 per cent), subject to future redetermination.

Knotty Head – Green Canyon/Wester Atwater Foldbelt exploration

We currently own a 25 per cent interest in an exploration well on the Knotty Head Prospect, located in the Green Canyon area. Partners in the well are Nexen (25 per cent owner and operator), Anadarko (25 per cent) and Unocal (a wholly-owned subsidiary of Chevron (25 per cent)). Unocal spudded the exploration well in March 2005. The initial well was completed in mid-December 2005 followed by a sidetrack operation that was completed in early March 2006 to further evaluate the results of the discovery well. The well was drilled in 1,088 metres of water to a total depth of 10,422 metres and encountered hydrocarbons in both the original hole and the subsequent sidetrack. Additional appraisal work to further evaluate the economic potential of the prospect is in progress.

Americas – Colombia

In June 2007, we signed a Joint Operating Agreement with Ecopetrol for the Fuerte Norte and Fuerte Sur blocks, located offshore in Colombia. We hold 75 per cent operated interest in each block with Ecopetrol holding the remaining 25 per cent. In October 2007 the Joint Venture entered into the second phase of the Exploration and Production Licences for the two Fuerte Blocks and subsequently undertook acquisition and processing of 3D seismic over the area.

Americas – Falkland Islands

In December 2007, we farmed into Northern and Southern area licences offshore of the Falkland Islands. We acquired a 51 per cent interest from our joint venture partner Falkland Oil and Gas Limited (FOGL) and assumed operatorship in January 2008. The minimum exploration work program includes the drilling of two wells in the first phase by the end of 2010.

Europe/Africa/Middle East

Namibia

We hold interests in two blocks located offshore in Namibia, known as the Northern and Southern Block, which we acquired in 2005. In November 2006, we farmed out a 25 per cent interest in these two blocks. Mitsui & Co Ltd acquired 15 per cent and the Petroleum Oil and Gas Corporation of South Africa (Pty) Ltd acquired 10 per cent with an option to consider additional equity. We remain the operator and hold the remaining 75 per cent interest.

2.2.3 Aluminium Customer Sector Group

Our Aluminium business is a portfolio of assets at three stages of the aluminium value chain: we mine bauxite, we refine bauxite into alumina, and we smelt alumina into aluminium metal. We are the world's sixth-largest producer of aluminium, with total production in FY2008 of approximately 1.3 million tonnes of aluminium. We also produced approximately 16 million tonnes of bauxite and 4.6 million tonnes of alumina.

Approximately 55 per cent of our alumina production is used in our aluminium smelters and we sell the balance to other smelters. Our alumina sales are a mixture of long-term contract sales at LME-linked prices and spot sales at negotiated prices. Prices for our aluminium sales are generally linked to prevailing LME prices.

As with our other businesses, our strategy with bauxite and alumina is to own large, low-cost assets that provide good returns through the investment cycle and provide us with options for brownfield development. With aluminium smelters, where the availability and cost of power are critical, our investment decisions have been driven in part by the availability of stranded power generation capacity. For example, both Hillside and Mozal were originally built when there was excess electricity generating capacity in southern Africa.

We have interests in two sets of integrated bauxite mining/alumina refining assets:

- **Boddington/Worsley**

The Boddington bauxite mine in Western Australia supplies bauxite ore via a 51 kilometre long conveyor to the Worsley alumina refinery. Worsley is one of the largest and lowest-cost refineries in the world, and is currently undergoing a major expansion (see Development projects below). Our share of Worsley's FY2008 production was 3.035 million tonnes of alumina. Worsley's export customers include our own Hillside, Bayside and Mozal smelters in southern Africa. Boddington has a reserve life of 24.5 years at current production rates. We own 86 per cent of the mine and the refinery.

- **Onverdacht/Coermotibo/Paranam**

We own a 45 per cent interest in a joint venture that operates bauxite mines in the Onverdacht and Coermotibo areas of Suriname and the nearby Paranam alumina refinery. We are working on other mining options in the area to continue feeding Paranam after the current mines are exhausted. Our share of Paranam's FY2008 production was 983,000 tonnes of alumina.

We also own 14.8 per cent of Mineração Rio do Norte (MRN) which owns and operates a large bauxite mine in Brazil.

We have interests in the Alumar integrated alumina refinery/aluminium smelter and three stand-alone aluminium smelters:

- **Alumar**

We own 36 per cent of the Alumar refinery and 40 per cent of the smelter. Alcoa operates both facilities. The operations, and their integrated port facility, are located at Sao Luis in the Maranhao province of Brazil. Alumar sources bauxite from MRN. Approximately 50 per cent of Alumar's alumina production is used to feed the smelter, while the remainder is exported. Our share of Alumar's FY2008 saleable production was 535,000 tonnes of alumina and 178,000 tonnes of aluminium. The Alumar refinery is currently undergoing a significant expansion (see

Development projects below).

- **Hillside and Bayside**

Our Hillside and Bayside smelters are located at Richards Bay, South Africa. Hillside's capacity of approximately 704,000 tpa makes it the largest aluminium smelter in the southern hemisphere, and it is one of the most efficient. Following the closure of potlines B and C Bayside has smelting capacity of approximately 96,000 tpa, but it also uses its own aluminium and liquid aluminium from Hillside to produce a range of value-added products such as rod, slab and extrusion. Both operations import alumina from our Worsley refinery and source power from Eskom, the South African state utility, under long-term contracts with prices linked to the LME price of aluminium except for Hillside Potline 3, the price for which is linked to the South African and US producer price indices.

In January 2008, Eskom determined that it had insufficient power to meet the national demand in South Africa, and mandated an emergency 10 per cent reduction in power consumption by many large industrial users, including BHP Billiton. Although our contracts with Eskom specify that power supply to our aluminium smelters can only be interrupted approximately one per cent of the time per calendar year, we have respected the emergency situation faced by the country and reduced our demand by the requested 10 per cent. To achieve this in the most economically efficient way, we have closed the B and C potlines at Bayside, reducing production there by approximately 92,000 tpa. Across all three southern Africa smelters (including Mozal), we expect production loss to be just over 120,000 tpa. The production cuts occurred primarily at Bayside, a 100 per cent BHP Billiton owned facility. A production sharing adjustment is currently being established between the Mozal partners (47.1 per cent BHP Billiton) to compensate us for taking the majority of the power reduction at a 100 per cent owned facility.

- **Mozal**

We own 47.1 per cent of and operate the Mozal aluminium smelter in Mozambique, which has a total capacity of approximately 563,000 tpa. Mozal sources power generated by Eskom via Motraco, a transmission joint venture between Eskom and the national electricity utilities of Mozambique and Swaziland. Tariffs are fixed through to 2012 and will be linked to the LME aluminium price thereafter. Our share of Mozal's FY2008 production was 257,000 tonnes.

Information on the Aluminium CSG's bauxite mining operations

The following table contains additional details of our mining operations. This table should be read in conjunction with the production and reserve tables.

Name, location and type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Boddington bauxite mine 123 kilometres southeast of Perth at Boddington, Western Australia, Australia Open-cut mine The mine is accessible by sealed public roads. The ore is transported to Worsley alumina refinery via a 51 kilometre overland conveyor.	We own 86% of the Worsley joint venture. The other 14% interest is owned by Sojitz Alumina Pty Ltd (4%), and Japan Alumina Associates (Australia) Pty Ltd (10%). Worsley Alumina Pty Ltd is the manager of the joint venture on behalf of the participants. Worsley Alumina Pty Ltd has the same ownership structure as the Worsley joint venture. We hold a 2,656 square kilometre mining lease from the Western Australian government and two sub leases totalling 855 square kilometres from Alcoa of Australia Limited. In 2004, we renewed the lease for a second 21-year term. A further 21-year renewal is available.	The Boddington bauxite mine opened in 1983 and was significantly extended in 2000.	The mine has a crushing plant with the capacity of approximately 13 mtpa of bauxite. Power is supplied from the Worsley alumina refinery site via a joint venture-owned powerline. A description of the Worsley alumina refinery can be found in the table below.
Suriname	We own 45% of the refining and	The development	Kaaimangrasie mine has a nominal

Kaaimangrasie mine (Onverdacht) 38 kilometres southeast of Paramaribo and 25 kilometres east of the Paranam refinery, Suriname	mining joint venture. The other 55% interest is held by Suralco (a subsidiary of Alcoa World Alumina and Chemicals (AWAC), a venture of Alcoa and Alumina Limited).	of the Kaaimangrasie mine started in November 2005. Operations/delivery of bauxite to the refinery commenced in July 2006. The mine is scheduled to be operated until 2011.	production capacity of approximately 1.6 mtpa of bauxite; there are no processing facilities at the mine.

Name, location and type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Open-cut mine The mine is accessible by a joint venture-owned haul road. The ore is hauled by truck over a distance of 25 kilometres to the Paranam refinery.	We manage all mining operations. Suralco holds the exploitation licences, issued by the Government of Suriname, over the Kaaimangrasie deposit. These licences expire in 2032.		Electricity is sourced from Suralco and fuel sourced from an external provider.
Suriname Klaverblad mine (Onverdacht) 23 kilometres southeast of Paramaribo and 13 kilometres east of the Paranam refinery, Suriname Open-cut mine The mine is accessible by a joint venture-owned haul road. The ore is hauled by truck over a distance of 12 kilometres to the Paranam refinery.	We own 45% of the refining and mining joint venture. The other 55% interest is held by Suralco. We manage all mining operations. Suralco holds the exploitation licences, issued by the Government of Suriname, over the Klaverblad deposit. These licences expire in 2032.	The development of the Klaverblad mine started in July 2005. Delivery of bauxite to the refinery commenced in April 2007. The mine is scheduled to be operated until 2011.	Klaverblad mine has a nominal production capacity of approximately 1.4 mtpa of bauxite; there are no processing facilities at the mine. Electricity is sourced from Suralco and fuel sourced from an external provider.

Name, location and type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Suriname Coermotibo 150 kilometres east of Paranam, Suriname Surface strip mine The mine is accessible by joint venture-owned haul roads The ore is hauled to the Coermotibo crushing and loading facility and subsequently barged along the Commewijne River to the Paranam refinery.	We own 45% of the Coermotibo joint venture. The other 55% interest is held by Suralco. We manage all mining operations. Suralco holds exploitation licences over the bauxite, issued by the Government of Suriname. These licences expire in 2032.	The Coermotibo mine started operations in 1991. Remnants mining will continue until July 2011.	Coermotibo mine has a nominal production capacity of 1.4 mtpa. There are primary crushing, beneficiation plant and barge loading facilities. Coermotibo generates its own electricity from power generators that run on diesel fuel.
MRN Oriximina, State of Pará, Brazil Open-cut mine The mine is accessible by joint venture-owned haul roads. A joint venture-owned railroad connects the 28 kilometres between the plant and the port.	We own 14.8% of Mineração Rio do Norte S.A (MRN). The other 85.2% is owned by affiliates of Alcoa (18.2%), Rio Tinto (12%), Companhia Brasileira de Alumínio – CBA (10%), VALE (40%) and Norsk Hydro (5%). MRN operates the mine. MRN holds valid mining rights granted by the Brazilian Federal Government to all its reserves until exhaustion of the reserves.	Production started in 1979 and the last expansion occurred in 2003.	MRN beneficiation facilities consist of a crushing unit and a washing unit and a conveyor belt that transports the ore between the two units. The bauxite nominal production capacity is approximately 18 mtpa. MRN has its own power generation station using fuel oil.

Information on the Aluminium CSG's aluminium smelters and alumina refineries

Operation and location	Ownership, operation and title	Plant type/product	Capacity
Hillside aluminium smelter Richards Bay, 200 kilometres north of Durban, KwaZulu-Natal province, South Africa	We own and operate the smelter. We hold freehold title over the property, plant and equipment. We have long-term leases over the harbour facilities.	The Hillside smelter uses the Aluminium Pechiney AP35 technology to produce standard aluminium ingots and aluminium T-Bars.	The nominal production capacity of the smelter is 0.704 mtpa of primary aluminium. The plant's power requirements are sourced from the national power supplier Eskom under long-term contracts. The prices in the contract for Hillside 1 and

2 are linked to the LME price for aluminium, while the prices for Hillside 3 are linked to the SA and US PPI.

Operation and location	Ownership, operation and title	Plant type/product	Capacity
Bayside aluminium smelter Richards Bay, 200 kilometres north of Durban, KwaZulu-Natal province, South Africa	We own and operate the smelter. We hold freehold title over the property, plant and equipment. We have long term leases over the harbour facilities.	The Bayside smelter currently uses Alusuisse pre-bake technology to produce primary aluminium. Potlines B and C were closed on 15 May 2008 which used Soderberg self-bake technology. Bayside uses its own aluminium and liquid aluminium acquired from Hillside to also produce a range of value added products, such as, rod, slab and extrusion.	The nominal potline production capacity is 0.095 mtpa of primary aluminium on the remaining Potline A. The plant's power requirements are sourced from the national power supplier Eskom, under a long-term contract with prices linked to the LME price for aluminium.
Mozal aluminium smelter 17 kilometres from Maputo, Mozambique	We hold a 47.1% interest in the Mozal joint venture and operate the smelter. The other 52.9% is owned by Mitsubishi (25%), Industrial Development Corporation of South Africa Limited (24%), and the Government of Mozambique (3.9%). The joint venture has a 50-year right to use the land, renewable for another 50 years under a government concession.	The Mozal aluminium smelter uses the Aluminium Pechiney AP35 technology to produce standard aluminium ingots.	The nominal production capacity of the smelter is 0.563 mtpa. The plant's power requirements are purchased from Motraco, under an agreement that provides for a fixed tariff for the majority of electricity through to 2012 and LME-linked pricing thereafter.
Worsley alumina refinery Approximately 55 kilometres northeast of Bunbury, Western Australia, Australia	We own 86% of this asset through the Worsley joint venture. The other 14% is owned by Sojitz Alumina Pty Ltd (4%), and Japan Alumina Associates (Australia) Pty Ltd (10%). Worsley Alumina Pty Ltd is the manager of the joint venture on behalf of the participants. Worsley Alumina Pty Ltd has the same ownership structure as the Worsley joint venture. We hold a 2,480 hectare refinery lease from the Western Australian Government. In 2004, we renewed the lease for a second 21-year term. A further 21-year renewal is available.	The Worsley alumina refinery uses the Bayer process to produce metallurgical grade alumina, which is used as feedstock for aluminium smelting.	The nominal production capacity is 3.5 mtpa. Power and steam needed for the refinery are provided by a joint venture-owned on-site coal power station and a non-joint venture-owned on-site gas fired steam power generation plant.
Paranam refinery Paranam, Suriname	We own 45% of the Paranam joint venture. The other 55% of the joint venture is owned by Suralco. Suralco manages the alumina refinery.	The Paranam alumina refinery utilises the Bayer process to produce	Capacity is 2.2 mtpa. The Paranam refinery generates its own power.

The joint venture holds freehold title to the property, plant and equipment, in a 45-55% split between the two joint venture partners.

metallurgical grade alumina, which is used as feedstock for aluminium smelting.

Operation and location	Ownership, operation and title	Plant type/product	Capacity
Alumar São Luís, Maranhão, Brazil	The Alumar Consortium is an unincorporated joint venture that holds the smelter, refinery, ingot plant and support facilities. We own 40% of the aluminium smelter. The other 60% is owned by Alcoa Aluminio SA (Alcoa). We own 36% of the alumina refinery. The other 64% is owned by Alcoa and its affiliate Abalco SA (35.1% and 18.9% respectively) and Rio Tinto (10%). Alcoa operates both facilities. The consortium comprises an integrated port, an alumina refinery and an aluminium smelter together with areas for the production of anodes and aluminium ingots. All the above are freehold interests of the joint venture participants.	The alumina refinery and aluminium smelter use Alcoa technology to produce alumina and aluminium ingots.	The refinery complex was last expanded in June 2005, achieving annual capacity of 1.5 mtpa. The smelter has a nominal capacity of approximately 0.45 mtpa of primary aluminium. The electricity requirements are supplied by Brazilian public power generation concessionaire Electronorte, pursuant to a 20-year contract.

Development projects

Alumar refinery expansion

A project is underway to expand the production capacity of the Alumar refinery by 2 mtpa to 3.5 mtpa (100 per cent capacity) at a cost of US\$725 million (our share). The completion schedule and budget are currently under review following advice from the operator.

Worsley Efficiency and Growth Project

In May 2008, we announced approval for an expansion project to lift capacity of the Worsley refinery from 3.5 mtpa of alumina to 4.6 mtpa (100 per cent capacity) of alumina through expanded mining operations at Boddington, additional refinery capacity and upgraded port facilities. The project is budgeted to cost US\$1.9 billion (our share) and be completed in the first half of calendar 2011.

Guinea Alumina

We have a one-third interest in a joint venture that is currently undertaking a feasibility study into the construction of a 10 mtpa bauxite mine, a 3.3 mtpa alumina refinery and associated infrastructure approximately 110 kilometres from the port of Kamsar in Guinea.

Bakhuis

We are undertaking a feasibility study into a new bauxite mine in the Bakhuis region of western Suriname and are in negotiations with the Government of Suriname in order to obtain the exploitation rights for the Bakhuis area.

2.2.4 Base Metals Customer Sector Group

Our Base Metals CSG is one of the world's top producers of copper, silver, lead and uranium, and a leading producer of zinc. Our portfolio of large, low-cost mining operations includes the Escondida mine in Chile, which is the world's largest single producer of copper, and Olympic Dam in South Australia, which is already a major producer of copper and uranium and has the potential to be significantly expanded.

In recent years, we have commissioned the Spence copper mine and the Escondida Sulphide Leach projects, and restarted operations at Pinto Valley as we have sought to maximise production during a period of high copper prices. Our total copper production in FY2008 was a record 1.3755 million tonnes, compared to 1.2501 million tonnes in FY2007, and a 58% increase over our production five years ago.

In addition to conventional mine development, we are also pursuing advanced treatment technologies, such as the leaching of low-grade chalcopyrite ores, which we believe has the potential to recover copper from ores which were previously uneconomic to treat.

We market five primary products:

- copper concentrates
- copper cathodes
- uranium oxide
- lead concentrates and
- zinc concentrates

We sell most of our copper, lead and zinc concentrates to smelters under long-term volume contracts with prices based on the LME price for the contained metal three or four months after shipment, less treatment charges and refining charges (collectively referred to as 'TCRCs') that we negotiate with the smelters on an annual or bi-annual basis. Some of the ores we mine contain quantities of silver and gold, which remain in the base metal concentrates we sell. We receive payment credits for the silver and gold recovered by our customers in the smelting and refining process.

We sell most of our copper cathode production to rod and brass mills and casting plants around the world under annual contracts with premiums to LME prices. We sell uranium oxide to electricity generating utilities, principally in Western Europe, North America and North Asia. Traditionally, uranium sales have been under long-term fixed price contracts and the majority of our current production is committed under these contracts. Sales commitments under long term price contracts reduce over time and going forward we expect to see an increasing proportion of sales made with flexible pricing terms; for example, with a price linked to a spot index.

We have seven production assets:

Escondida

Our 57.5% owned and operated Escondida mine is the largest and one of the lowest-cost copper producers in the world. In FY2008, our share of Escondida's production was 679,500 tonnes of copper in concentrate and 131,600 tonnes of copper cathode. FY2008 saw the continued ramp-up of production from the sulphide leach plant, which was commissioned in July 2006. Current reserves will support mining for a further 24 years at current production rates. We have been working to address two potential limitations on future production at Escondida: power and water. Together with our Cerro Colorado and Spence operations, Escondida draws its power from the northern Chilean grid. Restrictions in the supply of gas from Argentina have resulted in higher costs and power supply fluctuations. To ensure security of supply and competitive power costs in the long term we are supporting the construction of an LNG facility to supply gas to the northern grid system, which is scheduled for completion in 2010, and have signed off-take agreements underwriting the construction of a 460MW coal-fired power station, which is scheduled for completion in 2011. To address limitations on the availability of water, we carefully manage our use and re-use of available water, explore for alternative sources, and have built a desalination plant that currently provides water only to the sulphide leach plant but which could be expanded, if necessary. We believe that there is substantial scope for further expansion at Escondida (see Development projects below).

Olympic Dam

While it is already a significant producer of copper cathode and uranium oxide, and a refiner of smaller amounts of gold

and silver bullion, we are currently exploring a series of staged development options that would make our wholly-owned Olympic Dam operation one of the world's largest producers of copper, the largest producer of uranium, and a significant producer of gold (see Development projects below). In FY2008, Olympic Dam produced 169,900 tonnes of copper cathode, 4,144 tonnes of uranium oxide, 80,517 ounces of gold and 780,000 ounces of silver.

Antamina

We own 33.75% of Antamina, a large, low-cost, long-life copper/zinc mine in Peru. Opened in 2001, its reserves will support mining at current rates for a further 12 years. Our share of Antamina's FY2008 production was 111,700 tonnes of copper in concentrate, and 83,521 tonnes of zinc in concentrate. In addition to its primary copper and zinc concentrate products, Antamina also produces smaller amounts of molybdenum and lead/bismuth concentrate.

Spence

We completed our wholly-owned greenfield Spence copper mine development in Chile and began ramping up cathode production in December 2006. During FY2008, we produced 142,700 tonnes of copper as we continue to ramp up to the nominal capacity of 200,000 tpa.

Cerro Colorado

Our wholly-owned Cerro Colorado mine in Chile remains a significant producer of copper cathode, although production levels have declined in recent years as grades have declined. Production in FY2008 was 106,400 tonnes of copper cathode. Production has been adversely affected by the high clay content of the ores currently being mined. Our current mine plan sees production continuing until 2016, although we are currently evaluating the extent of hypogene mineralisation that may support extension options.

Cannington

Our wholly-owned Cannington mine in northwest Queensland has grown to become the world's largest and, we believe, one of the lowest cost producers of silver and lead. During FY2006 and FY2007, we undertook an extensive program of decline and stope access rehabilitation to improve safety conditions, which has positioned the mine to maintain production, offsetting natural grade decline over its remaining eight-year reserve life. In FY2008, Cannington produced concentrates containing 251,548 tonnes of lead, 60,969 tonnes of zinc, and approximately 35 million ounces of silver.

Pinto Valley

In addition to these assets and in response to high copper prices as a result of strong demand, during FY2008 we resumed sulphide mining, milling and concentrating operations at our previously idled Pinto Valley mine and began producing copper concentrate. In addition, we continue to produce copper cathode at the Pinto Valley site and the neighbouring Miami Unit from our ongoing Solvent Extraction Electrowinning (SXEW) operations. Current reserves will support mining for a further four years.

Information on the Base Metals CSG's mining operations

The following table contains additional details of our mining operations. This table should be read in conjunction with the production and reserve tables.

Name, location, type of mine and access	Ownership, operation History and title/lease		Facilities and power source
Copper			
Escondida Atacama Desert, at an altitude of approximately 3,100 metres and 170 kilometres southeast of Antofagasta, Chile Two open-cut pits The mine is accessible by public road.	The mine is owned and operated by Minera Escondida Limitada. We own 57.5% of Minera Escondida. The other 42.5% is owned by affiliates of Rio Tinto (30%), the JECO Corporation (10%), a consortium represented by Mitsubishi Corporation (7%), Mitsubishi Materials Corporation	Original construction of the operation was completed in 1990. The project has since undergone various expansion projects at an additional cost of US\$2,571 million (100% terms) plus US\$451 million (100% terms) for the construction of an oxide plant. In June 2006, the Escondida Sulphide Leach copper project achieved first production. Excluding the exchange impact of a stronger Chilean peso, the cost of the project was US\$914 million (100% terms), compared to a budget of US\$870	Escondida has two processing streams: two concentrator plants in which high-quality copper concentrate is extracted from sulphide ore through a flotation extraction process; and two solvent extraction plants in which leaching, solvent extraction and electrowinning are used to produce copper cathode. Nominal production capacity is 3.2 mtpa of copper concentrate and 330,000 tonnes per annum of copper cathode. Separate transmission circuits

Copper cathode is transported by privately-owned rail line to the Antofagasta port (government-operated) or Mejillones port (privately operated).	(1%), Nippon Mining and Metals (2%) and the International Finance Corporation (2.5%). Minera Escondida Limitada holds a mining concession from the Chilean state that remains valid indefinitely (subject to payment of annual fees).	million. The final cost was US\$1,017 million including the impact of foreign exchange.	provide power for the Escondida mine facilities. These transmission

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Copper concentrate is transported by Company-owned pipeline to its Coloso port facilities.			lines, which are connected to Chile's northern power grid, are Company-owned. Electricity is purchased under contracts with local generating companies.
Spence Atacama Desert, 150 kilometres northeast of Antofagasta, Chile Open-cut mine The mine is accessible by public road and privately-owned rail access. Copper cathode produced is transported by rail line to Mejillones port (privately operated) and to Antofagasta port on an exceptional basis.	We own and operate the mine (100%). We hold a mining concession from the Chilean state that remains valid indefinitely (subject to payment of annual fees).	Spence received Board approval for execution in October 2004. The project was completed within the US\$990 million budget excluding foreign exchange impacts of a stronger Chilean peso. The cost including the impact of foreign exchange was US\$1.1 billion. First ore was crushed in September 2006 with first copper produced in December 2006.	Spence has operations facilities to support the open-cut mining operations and ore processing/crushing operations. The crushed oxide and sulphide ores are leached on separate dynamic (on-off) leach pads. Chemical (acid) leaching is applied to oxide ores and bio-leaching is applied to supergene sulphide ores. Solvent extraction consists of four trains in a series-parallel configuration, with extraction stages for both oxide and sulphide Pregnant Leach Solution. A single electrowinning (EW) plant produces the copper cathode. We have an additional run of mine (ROM) heap leach to further recover copper from low-grade ores. Nominal capacity is 200,000 tonnes of copper cathode. Electrical power is supplied to the operation via a 70 kilometre high-voltage transmission line connected to Chile's northern power grid. This transmission line is Company-owned, and electricity is purchased under contracts from a local generating company.
Cerro Colorado Atacama Desert at an altitude of 2,600 metres, 120 kilometres east of Iquique, Chile Open-cut copper mine The mine is accessible by public road. Copper cathode production is trucked to the port at Iquique, which is privately operated.	We own and operate the mine. We hold a mining concession from the Chilean state that remains valid indefinitely (subject to payment of annual fees).	Commercial production at Cerro Colorado commenced in June 1994. Expansions took place in 1995 and 1998 to increase the mine's crushing capacity, leach pad area and mine fleet. With these expansions, production was increased to 100,000 tonnes per annum. Production was	Cerro Colorado's facilities for this process include two primary, secondary and tertiary crushers, leaching pads and solvent extraction and electrowinning plants. Electricity is supplied under long-term contracts to the facilities through the northern Chile power grid.

then increased
to the
nameplate
capacity of
120,000 tonnes
per annum with
optimisation
and efficiency
improvements.

Due to lower
copper grades
of the ore the
production is
now
approximately
105,000 tonnes
per annum.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Pinto Valley Located in the USA approximately 125 kilometres east of Phoenix, Arizona. The mine is accessible by public road. Cathode production is trucked to domestic customers in the United States and Concentrate production is trucked to San Manuel, Arizona where it is loaded on rail and transported to the Port of Guaymas in Mexico.	We own and operate 100% of Pinto Valley and we hold title to the land. Mining operations are contracted to The Washington Group, a subsidiary of URS.	Pinto Valley was acquired through the acquisition of Magma Copper Company in 1996. The sulphide mining operations were discontinued in 1998. During closure, the operation continued to produce small amounts of copper cathode through residual dump leaching SXEW operations. A Feasibility Study on a re-start of the sulphide mining operations was conducted in 2006. In January 2007, the Re-Start Project was approved. First concentrate production was achieved in October 2007.	Pinto Valley facilities include two SXEW operations at the Pinto Valley and Miami sites. Concentrate production facilities include a primary crusher, secondary and tertiary crushers, six ball mills and copper concentrate and molybdenum flotation circuits. Power is supplied to the site by the Salt River Project.
Copper uranium			
Olympic Dam 560 kilometres northwest of Adelaide, South Australia, Australia Underground mine The mine is accessible by public road. Copper cathode and electrowon copper is transported by public road to public ports. Uranium oxide is transported by public road and rail to public ports.	We own and operate Olympic Dam. The mining lease was granted by the Government of South Australia by an Act of Parliament for the period of 50 years from 1986, with a right of extension for a further period of 50 years in accordance with the Roxby Downs (Indenture Ratification) Act 1982.	Production of copper began in 1988. Between 1989 and 1995, the production rate was increased, ultimately raising the ore mining capacity to approximately 3 mtpa. During 1997 through 1999 a major expansion was conducted to raise throughput from 3 mtpa to 9 mtpa. In 2002, Olympic Dam completed an optimisation project. A new copper solvent extraction plant was commissioned in the first quarter of 2004.	The underground mine extracts copper uranium ore and hauls the ore by an automated train and trucking network feeding underground crushing, storage and ore hoisting facilities. The processing plant consists of two grinding circuits in which high-quality copper concentrate is extracted from sulphide ore through a flotation extraction process. The concentrate is fed into an Outokumpu flash furnace having a nominal concentrate smelting capacity of 450 ktpa to produce copper anodes, then into an ISA electro-refinery to produce copper cathodes and slimes treated to recover gold and silver. The flotation tailings are further processed to produce electrowon cathode and high grade uranium oxide concentrates. Power for the Olympic Dam operations is supplied via a 275 kV powerline from Port Augusta, transmitted by ElectraNet.

We acquired
Olympic Dam as
part of our
acquisition of WMC
in 2005.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Copper zinc			
Antamina 270 kilometres north of Lima at an altitude of 4,300 metres, Peru Open-cut mine The mine is accessible by a Company-maintained 115 kilometre access road. A 300 kilometre pipeline transports the copper and zinc concentrates to the port of Huarney. The molybdenum and lead/bismuth concentrates are transported by truck to different locations for shipment.	Antamina is owned by Compañía Minera Antamina SA, in which we hold a 33.75% interest. The remaining interests are held by Xstrata (33.75%), Teck Cominco (22.5%) and Mitsubishi (10%). Antamina is the operator of the mine. Antamina holds mining rights from the Peruvian state over its mine and operations. These rights can be held indefinitely, contingent upon the annual payment of licence fees and the supply of information on investment and production.	The Antamina project achieved commercial production in October 2001.	The principal project facilities include a primary crusher, a nominal 70,000 tonnes per day concentrator, copper and zinc flotation circuits and a bismuth/ moly cleaning circuit, a 300 kilometre concentrate pipeline with single-stage pumping, and port facilities at Huarney. The pipeline design throughput is 2.3 dry mtpa. Power to the mine site is being supplied under long-term contracts with individual power producers through a 58 kilometre 220 kV transmission line, which is connected to Peru's national energy grid.
Silver, lead and zinc			
Cannington 300 kilometres southeast of Mt Isa, Queensland, Australia Underground mine The mine is accessible by public road and a Company-owned airstrip. Product is transported 187 kilometres by road to Yurbi, a Company-owned loading facility, where it is loaded on public rail and transported to a public port at which we lease a berth.	We own and operate Cannington. The Cannington deposit is contained within mining leases granted by the State of Queensland in 1994 and which expire in 2029.	The deposit was discovered in 1990. Concentrate production commenced in 1997. In February 2003, the Cannington Growth Project commenced to improve mill throughput and metal recovery. The project was completed during FY2005.	The beneficiation plant consists of a primary grinding circuit (AG mill), secondary grinding circuit (tower mill), pre-flotation circuit, fine lead flotation circuit, coarse lead flotation circuit, zinc flotation circuit, concentrate and tailings thickening, lead and zinc concentrate leaching circuits, lead and zinc concentrate filtration circuit and a paste plant. Nominal capacity is 3.1 mtpa. A power station, consisting of a combination of gas-fired and diesel-fired engines, located at Cannington, is operated under contract to supply power solely to Cannington.

Development projects

Olympic Dam

The pre-feasibility study into expansion options at Olympic Dam is currently being undertaken and is addressing production capacities, mining methods, processing (including smelting) options and supporting infrastructure requirements. The expansion is likely to convert Olympic Dam from an underground to an open cut mine. Our conceptual studies have indicated the potential for production capacity by the end of the last stage of development of approximately 730,000 tpa of copper, 19,000 tpa of uranium oxide and 800,000 ounces per year of gold. Olympic Dam is a relatively complex orebody, so there remains uncertainty about the size, cost, timing and eventual configuration of the expansion project. The project is still in pre-feasibility and development options are still being evaluated, and ultimately, the expansion project will depend upon Board approval of the final investment case and a range of regulatory and governmental approvals and agreements.

Escondida

Escondida is currently undertaking a pre-feasibility study into building a third concentrator plant. It has also been undertaking extensive exploration of the Escondida lease, and early drilling results suggest that there is extensive additional mineralisation in close proximity to existing infrastructure and processing facilities, including a new prospect known as Pampa Escondida. Further study will be required before we establish whether it can be economically extracted. Escondida is planning to invest an estimated US\$327 million (US\$188 million our share) in drilling, assaying and metallurgical test work across the mining lease over the next five years.

Resolution Copper

We hold a 45 per cent interest in the Resolution Copper project in Arizona, which is operated by our partner, Rio Tinto, which owns the other 55 per cent. Resolution Copper is currently undertaking a pre-feasibility study into a substantial underground copper mine and processing facility.

2.2.5 Diamonds and Specialty Products Customer Sector Group

Our Diamonds and Specialty Products CSG operates our diamonds and titanium minerals businesses, and is managing the development of a potentially substantial potash business.

Diamonds

The cornerstone of our diamonds business is the EKATI diamond mine in the Northwest Territories of Canada, of which we own 80 per cent. EKATI has produced an average of 3.0 million carats per year of rough diamonds over the last three years. However, the grade of ore we process fluctuates from year to year, resulting in variations in carats produced. In addition, the proportion of our production consisting of high-value carats (larger and/or higher-quality stones) and low-value carats (smaller and/or lower-quality stones) will fluctuate from year to year. Production at EKATI continues to transition from predominantly open-pit to a mix of open-pit and underground mining. During FY2008, we completed the Koala underground mine ahead of schedule and under budget. EKATI has a number of development options for future open-pit and underground mines to extend the life of the operation. The mine life based on current reserves and rate of production is 11 years.

Annual sales from EKATI (100 per cent terms) represent around 2.7 per cent of current world rough diamond supply by weight and 5.3 per cent by value. We sell most of our rough diamonds to international diamond buyers through our Antwerp sales office. We also sell a smaller amount of our diamond production to two Canadian manufacturers based in the Northwest Territories. We also sell polished diamonds, manufactured through contract polishing arrangements, through our CanadaMark™ and AURIAS™ brands.

We are also actively exploring for diamonds in a number of areas, particularly in Angola where we hold substantial exploration acreage. We believe there is significant potential in the diamonds business because of the increasing demand for diamond jewellery and the lack of significant new diamond discoveries. We believe that our experience operating EKATI provides us with a solid base for future operations.

Titanium minerals

Our interest in titanium minerals consists of our 50 per cent effective interest in Richards Bay Minerals (RBM) in South Africa and our 90 per cent interest in the Corridor Sands mineral sands project in Mozambique (see Development projects below).

RBM is one of the largest and lowest-cost producers of titania slag, high-purity pig iron, rutile and zircon from mineral sands. Approximately 90 per cent of the titanium dioxide slag produced by RBM is suitable for the chloride process of titanium dioxide pigment manufacture and is sold internationally under a variety of short, medium and long-term contracts. The other 50 per cent of RBM is owned by Rio Tinto.

In July 2008, RBM announced the signing of a Memorandum of Understanding for a 26 per cent broad-based black economic empowerment transaction. A consortium including investors, local communities and employees has been identified. Negotiations with the selected parties to agree the terms of the transaction are ongoing.

Potash

We believe that sound industry fundamentals, driven by rising demand for fertilisers, together with the resource attributes and capital-intensive nature of greenfield potash developments, make potash a suitable commodity for our portfolio. We have acquired substantial exploration acreage in the province of Saskatchewan, Canada, home to the largest and most productive potash basin in the world. We are currently studying development alternatives (see Development projects below).

Information on Diamonds and Specialty Products mining operations

The following table contains additional details of our mining operations. This table should be read in conjunction with the production and reserve tables.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Diamonds			
EKATI Diamond Mine 310 kilometres northeast of Yellowknife, Northwest Territories, Canada Beartooth and Fox are open-cut mines and Panda and Koala are underground mines. The mines are accessible year round by contracted aircraft. Road access is available for approximately 10 weeks per year via an ice road.	We own an 80% interest in the Core Zone joint venture, which includes the existing operations. The remaining 20% interest is held by two individuals. We also own a 58.8% interest in the Buffer Zone joint venture, made up predominantly of exploration targets. We are the operators of the mines. Tenure is secured through ownership of mining leases granted by the Government of Canada. Mining leases have been granted for reserves until 2017.	Construction began in 1997 and production from the first open-cut was initiated in 1997. The mine and processing plant began operation in mid 1998. In October 2001, we acquired Dia Met Minerals Ltd, bringing our interest in the Core Zone and Buffer Zone joint ventures up to 80% and 58.8% respectively. Current active mines include two open-cut (Beartooth and Fox) and two underground mines (Panda and Koala).	The processing plant consists of crushers, washers/scrubber and grinder and heavy media separator. The diamond recovery process makes use of magnetics and X-ray sorters. Nameplate capacity is 9,000 tonnes of ore per day. All the electric power is generated by our Company-owned and operated diesel power station. In addition, there is storage for approximately 90 million litres of diesel fuel on-site.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Titanium Minerals			
Richards Bay Minerals Four beach sand dredge mines 10 to 50 kilometres north of Richards Bay, KwaZulu-Natal, South Africa The mine is accessible via public rail, road and port. The rail between the mine site, harbour and shipping facilities are owned by Spoornet and Portnet (both government business enterprises supplying services on behalf of the state). The roads accessing the smelter are government-owned.	RBM comprises two legal entities, Tisand (Pty) Ltd and Richards Bay Iron and Titanium (Pty) Ltd. Our share is 51% and 49.45% respectively. The remaining 49% and 50.55% are held by Rio Tinto. The overall net income is shared equally. RBM management independently operates the joint venture on behalf of the shareholders. RBM holds long-term renewable leases from the state of South Africa. These leases are subject to the South African Mining Charter and must be lodged for a conversion to a New Order Mining Right by no later than 30 April 2009 (refer to section 2.8 'Government regulations').	Richards Bay Minerals was formed in 1976 to mine and beneficiate the sands in the coastal dunes. The mining operations were expanded to five, with the last mine added in 2000. In 2006, this was reduced to four, with the closure of one mining pond.	Mining is conducted largely by sand dredge mining, with minor supplementary dry mining. Gravity separation is then utilised to produce a heavy mineral concentrate. This concentrate is then trucked to a central processing plant to produce the finished products, being rutile and zircon and the ilmenite for smelter feed. The smelter processes the ilmenite to produce titanium dioxide slag, with a titanium dioxide of approximately 85% and high-purity iron. The nominal titanium slag capacity is 1.06 mtpa. The power for the operation is purchased from the South African grid.

Development projects

Corridor Sands

We are working on a pre-feasibility study for the Corridor Sands titanium minerals project in the Gaza province of southern Mozambique, which we acquired in the WMC transaction.

Potash

We are working on a pre-feasibility study for the Jansen project, a potentially substantial greenfield potash mine in the province of Saskatchewan, Canada. The Jansen project envisages the development of an underground mining operation, processing plant and associated infrastructure. While we are conducting the Jansen pre-feasibility study, we plan to pursue other potash projects in the region.

EKATI expansions

We are working on pre-feasibility and concept studies for developments at EKATI. Because of the nature of the kimberlite pipes in which diamonds are found, individual pipes are relatively short-lived, so we are continually working on options to bring new pipes on-stream.

2.2.6 Stainless Steel Materials Customer Sector Group

Our Stainless Steel Materials business is primarily a supplier of nickel to the stainless steel industry. Nickel is an important component of the most commonly used types of stainless steel. In addition, we supply nickel and cobalt to other markets including the specialty alloy, foundry, chemicals, and refractory material industries. We are the world's third-largest producer of nickel. Our nickel business has expanded rapidly with the acquisition of the former WMC nickel assets in 2005 and the development of Ravensthorpe and the Yabulu expansion. We have a number of options to continue expanding to meet the anticipated growth in stainless steel demand. We sell our nickel products under a mix of long-term, medium-term and spot contracts, with prices linked to the LME nickel price.

Our nickel business comprises three sets of assets:

Nickel West

Nickel West is the name for our wholly-owned Western Australian nickel assets, which consist of an integrated system of mines, concentrators, a smelter and refinery, together with our new Ravensthorpe nickel operation. We mine nickel bearing sulphide ore at our Mt Keith, Leinster and Cliffs operations north of Kalgoorlie, Western Australia. We operate concentrator plants at Leinster, which also concentrates ore from Cliffs, and at Mt Keith. Although its ore is relatively low grade, Mt Keith is a large open-cut nickel mine and the concentrator processes approximately 11.5 mtpa of ore. Leinster and Mt Keith have reserve lives of seven and 14 years, respectively at current rates of production, and both have options for further expansion. Cliffs is a new high grade underground mine with an expected reserve life of five years with extraction of ore commencing in FY2008.

We also operate the Kambalda concentrator south of Kalgoorlie, which processes material purchased from third parties.

We transport concentrate from Leinster, Mt Keith and Kambalda to our Kalgoorlie smelter, which processes it into nickel matte, containing approximately 68 per cent nickel. In FY2008, we exported approximately 31 per cent of our nickel matte production. We processed the remaining nickel matte at our Kwinana nickel refinery, which produces nickel metal in the form of LME grade briquettes and nickel powder, together with a range of saleable by-products. In June 2008, we announced that we brought forward a planned furnace rebuild at the Kalgoorlie smelter and that, as a consequence, both the smelter and the Kwinana nickel refinery were shut down. The smelter furnace rebuild was completed after approximately three months, with the refinery scheduled to resume production by the end of September 2008.

Our Ravensthorpe nickel operation was commissioned during FY2008 and is in the process of ramping-up to full capacity. Ravensthorpe comprises a large open-cut laterite nickel mine and an enhanced pressure acid leach concentrator plant. We will ship the plant's production, a mixed hydroxide precipitate (MHP) containing approximately 40 per cent nickel, to the expanded Yabulu refinery (see below) for refining into nickel metal. Ravensthorpe has a reserve life of 21 years based on the expected rate of production when the ramp-up is complete.

Yabulu

This wholly-owned nickel refinery in Queensland, Australia began operations in 1974 to service the nearby nickel laterite Greenvale mine, which closed in 1993. Since then, it has continued to process laterite ores purchased from third party mines in New Caledonia, Indonesia and the Philippines. In FY2008, we completed a significant expansion of the refinery to give it the capacity to process MHP from Ravensthorpe. The expansion more than doubled the nickel production capacity of the plant to an estimated 76,000 tpa of contained nickel.

Cerro Matoso

Cerro Matoso, our 99.94 per cent owned nickel operation in Colombia, combines a lateritic nickel ore deposit with a low-cost ferronickel smelter. Cerro Matoso is the world's second-largest producer of ferronickel and one of the lowest-cost producers of ferronickel. The smelter produces high-purity, low-carbon ferronickel granules. Production in FY2008 was 41,800 tonnes of contained nickel, approximately 9,000 tonnes lower than FY2007's production principally due to an industrial stoppage during FY2008. Cerro Matoso has an estimated reserve life of 42 years, based on current production levels. We are considering options that would expand processing capacity significantly (see Development projects below).

Information on Stainless Steel Materials mining operations

The following table contains additional details of our mining operations. This table should be read in conjunction with the production and reserve tables.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Nickel			
Leinster 375 kilometres north of Kalgoorlie in Western Australia, Australia Open-cut and underground mines The mine is accessible by government-owned road and rail. Nickel concentrate is shipped by rail to the Kalgoorlie smelter.	We own and operate the mines at Leinster. We hold 21-year leases over the land from the Western Australian Government. The leases have expiry dates between 2009 and 2029. Further renewals are at the Government's discretion.	Production commenced in 1967. WMC purchased the Leinster nickel operations in 1988 from Mt Isa Mines and Western Selcast. In June 2005, we gained control of Nickel West (Leinster, Mt Keith and Cliffs) as part of the acquisition of WMC.	Concentration plant with an operating capacity of 3 mtpa of ore. Power at the Kambalda, Mt Keith, Leinster and Cliff's nickel operations and at the Kalgoorlie nickel smelter is primarily derived from on-site third party gas-fired turbines. Gas for these turbines is sourced by us from the North West Shelf gas fields. The existing gas supply contract terminates in October 2013. The gas is transported through the Goldfields Gas Pipeline, pursuant to an agreement with Southern Cross Energy that expires in January 2014.
Cliffs 430 kilometres north of Kalgoorlie in Western Australia, Australia Underground mine The mine is accessible by government-owned road. Nickel ore is transported by road to the Leinster nickel operations for further processing.	We own and operate the mine at Cliffs. We hold 21-year leases over the land from the Western Australian Government. The leases have expiry dates between 2025 and 2028. Further renewals are at the Government's discretion.	Production commenced in 2008. In June 2005, we gained control of Nickel West (Leinster, Mt Keith and Cliffs) as part of the acquisition of WMC.	Power is currently sourced by diesel fuelled generators.
Mt Keith 460 kilometres north of Kalgoorlie, Western Australia, Australia Open-cut mine The mine is accessible by private road. Nickel concentrate is	We own and operate the mine at Mt Keith. We hold 21-year leases over the land from the Western Australian Government. The leases have expiry dates between 2009 and 2029. Further renewals are at the Government's discretion.	The Mt Keith mine was officially commissioned in January 1995 by WMC. In June 2005, we gained control of Nickel West (Leinster, Mt Keith and Cliffs) as part of the acquisition of WMC.	Concentration plant with a capacity of 11.5 mtpa of ore. Power is sourced from the same supplier under the same conditions as the Leinster mine.

transported by road to
Leinster nickel
operations from
where it is transported
by public rail to
Kalgoorlie smelter.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Ravensthorpe 155 kilometres west of Esperance, Western Australia, Australia Open-cut mine The mine is accessible by government-owned road. Mixed hydroxide precipitate is transported by road to the deepwater Port of Esperance, where it is then shipped by sea to BHP Billiton's Yabulu Refinery.	We own and operate the mine at Ravensthorpe. We hold 21-year leases over the land from the Western Australian Government. Expiry dates of the leases range between 2019 and 2028. Further renewals are at the Government's discretion.	BHP Billiton announced approval of the Ravensthorpe Nickel Development Project in March 2004. Ravensthorpe was officially opened in May 2008. Total project cost was \$2,086 million.	Ravensthorpe's processing plant has a capacity of up to 50,000 tpa of contained nickel and 1,400 tpa of cobalt. Ravensthorpe is a fully integrated operation, providing its own power. Ravensthorpe Nickel Operation uses the Enhanced Pressure Acid Leach (EPAL) process, which combines pressure acid leaching and atmospheric leaching to recover nickel and cobalt from laterite ores, producing a mixed hydroxide precipitate.
Cerro Matoso Montelibano, Córdoba, Colombia Open-cut mine The mine is accessible by public highway.	We own 99.94% of CMSA. 0.06% is held by employees. Existing mining concession rights are renewable in 2012 with a 30-year extension period until 2042. Further extension is possible at that time. Land on which reserves are located is owned.	Mining commenced in 1980 and nickel production started in 1982 under Colombian Government, BHP Billiton and Hanna Mining ownership. In 1989, we increased our ownership to 53%, in 1997 to 99.8% and in 2007 to 99.94%. In 1999, an expansion project to double installed capacity was started, and in January 2001 the first metal was tapped from this second line.	The ferronickel smelter and refinery are integrated with the mine. Beneficiation plant for the mine consists of a primary and secondary crusher, which is sent to a stacker for ore stockpiling and blending. Process design capacity is 50,000 tpa. Actual capacity depends on nickel grade from the mine. Electricity is supplied from the national grid based on supply contracts negotiated for 5-year periods. The existing electricity supply contract terminates in December 2010. A pipeline supplies domestic natural gas for drier and kiln operation. The existing gas supply contract terminates in November 2008.

Information on Stainless Steel Materials smelters, refineries and processing plants

Operation and location	Ownership, operation and title	Plant type/product	Capacity and power source
Kambalda 56 kilometres south of Kalgoorlie, Western Australia, Australia	We own and operate the Kambalda nickel concentrator. Ore is sourced through tolling and concentrate purchase arrangements with third parties in the Kambalda region. We hold 21-year leases over the land from the Western Australian Government. The lease expiry dates range between 2010 and 2029. Further renewals are at the government's discretion.	Mill and concentrator plant producing concentrate containing approximately 13% nickel.	The Kambalda concentrator has a capacity of approximately 1.6 mtpa of ore. Power arrangements are the same as for the Leinster mine (see above).
Kalgoorlie nickel smelter Kalgoorlie, Western Australia, Australia	We own and operate the Kalgoorlie nickel smelter operation and hold freehold title over the property.	The flash smelting process produces matte containing approximately 68% nickel.	The Kalgoorlie smelter has a capacity of 110,000 tpa of nickel matte. Power arrangements are the same as for the Leinster mine (see above).
Kwinana nickel refinery 30 kilometres south of Perth, Western Australia, Australia	We own and operate the Kwinana nickel refinery operation and hold freehold title over the property.	The refinery uses the Sherritt-Gordon ammonia leach process to convert nickel matte from the Kalgoorlie nickel smelter into LME-grade nickel briquettes and nickel powder. The refinery also produces a number of intermediate products, including copper sulphide, cobalt-nickel sulphide and ammonium sulphate.	The Kwinana nickel refinery has a capacity of approximately 65,000 tpa of nickel metal. Power generated by Southern Cross Energy in the goldfields is distributed across Western Power's network for use at the Kwinana nickel refinery. We purchase delivered gas for use at the Kwinana nickel refinery. This gas is sourced from North West Shelf gas fields and is transported by the Dampier to Bunbury natural gas pipeline and the Parmelia pipeline. The existing gas supply contract terminates in October 2013
Yabulu 25 kilometres northwest of Townsville, Queensland, Australia	We own and operate Yabulu and hold freehold title over the refinery property. The berth, ore handling facilities and fuel oil facilities at the Townsville port are situated on long-term leasehold land	Yabulu consists of a laterite nickel refinery and cobalt refinery. The Yabulu refinery has two major sections. We process nickel ore at the front end section using a reduction roast. The reduced nickel ore is put through an ammonia-ammonium carbonate	The Yabulu refinery has an annual production capacity of approximately 76,000 tonnes of nickel and 3,200 tonnes of cobalt. Currently, we source power and steam from a combination of on-site coal-fired and oil-fired boilers, electrical power from

leaching process before
being combined with MHP
at the back end section.
The mixture

Operation and location	Ownership, operation and title	Plant type/product	Capacity and power source
		goes through a solvent extraction process that was developed and patented at the refinery. The metal refining separates the nickel and cobalt. Our cobalt purification plant produces a high-purity cobalt oxide hydroxide product.	Ergon Energy and coal seam gas from AGL Energy / Arrow Energy (50% owners). The existing gas supply contract terminates in May 2020. The existing coal supply contract terminates in March 2011, but can be extended.

Development projects

Perseverance Deeps

We are undertaking a feasibility study into extending the life of the existing high-grade sulphide Perseverance mine located at Leinster in Western Australia, by implementing a block cave mining method below 1.1 kilometres depth. If approved, the mine would deliver ore into the existing Nickel West infrastructure.

Cerro Matoso expansion options

We have undertaken conceptual studies on options for expanding production at Cerro Matoso, including building a third and fourth processing line and a heap leaching operation. If we successfully complete feasibility studies and BHP Billiton Board approval is given, these projects could result in Cerro Matoso's capacity more than doubling within 10 years.

2.2.7 Iron Ore Customer Sector Group

Our iron ore CSG consists of our Western Australia Iron Ore business (WAIO) and a 50 per cent interest in the Samarco joint venture in Brazil.

Western Australia Iron Ore

WAIO's operations involve a complex integrated system of seven mines, more than 1,000 kilometres of rail and port facilities, located in the Pilbara region of northern Western Australia.

In response to surging demand for iron ore, we have been rapidly expanding our WAIO operations. Since 2001, we have completed five expansion projects to increase our system production capacity from 69 mtpa to 129 mtpa (100 per cent basis). All of these projects have been completed on time and on budget. We now have a project underway to further increase system capacity to 155 mtpa by the end of FY2010. Additional projects now undergoing feasibility or pre-feasibility studies would, if approved and completed on schedule, increase system capacity to 300 mtpa by 2015. Our share of FY2008 production was approximately 103.8 million tonnes of ore.

Our Pilbara reserve base is relatively concentrated, allowing us to plan our development around a series of integrated 'mining hubs' joined to the ore bodies by conveyor or spur line. The mining hub approach enables us to maximise the value of installed infrastructure by using the same processing plant and rail infrastructure for a number of ore bodies. Blending ore at the hub gives us greater flexibility to responding to changing customer requirements and changing properties in the ore being mined, as well as reducing the risk of port bottlenecks. In recent years, we have also driven operational efficiency by a number of business improvement initiatives, such as our proprietary BLASOR development planning optimisation software, increased mining and processing automation, and using technology to increase the length and frequency of trains.

In conjunction with our capacity expansion, we have substantially expanded our reserve evaluation capability to improve our reserve knowledge and extend the life of our Pilbara reserves. In June 2008, we announced a 23 per cent increase in our ore reserve for our

WAIO operations and we estimate that we have significant additional mineralisation. Our proven ore reserves are high grade, with average iron content ranging from 57.4 per cent at Yandi to 63.2 per cent at Mt Newman. The reserve lives of our mines at current production levels range from 12 years at Mt Goldsworthy (Northern) to 61 years at Jumblebar.

Most of our sales take place under long-term volume contracts with steel producers in North Asia. Prices are generally set through annual negotiations. In the longer term, we are promoting a shift away from annually negotiated prices to a system based on index prices.

Fortescue Metals Group has applied to the Australian National Competition Council for access to our rail infrastructure in the Pilbara. See Section 8 'Legal Proceedings - Mt Newman and Goldsworthy railway lines.' If FMG is successful in its application, its use of our railways may have a material adverse impact on our expected production from WAIO.

Samarco

We are a 50-50 joint venture partner with Vale at the Samarco operations in Brazil. During the 2008 fiscal year, Samarco completed an expansion project consisting of a third pellet plant, a mine expansion, a new concentrator, port enhancements and a second slurry pipeline. Our share of production in FY2008 was approximately 8.5 million tonnes of ore. Samarco has a reserve life of 21 years at current production rates.

Information on Iron Ore mining operations

The following table contains additional details of our mining operations. This table should be read in conjunction with the production and reserve tables.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Mt Newman joint venture Pilbara region, Western Australia, Australia Open-cut mine The mine is accessible by public road and Company-owned rail to the joint venture's Nelson Point shipping facility at Port Hedland.	We hold an 85% interest in the Mt Newman joint venture. The other 15% is held by Mitsui ITOCHU Iron (10%), ITOCHU Minerals and Energy of Australia (5%). We are the operators. Mining lease under the Iron Ore (Mt Newman) Agreement Act 1964, this expires in 2009 with the right to successive renewals of 21 years.	Production began at the Mt Whaleback orebody in 1969. Production continues to be sourced from the major Mt Whaleback orebody, complemented by production from orebodies 18, 23, 25, 29 and 30.	At Mt Whaleback, primary and secondary crushing plants (capacity of 35 mtpa); a heavy media beneficiation plant (capacity of 8 mtpa) and a train-loading facility. At orebody 25, an additional primary and secondary crushing plant (capacity of 8 mtpa). A crusher and train-loading facility at orebody 18. Power comes from Alinta Dewap's Newman gas-fired power station via Company-owned powerlines under long-term contracts.
Yandi joint venture Pilbara region, Western Australia, Australia Open-cut mine The mine is accessible by public road and Company-owned rail to the Nelson Point shipping facility at Port Hedland.	We hold an 85% interest in the Yandi joint venture. The other 15% is held by Mitsui Iron Ore Corporation (7%), ITOCHU Minerals and Energy of Australia (8%). An independent contract mining company is the operator of the mine. Mining lease under the Iron Ore (Marillana Creek) Agreement Act 1991 expires in 2012 with renewal	We began development of the orebody in 1991. The first shipment occurred in 1992. Capacity was progressively expanded between 1994 and 2003 and is currently in excess of 42 mtpa.	Two processing plants and a primary crusher and overland conveyor are used to crush and screen ore and deliver it to one of two train-loading facilities. Power comes from Alinta Dewap's Newman gas-fired power station via Company-owned powerlines under long-term contracts.

right to a further 42 years.

Jimblebar Pilbara region, Western Australia, Australia Open-cut mine	We own 100% of the Jimblebar lease. We have a sublease agreement over the Wheelara deposit with ITOCHU Minerals and Energy of Australia, Mitsui Iron Ore and four separate subsidiaries of Chinese	Production at Jimblebar began in March 1989. The ore currently being produced is blended with ore produced from Mt Whaleback and satellite orebodies 18, 23, 25, 29 and 30 to create the Mt Newman blend.	Primary and secondary crushing plant (capacity of 8 mtpa). Power comes from Alinta Dewap's Newman gas-fired power station via Company-owned powerlines under long-term contracts.

Name, location type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
The mine is accessible by public road and Company-owned rail to Port Hedland via a 30 kilometre spur line linking with the main Newman to Port Hedland railway.	steelmakers. As a consequence of this arrangement, we are entitled to 85% of production from the Wheelara sublease. An independent contract mining company is the operator of the mine. Mining lease under the Iron Ore (McCamey's Monster) Agreement Authorisation Act 1972 expires in 2009 with the rights to successive renewals of 21 years.		
Mt Goldsworthy joint venture Pilbara region, Western Australia, Australia Open-cut mine includes Area C, Yarrie and Nimingarra. The mine is accessible by public road and Company-owned rail to the joint venture's Finucane Island shipping facilities and the Nelson Point shipping facilities, both located at Port Hedland. Our railway spur links Area C mine to the Newman main line.	We hold an 85% interest in the Mt Goldsworthy joint venture. The other 15% is held by Mitsui Iron Ore Corporation (7%) and ITOCHU Minerals and Energy of Australia (8%). An independent contract mining company is the operator of the mine. Four mineral leases under the Iron Ore (Mt Goldsworthy) Agreement Act 1964 and the Iron Ore (Goldsworthy – Nimingarra) Agreement Act 1972, which have expiry dates between 2008 and 2028 with rights to successive renewals of 21 years. A number of smaller mining leases granted under the Mining Act 1978 in 2005.	Operations originally commenced at the Mt Goldsworthy project in 1966 and the Shay Gap mine in 1973. The original mine closed in 1982 and the associated Shay Gap mine closed in 1993. Since then, mining has continued from the adjacent Nimingarra and Yarrie areas. We opened Area C mine in 2003.	The primary crushers at Yarrie and Nimingarra, with a combined capacity of 8 mtpa, have been placed into care and maintenance. Yarrie is currently using mobile in-pit crushing plant at a rate of 2 mtpa. An ore processing plant, primary crusher and overland conveyor are located at Area C with capacity of 42 mtpa. Power for Yarrie and Nimingarra is sourced via overhead powerlines from the Port Hedland gas-fired powered station operated by Alinta Dewap under long term contracts. Area C sources its power from the Newman gas-fired power station also operated by Alinta Dewap under long-term contracts.
Samarco Southeast Brazil Open-cut mine The mine is accessible by public road. Conveyor belts transport iron ore to the beneficiation plant and a 396 kilometre slurry pipeline transports pellet feed to the pellet plants on the coast. Iron pellets are exported	We own 50% of Samarco. The other 50% is owned by Vale. Samarco is operated as an independent business with its own management team. The Brazilian Government has granted mining concessions to Samarco as long as it mines the Alegria complex according to an agreed plan.	Production began at the Germano mine in 1977 and at the Alegria complex in 1992. The Alegria complex has now replaced the depleted Germano mine. An expansion occurred in 1997 when a second pellet plant was built. In 2005, an optimisation project increased	There are two 396 kilometre iron ore slurry pipelines integrating the mining complex to pellet plants. With the addition of the third pellet plant expansion, Samarco has the capacity to process and pump a total of 24 million tonnes of ore concentrate a year and produce and ship approximately 21.6 million tonnes of pellets.

via private port facilities.

pellet feed and pellet production.

The most recent expansion occurred in 2008 when a third pellet plant was built as well as a second pipeline.

Samarco holds interests in two hydroelectric power plants. These plants furnish approximately 19.2% of Samarco's electricity requirements.

Samarco has signed two agreements expiring in 2014 to purchase remaining power needs from two local concessionaires that operate other hydro-electric power plants.

Development projects

Western Australia Iron Ore

During FY2008 the Rapid Growth Project (RGP) 3 was completed and has delivered an additional 20 mtpa of capacity, bringing the total installed capacity in the business to 129 mtpa (100 per cent share). This has seen the delivery of additional mining and processing facilities at the Area C mine, together with expansions to the rail and port infrastructure, including the rebuilding of the 'C' Berth at Finucane Island.

The Board approved project expenditure of US\$1,850 million in March of 2007 for RGP 4. The focus of this expansion project is within the Newman area and is expected to increase installed capacity to 155 mtpa (100 per cent share) by early 2010.

A variety of feasibility studies are being undertaken as part of the plan to grow business capability to 300 mtpa by 2015, and of these, RGP5 is the most advanced. In January, the Board approved our share of pre-expenditure of US\$1,100 million (US\$930 million our share) to progress the project while the feasibility study is being completed.

Samarco

In October 2005, the Board approved construction of a third pellet plant at Ponta Ubu, together with a mine expansion, a new concentrator at Germano, port enhancements and a second slurry pipeline. The project has increased iron ore pellet capacity by 7.6 mtpa at a cost of US\$1,480 million (US\$740 million our share). Production commenced during in March 2008.

Guinea

We are currently carrying out concept studies in Guinea (West Africa) at our Nimba deposit to determine the economic viability, sustainability impacts and management implications of operations in this area.

2.2.8 Manganese Customer Sector Group

Our Manganese CSG operations produce a combination of ores, alloys and metal from sites in South Africa and Australia. We are the world's largest producer of seaborne manganese ore and in the top three global producers of manganese alloy.

Manganese alloy is a key input into the steel making process, and demand for manganese has reflected the growth in global steel production. Our high-grade ore is particularly valuable to alloy producers because of the 'value in use differential' over low-grade ore, which is the degree to which high grade ore is proportionately more efficient in the alloy process than the difference in grade.

Although our corporate strategy is to focus on upstream resources businesses, our low-cost alloy smelters have been significant contributors to our profit in recent years. In addition, they add value to the overall manganese business because they enable us to access markets with an optimal mix of ore and alloy, optimise production to best suit market conditions and give us insights into the performance of our ores in smelters that assist our ore marketing efforts.

In recent years, we have sold approximately 80 per cent of our ore production and used the remainder as feedstock in our alloy smelters. More than 90 per cent of our ore sales are priced quarterly or, occasionally, on a spot basis while the rest are priced annually.

We own all of our manganese mining assets and alloy plants through 60-40 joint ventures with Anglo-American known as Samancor Manganese. We are the operator of the assets in this joint venture. The Samancor Manganese joint venture also owns 51 per cent of the Manganese Metal Company, which operates a manganese metal plant in South Africa. Our manganese metal and alloy sales are principally to steelmakers, generally under long-term contracts that typically provide for quarterly price adjustments, either by negotiation or by reference to published market prices.

We have two mines at Hotazel in the Northern Cape province of South Africa and the GEMCO mine on Groote Eylandt in the Gulf of Carpentaria off northern Australia.

- **Hotazel**

The Samancor Manganese joint venture owns the Mamatwan open-cut mine and the Wessels underground mine. These assets produced a record three million tonnes of ore during FY2008 and we have opportunities for further

expansion. At current production rates, Mamatwan and Wessels have reserve lives of 14 and 20 years.

- **GEMCO**

As a result of its location near our own port facilities and its simple, open-cut mining operation, GEMCO is one of the lowest-cost manganese ore producers in the world. This, and its high-grade of ore and relative proximity to Asian export markets make it unique among the world's manganese mines. GEMCO produced over 3.5 million tonnes of ore in FY2008. At current production rates, it has a reserve life of 17 years. GEMCO currently has an expansion project underway and is studying another (see Development projects below).

We have alloy plants in Gauteng, South Africa (Metalloys/Advalloy) and Tasmania, Australia (TEMCO).

- **Metalloys/Advalloy**

Samancor Manganese's Metalloys alloy plant, which includes the former Advalloy joint venture operation, is one of the largest manganese alloy producers in the world. Due to its size and access to high-quality feedstock from our Hotazel operations, it is also one of the lowest-cost alloy producers. Metalloys produces high and medium-carbon ferromanganese and silicomanganese.

- **TEMCO**

TEMCO produces high-carbon ferromanganese, silicomanganese and sinter from ore shipped from GEMCO, primarily using hydro-electric power.

During FY2008, our South African mines and plants were affected by a mandatory 10 per cent reduction in electricity consumption as a result of generation constraints at the national power utility, Eskom. We have supplemented our power supply with additional diesel generation capacity and adjusted our product mix towards more energy efficient products. We expect to maintain overall production levels, although our costs will increase marginally.

Information on Manganese mining operations

The following table contains additional details of our mining operations. These tables should be read in conjunction with the production and reserve tables below.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Hotazel Manganese Mines Kalahari Basin, South Africa Mamatwan is an open-cut mine. Wessels is an underground mine. The mines are accessible by rail and public road. Most ore and sinter products are transported by government-owned rail. Approximately one third of the ore produced is beneficiated locally with the balance exported via Port Elizabeth and Durban.	Hotazel Manganese Mines, a division of Samancor Manganese, is the operator of Mamatwan and Wessels. To comply with the South African Mining Charter and scorecard, Samancor Manganese should obtain 15% Black Economic Empowerment (BEE) ownership of its Hotazel Manganese Mines by April 2009. Hotazel has reached agreement to pool its mineral rights in a new vehicle that will have a 9% BEE shareholding. The transaction is pending government approval. Negotiations are underway with possible BEE partners for the balance of the 15% target.	Mamatwan was commissioned in 1964. Wessels was commissioned in 1973.	Mamatwan's capacity is currently 2.8 mtpa of ore and sinter based on the current product mix at the mine. The beneficiation plant consists of primary, secondary and tertiary crushing with associated screening plants. There is a dense medium separator and a sinter plant with a capacity of 0.9 mtpa of sinter. Wessels has two loaders and four haulers with an annual capacity of approximately 0.9 mtpa of ore. The processing is a simple crushing and screening circuit consisting of primary and secondary crushing circuits with associated screening capacity. The power source is the

national utility company
Eskom. We have
supplemented our power
supply with additional back-
up diesel generation
capacity.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Groote Eylandt Mining Company Pty Ltd (GEMCO) Groote Eylandt, Northern Territory, Australia Open-cut mine Ore is transported from the concentrator by road train directly to our shipping facilities at the port at Milner Bay.	We own 60% of GEMCO, which owns and operates the mine. The remaining 40% is owned by Anglo American. All leases situated on Aboriginal land held under the Aboriginal Land Rights (Northern Territory) Act 1976. Leases have been renewed for a period of 25 years from 2006.	The mine was first commissioned in 1965.	The beneficiation process consists of crushing, screening and dense media separation with lump and fines products being produced. The existing capacity is 3.4 mtpa. GEMCO owns and operates its own on-site diesel power generation facility.

Information on Manganese smelters, refineries and processing plants

Operation and location	Ownership, operation and title	Plant type/product	Capacity and power source
Advalloy (Pty) Ltd Meyerton, South Africa	Samancor Manganese owns 100% of Advalloy. Samancor Manganese holds freehold title over the property, plant and equipment.	Manganese alloy plant uses an oxygen blast converter process producing refined manganese alloy from molten metal from the adjacent Metalloys smelter.	Advalloy has a capacity of 82,000 tonnes per annum of medium-carbon ferromanganese in various fractions. The power source is from Eskom.
Manganese Metal Company (Pty) Ltd Nelspruit, South Africa	Samancor Manganese owns 51% of Manganese Metal Company. Delta Plc indirectly owns the remaining 49%. Manganese Metal Company holds freehold title over the property, plant and equipment.	A manganese production plant at Nelspruit processing and electrowinning of manganese ore into electrolytic manganese metal (via a selenium-free hydrometallurgical electroplating extraction process).	Manganese Metal Company has a capacity to produce 27,000 tonnes per annum of electrolytic manganese metal. The power source is from Eskom.
Metalloys Meyerton, South Africa	Metalloys is a division of Samancor Manganese. Samancor Manganese holds freehold title over the property, plant and equipment.	Manganese alloy plant uses eight electric arc furnaces to produce manganese alloys such as high-carbon ferromanganese and silicomanganese.	370,000 tonnes of high-carbon ferromanganese (including hot metal) and 120,000 tonnes of silicomanganese in various fractions per annum. The power source is the national utility company Eskom plus 30 mw of internal power generation from waste gases.

Operation and location	Ownership, operation and title	Plant type/product	Capacity and power source
Tasmanian Electro Metallurgical Company Pty Ltd (TEMCO) Bell Bay, Tasmania, Australia	We own 60% of TEMCO. Anglo American owns the remaining 40%. Samancor Manganese manages the operations. TEMCO holds freehold title over the property, plant and equipment.	Four electric arc furnaces and a sinter plant produce ferroalloys, including high-carbon ferromanganese, silicomanganese and sinter.	Nominal capacity based on the 2007 product mix is 128,000 tonnes of high-carbon ferromanganese, 126,000 tonnes of silicomanganese and 336,000 tonnes of sinter per annum. TEMCO sources its electrical power from Aurora Energy, the state-owned power distribution and retailing company. Power in Tasmania is principally generated from hydro stations, but supplemented with a 240 mw gas generation station. TEMCO also self-generates 11mw for internal use from an on-site energy recovery unit.

Development projects

GEMCO expansion

We are currently expanding the capacity of GEMCO's processing plant by an estimated 1.0 mtpa at a cost of US\$110 million (our share). We are undertaking a pre-feasibility study into further expansion options. The commissioning phase is due to start 30 April 2009 and the ramp-up is estimated to take two months from this date.

Hotazel Manganese Mines

Two expansion projects in South Africa are expected to add 1.0 mtpa of capacity (100 per cent, or about 0.6 mtpa BHP Billiton share) for less than US\$50 million capital expenditure (BHP Billiton share).

2.2.9 Metallurgical Coal Customer Sector Group

Our Metallurgical Coal CSG is the world's largest supplier of seaborne metallurgical coal. Along with iron ore and manganese, metallurgical coal is a key input in the blast furnace production of steel, and, as a result, demand for metallurgical coal is exposed to the booming Chinese steel industry and the fast-growing Indian steel industry.

We have production assets in two major resource basins, the Bowen Basin in Central Queensland, Australia and the Illawarra region of New South Wales, Australia. We will shortly begin Stage 1 development in a third significant basin at Maruwai on the Indonesian island of Kalimantan.

Bowen Basin

Compared to competitive coal producing regions, the Bowen Basin is extremely well positioned to supply the seaborne market because of:

- its high-quality metallurgical coals, which are more efficient in blast furnace use
- the relatively low cost of production because of its extensive near-surface deposits
- its geographical proximity to Asian customers

We enjoy access to key infrastructure, including a modern, integrated electric rail network and our own coal loading terminal at Hay Point, Mackay. This infrastructure enables us to maximise throughput and blending products from multiple mines to optimise the value of our production and satisfy customers.

Our Bowen Basin mines are owned through a series of joint ventures. We share 50-50 ownership with Mitsubishi Development Pty Ltd of the Goonyella Riverside, Peak Downs, Saraji, Norwich Park, Blackwater and Gregory Crinum mines, together with the Hay Point terminal. We own 80 per cent of the South Walker Creek and Poitrel mines, with Mitsui and Co. owning the other 20 per cent. All of these operations are managed by a BHP Billiton-Mitsubishi joint venture company known as BMA.

We export Bowen Basin metallurgical coal, under long-term or annual volume contracts with prices negotiated yearly. Our customers are steel producers around the world, particularly in north Asia and India.

During the third quarter of FY2008, north Queensland was affected by two episodes of unusually heavy rain and flooding. As a result, mining operations were temporarily suspended, and we were forced to declare force majeure on our sales contracts from late January until early June 2008. Production has recovered strongly and operations are now almost back to full capacity. Total attributable production in FY2008 was approximately 27.9 million tonnes, compared with 31.5 million tonnes in FY2007. As a result of the delayed deliveries, we will be delivering approximately 1.4 million tonnes of coal during the first quarter of FY2009 at the substantially lower Japanese fiscal year 2007 prices.

Illawarra

We own and operate three underground coal mines in the Illawarra region of New South Wales, which primarily supply metallurgical coal to the nearby BlueScope Port Kembla steelworks under long-term volume contracts with annually negotiated prices. Total production in FY2008 was approximately 7.3 million tonnes.

Production figures for both the Bowen Basin and Illawarra include some energy coal (less than 7 per cent and 12 per cent, respectively).

Information on Metallurgical Coal mining operations

The following table contains additional details of our mining operations. The tables should be read in conjunction with the production and reserves tables.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
Central Queensland Coal Associates joint venture Bowen Basin, Queensland, Australia Goonyella Riverside, Peak Downs, Saraji, Norwich Park and Blackwater are open-cut mines. Broadmeadow is a longwall underground mine. The mines are accessible by public road. All coal is transported on government-owned railways to the port of Hay Point near Mackay (incorporating CQCA's Hay Point Coal Terminal and the Dalrymple Bay Coal Terminal) and the port of Gladstone.	We own 50% of the CQCA joint venture. Mitsubishi owns the other 50%. BMA operates the mines. Leases for the CQCA mines have expiry dates between 2008 and 2037 and are renewable for such further periods as the Queensland Government allows. The joint venture holds additional undeveloped leases in the Bowen Basin.	Goonyella mine, which commenced in 1971, merged with the adjoining Riverside mine in 1989 and is operated as the Goonyella Riverside mine. Reserves at the Riverside mine were depleted in 2005. Peak Downs commenced production in 1972. Saraji mine commenced production in 1974. Norwich Park commenced production in 1979. Blackwater mine commenced production in 1967. South Blackwater and Blackwater mines were integrated from late 2000. Broadmeadow, an underground mine developed on the Goonyella mining lease, commenced longwall operations in August 2005.	All coal is beneficiated at on-site processing facilities, which have a combined capacity in excess of 51.5 mtpa. Power is sourced from the State of Queensland's electricity grid.

Gregory joint venture Bowen Basin, Queensland, Australia Gregory is an open-cut mine. Crinum is a longwall underground mine. The mines are accessible by public	We own 50% of the Gregory joint venture. Mitsubishi Development Pty Ltd owns the other 50%. BMA operates the mines. Leases have expiry dates between 2013 and 2027, and are renewable for such further periods as the Queensland Government allows.	The Gregory mine became operational in 1979. Crinum mine commenced longwall production in 1997.	All coal is beneficiated at on-site processing facilities, which have a combined capacity in excess of 5 mtpa. Power is sourced from the State of Queensland's electricity grid.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
road. All coal is transported on government-owned railways to the port of Hay Point near Mackay (incorporating CQCA's Hay Point Coal Terminal and the Dalrymple Bay Coal Terminal) and the port of Gladstone.			
BHP Mitsui Coal joint venture Bowen Basin, Queensland, Australia South Walker Creek and Poitrel are open-cut mines. The mines are accessible by public road. All coal is transported on government-owned railways to the port of Hay Point near Mackay (incorporating CQCA's Hay Point Coal Terminal and the Dalrymple Bay Coal Terminal).	We own 80% of the BHP Mitsui Coal joint venture. Mitsui and Co owns the other 20%. BMA manages the mines, which are operated through independent contractors. Leases have expiry dates between 2008 and 2020, and are renewable for such further periods as the Queensland Government allows. The joint venture holds additional undeveloped leases in the Bowen Basin.	The joint venture commissioned Riverside, an open-cut mine, in 1983. Reserves were depleted in 2005. South Walker Creek became operational in 1996, producing pulverised coal injection (PCI) product and minor quantities of by-product energy coal. Construction for the Poitrel mine commenced in early 2006 and first coal was produced in October 2006. The mine has a production capacity of 3.0 mtpa of metallurgical and PCI coals.	South Walker Creek coal is beneficiated at on-site processing facilities with a capacity to produce 3.8 mtpa of coal. Poitrel mine has entered into a joint venture agreement with the adjacent Millennium Coal mine to share coal processing and rail loading facilities. Poitrel has access to 3.0 mtpa capacity from the processing facilities. Power is sourced from the State of Queensland's electricity grid.
Illawarra Coal Illawarra, New South Wales, Australia Underground mines All the mines are accessible by public road. All coal is transported by road or on government-owned railways to our major customer, BlueScope Steel's Port Kembla steelworks or to Port Kembla for shipping.	We are owner and operator of the Illawarra Coal mines. Leases have expiry dates between 2010 and 2026, with renewal rights under the NSW Mining Act 1992 for periods of 21 years.	Appin commenced in 1962 with longwall mining starting in 1969. West Cliff was commissioned in 1976. Elouera opened in 1993. Reserves were nearly depleted in 2005. In December 2007, the mine was sold to Gujarat NRE FCGL Pty Ltd. Dendrobium Mine opened in FY 2005.	Coal is beneficiated at two processing facilities with a capacity to produce approximately 8.0 mtpa. Power is sourced from the State of New South Wales' electricity grid.

Development projects

Maruwai (Lampunut)

Maruwai is a large, high-quality, metallurgical coal deposit in Central and East Kalimantan provinces of Indonesia. Investment approval has been given for the Stage 1 development of the Maruwai metallurgical coal basin for a capital investment of approximately US\$100 million.

The initial development project is the Haju open-cut mine and associated river port. The Haju mine is a small, discrete coal deposit that is expected to initially produce 1 mtpa of metallurgical coal, with expansion potential to 2 mtpa. First

production is expected mid-2009. A feasibility study is currently underway for development of a 3-5 mtpa coal mine at the larger Lampunut deposit at Maruwai.

Bowen Basin Expansions

BMA is investigating a number of brownfield and greenfield expansion options in the Bowen Basin. The most advanced of these are Daunia, which is in feasibility and Caval Ridge, in pre-feasibility. Daunia would produce 3 mtpa and is located to the east of the Poitrel mine, and Caval Ridge would be a 5.5 mtpa mine to the north of the Peak Downs mine. Both developments would include coal handling preparation plants. BMA is also considering the expansion of existing operations to add 2.5 mtpa to Peak Downs and up to 9 mtpa at Goonyella Riverside.

In addition, BMA has finalised an agreement to acquire the New Saraji exploration project from New Hope for approximately US\$1 billion (BHP Billiton share). The agreement is subject to regulatory and third party approval. New Saraji is located to the east of the Saraji mine. The deal includes a 10 mtpa entitlement at Abbott Point port expansion.

2.2.10 Energy Coal Customer Sector Group

Our Energy Coal CSG is one of the world's largest producers and marketers of export energy coal (also known as thermal or steaming coal) and is also a significant domestic supplier to the electricity generation industry in Australia, South Africa and the United States. Our global portfolio of energy coal assets, our insights into the broader energy market through our sales of other fuels such as gas, uranium and oil, and our control of options for bulk freight provide our business with key advantages as a supplier. Like our other businesses, our Energy Coal CSG owns large, long-life assets with substantial options for expansion.

We generally make our domestic sales under long-term fixed-price contracts with power stations that are located in close proximity to the mine. We make export sales to power generators and some industrial users in Asia, Europe and the United States, usually under contracts for delivery of a fixed volume of coal. Pricing is either index-linked, or fixed, in which case we use financial instruments to swap our fixed-price exposure for exposure to the index.

We recognise that the need to control carbon dioxide emissions has substantial implications for the use of thermal coal as an energy source. Our Company has committed to invest US\$300 million over the five years from June 2007 to support the research, development and demonstration of low-emissions technologies, including "clean coal" and carbon sequestration technologies. We have also developed the capacity to offer our export customers emissions credits in conjunction with their coal purchases.

We operate three sets of assets: a group of mines and associated infrastructure collectively known as BHP Billiton Energy Coal South Africa (BECSA) our New Mexico Coal operations in the United States; and our Hunter Valley Energy Coal operations in New South Wales, Australia. We also own a one-third share of the Cerrejón Coal Company, which operates a coal mine in Colombia.

BHP Billiton Energy Coal South Africa

BECSA operates three coal mines in the Witbank region of Mpumalanga province of South Africa, which produced a total of approximately 45 million tonnes in FY2008. We have two major mine expansion projects underway in South Africa (see Development projects below). In FY2008, BECSA sold approximately 64 per cent of its production to Eskom, the government-owned electricity utility in South Africa, and exported the rest via the Richards Bay Coal Terminal, in which we own a 24 per cent share. The reserve lives of the BECSA mines at current production rates range from 12 to 27 years.

In May 2008, we announced an agreement to sell our previously wholly-owned Optimum colliery, together with 6.5 mtpa of Richards Bay Coal Terminal entitlement, to an entity controlled by a broad-based black economic empowerment consortium. The sale was completed in June 2008, however the economic impact of the agreement was as if it were concluded on 1 July 2007. In July 2007, we sold our previously wholly-owned Koorfontein mine to a broad-based black economic empowerment consortium. We continue to market the export production from both mines.

New Mexico Coal

We own and operate the Navajo mine, located on Navajo land in New Mexico, and the nearby San Juan mine. Each of these mines transports its production directly to a nearby power station. The reserve lives of Navajo and San Juan at current production rates are 25 and 12 years, respectively. We are considering expansion options at Navajo (see Development projects below).

Hunter Valley Energy Coal

Our Hunter Valley operating asset is the Mt Arthur open-cut coal mine, which produced approximately 11.8 million tonnes

in FY2008 and has a reserve life at current production rates of 14 years. We also have a number of projects in feasibility or pre-feasibility that, if completed, will form part of the Hunter Valley Energy Coal portfolio, including an open-cut expansion of the existing operation and an underground expansion of Mt Arthur (see Development projects below). We deliver approximately one-third of Mt Arthur's production to local power stations and export the rest via the port of Newcastle.

Cerrejón Coal Company

Cerrejón Coal Company owns and operates the largest open-cut export coal mine in the world in La Guajira province of Columbia, together with integrated rail and port facilities through which the majority of production is exported. In FY2008, Cerrejón completed an expansion that increased capacity to 32 mtpa (100 per cent terms). At that rate of production, Cerrejón has a reserve life of 25 years.

Information on Energy Coal mining operations

The following table contains additional details of our mining operations. The tables should be read in conjunction with the production and reserves tables.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
South Africa			
Khutala 100 kilometres east of Johannesburg, Gauteng Province, South Africa Combination of open-cut and underground mines The mine is accessible by public roads. Domestic coal is transported via overland conveyor to the Kendal Power Station.	We own and operate the mine at Khutala. BECSA is the holder of an Old Order Mining Right. An application for conversion to a New Order Mining Right, submitted in 2004, is still being processed (refer to section 2.8 Government regulations).	Khutala was commissioned in 1984. Open-cut operations began in 1996. The mining of a thermal/metallurgical coal deposit for a domestic market commenced in 2003.	Beneficiation facilities consist of a crushing plant, for the energy coal with a nominal capacity of 18 mtpa. A separate smaller crusher and wash plant with a nominal capacity of 0.6 mtpa is used to beneficiate the metallurgical coal supplied from the opencast operation. Power is supplied by Eskom under long term contracts.
Douglas/Middelburg 20 kilometres southeast of Witbank, Mpumalanga Province, South Africa Open-cut mine The mine is accessible by public roads. Export coal is transported to RBCT by rail, while the domestic coal is transported via conveyor belt to the nearby Duvha Power Station.	We own 84% of the Middelburg mine in a joint venture. The remaining 16% is owned by Xstrata Plc through Tavistock Collieries Plc. We are the operator of the mine. BECSA and Tavistock Collieries are the holders of three Old Order Mining Rights (in respect of the Middelburg, Douglas and Kleinkopje Sections) in the joint venture ratio of 84:16. BECSA is the sole holder of an Old Order Mining Right in respect of the Albion Section. These Old Order Mining Rights must be lodged for a conversion to New Order Mining Rights by no later than 30 April 2009 (refer to section 2.8 Government regulations). On 29 February 2008, we announced approval of the Douglas-Middelburg Optimisation (DMO)	Middelburg mine was commissioned in 1982. Middelburg Mine Services (MMS) and Duvha Opencast became one operation in FY1996.	Beneficiation facilities consist of the following: tips and crushing plants, two export wash plants, a middlings wash plant and a de-stone plant. The overall capacity is 30 mtpa. Power is supplied by Eskom under long term contracts.

Project, with an expected capital investment of US\$975 million.

To facilitate the DMO project, which is to be developed and owned solely by BHP Billiton, the

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
	Douglas Tavistock Joint Venture (DTJV) will be restructured with each of the joint venture partners being allocated coal resources according to their ownership share. A number of regulatory approvals are being sought to give effect to this restructure.		
Optimum 200 kilometres east of Johannesburg in Mpumalanga Province, South Africa Open-cut mine Access to the mine is via public roads. Export coal is transported to RBCT by rail, while the domestic coal is transported via conveyor belt to the nearby Hendrina Power Station.	We owned and operated the mine at Optimum. On 14 May 2008 we announced that we reached agreement to sell Optimum. The fulfilment of certain regulatory requirements including the conversion and transfer of Optimum's mining rights in terms of the Minerals and Petroleum Resources Development Act 2002 and the approval of the South African Competition Commission has enabled the conclusion of the sale, effective 30 June 2008.	Optimum was commissioned in 1970.	Beneficiation facilities include tips and crushing plants, an export washing plant and a de-stone plant. The overall capacity is 17 mtpa. Power is supplied by Eskom under long term contracts.
Klipspruit 30 kilometres west of Witbank, Mpumalanga Province, South Africa Open-cut mine Access to the mine is via public roads. Export coal is transported to RBCT via Spoornet (a government business enterprise) railway.	We own and operate the mine at Klipspruit. BECSA is the holder of an Old Order Mining Right. An application for conversion to a New Order Mining Right was submitted in 2004 and is still being processed (refer to section 2.8 Government regulations).	The project was approved by the Mpumalanga Department of Agriculture, Conservation and Environment in 2003. An initial mini-pit was started in August 2003 as a truck and shovel contractor operation.	Current beneficiation facilities consist of a tip and crushing plant, as well as an export wash plant 32 kilometres from the mine. The overall capacity is 4.8 mtpa. Power is supplied by Eskom under long-term contracts.
Australia			
Mt Arthur Coal Approximately 125 kilometres from Newcastle, New South Wales, Australia Open-cut mine The mine is accessible by public road. Domestic coal is transported by an overland conveyor to	We own and operate the mine at Mt Arthur. We hold various mining leases that expire between October 2010 and 2028.	Coal production from the Mt Arthur area commenced in 2002	Main beneficiation facilities include coal handling, preparation and washing plants with a total capacity of 9.8 mtpa. Washery by-pass coal is also sold. Power is supplied by local energy providers, from the eastern Australia power grid.

Bayswater Power Station.

Export coal is transported by a combination of private and public rail, approximately 125 kilometres to the port of Newcastle.

Name, location, type of mine and access	Ownership, operation and title/lease	History	Facilities and power source
America			
BHP Navajo Coal Company 30 kilometres south west of Farmington, New Mexico, US Open-cut mine Navajo mine is accessible by public roads located on the Navajo Nation Indian Reservation. We transport all coal 25 kilometres from the production areas via our dedicated railroad to the Four Corners Power Plant (FCPP).	We own and operate the mine. The mine is subject to a long-term lease from the Navajo Nation. The lease continues for as long as coal can be economically produced and sold in paying quantities.	The mine has been in operation since 1963, and the contracts continue to 2016.	The mine has the capacity to produce and process 7.7 mtpa. Mined coal is sized and blended to contract specifications using stackers and reclaimers with no further beneficiation. Power is supplied from FCPP.
San Juan/La Plata Mines 25 kilometres west of Farmington, New Mexico, US The San Juan mine is accessible by public roads. Transport of coal to the San Juan Generating Station is by truck and conveyer belt.	We own and operate the mines. We hold mining leases from federal and state governments. The leases have five-year terms that are automatically extendable upon meeting minimum production criteria.	The San Juan mine began operating in 1974 as a surface mine. In October 2000, we approved the development of the San Juan underground mine to replace production from the existing San Juan and La Plata surface mines.	The mine has the capacity to produce 6.4 mtpa of coal. Mined coal is sized and blended to contract specifications using stockpiles with no further beneficiation. The La Plata Mine is undergoing final closure, which is expected to be complete by late 2008.
Colombia			
Cerrejón Coal Company Maicao, La Guajira province, Colombia Open-cut mine The export facility is 150 kilometres northeast of the mine on the Caribbean coast at Puerto Bolivar and is connected to the mine by a single-track railway. Access to the mine is via public roads and by charter aircraft to the mine's airstrip.	We own 33.33% of the Cerrejón Coal Company in a joint venture. The remaining 66.67% interest is owned by Anglo American Plc (33.33%) and Xstrata Plc (33.33%). Mining leases expire in 2034.	The original mine began as a joint venture between Exxon's Intercor and the Colombian Government entity Carbocol in 1976. Over time, the partners have changed, nearby operations have been merged and progressive expansion resulted in the current 32 mtpa operation.	Beneficiation facilities include a crushing plant with a capacity of 32 mtpa and a washing plant. Electricity is supplied through the local Colombian power system.

Development projects

Klipspruit

We are expanding the production capacity of BECSA's Klipspruit mine by approximately 3.2 mtpa to 8 mtpa. The project also involves the construction of a 16 mtpa coal processing plant on Klipspruit land as a 50-50 joint venture with Anglo Coal, which is constructing the plant. We expect to produce first coal in the second half of calendar 2009, and estimate our share of the cost of the project at US\$450 million. We expect the expanded mine to have a reserve life of approximately 20 years.

Douglas-Middelburg Optimisation Project

This project involves works to optimise the development of existing reserves across the Douglas and Middelburg collieries, the development of additional mining areas and the construction of a new 14 mtpa coal processing plant, which will replace the less efficient existing plant at Douglas. The work will enable us to maintain energy coal exports from the combined Douglas and Middelburg colliery at around current levels (approximately 10 mtpa) while also fulfilling our domestic contractual commitments. The expected capital investment is US\$975 million and the new plant is scheduled to receive its first coal in mid-calendar 2010.

Navajo South

We are undertaking a feasibility study on a project called the Desert Rock project, which would expand the Navajo mine to supply a proposed new power station to be built immediately adjacent to the mine with up to 5.7 mtpa. The project schedule is tied to the approval process for the power station. The proposed power plant was granted a final air permit by the United States Environmental Protection Agency on 31 July 2008.

Mt Arthur open-cut expansion

We are undertaking a feasibility study into an open-cut expansion of the existing operation that is expected to increase export coal production by approximately 3.7 mtpa with first coal expected in the second half of calendar year 2010.

Mt Arthur underground

We are undertaking a feasibility study into a new underground mine that will share much of the existing Mt Arthur mine's infrastructure, including the coal preparation plant and rail loading facility.

Newcastle Third Export Coal Terminal

We are a 35.5% shareholder in a joint venture company that is constructing a new 30 mtpa export coal loading facility to supplement existing public facilities in the port of Newcastle. Our share of the construction cost is estimated at US\$390 million. The first ship loading of coal is scheduled for late calendar year 2010.

2.3 Production

2.3.1 Petroleum

The table below details our Petroleum CSG's historical net crude oil and condensate, natural gas and natural gas liquids production, primarily by asset, for each of the three years ended 30 June 2008, 2007 and 2006. We have shown volumes of marketable production after deduction of applicable royalties, fuel and flare. We have included in the table average production costs per unit of production and average sales prices for oil and condensate and natural gas for each of those periods.

	BHP Billiton Group share of production Year ended 30 June		
	2008	2007	2006
Petroleum			
Crude oil and condensate			
('000 of barrels)			
Bass Strait	12,843	14,231	14,682
North West Shelf	9,090	10,765	9,119
Atlantis	7,406	—	—
Shenzi	548	—	—
Liverpool Bay & Bruce / Keith	3,640	4,656	5,699
ROD & Ohanet	6,722	7,591	7,446
Other – Australia/Asia	8,777	1,365	1,600
Other – Americas	8,417	6,560	7,327
Total crude oil and condensate	57,443	45,168	45,873
Natural gas (billion cubic feet)			
Bass Strait ⁽¹⁾	123.93	114.50	109.74
North West Shelf ⁽¹⁾	108.49	105.49	104.16
Atlantis	3.73	—	—
Shenzi	0.14	—	—
Liverpool Bay & Bruce / Keith	45.21	53.27	60.82
Other – Australia/Asia	78.44	74.83	77.68
Other – Americas	8.07	8.73	8.04
Total natural gas	368.01	356.82	360.44
Natural Gas Liquids ('000 of barrels) ⁽¹⁾			
Bass Strait	7,755	7,756	7,740
North West Shelf	1,498	1,689	1,684
Liverpool Bay & Bruce / Keith	426	563	488
ROD & Ohanet	1,045	1,514	1,516
Total NGL	10,724	11,522	11,428
Total petroleum products production			
(million barrels of oil equivalent) ⁽²⁾	129.50	116.19	117.36
Average sales price			
Oil and condensate (US\$ per barrel)	96.27	63.87	61.90
Natural gas (US\$ per thousand cubic feet)	3.87	3.19	3.33
Average production cost ⁽³⁾			
US\$ per barrel of oil equivalent (including indirect taxes)	7.30	7.16	6.40
US\$ per barrel of oil equivalent (excluding indirect taxes)	5.40	5.50	5.01

(1) In FY2007 we began reporting LPG and Ethane Natural Gas Liquids (NGL), consistent with petroleum industry practice. Product-specific conversions are made and NGL are reported in barrels of oil equivalent. The 2006 comparatives have been restated.

(2) Total barrels of oil equivalent (boe) conversions based on the following: 6,000 scf of natural gas equals 1 boe.

(3) Average production costs include direct and indirect production costs relating to the production and transportation of hydrocarbons to the point of sale. This includes shipping where applicable. Average production costs have been shown excluding resource tax and including and excluding other indirect taxes and duties, and including the foreign exchange effect of translating local currency denominated costs and indirect taxes into US dollar.

2.3.2 Minerals

The table below details our mineral and derivative product production for all CSGs except Petroleum for the three years ended 30 June 2008, 2007 and 2006. Production shows our share unless otherwise stated.

		BHP Billiton Group share of production		
		Year ended 30 June		
By CSG by mineral	BHP Billiton interest %	2008	2007	2006
Aluminium CSG				
Alumina				
Production ('000 tonnes)				
Worsley, Australia	86	3,035	2,956	2,763
Alumar, Brazil	36	536	526	503
Paranam, Suriname	45	983	978	921
Total alumina		4,554	4,460	4,187
Aluminium				
Production ('000 tonnes)				
Hillside, RSA	100	695	704	700
Bayside, RSA	100	168	194	179
Mozal, Mozambique	47.1	257	265	262
Alumar, Brazil	40	178	177	178
Valesul, Brazil ⁽¹⁾	-	-	-	43
Total aluminium		1,298	1,340	1,362
Base Metals ⁽²⁾				
Copper				
Payable metal in concentrate ('000 tonnes)				
Escondida, Chile	57.5	679.5	638.9	671.0
Antamina, Peru	33.75	111.7	113.7	124.2
Pinto Valley, US	100	26.8	-	-
Tintaya, Peru ⁽³⁾	-	-	-	64.5
Total copper concentrate		818.0	752.6	859.7
Cathode ('000 tonnes)				
Escondida, Chile	57.5	131.6	126.1	66.7
Cerro Colorado, Chile ⁽⁴⁾	100	106.4	105.8	94.1
Pinto Valley, US	100	6.9	7.6	8.2
Olympic Dam, Australia	100	169.9	182.5	204.3
Spence, Chile ⁽⁵⁾	100	142.7	75.5	-
Tintaya, Peru ⁽³⁾	-	-	-	34.8
Total copper cathode		557.5	497.5	408.1
Total copper		1,375.5	1,250.1	1,267.8
Uranium oxide				
Payable metal in concentrate (tonnes)				
Olympic Dam, Australia	100	4,144	3,486	3,936
Total uranium oxide		4,144	3,486	3,936
Zinc				
Payable metal in concentrate ('000 tonnes)				
Antamina, Peru	33.75	83.5	73.0	40.3
Cannington, Australia	100	61.0	45.7	68.8
Total zinc		144.5	118.7	109.1
Silver				
Payable metal in concentrate ('000 ounces)				
Escondida, Chile	57.5	3,604	3,514	3,379
Olympic Dam, Australia (refined silver)	100	780	814	884
Antamina, Peru	33.75	3,505	3,132	3,174
Cannington, Australia	100	35,485	29,105	38,447
Pinto Valley, US ⁽⁶⁾	100	113	-	-

By CSG by mineral	BHP Billiton interest %	BHP Billiton Group share of production Year ended 30 June		
		2008	2007	2006
Tintaya, Peru ⁽³⁾	-	-	-	592
Total silver		43,487	36,565	46,476
Lead				
Payable metal in concentrate ('000 tonnes)				
Antamina, Peru	33.75	1.6	1.5	-
Cannington, Australia	100	251.5	210.8	266.3
Total lead		253.1	212.3	266.3
Gold				
Payable metal in concentrate ('000 ounces)				
Escondida, Chile	57.5	79.7	84.4	79.8
Olympic Dam, Australia (refined gold)	100	80.5	91.7	107.5
Pinto Valley, US	100	1.7	-	-
Tintaya, Peru ⁽³⁾	-	-	-	29.2
Total gold		161.9	176.1	216.5
Molybdenum				
Payable metal in concentrate (tonnes)				
Antamina, Peru	33.75	2,542	2,268	2,515
Total molybdenum		2,542	2,268	2,515
Diamonds and Specialty Products				
Production ('000 carats)				
EKATI, Canada	80	3,349	3,224	2,561
Total diamonds		3,349	3,224	2,561
Titanium minerals ^{(7) (8)}				
Titanium slag ⁽⁸⁾				
Production ('000 tonnes)				
Richards Bay Minerals, RSA	50	480	465	435
Rutile ⁽⁸⁾				
Production ('000 tonnes)				
Richards Bay Minerals, RSA	50	43	35	36
Zircon ⁽⁸⁾				
Production ('000 tonnes)				
Richards Bay Minerals, RSA	50	120	120	118
Phosphates				
Production ('000 tonnes)				
Southern Cross Fertiliser (formerly Queensland Fertilizer) ⁽⁷⁾⁽⁹⁾⁽¹⁰⁾	100	-	84.3	861.3
Total phosphates		-	84.3	861.3
Stainless Steel Materials				
Nickel				
Production ('000 tonnes)				
Cerro Matoso, Colombia	99.94	41.8	51.0	51.5
Nickel West, Australia	100	98.1	104.1	101.4
Yabulu, Australia	100	28.0	32.1	23.3
Total nickel		167.9	187.2	176.2
Cobalt				
Production ('000 tonnes)				
Yabulu, Australia	100	1.7	1.7	1.0
Iron ore ⁽¹¹⁾				
Production ('000 tonnes)				
Mt Newman, Australia	85	30,330	29,306	24,774
Jimblebar, Australia ⁽¹²⁾	85	5,119	5,457	6,370
Mt Goldsworthy, Australia	85	941	1,227	6,241
Mt Goldsworthy, Area C joint venture, Australia ⁽¹³⁾⁽¹⁴⁾	85	27,130	20,086	17,988
Yandi, Australia ⁽¹⁵⁾	85	40,276	35,548	34,196

By CSG by mineral	BHP Billiton interest %	BHP Billiton Group share of production Year ended 30 June		
		2008	2007	2006
Samarco, Brazil	50	8,464	7,800	7,503
Total iron ore		112,260	99,424	97,072
Manganese				
Manganese ores				
Saleable production ('000 tonnes)				
Hotazel, South Africa ⁽¹⁶⁾	60	3,040	2,570	2,300
GEMCO, Australia ⁽¹⁶⁾	60	3,535	3,439	2,980
Total manganese ores		6,575	6,009	5,280
Manganese alloys				
Saleable production ('000 tonnes)				
South Africa ⁽¹⁶⁾ (¹⁷)(¹⁸)	60	513	493	434
Australia ⁽¹⁶⁾	60	262	239	218
Total manganese alloys		775	732	652
Metallurgical coal ⁽¹⁹⁾				
Production ('000 tonnes)				
Goonyella		6,036	7,352	7,267
Peak Downs		4,094	4,484	4,389
Saraji		2,896	3,397	2,634
Norwich Park		2,026	2,850	2,662
Blackwater		5,632	6,138	6,018
Gregory Joint Venture		2,110	2,462	2,610
Total BMA, Australia	50	22,794	26,683	25,580
Riverside			-	-
South Walker Creek		2,862	3,422	3,049
Poitrel		2,270	1,438	-
Total BHP Mitsui Coal, Australia ⁽²⁰⁾	80	5,132	4,860	3,049
Illawarra, Australia	100	7,265	6,886	7,014
Total metallurgical coal		35,191	38,429	35,643
Energy Coal				
Production ('000 tonnes)				
Navajo	100	7,533	8,174	8,266
San Juan	100	6,119	6,906	7,080
New Mexico, US	100	13,652	15,080	15,346
Optimum	100	11,302	11,304	11,805
Middelburg	84	12,113	13,513	13,705
Douglas	84	4,890	5,218	5,123
Koornfontein	-	-	4,858	4,809
Khutala	100	13,327	13,526	13,625
Klipspruit	100	3,440	3,223	2,632
Zululand Anthracite Collieries	-	-	-	249
Total BECSA ⁽²¹⁾	100	45,072	51,642	51,948
Mt Arthur Coal, Australia	100	11,776	10,897	9,146
Cerrejón Coal Company, Colombia	33.3	10,368	9,406	9,316
Total energy coal		80,868	87,025	85,756

(1) We completed the sale of Valesul in August 2006 with a 1 July 2006 effective date.

(2) Metal production is reported on the basis of payable metal.

(3) BHP Billiton sold Tintaya effective from 1 June 2006.

(4) Production at Cerro Colorado was temporarily suspended on 14 June 2005 following an earthquake. Production commenced at half capacity on 30 June 2005 and ramped up to pre-earthquake levels in February 2006.

- (5) Spence operations were commissioned during the December 2006 quarter
- (6) Pinto Valley resumed concentrate operations during the December 2007 quarter.
- (7) Amounts represent production for the preceding year ended 31 December.
- (8) Data was sourced from the TZ Minerals International Pty Ltd Mineral Sands Annual Review 2008.
- (9) We sold Southern Cross Fertiliser (formerly Queensland Fertilizer) in 2006.
- (10) Includes di-ammonium phosphate and mono-ammonium phosphate.
- (11) Iron ore production is reported on a wet tonnes basis with the exception of Samarco.
- (12) The Jimblebar reserves listed include the Wheelarra Hill 3,4,5,6 and Hashimoto 1 and 2 deposits at Jimblebar, in which the Wheelarra joint venture participants (BHP Iron Ore (Jimblebar) (51%), ITOCHU Minerals and Energy (4.8%), Mitsui Iron Ore (4.2%) and subsidiaries from Chinese steelmakers Magang, Shagang, Tanggang and Wugang (10% each)) have a legal interest. At the commencement of the Wheelarra joint venture on 1 October 2005, the Wheelarra joint venture participants had a legal interest in 175 million dry metric tonnes of Jimblebar reserves (Wheelarra joint venture tonnes). The effect of the sales contracts entered into between the Wheelarra joint venture participants and the Mt Newman joint venture participants and other associated agreements is that BHP Billiton (as a Mt Newman joint venture participant) has an entitlement to 85% of these Wheelarra joint venture tonnes. This disclosure and the financial statements are prepared on this basis.
- (13) The Mt Goldsworthy Area C reserves listed include C deposit within Area C in which the POSMAC joint venture participants (BHP Billiton Minerals Pty Ltd (65%), ITOCHU Minerals and Energy of Australia Pty Ltd (8%), Mitsui Iron Ore Corporation Pty Ltd (7%) and a subsidiary of POSCO (a Korean steelmaker) (20%)) have a legal interest. The effect of the sales contracts entered into between the POSMAC joint venture participants and the Mt Goldsworthy joint venture participants and other associated agreements is that BHP Billiton (as a Mt Goldsworthy joint venture participant) has an entitlement to 85% of the reserves in C deposit. This disclosure and the financial statements are prepared on this basis.
- (14) Production statistics relate to pellet production and concentrate and screens product.
- (15) The Yandi reserves listed include the Western 4 deposit in which the JFE Western 4 Joint Venture (JW4 JV) participants (BHP Billiton Minerals Pty Ltd (65%), ITOCHU Minerals and Energy of Australia Pty Ltd (8%), Mitsui Iron Ore Corporation Pty Ltd (7%) and a subsidiary of JFE Steel Corporation (a Japanese steelmaker) (20%)) have a legal interest. The effect of the sales contracts entered into between the JW4 joint venture participants and the Yandi joint venture participants and other associated agreements is that BHP Billiton (as a Yandi joint venture participant) has an entitlement to 85% of the reserves in the Western 4 deposit. This disclosure and the financial statements are prepared on this basis.
- (16) Shown on 100% basis. BHP Billiton interest in saleable production is 60%.
- (17) We purchased Mitsui's 50 % shareholding in Advalloy (Pty) Ltd, making Samancor Manganese the 100% owner of Advalloy in July 2006. Following this change in ownership, we report the MCFeMn production of Advalloy in the above table for FY2007. Prior to us holding 100% of Advalloy, we reported FeMn production transferred to Advalloy. If prior year production was restated to reflect the same basis, total manganese alloys production would have shown 632,000 tonnes in 2006.
- (18) Production includes Medium Carbon Ferro Manganese.
- (19) Metallurgical coal production is reported on the basis of saleable product. Production figures include some thermal coal.
- (20) Shown on 100% basis. BHP Billiton interest in saleable production is 80%.
- (21) Including 11.3 million tonnes of production from our South African Optimum operation (3.96 million tonnes export and 7.3 million tonnes domestic.) Earnings on these tonnes will be excluded as the entitlement to those earnings vested with the intended purchaser effective from 1 July 2007.

2.4 Marketing

Our customer-centric marketing activities are centralised in Singapore, The Hague and Antwerp. The focus of the Singapore office is on the Asian energy market, base metals, stainless steel materials and on carbon steelmaking raw materials. The emphasis in The Hague office is on aluminium, petroleum, energy marketing and freight. Our Antwerp office serves our diamonds customers around the world.

These three marketing offices incorporate all the functions required to manage product marketing and distribution—from point of production to final customer delivery. In addition, specialised marketers are located in 21 regional offices around the globe. Our product offering is enhanced by our freight capability and expertise in trading and transaction structuring.

Energy Marketing

Energy Marketing has the responsibility of coordinating our marketing activities in the energy commodity markets, namely energy coal, European gas, emissions credits and electricity. This group is based in The Hague and is part of our marketing function.

Energy Marketing is currently active in purchasing and selling third party gas and small amounts of electricity in the UK and emissions credits in Europe. Where required, Energy Marketing also buys or sells pipeline capacity to transport gas onto the UK gas grid. Most products are transacted over the counter and are principal-to-principal transactions in the wholesale market.

Freight

We have a centralised ocean freight business that manages our in-house freight requirements. The primary purpose of the freight business is to create competitive advantages for internal shipments through the procurement and operation of quality, cost-effective shipping and to contribute to our profitability by trading freight and carrying complementary external cargoes.

The freight business participates primarily in the dry bulk sector aligned with our major trades, and it handles approximately 120 million tonnes of cargo per year making the Group one of the world's largest users of dry bulk shipping. At any one time, we have approximately 120 ships employed. The majority of vessels are chartered under commercial terms and we hold equity interests in a small number of vessels. External freight revenue was US\$1.4 billion for FY2008.

In addition to its freight management and trading activities, the freight business incorporates a skill base to manage its marine risk and provide technical support. It holds a number of marine-related investments, including a shareholding in shipping risk manager 'Rightships' of Melbourne.

2.5 Minerals exploration

Our exploration program is integral to our growth strategy and is focused on identifying and capturing new world-class projects for future development, or projects that add significant value to existing operations. Targets for exploration are generally large low-cost mining projects in a range of minerals, including diamonds, copper, nickel, bauxite, iron ore, manganese, coal and potash. The process of discovery runs from early-stage mapping through to drilling and evaluation. The program is global and prioritises targets based on our assessment of the relative attractiveness of each mineral.

We continue to pursue opportunities and build our position in prospective countries, including exploring for diamonds in Angola and copper in the Democratic Republic of Congo (DRC), Zambia, Kazakhstan, Chile and Australia. In nickel, we have a major brownfield exploration program focused on finding new nickel sulphide deposits to sustain and grow our existing operations in Western Australia. We are also actively exploring for nickel in Southeast Asia, Russia, China and East Africa. In the bulk commodities, activities are focused on a smaller number of highly prospective terrains in Australia, Southeast Asia, Russia, West and Central Africa and South America.

Our exploration activities are organised from six principal offices in Singapore, Perth (Australia), Johannesburg (South Africa), Moscow (Russia), Rio de Janeiro (Brazil) and Vancouver (Canada).

In addition to our activities focused on finding new world-class deposits, several of our CSGs undertake exploration, principally aimed at delineating and categorising mineral deposits near existing operations, and advancing projects through the development pipeline.

In FY2008, we spent US\$658 million on minerals exploration. Of this, US\$212 million was spent on greenfield exploration, US\$258 million was spent on brownfield exploration (including US\$90 million for Olympic Dam expansion) and US\$188 million was spent on more advanced projects.

2.6 Global Technology

Global Technology activities cover the full spectrum of our value chain from exploration tools, mining and processing technologies and environmental solutions through to ensuring our customers have the technical support available in the use of our products.

Global Technology activities cover the following areas:

- exploration, mining and mine optimisation
- leaching and remediation
- minerals separation and hydrometallurgy
- process engineering

- technical marketing
- intellectual property

In partnership with our businesses we aim to understand future trends and develop both existing and new technologies that can identify, evaluate and maximise the value of deposits.

Technical innovation is becoming increasingly important to support our low-cost production strategy. To maintain our reserves, we are currently developing technologies to treat complex lower-grade ores, technologies that will enable us to mine minerals at deeper levels, and tools to improve our mine planning capabilities. We also apply our knowledge and fundamental understanding of our products and how they perform in the customers' processes to best serve our chosen markets and provide innovative customer solutions. In FY2008 activities were mainly focused on executing R&D projects for the businesses to support their expansion and growth strategies.

Global Technology has research and development centres in Australia (Newcastle and Perth) and South Africa (Johannesburg).

In FY2009 responsibility for Global Technology activities will transfer to CSGs and Group-wide Functions.

2.7 Resource and Business Optimisation

Resource and Business Optimisation (RBO) is a group of approximately 40 professionals that is responsible for leading a range of internal processes that are designed to promote Group-wide excellence in developing, managing and optimising our mineral resources. The group's professionals include experts in geology and mineral evaluation, mining and process engineering, project management and research & development. RBO's functions encompass the business improvement processes that we previously referred to under the 'Business Excellence' banner.

Our Group-wide procedures provide for RBO involvement at significant stages of the asset development and asset acquisition processes, including resource evaluation and mine planning. Our procedures also embed RBO's involvement in reviewing business processes and management frameworks and implementing Group standards to drive operational and management excellence at our operating assets.

RBO also contains our reserve governance function, which is responsible for our internal and external ore reserve reporting processes.

2.8 Government regulations

Government regulations touch all aspects of our operations. However, because of the geographical diversity of our operations, no one set of government regulations is likely to have a material effect on our business, taken as a whole.

The ability to extract minerals, oil and natural gas is fundamental to our business. In most jurisdictions, the rights to undeveloped mineral or petroleum deposits are owned by the state. Accordingly, we rely upon the rights granted to us by the government that owns the mineral, oil or natural gas. These rights usually take the form of a lease or licence, which gives us the right to access the land and extract the product. The terms of the lease or licence, including the time period for which it is effective, are specific to the laws of the relevant government. Generally, we own the product we extract and royalties or similar taxes are payable to the government. Some of our operations, such as our oil and gas operations in Trinidad and Tobago and Algeria, are subject to production sharing contracts under which both we as the contractor and the government are entitled to a share of the production. Under such production sharing contracts, the contractor is entitled to recover its exploration and production costs from the government's share of production.

Related to the ability to extract is the ability to process the minerals, oil or natural gas. Again, we rely upon the relevant government to grant the rights necessary to transport and treat the extracted material in order to ready it for sale.

Underlying our business of extracting and processing natural resources is the ability to explore for those orebodies. The rights to explore for minerals, oil and natural gas are granted to us by the government that owns those natural resources that we wish to explore. Usually, the right to explore carries with it the obligation to spend a defined amount of money on the exploration or to undertake particular exploration activities.

Governments also impose obligations on us in respect of environmental protection, land rehabilitation, occupational health and safety, and native land title with which we must comply in order to continue to enjoy the right to conduct our operations within that jurisdiction. These obligations often require us to make substantial expenditures to minimise or remediate the environmental impact of our operations, to ensure the safety of our employees and contractors and the like. For further information on these types of obligations, refer to section 2.9 and 2.10 of this Report.

Of particular note are the following regulatory regimes:

2.8.1 South African Mining Charter and Black Economic Empowerment

In 2003 the government released a strategy for broad-based black economic empowerment (BBBEE) that defined empowerment as “an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings

significant increases in the numbers of black people who manage, own and control the country's economy, as well as significant decreases in income inequalities". This strategy laid the foundation for the Black Economic Empowerment Act of 2003, which granted government the power to legislate how it wanted black economic empowerment (BEE) to be implemented in South Africa.

As outlined in section 1.5 of this Report, on 1 May 2004 the Mineral and Petroleum Resources Development Act 2002 (MPRDA) took effect, providing for state custodianship of all mineral deposits and abolishing the prior system of privately held mineral rights. It is administered by the Department of Minerals and Energy of South Africa. In February 2007, the codes of good practice were gazetted, further crystallising government's BEE strategy into a single binding document. The codes make provision for businesses to measure their success in contributing to the economic transformation and empowerment of historically disadvantaged South Africans (HDSAs) in the local economy and a scorecard comprising seven metrics was also developed to assist businesses in achieving this success.

In terms of the MPRDA, holders of mining rights granted under the previous system, known as 'Old Order Rights', must apply to convert their rights to 'New Order Rights' prior to 30 April 2009. In order for the conversions to be effected, applicants are required to comply with the terms of the Black Economic Empowerment Act of 2003 and the Mining Charter, which has been published under the MPRDA. The Mining Charter requires holders of mining rights to achieve 26 per cent ownership participation by historically disadvantaged South Africans in their mining operations by 30 April 2014, of which 15 per cent needs to be achieved by 30 April 2009.

BHP Billiton supports broad-based black economic empowerment in South Africa. We believe it is imperative to both the growth and stability of the South African economy and the company's strategic objectives and long-term sustainability in that country.

The principles of transformation and empowerment are in line with the BHP Billiton Charter, which underscores the organisation's 'Courage to Lead Change'.

We have established a transformation and empowerment technical committee comprising senior managers with diverse skills to ensure our transformation and empowerment agenda is coordinated and comprehensive.

2.8.2 Uranium production in Australia

To mine, process, transport and sell uranium from within Australia, we are required to hold possession and export permissions, which are also subject to regulation by the Australian Government or bodies that report to the Australian Government.

To possess 'nuclear material', such as uranium, in Australia, a Permit to Possess Nuclear Materials (Possession Permit) must be held pursuant to the Nuclear Non-Proliferation (Safeguards) Act 1987 (Cth) (Non-Proliferation Act). A Possession Permit is issued by the Australian Safeguards and Non-Proliferation Office, an office established under the Non-Proliferation Act, which administers Australia's domestic nuclear safeguards requirements and reports to the Australian Government.

To export uranium from Australia, a Permit to Export Natural Uranium (Export Permit) must be held pursuant to the Customs (Prohibited Exports) Regulations 1958 (Cth). The Export Permit is issued by the Minister for Industry, Tourism and Resources.

A special transport permit will be required under the Non-Proliferation Act by a party that transports nuclear material from one specified location to another specified location. As we engage service providers to transport uranium, those service providers are required to hold a special transport permit.

2.8.3 Exchange controls and shareholding limits

BHP Billiton Plc

There are no laws or regulations currently in force in the UK that restrict the export or import of capital or the remittance of dividends to non-resident holders of BHP Billiton Plc's shares. However, there are certain sanctions adopted by the UK Government which implement resolutions of the Security Council of the United Nations and sanctions imposed by the European Union against certain countries, entities and individuals. Such sanctions may be in force from time to time and include those against: (i) certain entities and/or individuals associated with the Burmese regime, Cote d'Ivoire, The Democratic People's Republic of Korea (North Korea), the Democratic Republic of Congo, Lebanon, Liberia, Iran, Sudan and the previous regimes of Iraq and Yugoslavia; (ii) officials of Belarus and Zimbabwe; (iii) individuals indicted by the International Criminal Tribunal for the former Yugoslavia; and (iv) entities and individuals linked with the Taliban, Al-Qaeda and other terrorist organisations.

There are no restrictions under BHP Billiton Plc's Articles of Association or (subject to the effect of any sanctions) under English law that limit the right of non-resident or foreign owners to hold or vote BHP Billiton Plc's shares.

There are certain restrictions on shareholding levels under BHP Billiton Plc's Articles of Association described under the heading 'BHP Billiton Limited' below.

BHP Billiton Limited

The *Banking (Foreign Exchange) Regulations 1959* (Cth) may impose restrictions on certain financial transactions and require the consent of the Reserve Bank of Australia for the movement funds into and out of Australia. Based on our searches, restrictions currently apply if funds are to be paid to or received from specified supporters of the former government of the Federal Republic of Yugoslavia, specified ministers and senior officials of the Government of Zimbabwe, certain specified entities associated with the Democratic People's Republic of Korea (North Korea) and specified individuals associated with the Burmese regime. In addition, legislation and regulations are in place restricting transactions with certain individuals or entities linked with the Taliban, Al-Qaeda and other terrorist organisations, senior officials of the previous Government of Iraq and their immediate families, and certain entities and individuals associated with the Democratic Republic of Congo, Cote d'Ivoire, Iran, Lebanon, Liberia and Sudan. The controls impose certain approval and reporting requirements on transactions involving such countries, entities and individuals and/or assets controlled or owned by them. Transfers into or out of Australia of amounts greater than A\$10,000 in any currency are also subject to reporting requirements.

Remittances of any dividends, interest or other payments by BHP Billiton Limited to non-resident holders of BHP Billiton Limited's securities are not restricted by exchange controls or other limitations, save that in certain circumstances, BHP Billiton may be required to withhold Australian taxes.

There are no limitations, either under the laws of Australia or under the Constitution of BHP Billiton Limited, to the right of non-residents to hold or vote BHP Billiton Limited ordinary shares other than as set out below.

The Foreign Acquisitions and Takeovers Act 1975 (Cth) (the FATA) restricts certain acquisitions of interests in shares in BHP Billiton. Generally, under the FATA, the prior approval of the Australian Treasurer must be obtained for proposals by a foreign person (either alone or together with associates) to acquire control of 15 per cent or more of the voting power or issued shares in BHP Billiton Limited.

The FATA also empowers the Treasurer to make certain orders prohibiting acquisitions by foreign persons in BHP Billiton Limited (and requiring divestiture if the acquisition has occurred) where he considers the acquisition to be contrary to the national interest and the 15 per cent threshold referred to above would be exceeded as a result. Such orders may also be made in respect of acquisitions by foreign persons where two or more foreign persons (and their associates) in aggregate already control 40 per cent or more of the issued shares or voting power in BHP Billiton Limited.

There are certain other statutory restrictions, and restrictions under BHP Billiton Limited's Constitution and BHP Billiton Plc's Articles of Association, that apply generally to acquisitions of shares in BHP Billiton (i.e., the restrictions are not targeted at foreign persons only). These include restrictions on a person (and associates) breaching a voting power threshold of:

- 20 per cent in relation to BHP Billiton Limited on a "stand alone" basis, i.e., calculated as if there were no special voting share and only counting BHP Billiton Limited's ordinary shares;
- 30 per cent of BHP Billiton Plc. This is the threshold for a mandatory offer under Rule 9 of the UK takeover code and this threshold applies to all voting rights of BHP Billiton Plc (therefore including voting rights attached to the BHP Billiton Plc Special Voting Share);
- 30 per cent in relation to BHP Billiton Plc on a 'stand alone' basis, i.e., calculated as if there were no special voting share and only counting BHP Billiton Plc's ordinary shares; and
- 20 per cent in relation to BHP Billiton, calculated having regard to all the voting power on a joint electorate basis, i.e., calculated on the aggregate of BHP Billiton Limited's and BHP Billiton Plc's ordinary shares.

Under BHP Billiton Limited's Constitution and BHP Billiton Plc's Articles of Association, sanctions for breach of any of these thresholds, other than by means of certain "permitted acquisitions", include withholding of dividends, voting restrictions and compulsory divestment of shares to the extent a shareholder and its associates exceed the relevant threshold.

2.9 Sustainable Development - Health, Safety, Environment and Community

One of our strategic drivers 'Licence to operate', recognises the intrinsic link between sound sustainability performance

and long-term business viability. We aspire to Zero Harm for our people, our host communities and the environment and strive to achieve leading industry practice. Sound principles to govern safety, business conduct, social, environmental and economic activities are integral to the way we do business. As a global company, operating in many different countries, we are subject to extensive regulation surrounding health and safety of our people and the environment. We make every effort to comply with the regulations and, where less stringent than our standards, exceed applicable legal and other

requirements. We have a number of systems and supporting documents to implement our commitment to sustainable development. The Sustainability Committee of the Board continues to oversee the Group's sustainability strategy, policy, initiatives and activities. Management holds responsibility for our Health, Safety, Environment and Community performance and for driving our commitment to Zero Harm.

Our Charter highlights that we care as much about how results are obtained as we do about delivering good results. Our Health, Safety, Environment and Community Management Standards provide the basis for developing and applying management systems at all levels of our Company and are a driver of our contribution to sustainable development.

The Standards highlight four key components of sustainable development:

- Health – promoting and improving the health of our people and host communities
- Safety – providing a workplace where people can work without being injured
- Environment – promoting efficient resource use, reducing and preventing pollution and enhancing biodiversity protection
- Community – engaging with employees and contractors and with those affected by our operations, including host communities; and understanding, promoting and upholding fundamental human rights within our sphere of influence

Health

The health of our people is central to our business success. Our major challenge centres on reducing or eliminating occupational health exposures to airborne contaminants and noise. Such exposures currently necessitate the strict use of personal protective equipment to avoid adverse health effects. Malaria and HIV/AIDs remain a significant health issue for many of our operations, including those in South Africa, southern Mozambique and Pakistan, and areas where we have development activities such as Guinea and Angola. We continue to work to find the most effective ways to help address them, including offering voluntary HIV/AIDS testing and counselling and continuing to support a mosquito spraying program in southern Africa.

Safety

We experienced 11 fatalities in seven separate incidents during the year to 30 June 2008. We remain determined to do all in our power to eliminate fatalities from our operations. Our Fatal Risk Control Protocols continue to direct attention to identified risk areas and risk mitigation activities. While low injury frequency rates do not mean low fatality rates, we are pleased to report that, during FY2008, we improved our injury performance rate. Our Total Recordable Injury Frequency rate per one million hours worked decreased by 20 per cent, from 7.4 for FY2008 to 5.9. Our injury severity rate also reduced by some 20 per cent in FY2008 when compared to FY2007.

Environment

Mining, by its nature impacts the environment. Our operations are subject to various national and regional laws and regulations governing environmental protection, rehabilitation and closure. In line with our aspirational Zero Harm goal we run programs to improve our performance, set specific targets, such as for water consumption, land rehabilitation, energy use and air emissions, and track our progress against our targets. We believe that the risks of climate change associated with increasing greenhouse gas concentrations in the atmosphere need to be addressed through accelerated action. Behavioural change, innovation and technological progress are necessary to achieve stabilisation in a manner consistent with meeting natural resource and energy needs. We are working within our businesses and with governments, industry and other stakeholders to address this global challenge and find lasting solutions that are consistent with our goal of Zero Harm.

There were no reported significant environmental incidents in FY2008 as defined in the BHP Billiton HSEC consequence severity matrix.

Community

Our social licence to operate depends on our ability to operate all aspects of our business responsibly, including our ability to work effectively with our host communities. Regular, open and honest dialogue is the key to building strong relationships. Our community relations professionals are charged with developing and nurturing relationships with people impacted by, and interested in, our operations so we can understand their concerns, hopes and aspirations.

While our businesses tailor their community relations programs to suit the local context, our Health, Safety, Environment

and Community Management Standards provide direction as to the critical activities that must be implemented by all our operations. For example, our sites are required to have community relations plans in place and to regularly review the effectiveness of communication, consultation and participation processes in collaboration with stakeholders.

The Australian Energy Efficiency Opportunities (EEO) Program

The Australian government passed the EEO Act in 2006 to improve the identification and evaluation of energy efficiency opportunities by large energy using businesses and to encourage implementation of cost-effective energy efficiency opportunities.

During the past year, our Australian assets covered under the EEO program rigorously reviewed their energy consumption data and fully evaluated their opportunities for energy savings projects. More than 400 opportunities have been identified, with some 30 per cent either identified for implementation or being implemented. The remainder of opportunities are under investigation. The nature of opportunities for energy savings range from purchasing and installing new, more efficient equipment to improving maintenance and engineering processes.

Opportunities for working with local communities to raise awareness on how residents and businesses can use less energy have also been considered. The results of this program will be available publicly on the BHP Billiton website in December 2008. It is expected that applying what we have learned from the Australian EEO sites will contribute to our strategy for meeting our energy intensity target on a global basis.

2.10 Closure and rehabilitation

Comprehensive closure planning integrated into the business contributes to our vision of sustainable development and Zero Harm. Each of our controlled assets is responsible for developing closure plans that comply with legislative requirements, limit adverse environmental impacts, and consider stakeholders' needs and aspirations, particularly with respect to end land use.

The BHP Billiton Closure Standard was rolled out to all our controlled assets two years ago. Our sites report against this standard, documenting the current status of closure plans, in annual closure summary reports.

In the interest of continual improvement, during the reporting period, we conducted a review of the Closure Standard. Representatives of the multi-functional teams involved in preparing our closure plans and estimating associated closure costs determined there was an opportunity to better integrate closure planning through our Life of Asset planning process.

Life of Asset planning is a disciplined procedure that occurs annually across the Company. Incorporating the Closure Standard requirements with Life of Asset planning procedures will assist closure planning considerations being incorporated in the Life of Asset plan.

A detailed protocol for auditing compliance with Closure Standard requirements was developed during the reporting period and trialled at our Queensland Coal group. The audit protocol will be implemented by our Group Audit Services function, further integrating closure planning as a way we do business.

BHP Billiton is responsible for a number of legacy sites that are in various stages of decommissioning, rehabilitation or post-closure care and maintenance. These sites are managed by our Customer Sector Groups, where closure is treated as a project.

Closure plans provide the basis for estimating the financial costs of closure. Information on our 2008 closure provisions can be found in notes 1 and 20 of the financial statements (section 9 of this Report).

2.11 Employees

In order to deliver on our aspiration to be the world's leading natural resources company, we need to act in a manner consistent with our Charter values, our clear strategic intent and our defined operating model. Under strong leadership, these elements constitute our way of doing things, The BHP Billiton Way.

Our operating model is designed to clearly define the respective accountabilities of the various segments of the Company. Specifically, it articulates the relationship between, and responsibilities of, the Group Functions, Minerals Exploration, our Customer Sector Groups and Marketing.

Strong leadership is a cornerstone of the success for any organisation. The BHP Billiton Leadership Model is designed to foster behaviours that lead to superior performance and allow each of our employees to start the day with a sense of purpose and end it with a sense of accomplishment.

We are committed to ensuring our people reach their full potential, achieve job satisfaction and maximise their contribution. During the year, we consolidated our approach to talent management to further strengthen our talent pipeline.

In order to be successful we continue to strive to identify, recruit, train, develop and retain a talented, diverse, mobile and motivated workforce. Recently, we have revised our employment recruitment branding, our performance review and enhancement processes, and also made changes to our remuneration structures.

We are committed to open, honest and productive relationships with our employees, based on the values of the BHP Billiton Charter. For further information on Employee policies and involvement refer to section 7.8 of this report.

During FY2008 we had an average of 41,732 employees working in over 25 countries and in more than 100 operations worldwide. We also have an estimated 61,000 contractors worldwide. Our workforce is made up of a wide variety of nationalities and cultures.

The table below provides a breakdown of our average number of employees, in accordance with our IFRS reporting requirements, which includes our proportionate share of jointly controlled entities' employees and includes executive Directors, by CSG for each of the past three financial years.

CSG	2008	2007	2006
Petroleum	2,143	2,299	2,182
Aluminium	5,145	4,903	5,838
Base Metals	7,443	6,545	6,521
Diamonds and Specialty Products	2,043	1,853	2,064
Stainless Steel Materials	4,223	3,626	2,927
Iron Ore	3,105	2,809	2,705
Manganese	2,142	2,076	2,223
Metallurgical Coal	3,680	3,564	3,534
Energy Coal	9,183	9,595	9,327
Group and unallocated	2,625	2,677	2,681
Total (a)	41,732	39,947	40,002

(a) Average employee numbers include executive directors, 100 per cent of employees of subsidiary companies, and our share of proportionally consolidated entities and operations. Part time employees are included on a full-time equivalent basis. Employees of businesses acquired or disposed of during the year are included for the period of ownership. People employed by contractors are not included.

The table below provides a breakdown of our average number of employees by geographic location for each of the past three financial years.

	2008	2007	2006
Australia	15,426	14,897	14,036
Southern Africa	10,860	11,414	10,793
South America	9,342	8,455	10,293
North America	2,994	2,898	2,567
Europe	606	586	589
Rest of World	2,504	1,697	1,724
Total	41,732	39,947	40,002

Approximately 47 per cent of our labour force is covered by collective agreements and we believe that our relations with our employees are generally positive. In the current year, we have had one significant strike, at the Colombian Cerro Matoso operation in February 2008 relating to the renewal of the collective agreement.

2.12 Organisational structure

2.12.1 General

The BHP Billiton Group consists of the BHP Billiton Limited Group and the BHP Billiton Plc Group as a combined enterprise, following the completion of the Dual Listed Companies (DLC) merger in June 2001. Refer to note 37 'Subsidiaries' in the financial statements for a list of BHP Billiton Limited and BHP Billiton Plc significant subsidiaries.

The BHP Billiton DLC merger was designed to place shareholders of both companies in a position where they effectively have an interest in a single group that combines the assets and are subject to the liabilities of both companies. BHP Billiton Limited and BHP Billiton Plc have each retained their separate corporate identities and maintained separate stock exchange listings, but they are operated and managed as if they are a single unified economic entity, with their boards and senior executive management comprising the same people.

2.12.2 DLC structure

The principles of the BHP Billiton DLC are reflected in the BHP Billiton Sharing Agreement and include the following:

- the two companies are to operate as if they are a single unified economic entity, through Boards of Directors that comprise the same individuals and a unified senior executive management, and
- the Directors of both companies will, in addition to their duties to the company concerned, have regard to the interests of BHP Billiton Limited Shareholders and BHP Billiton Plc Shareholders as if the two companies are a single unified economic entity and, for that purpose, the Directors of each company take into account in the exercise of their powers the interests of the shareholders of the other, and
- certain DLC equalisation principles must be observed. These are designed to ensure that for so long as the equalisation ratios between a BHP Billiton Limited share and a BHP Billiton Plc share is 1:1, then the economic and voting interests in the combined BHP Billiton Group resulting from the holding of one BHP Billiton Limited share are equivalent to that resulting from one BHP Billiton Plc share. Further details are set out in the sub-section 'Equalisation of economic and voting rights' below.

Additional documents which effect the DLC, include:

- BHP Billiton Limited Constitution
- BHP Billiton Plc Memorandum and Articles of Association
- BHP Billiton Special Voting Shares Deed
- BHP Billiton Limited Deed Poll Guarantee
- BHP Billiton Plc Deed Poll Guarantee.

Australian Foreign Investment Review Board (FIRB) conditions

The Treasurer of Australia approved the DLC merger subject to certain conditions, the effect of which was to require that, among other things, BHP Billiton Limited continues to:

- be an Australian company, which is managed from Australia, and
- ultimately manage and control the companies conducting the business that was conducted by it at the time of the merger, for as long as those businesses form part of the BHP Billiton Group.

The conditions have effect indefinitely, subject to amendment of the Australian Foreign Acquisitions Takeover Act 1975 or any revocation or amendment by the Treasurer of Australia. If BHP Billiton Limited no longer wishes to comply with these conditions, it must obtain the prior approval of the Treasurer. Failure to comply with the conditions attracts substantial penalties under the Act.

Equalisation of economic and voting rights

BHP Billiton Limited shareholders and BHP Billiton Plc shareholders have economic and voting interests in the combined BHP Billiton Group. The economic and voting interests represented by a share in one Company relative to the economic and voting interests of a share in the other Company is determined by reference to a ratio known as the 'Equalisation Ratio'. Presently, the economic and voting interests attached to each BHP Billiton Limited share and each BHP Billiton Plc share are the same, since the Equalisation Ratio is 1:1. The Equalisation Ratio would change if either BHP Billiton Limited or BHP Billiton Plc returned value to only its shareholders and no matching action was taken.

This means that the amount of any cash dividend paid by BHP Billiton Limited in respect of each BHP Billiton Limited share is normally matched by an equivalent cash dividend by BHP Billiton Plc in respect of each BHP Billiton Plc share, and vice versa. If one Company has insufficient profits or is otherwise unable to pay the agreed dividend, BHP Billiton Limited and BHP Billiton Plc will, as far as practicable, enter into such transactions as are necessary so as to enable both Companies to pay the amount of pre-tax dividends per share.

Joint Electorate Actions

Under the terms of the DLC agreements, the BHP Billiton Limited Constitution and the BHP Billiton Plc Articles of Association special voting arrangements have been implemented so that the shareholders of both Companies vote

together as a single decision-making body on matters affecting the shareholders of each Company in similar ways (such matters are referred to as Joint Electorate Actions). For so long as the Equalisation Ratio remains 1:1, each BHP Billiton Limited share will effectively have the same voting rights as each BHP Billiton Plc share on Joint Electorate Actions.

A Joint Electorate Action requires approval by ordinary resolution (or special resolution if required by statute, regulation, applicable listing rules or other applicable requirements) of BHP Billiton Limited, with both the BHP Billiton Limited

ordinary shareholders and the holder of the BHP Billiton Limited Special Voting Share voting as a single class and also of BHP Billiton Plc, with the BHP Billiton Plc ordinary shareholders and the holder of the BHP Billiton Plc Special Voting Share voting as a single class.

Class Rights Actions

In the case of certain actions in relation to which the two bodies of shareholders may have divergent interests (referred to as Class Rights Actions), the Company wishing to carry out the Class Rights Action requires the prior approval of the shareholders in the other Company voting separately and, where appropriate, the approval of its own shareholders voting separately. Depending on the type of Class Rights Action undertaken, the approval required is either an ordinary or special resolution of the relevant Company.

These voting arrangements are secured through the constitutional documents of the two Companies, the BHP Billiton Sharing Agreement, the Special Voting Shares Deed and rights attaching to a specially created Special Voting Share issued by each Company and held in each case by a Special Voting Company. The shares in the Special Voting Companies are held legally and beneficially by Law Debenture Trust Corporation Plc.

Cross guarantees

BHP Billiton Limited and BHP Billiton Plc have each executed a Deed Poll Guarantee, pursuant to which creditors entitled to the benefit of the BHP Billiton Limited Deed Poll Guarantee and the BHP Billiton Plc Deed Poll Guarantee will, to the extent possible, be placed in the same position as if the relevant debts were owed by both BHP Billiton Limited and BHP Billiton Plc combined.

Restrictions on takeovers of one Company only

The BHP Billiton Limited Constitution and the BHP Billiton Plc Articles of Association have been drafted to ensure that, except with the consent of the Board, a person cannot gain control of one Company without having made an equivalent offer to the shareholders of both Companies on equivalent terms. Sanctions for breach of these provisions would include withholding of dividends, voting restrictions and the compulsory divestment of shares to the extent a shareholder and its associates exceed the relevant threshold.

2.13 Material contracts

DLC agreements

On 29 June 2001, BHP Billiton Limited (then known as BHP Limited) and BHP Billiton Plc (then known as Billiton Plc) merged by way of a DLC structure. To effect the DLC, BHP Limited and Billiton Plc (as they were then known) entered into the following agreements designed to place the shareholders of both companies in a position where they effectively have an interest in a single group that combines the assets, and is subject to all the liabilities, of both companies:

- BHP Billiton Sharing Agreement
- BHP Billiton Special Voting Shares Deed
- BHP Billiton Limited Deed Poll Guarantee
- BHP Billiton Plc Deed Poll Guarantee.

The effect of each of these agreements and the manner in which they operate are described in section 2.12 of this Report. It is expected that these agreements will remain in effect until such time as a change in control of the BHP Billiton Group may occur.

Credit facility

On 5 February 2008, we entered into a multicurrency term and revolving facility and subscription agreement with Barclays Capital, BNP Paribas, Citibank Global Markets Limited, Goldman Sachs, HSBC Bank plc, Banco Santander, S.A., London Branch and UBS Limited to, among other things, meet potential funding requirements in relation to our offer to acquire Rio Tinto. The facility agreement provides for four debt facilities in an aggregate amount of US\$55 billion as follows:

- a US\$20 billion term loan facility with a term of 364 days, which may be extended (at our election) for a further 12

months and thereafter up to US\$10 billion may be extended for a further six months (at our election) subject to payment of an extension fee;

- a US\$15 billion term loan facility with a term of three years;
- a US\$12.5 billion term loan facility with a term of five years; and
- a US\$7.5 billion revolving facility with a term of five years incorporating Euro and US dollar swingline facilities.

The proceeds of loans drawn under the facilities may be used for the following purposes:

- refinancing Rio Tinto's existing US\$40 billion facility or any refinancing of such facility;
- financing any return of cash to our shareholders by way of a share buyback or otherwise;
- financing any cash consideration that may be offered to Rio Tinto shareholders pursuant to the acquisition;
- the payment of costs in connection with the acquisition; and
- in the case of the revolving facility, for the general corporate purposes of the BHP Billiton Group.

Loans drawn under the facilities bear interest at a margin over LIBOR.

The facility agreement contains customary representations and warranties, affirmative and negative covenants (including, among others, compliance with a leverage ratio, negative pledge and certain restrictions on disposals and subsidiary indebtedness), indemnities and events of default, each with appropriate carve-outs and materiality thresholds.

The facility agreement contains a requirement to prepay the US\$20 billion term loan facility from proceeds of certain disposals and borrowings, subject to certain exceptions and thresholds.

2.14 Constitution

The following text summarises the Constitution of BHP Billiton Limited and the Articles of Association of BHP Billiton Plc. The effect of the Constitution of BHP Billiton Limited and the Articles of Association of BHP Billiton Plc is, so far as possible, identical. Where the term 'BHP Billiton' is used in this description of the Constitution and Articles of Association, it can be read to mean either BHP Billiton Limited or BHP Billiton Plc.

Certain provisions of the Constitution of BHP Billiton Limited and the Articles of Association of BHP Billiton Plc can only be amended where such amendment is approved by special resolution either:

- by approval as a Class Rights Action, where the amendment results in a change to an 'Entrenched Provision'; or
- otherwise, as a Joint Electorate Action.

A description of Joint Electorate Actions and Class Rights Actions is contained under the heading 'Equalisation of economic and voting rights' in section 2.12.2 of this Report.

2.14.1 Directors

The management and control of the business and affairs of BHP Billiton are vested in the Board of Directors which may exercise all powers and do everything that is within the power of BHP Billiton, other than what is required to be exercised or done by BHP Billiton in a general meeting.

2.14.2 Power to issue securities

BHP Billiton may, pursuant to the Constitution and Articles of Association, issue any shares or other securities with preferred, deferred or other special rights, obligations or restrictions as and when the Directors may determine and on any other terms the Directors consider appropriate, provided that any such issue:

- does not affect any special rights conferred on the holders of any shares; and
- is subject to the provisions regarding shareholder approval in the Constitution and Articles of Association.

The rights attaching to a class other than ordinary shares are expressed at the date of issue.

2.14.3 Restrictions on voting by Directors

A Director may not vote in respect of any contract or arrangement or any other proposal in which he or she has a material personal interest. A Director shall not be counted in the quorum at a meeting in relation to any resolution on which he or she is not entitled to vote.

Subject to applicable laws, a Director is entitled to vote, and be counted in the quorum, in respect of any resolution

concerning any of the following matters, namely where the material personal interest:

- arises because the Director is a shareholder of BHP Billiton and is held in common with the other shareholders of BHP Billiton

- arises in relation to the Director's remuneration as a Director of BHP Billiton
- relates to a contract BHP Billiton is proposing to enter into that is subject to approval by the shareholders and will not impose any obligation on BHP Billiton if it is not approved by the shareholders
- arises merely because the Director is a guarantor or has given an indemnity or security for all or part of a loan, or proposed loan, to BHP Billiton
- arises merely because the Director has a right of subrogation in relation to a guarantee or indemnity referred to above
- relates to a contract that insures, or would insure, the Director against liabilities the Director incurs as an officer of BHP Billiton, but only if the contract does not make BHP Billiton or a related body corporate the insurer
- relates to any payment by BHP Billiton or a related body corporate in respect of an indemnity permitted by law, or any contract relating to such an indemnity; or
- is in a contract, or proposed contract with, or for the benefit of, or on behalf of, a related body corporate and arises merely because the Director is a director of a related body corporate.

We are, however, seeking shareholder approval at our 2008 Annual General Meetings to amend the Articles of BHP Billiton Plc to take account of changes to Directors' interests rules introduced by the new UK Companies Act 2006. From 1 October 2008, the Companies Act 2006 will impose a duty on a Director of a company to which the Companies Act applies to avoid a situation in which he or she has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company. This duty is not infringed if either the situation cannot reasonably be regarded as likely to give rise to a conflict of interest or if the matter has been authorised by the Directors. The Companies Act 2006 allows directors of public companies to authorise conflicts and potential conflicts where the company's articles contain such an enabling provision. The proposed amendment to the Articles of BHP Billiton Plc give the Directors authority to approve such situations and the ability to make regulations governing the way in which required disclosures and any following authorisation will be made to and by the Directors, giving greater flexibility and ensuring that the highest standard of corporate governance/best practice may be adhered to. Further details are set out in the Notices of Meeting for the 2008 Annual General Meetings.

2.14.4 Loans by Directors

Any Director may lend money to BHP Billiton at interest with or without security or may, for a commission or profit, guarantee the repayment of any money borrowed by BHP Billiton and underwrite or guarantee the subscription of shares or securities of BHP Billiton or of any corporation in which BHP Billiton may be interested without being disqualified as a Director and without being liable to account for BHP Billiton for any commission or profit.

2.14.5 Retirement of Directors

At every annual general meeting one-third of the Directors or, if their number is not a multiple of three, then the number nearest to but not less than one-third, must retire from office. The Directors to retire are those longest in office since last being elected. As between Directors who were elected on the same day, the Directors to retire are determined by lot (in default of agreement between them). Further, a Director must retire from office at the conclusion of the third Annual General Meeting after which the Director was elected or re-elected. A retiring director is eligible for re-election.

The Board continues to have a policy that requires a non-executive Director who has served on the Board for nine years from the date of their first election to stand for annual re-election from the first Annual General Meeting after the expiration of their current term.

We are seeking shareholder approval at our 2008 Annual General Meetings to amend the Constitution of BHP Billiton Limited and the Articles of BHP Billiton Plc so that the cut-off date for Director nominations is measured from the earlier of the BHP Billiton Limited and the BHP Billiton Plc general meetings – which is appropriate given the Dual Listed Company structure. Currently, the wording of the Constitution means that BHP Billiton Limited uses the nominations cut-off period contained in the ASX Listing Rules (i.e. 35 business days before the date of the BHP Billiton Limited meeting) – which typically falls after the deadline for nominations as a director of BHP Billiton Plc. BHP Billiton Limited has in the past needed to seek ASX regulatory relief to avoid a situation in which a candidate could be eligible for election as a Director of BHP Billiton Limited but not as a Director of BHP Billiton Plc. If the proposed amendments are adopted, the cut-off date for both BHP Billiton Limited and BHP Billiton Plc will be 40 business days before the earlier of the BHP Billiton Limited and BHP Billiton Plc general meetings. Further details are set out in the Notices of Meeting for the 2008 Annual General Meetings.

2.14.6 Rights attaching to shares

Dividend rights

By law, dividends on shares may only be paid out of profits available for distribution. The Constitution and Articles of Association provide that payment of any dividend may be made in any manner, by any means and in any currency determined by the Board.

All unclaimed dividends may be invested or otherwise used by the Board for the benefit of whichever of BHP Billiton Limited or BHP Billiton Plc declared that dividend, until claimed or, in the case of BHP Billiton Limited, otherwise disposed of according to law. In the case of BHP Billiton Plc, any dividend unclaimed after a period of 12 years from the date on which such dividend was declared or became due for payment shall be forfeited and shall revert to BHP Billiton Plc.

Voting rights

Voting at any general meeting of BHP Billiton Limited shareholders is in the first instance to be conducted by a show of hands unless a poll is demanded by any of the following (except in relation to the election of a chairman of a meeting or, unless the Chairman otherwise determines, the adjournment of a meeting):

- the Chairman
- any shareholder under the law; or
- the holder of the BHP Billiton Limited Special Voting Share.

Voting at any general meeting of BHP Billiton Plc is in the first instance to be conducted by a show of hands unless a poll is demanded by any of the following:

- the Chairman
- not less than five members present in person or by proxy and entitled to vote
- a member or members present in person or by proxy and representing not less than five per cent of the total voting rights of all the members having the right to vote at the meeting; or
- the holder of the Billiton Special Voting Share.

As described under the heading 'Equalisation of economic and voting rights' in section 2.12.2 of this Report, certain matters may be decided as Joint Electorate Actions or Class Rights Actions.

In addition, at any general meeting a resolution, other than a procedural resolution, put to the vote of the meeting on which the holder of the relevant BHP Billiton Special Voting Share is entitled to vote shall be decided on a poll.

On a show of hands, every holder of a fully paid ordinary share present in person or by proxy, attorney or representative has one vote. Where a shareholder has appointed more than one person as representative, proxy or attorney for that shareholder, none of the representatives, proxies or attorneys are entitled to vote on a show of hands (see below). On a poll, however, votes may be given either personally or by proxy.

We are seeking shareholder approval at our 2008 Annual General Meetings to amend the Constitution of BHP Billiton Limited and the Articles of BHP Billiton Plc to bring the Constitution and the Articles in line with the new UK Companies Act 2006 by ensuring that where a shareholder appoints more than one proxy, the multiple proxies taken together have at least the same number of votes on a show of hands as the member who appointed them would have if he or she were present at the meeting. The proposed amendments are not considered to be of practical consequence given BHP Billiton's practice is to proceed directly to a poll on all items of business at general meetings. Further details are set out in the Notices of Meeting for the 2008 Annual General Meetings.

Rights to share in BHP Billiton Limited's profits

The rights attached to the shares of BHP Billiton Limited, as regards the participation in the profits available for distribution, are as follows:

- The holders of any preference shares shall be entitled, in priority to any payment of dividend to the holders of any other class of shares, to a preferred right to participate as regards dividends up to but not beyond a specified amount in distribution.

- Subject to the special rights attaching to any preference shares, but in priority to any payment of dividends on all other classes of shares, the holder of the Equalisation Share (if any) shall be entitled to be paid such dividends as are declared.
- Any surplus remaining after payment of the distributions above shall be payable to the holders of BHP Billiton Limited ordinary shares and the BHP Billiton Limited Special Voting Share in equal amounts per share.

Rights to share in BHP Billiton Plc's profits

The rights attached to the shares of BHP Billiton Plc, in relation to the participation in the profits available for distribution, are as follows:

- The holders of the cumulative preference shares shall be entitled, in priority to any payment of dividend to the holders of any other class of shares, to be paid a fixed cumulative preferential dividend (Preferential Dividend) at a rate of 5.5 per cent per annum, to be paid annually in arrears on 31 July in each year or, if any such date shall be a Saturday, Sunday or public holiday in England, on the first business day following such date in each year. Payments of Preferential Dividends shall be made to holders on the register at any date selected by the Directors up to 42 days prior to the relevant fixed dividend date.
- Subject to the rights attaching to the cumulative preference shares, but in priority to any payment of dividends on all other classes of shares, the holder of the BHP Billiton Plc Special Voting Share shall be entitled to be paid a fixed dividend of US\$0.01 per annum, payable annually in arrears on 31 July.
- Subject to the rights attaching to the cumulative preference shares and the BHP Billiton Plc Special Voting Share, but in priority to any payment of dividends on all other classes of shares, the holder of the Equalisation Share shall be entitled to be paid such dividends as the Board may decide to pay thereupon.
- Any surplus remaining after payment of the distributions above shall be payable to the holders of the BHP Billiton Plc ordinary shares in equal amounts per BHP Billiton Plc ordinary share.

2.14.7 Right on a return of assets on liquidation

On a return of assets on liquidation of BHP Billiton Limited, subject to the payment of all prior ranking amounts owed to all creditors of BHP Billiton Limited and preference shareholders, the assets of BHP Billiton Limited remaining available for distribution among shareholders, after giving effect to the payment of all prior ranking amounts owed to all creditors and holders of preference shares, shall be applied in paying to the holders of the BHP Billiton Limited Special Voting Share and the Equalisation Share (if any) an amount of up to A\$2.00 on each such share, on an equal priority with any amount paid to the holders of BHP Billiton Limited ordinary shares, and any surplus remaining shall be applied in making payments solely to the holders of BHP Billiton Limited ordinary shares in accordance with their entitlements.

On a return of assets on liquidation of BHP Billiton Plc, subject to the payment of all prior ranking amounts owed to the creditors of BHP Billiton Plc and prior ranking statutory entitlements, the assets of BHP Billiton Plc to be distributed on a winding-up shall be distributed to the holders of shares in the following order of priority:

- to the holders of the cumulative preference shares, the repayment of a sum equal to the nominal capital paid up or credited as paid up on the cumulative preference shares held by them and accrual, if any, of the Preferential Dividend whether such dividend has been earned or declared or not, calculated up to the date of commencement of the winding-up
- to the holders of the BHP Billiton Plc ordinary shares and to the holders of the BHP Billiton Plc Special Voting Share and the Equalisation Share (if any), the payment out of surplus, if any, remaining after the distribution above of an equal amount for each BHP Billiton Plc ordinary share, the BHP Billiton Plc Special Voting Share and the Equalisation Share, if issued, subject to a maximum in the case of the BHP Billiton Plc Special Voting Share and the Equalisation Share of the nominal capital paid up on such shares.

2.14.8 Redemption of preference shares

If BHP Billiton Limited at any time proposes to create and issue any preference shares, the preference shares may be issued on the terms that they are to be redeemed or, at the option of either or both BHP Billiton Limited and the holder, are liable to be redeemed, whether out of share capital, profits or otherwise.

The preference shares confer on the holders the right to convert the preference shares into ordinary shares if, and on the basis, the Board determines at the time of issue of the preference shares.

The preference shares are to confer on the holders:

- the right (on redemption and on a winding up) to payment in cash in priority to any other class of shares of (i) the amount paid or agreed to be considered as paid on each of the preference shares; (ii) the amount, if any, equal to the aggregate of any dividends accrued but unpaid and of any arrears of dividends; and
- the right, in priority to any payment of dividend on any other class of shares, to the preferential dividend.

There is no equivalent provision in the Articles of Association of BHP Billiton Plc.

2.14.9 Capital calls

Subject to the terms on which any shares may have been issued, the Board may make calls on the shareholders in respect of all monies unpaid on their shares. BHP Billiton has a lien on every partly paid share for all amounts payable in respect of that share. Each shareholder is liable to pay the amount of each call in the manner, at the time and at the place specified by the Board (subject to receiving at least 14 days notice specifying the time and place for payment). A call is considered to have been made at the time when the resolution of the Board authorising the call was passed.

2.14.10 Borrowing powers

Subject to relevant law, the Directors may exercise all powers of BHP Billiton to borrow money, and to mortgage or charge its undertaking, property, assets (both present and future) and all uncalled capital or any part or parts thereof and to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of BHP Billiton or of any third party.

2.14.11 Changes to rights of shareholders

Rights attached to any class of shares issued by either BHP Billiton Limited or BHP Billiton Plc can only be varied (whether as a Joint Electorate Action or a Class Rights Action) where such variation is approved both:

- by the Company that issued the relevant shares, as a special resolution; and
- by the holders of the issued shares of the affected class, either at a special meeting by resolution passed by not less than three-quarters of the holders present at the meeting and by voting, or in writing signed by the holders of at least three-quarters of the issued shares of that class.

However, we are seeking shareholder approval at our 2008 Annual General Meetings to amend the Constitution of BHP Billiton Limited and the Articles of BHP Billiton Plc to bring the above procedure in line with section 334 of the new UK Companies Act 2006 by requiring the proposed variation be approved by both the relevant Company and by a special resolution passed at a separate meeting of the holders of the issued shares of the class affected or with the written consent of members with at least 75 per cent of the votes in the class affected. Further details are set out in the Notices of Meeting for the 2008 Annual General Meetings.

2.14.12 Conditions governing general meetings

All provisions relating to general meetings apply with any necessary modifications to any special meeting of any class of shareholders that may be held. Therefore, the following information relates equally to general meetings and any special meeting of any class of shareholders.

The Board may and shall on requisition in accordance with applicable laws call a general meeting of the shareholders at the time and place or places and in the manner determined by the Board. No shareholder may convene a general meeting of BHP Billiton except where entitled under law to do so. Any Director may convene a general meeting whenever the Director thinks fit. General meetings can also be cancelled, postponed or adjourned. Notice of a general meeting must be given to each shareholder entitled to vote at the meeting and such notice of meeting must be given in the form and manner in which the Board thinks fit. Five shareholders of the relevant Company present in person or by proxy constitute a quorum for a meeting. A shareholder who is entitled to attend and cast a vote at a general meeting of BHP Billiton Limited may appoint a person as a proxy to attend and vote for the shareholder in accordance with the law.

2.14.13 Limitations on rights to own securities

Neither the Constitution nor the Articles of Association impose any limitations on the rights to own securities other than restrictions that reflect the takeovers codes under relevant Australian and UK law. In addition, the Australian Foreign Acquisitions and Takeovers Act 1975 imposes a number of conditions that restrict foreign ownership of Australian-based

companies.

Share control limits imposed by the Constitution of BHP Billiton Limited and the Articles of Association of BHP Billiton Plc, as well as relevant laws, are described in section 2.8 and 2.12.2 of this Report.

2.14.14 Documents on display

You can consult reports and other information about BHP Billiton Limited that it has filed pursuant to the rules of the ASX at www.asx.com.au. You can consult reports and other information filed for publication by BHP Billiton Plc pursuant to the rules of the UK Listing Authority at the Authority's document viewing facility. Information filed on the ASX, or pursuant to the rules of the UK Listing Authority is not incorporated by reference into this Annual Report. The documents referred to in this Annual Report as being available on our website, www.bhpbilliton.com, are not incorporated by reference and do not form part of this Annual Report.

BHP Billiton Limited and BHP Billiton Plc both file annual and special reports and other information with the SEC. You may read and copy any document that either BHP Billiton Limited or BHP Billiton Plc files at the SEC's public reference room located at 100 F Street, NE, Room 1,580, Washington, DC 20549. Please call the SEC at 1-800-SEC-0330 or access the SEC website at www.sec.gov for further information on the public reference room. The SEC filings of BHP Billiton Limited since November 2002, and those of BHP Billiton Plc since April 2003, are also available on the SEC website. American Depositary Shares representing ordinary shares of BHP Billiton Limited are listed on the NYSE, and its ordinary shares are listed on the ASX. American Depositary Shares representing ordinary shares of BHP Billiton Plc are also listed on the NYSE and its ordinary shares are admitted to the Official List of the UK Listing Authority (being the Financial Services Authority acting in its capacity as the competent authority for the purposes of Part VI of the Financial Services and Markets Act 2000), and to trading on the London Stock Exchange's market for listed securities.

2.15 Reserves

2.15.1 Petroleum reserves

Reserves and production

Proved oil and gas reserves are the estimated quantities of crude oil, natural gas and natural gas liquids (NGL) that geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions, i.e. prices and costs as of the date the estimate is made. Proved developed oil and gas reserves are reserves that can be expected to be recovered through existing wells with existing equipment and operating methods.

Estimates of oil and gas reserves are inherently imprecise, require the application of judgement and are subject to future revision. Accordingly, financial and accounting measures (such as the standardised measure of discounted cash flows, depreciation, depletion and amortisation charges, the assessment of impairments and the assessment of valuation allowances against deferred tax assets) that are based on reserve estimates are also subject to change.

Proved reserves are estimated by reference to available seismic, well and reservoir information, including production and pressure trends for producing reservoirs and, in some cases, to similar data from other producing reservoirs in the immediate area. Proved reserves estimates are attributed to future development projects only where there is a significant commitment to project funding and execution, and for which applicable governmental and regulatory approvals have been secured or are reasonably certain to be secured. Furthermore, estimates of proved reserves only include volumes for which access to market is assured with reasonable certainty. All proved reserve estimates are subject to revision, either upward or downward, based on new information, such as from development drilling and production activities or from changes in economic factors, including product prices, contract terms or development plans.

The tables below detail estimated oil, condensate, NGL and gas reserves at 30 June 2008, 30 June 2007 and 30 June 2006, with a reconciliation of the changes in each year. Reserves have been calculated using the economic interest method and represent net interest volumes after deduction of applicable royalty, fuel and flare volumes. Reserves include quantities of oil, condensate, NGL and gas that will be produced under several production and risk sharing arrangements that involve the BHP Billiton Group in upstream risks and rewards without transfer of ownership of the products. At 30 June 2008, approximately 6 per cent (2007: 9 per cent; 2006: 11 per cent) of proved developed and undeveloped oil, condensate and NGL reserves and 5 per cent (2007: 6 per cent; 2006: nil) of natural gas reserves are attributable to those arrangements. Reserves also include volumes calculated by probabilistic aggregation of certain fields that share common infrastructure. These aggregation procedures result in enterprise-wide proved reserves volumes which may not be realised upon divestment on an individual property basis.

Millions of barrels	Australia/Asia	Americas	UK/Middle East	Total
Proved developed and undeveloped oil, condensate and NGL reserves ^(a)				
Reserves at 30 June 2005	284.7	183.0	74.9	542.6
Improved recovery	-	11.5	-	11.5
Revisions of previous estimates	52.4	0.6	(2.6)	50.4
Extensions and discoveries	-	2.6	-	2.6
Purchase/sales of reserves	-	(0.3)	-	(0.3)
Production ^(b)	(33.2)	(7.3)	(15.3)	(55.8)
Total changes	19.2	7.1	(17.9)	8.4
Reserves at 30 June 2006	303.9	190.1	57.0	551.0
Improved recovery	-	-	-	-
Revisions of previous estimates	13.6	(0.9)	5.6	18.3
Extensions and discoveries	50.9	1.7	-	52.6
Purchase/sales of reserves	-	(0.1)	-	(0.1)
Production ^(b)	(35.8)	(6.6)	(14.3)	(56.7)
Total changes	28.7	(5.9)	(8.7)	14.1
Reserves at 30 June 2007 ^(c)	332.6	184.2	48.3	565.1
Improved recovery	17.6	-	-	17.6
Revisions of previous estimates	20.0	16.2	(2.2)	34.0
Extensions and discoveries	26.6	23.4	-	50.0
Purchase/sales of reserves	-	-	-	-
Production ^(b)	(40.0)	(16.3)	(11.8)	(68.1)
Total changes	24.2	23.3	(14.0)	33.5
Reserves at 30 June 2008 ^(c)	356.8	207.5	34.3	598.6
Proved developed oil, condensate and NGL reserves ^(a)				
Reserves at 30 June 2005	180.5	18.3	74.5	273.3
Reserves at 30 June 2006	199.3	21.5	54.6	275.4
Reserves at 30 June 2007	180.8	35.3	46.0	262.1
Reserves at 30 June 2008	190.9	99.6	30.6	321.1

(a) In Bass Strait, the North West Shelf, Ohanet and the North Sea, NGL is extracted separately from crude oil and natural gas.

(b) Production for reserves reconciliation differs slightly from marketable production due to timing of sales and corrections to previous estimates.

(c) Total proved oil, condensate and NGL reserves include 8.0 million barrels derived from probabilistic aggregation procedures.

Billions of cubic feet	Australia/Asia ^(a)	Americas	UK/Middle East	Total
Proved developed and undeveloped natural gas reserves				
Reserves at 30 June 2005	4,820.7	116.9	244.5	5,182.1
Improved recovery	-	-	-	-
Revisions of previous estimates	4.0	6.5	34.7	45.2
Extensions and discoveries	-	1.3	-	1.3
Purchases/sales of reserves	-	(0.2)	-	(0.2)
Production ^(b)	(292.0)	(8.0)	(61.1)	(361.1)
Total changes	(288.0)	(0.4)	(26.4)	(314.8)
Reserves at 30 June 2006	4,532.7	116.5	218.1	4,867.3
Improved recovery	-	-	-	-
Revisions of previous estimates	15.3	(0.4)	1.4	16.3
Extensions and discoveries	-	280.7	-	280.7
Purchases/sales of reserves	(76.5)	(3.6)	-	(80.1)
Production ^(b)	(295.0)	(8.7)	(53.3)	(357.0)
Total changes	(356.2)	268.0	(51.9)	(140.1)
Reserves at 30 June 2007 ^(c)	4,176.5	384.5	166.2	4,727.2
Improved recovery	-	-	-	-
Revisions of previous estimates	22.7	(42.3)	62.2	42.6
Extensions and discoveries	239.8	17.1	-	256.9
Purchases/sales of reserves	-	-	-	-
Production ^(b)	(310.9)	(11.8)	(45.8)	(368.5)
Total changes	(48.4)	(37.0)	16.4	(69.0)
Reserves at 30 June 2008 ^(c)	4,128.1	347.5	182.6	4,658.2
Proved developed natural gas reserves				
Reserves at 30 June 2005	2,621.4	15.1	239.3	2,875.8
Reserves at 30 June 2006	2,286.4	16.5	206.4	2,509.3
Reserves at 30 June 2007	2,137.4	15.9	162.4	2,315.7
Reserves at 30 June 2008	2,148.6	46.4	175.1	2,370.1

(a) Production for Australia includes gas sold as LNG.

(b) Production for reserves reconciliation differs slightly from marketable production due to timing of sales and corrections to previous estimates.

(c) Total proved natural gas reserves include 169.3 billion cubic feet derived from probabilistic aggregation procedures.

2.15.2 Ore reserves

Ore Reserves are estimates of the amount of ore that can be economically and legally extracted and processed from our mining properties. In order to estimate reserves, assumptions are required about a range of geological, technical and economic factors, including quantities, grades, production techniques, recovery rates, production costs, transport costs, commodity demand, commodity prices and exchange rates. Estimating the quantity and/or grade of reserves requires the size, shape and depth of ore bodies to be determined by analysing geological data such as drilling samples. Because the economic assumptions used to estimate reserves change from period to period, and because additional geological and operational data is generated during the course of operations, estimates of reserves may change from period to period. All of the Ore Reserve figures presented are reported in 100 per cent terms and represent estimates at 30 June 2008 (unless otherwise stated). All tonnes and grade information has been rounded, hence small differences may be present in the totals. Mine life is calculated as Total Reserve divided by the current approved nominal production rate.

Our mineral leases are of sufficient duration (or convey a legal right to renew for sufficient duration) to enable all reserves on the leased properties to be mined in accordance with current production schedules. Our Ore Reserves may include areas where some additional approvals remain outstanding but where, based on the technical investigations we carry out as part of our mine planning process and our knowledge and experience of the approvals process, we expect that such approvals will be obtained as part of the normal course of business and within the timeframe required by the current life-of-mine schedule.

The reported reserves contained in this annual report do not exceed the quantities that we estimate could be extracted economically if future prices were at similar levels to the average historical prices for traded metals for the three years to 31 December 2007, or for bulk commodities long-term contracted prices. However, we do not use a bauxite, aluminium or alumina price to determine bauxite reserves. The primary criteria for determining bauxite reserves are the feed specifications required by the captive alumina refinery. In addition to these specifications a number of modifying factors are used to differentiate bauxite reserves from other mineralised material. For our Manganese assets, historical benchmark contract price is used to determine reserves at only one asset (GEMCO). Geological stratigraphic controls, cut-off grade and plant feed requirements are used to determine reserves at our other Manganese assets.

Current operating costs have been matched to the average of historical or long-term contract prices in our test for impairment in accordance with Industry Guide 7. The reported reserves may differ in some respects from the reserves we report in our home jurisdictions of Australia and the UK. Those jurisdictions require the use of the Australasian Code for reporting of Mineral Resources and Ore Reserves, December 2004 (the JORC Code), which contemplates the use of reasonable investment assumptions in calculating reserve estimates.

The three-year historical average prices used for each commodity to test for impairment of the reserves of traded metals contained in this annual report are as follows:

Commodity Price	US\$
Copper ⁽¹⁾	2.65/lb
Gold	582.11/oz
Nickel	11.52/lb
Silver	10.75/oz
Lead	0.73/lb
Zinc	1.19/lb
Uranium	58.16/lb

- (1) All our copper operations have used a copper price at or below the three-year historical average copper price to estimate, or test for impairment of, the copper reserves disclosed in this report. The price used by each operation is disclosed in the footnotes to the Base Metals Ore Reserves table.

Aluminium Customer Sector Group

Ore Reserves

The table below details the total Ore Reserves for the Aluminium Customer Sector Group estimated as at 30 June 2008 in 100 per cent terms (unless otherwise stated).

As at 30 June 2008													As at 30 June 2007									
Commodity Deposit (1,2,3,4)	Ore Type	Proved Ore Reserve				Probable Ore Reserve				Total Ore Reserve				Mine life (years)	Total Ore Reserve				Mine life (years)	BHP Billiton Interest %		
		Millions of dry metric tonnes	A.Al ₂ O ₃	% R.SiO ₂	% Fe ₂ O ₃	Millions of dry metric tonnes	A.Al ₂ O ₃	% R.SiO ₂	% Fe ₂ O ₃	Millions of dry metric tonnes	A.Al ₂ O ₃	% R.SiO ₂	% Fe ₂ O ₃		Millions of dry metric tonnes	A.Al ₂ O ₃	% R.SiO ₂	% Fe ₂ O ₃				
Australia																						
Worsley ⁽⁵⁾	Laterite	235	30.9	1.7	-	76	31.0	1.8	-	311	30.9	1.8	-	19	324	30.8	1.7	-	26	86		
Brazil																						
MRN ^(6,7)	MRN Washed	155	50.7	3.7	-	59	50.7	3.7	-	214	50.7	3.7	-	14	172	51.2	3.5	-	11	14.8		
Suriname																						
Coermotibo	Laterite	0.4	45.4	3.4	13.6	0.3	39.0	3.4	22	0.7	42.5	3.4	17.4	1	0.7	42.6	3.4	17.2	1	45		
Onverdacht	Laterite	9.4	48.4	4.0	10.6	-	-	-	-	9.4	48.4	4.0	10.6	3	14	47.8	5.0	10.2	5	45		

(1) Approximate drill hole spacings used to classify the reserves are:

Deposit	Proved Ore Reserves	Probable Ore Reserves
Worsley	Maximum 80m	Maximum 160m
MRN	A bauxite intersection grid of 200m. Mining and metallurgical characterisation (test pit/bulk sample) plus a reliable suite of chemical and size distribution data	Those areas with a bauxite intersection grid spacing of less than 400m and/ or a 400m spaced grid with a 200m offset fill in, plus a reliable suite of chemical and size distribution data.
Coermotibo	61m x 61m	122m x 122m
Onverdacht	61m x 61m	122m x 122m

(2) Metallurgical recoveries for the operations are:

Deposit	Estimated % metallurgical recovery of A.Al ₂ O ₃
Worsley (Worsley Refinery)	90%
MRN (Alumar refinery)	94%

Coermotibo (Paranam Refinery)	92.30%
Onverdacht (Paranam Refinery)	92.30%

(3) $A\text{.Al}_2\text{O}_3$ is available alumina determined for expected refinery conditions. $R\text{.SiO}_2$ is silica that is reactive in the refinery process. Fe_2O_3 is iron oxide.

(4) For Worsley, MRN, Coermotibo and Onverdacht bauxite deposits the reserves are determined based on applicable $A\text{.Al}_2\text{O}_3$, $R\text{.SiO}_2$. For one of the Onverdacht deposits an Fe_2O_3 cut-off is also applied.

(5) Worsley—The change in mine life is due to the approved production increase currently being installed and scheduled for operation in 2011. The Worsley Alumina Project expansion to 4.6 mtpa alumina (equivalent to 16.8 mtpa bauxite) was announced 1 May 2008.

(6) MRN—The June 2008 increase in MRN Washed reserves largely reflects the promotion of the plateaux Arama, Greigh and part of Monte Branco to the reserve category following a 200m square grid drilling program. A small amount of the reserve increase is derived from Bela Cruz, Bacaba, Teofilo and Cipo plateaux following a review of the model. MRN Washed tonnes and grade represent expected product based on forecast beneficiated yield in the reserve area of 75%.

(7) The MRN reserves are located on mining leases that provide MRN the right to mine. In addition, MRN is required to obtain environmental approvals to allow infrastructure access and mining; these approvals are sought and approved on a staged basis as part of the normal course of business. Current mining areas have full environmental approval, MRN is progressing further approvals to cover the total reserve area within a timeframe required by the current life of mine schedule.

Base Metals Customer Sector Group

Ore Reserves

The table below details the total Ore Reserves for the Base Metals Customer Sector Group estimated as a 30 June 2008 in 100 per cent terms (unless otherwise stated).

As at 30 June 2008																	
Commodity Deposit (1,2,3)	Ore Type	Proved Ore Reserve					Probable Ore Reserve					Total Ore Reserve					Mine life (years)
		Millions of dry metric tonnes	% TCu	% SCu			Millions of dry metric tonnes	% TCu	% SCu			Millions of dry metric tonnes	% TCu	% SCu			
Copper Escondida (4)	Oxide	95	0.86	-			49	1.07	-			144	0.93	-			24
	Sulphide	770	1.16	-			962	1.05	-			1,731	1.10	-			
	Sulphide leach	692	0.55	-			1,568	0.55	-			2,260	0.55	-			
Cerro Colorado (5)	Oxide	47	0.61	0.45			58	0.68	0.5			105	0.65	0.48			8
	Sulphide	28	0.74	0.14			20	0.66	0.16			48	0.71	0.15			
Spence (6)	Oxide	36	1.11	0.86			30	1.05	0.65			66	1.08	0.76			15
	Sulphide	123	1.24	-			83	0.79	-			205	1.06	-			
Pinto Valley (7)	Low-grade leach	7.0	0.21	-			8.0	0.20	-			15	0.21	-			4
	Sulphide	42	0.37	-			56	0.42	-			98	0.39	-			
	Sulphide stockpiles	446	0.11	-			-	-	-			446	0.11	-			
Copper Uranium		Millions of dry metric tonnes	% Cu	kg/tonne U ₃ O ₈	g/t Au	g/t Ag	Millions of dry metric tonnes	% Cu	kg/tonne U ₃ O ₈	g/t Au	g/t Ag	Millions of dry metric tonnes	% Cu	kg/tonne U ₃ O ₈	g/t Au	g/t Ag	
Olympic Dam (8)	Sulphide	221	1.97	0.59	0.73	3.99	253	1.77	0.61	0.79	3.91	473	1.86	0.60	0.76	3.95	43
Copper Zinc		Millions of dry metric tonnes	% Cu	% Zn	g/t Ag	% Mo	Millions of dry metric tonnes	% Cu	% Zn	g/t Ag	% Mo	Millions of dry metric tonnes	% Cu	% Zn	g/t Ag	% Mo	
Antamina (9)	Sulphide	39	1.15	0.21	9.1	0.033	253	1.10	0.15	9.7	0.035	292	1.11	0.16	9.6	0.035	12
	Cu only	24	1.11	3.1	22.6	0.009	85	1.14	2.66	19.1	0.009	109	1.13	2.75	19.9	0.009	
	Sulphide Cu-Zn																
Silver Lead Zinc		Millions of dry metric tonnes	g/t Ag	% Pb	% Zn		Millions of dry metric tonnes	g/t Ag	% Pb	% Zn		Millions of dry metric tonnes	g/t Ag	% Pb	% Zn		
Cannington (10)	Sulphide	22	356	8.4	3.9		2.2	272	6.7	4.3		24	348	8.3	3.9		8

As at 30 June 2008		As at 30 June 2007				
Commodity Deposit ^(1,2,3)		Total Ore Reserve				BHP Billiton Interest %
	Ore Type	Millions of dry metric tonnes	% TCu	% SCu	Mine life (years)	
Copper Escondida ⁽⁴⁾						
	Oxide	161	0.92	-	24	57.5
	Sulphide	1,743	1.15	-		
	Sulphide leach	2,395	0.55	-		

Cerro Colorado ⁽⁵⁾	Oxide Sulphide	113 50	0.66 0.75	0.50 0.13	9	100
Spence ⁽⁶⁾	Oxide Sulphide	70 214	1.23 1.06	0.80 -	16	100
Pinto Valley ⁽⁷⁾	Low- grade leach Sulphide Sulphide stockpiles	35 87 443	0.21 0.41 0.11	- - -	4	100
Copper Uranium		Millions of dry metric tonnes	% Cu	kg/ tonne U₃O₈	g/t Au	g/t Ag
Olympic Dam ⁽⁸⁾	Sulphide	399	1.87	0.58	0.68	4.0
Copper Zinc		Millions of dry metric tonnes	% Cu	% Zn	g/t Ag	% Mo
Antamina ⁽⁹⁾	Sulphide Cu only Sulphide Cu-Zn	303 118	1.14 1.12	0.16 2.84	9.6 20.2	0.04 0.01
Silver Lead Zinc		Millions of dry metric tonnes	g/t Ag	% Pb	% Zn	
Cannington ⁽¹⁰⁾	Sulphide	22	402	9.3	4.1	7

(1) %TCu – per cent total copper, %SCu – per cent soluble copper, %Cu – per cent copper, kg/tonne U₃O₈ – kilograms per tonne uranium oxide, g/tAu – grams per tonne gold, g/tAg – grams per tonne silver, %Zn – per cent zinc, %Pb – per cent lead, %Mo – per cent molybdenum

(2) Approximate drill hole spacings used to classify the reserves are:

	Proved Ore Reserves	Probable Ore Reserves
Escondida	Sulphide: 55m x 55m Sulphide leach: 60m x 60m Oxide: 45m x 45m	Sulphide: 85m x 85m Sulphide leach: 95m x 95m Oxide: 50m x 50m
Cerro Colorado	55m x 55m on first kriging pass	120m x 120m on second kriging pass
Spence	Oxides: less than approximately 50m continuous square grid Sulphides: less than approximately 75m continuous square grid	Oxides and Sulphides: less than approximately 100m continuous square grid, estimation on second kriging pass
Pinto Valley	60m x 120m rectangular grid	200m x 200m
Olympic Dam	Drilling grid of 20m to 30m	Drilling grid of 30m to 70m
Antamina	High-Grade Cu/Zn: 3 composites of the same grade zone and different holes within 30m, closest within 20m Low-Grade Cu/Zn: 3 composites of the same grade zone and different holes within 35m, closest within 25m.	3 composites of the same grade zone and different holes within 55m, closest within 40m, or 2 composites of the same grade zone and different holes within 65m, closest within 30m, or at least 50 composites within 75m with at least 90% in the same grade zone as the block.

Cannington	12.5m sectional x 15.0m vertical	25.0m sectional x 25.0m vertical

(3) Metallurgical recoveries for the operations are:

	% Metallurgical Recovery						
	Cu	Ag	Pb	Zn	Au	U ₃ O ₈	Mo
Escondida	Sulphide: 85% of TCu Sulphide Leach: 33% of TCu Oxide: 68% of TCu						
Cerro Colorado	74% of TCu						
Spence	Oxide: 82% of TCu Sulphide: 81% of TCu						
Pinto Valley	Low-grade leach: 25% Sulphide: 86.4% Sulphide stockpiles: 3%						
Olympic Dam	95%	67%			66%	70%	
Antamina	Sulphide Cu: 94.4% Sulphide Cu-Zn: 30%	Sulphide Cu: 84% Sulphide Cu-Zn: 20%		Sulphide Cu: 0% Sulphide Cu-Zn: 87%			Sulphide Cu: 60% Sulphide Cu-Zn: 0%
Cannington		84%	87%	76%			

(4) Escondida – Changes in the Escondida reserves are mainly due to changes in the geological and geometallurgical model and resulting optimisation of the mine plan using updated cost and price assumptions, including a variable cut-off grade for sulphide mill ore. Oxide reserves scheduled for mining after closure of the oxide leach plant are reported as Sulphide Leach due to process destination. Part of the Sulphide Leach mining stockpile has been removed from Ore Reserve classification due to uncertainty in tonnage, grade and metallurgical properties pending additional study. The Cu price used for testing impairment of the Escondida Ore Reserve was US\$2.65/lb.

(5) Cerro Colorado—The Cu price used for testing impairment of the Cerro Colorado Ore Reserve was US\$2.65/lb.

(6) Spence—The Cu price used for testing impairment of the Spence Ore Reserve was US\$2.65/lb.

(7) Pinto Valley – Approval to re-open the Pinto Valley unit was given in December 2006 upon completion of a Feasibility Study of a mine and mill re-start. Mining activities were re-initiated in mid-June 2007, while milling started on schedule in October 2007. The changes in Ore Reserves are due to lowering the mill feed cut-off from 0.27%Cu in 2007 to 0.25%Cu, changed haulage ramp design and other mine parameters, and a revised deposit model, including revised classification. Mine life only considers the extraction of the intact sulphide ore. Copper recovery of the low-grade sulphide stockpiles is estimated from the expected leach production during mine life. The Cu price used for testing impairment of the Pinto Valley Ore Reserve was US\$2.65/lb.

(8) Olympic Dam – The increase in overall Ore Reserves is due to additional mineralised material being available for conversion to Proven and Probable Reserves. In addition, mining parameters for slope design and grade factors have also been updated following review of the previous 2 years reconciliation data. The Cu price used for testing impairment of the Olympic Dam Ore Reserve was Cu = US\$2.65/lb.

(9) Antamina – Reserves are reported on the basis of a reserve estimate completed in 2006, depleted by subsequent production. The Cu price used for testing impairment of the Antamina Ore Reserve was US\$1.32/lb.

(10) Cannington – Updated metal price assumptions have resulted in a lower cut-off grade and associated increase in Ore Reserves.

Diamonds and Specialty Products Customer Sector Group

Ore Reserves

The table below details the total Ore Reserves for the Diamonds and Specialty Products Customer Sector Group estimated as at 30 June 2008 in 100 per cent terms (unless otherwise stated).

As at 30 June 2008									As at 30 June 2007			
Commodity Deposit ^(1,2)	Ore Type ⁽³⁾	Proved Ore Reserve		Probable Ore Reserve		Total Ore Reserve		Mine life (years)	Total Ore Reserve		Mine life (years)	BHP Billiton Interest %
		Millions of dry metric tonnes	Carats per tonne	Millions of dry metric tonnes	Carats per tonne	Millions of dry metric tonnes	Carats per tonne		Millions of dry metric tonnes	Carats per tonne		
Diamonds⁽⁴⁾ EKATI Core Zone	OC	19.1	0.3	15.5	0.6	34.6	0.4	10	36.5	0.4	12	80
	UG	3.9	0.9	5.2	0.9	9.1	0.9		10.5	0.9		
	SP	—	—	0.4	0.2	0.4	0.2		0.4	1.7		
Mineral Sands Richards Bay Minerals ⁽⁵⁾	TiO ₂ slag	Millions of tonnes		Millions of tonnes		Millions of tonnes		24	Millions of tonnes		24	50
			5.6		19		24			25		

(1) Approximate drill hole spacings used to classify the reserves are:

Deposit	Proved Ore Reserves	Probable Ore Reserves
EKATI Core Zone	less than 25m and up to 50m	less than 25m and up to 75m
Richards Bay Minerals	50m x 50m	800m x 100m

(2) Metallurgical recoveries for the operations are:

EKATI Core Zone	factors are assigned per geological domain and deposit
Richards Bay Minerals	45% including conversion to slag

(3) OC – open-cut, UG – underground, SP – stockpile, TiO₂ – titanium dioxide

(4) Diamond prices used for pit optimisations and Ore Reserves reflect Company determined long-term marketing conditions. As a result of changes in the plant, the diamond stone size cut-off for the reserves has been reduced from 2.0mm for the June 2007 estimate to an effective 1.5mm square aperture stone size cut-off for the June 2008 Reserve estimate.

(5) Richards Bay Minerals – Reserves are reported in tonnes of slag as at 31 December 2007.

Stainless Steel Materials Customer Sector Group

Ore Reserves

The table below details the total Ore Reserves for the Stainless Steel Materials Customer Sector Group estimated at 30 June 2008 in 100 per cent terms (unless otherwise stated).

As at 30 June 2008									As at 30 June 2007				
Commodity Deposit ^(1,2,3)	Ore Type	Proved Ore Reserve		Probable Ore Reserve		Total Ore Reserve		Mine Life (years)	Total Ore Reserve		Mine Life (years)	BHP Billiton Interest %	
		Millions of dry metric tonnes	% Ni	Millions of dry metric tonnes	% Ni	Millions of dry metric tonnes	% Ni		Millions of dry metric tonnes	% Ni			
Colombia													
Cerro Matoso ⁽⁴⁾	Laterite	68	1.30	35	1.27	103	1.29	42	67	1.70	26	99.94	
	SP	24	1.38	—	—	24	1.38		10	1.51			
	MNR - Ore	23	0.20	—	—	23	0.20		23	0.21			
Nickel West													
Leinster ⁽⁵⁾	OC sulphide	3.3	1.33	0.4	0.94	3.7	1.30	7	0.7	1.7	6	100	
	UG	6.4	1.81	4.4	1.90	11	1.85		13	1.8			
Mt Keith ⁽⁶⁾	OC	135	0.58	2.0	0.45	137	0.58	14	164	0.57	17	100	
	SP	27	0.52	—	—	27	0.52		30	0.51			
Cliffs	UG	—	—	1.6	3.6	1.6	3.6	5	1.7	3.4	5	100	
Ravensthorpe	Laterite	107	0.73	120	0.6	227	0.66	21	235	0.67	23	100	
	SP	8.0	0.77	—	—	8.0	0.77		3.0	0.75			

(1) Approximate drill hole spacings used to classify the reserves are:

	Proved Ore Reserves	Probable Ore Reserves
Cerro Matoso	Less than 25m	Greater than 25m and less than 70m
Leinster	25m x 25m	25m x 50m
Mt Keith	60m x 40m	80m x 80m
Cliffs	—	50m x 50m
Ravensthorpe	40mE by 50mN	80mE by 100mN

(2) Metallurgical recoveries for the operations are:

Deposit	% Metallurgical Recovery Ni
Cerro Matoso	90% (Reserve to metal)
Leinster: UG OC	89% (Reserve to Ni in concentrate) 85% (Reserve to Ni in concentrate)
Mt Keith: OC	65% (Reserve to Ni in concentrate)

SP	49% (Reserve to Ni in concentrate)
Cliffs	90% (Reserve to Ni in concentrate)
Ravensthorpe	50% (Reserve to Ni in concentrate)

(3) OC – open-cut, UG – underground, SP – stockpile, MNR Ore – Metal Nickel Recovery ore, %Ni – per cent nickel

(4) Cerro Matoso – The Ore Reserve has increased as a result of revised price assumptions reducing the Laterite ore cut-off grade used in the reserve estimation from 1.0% Ni to 0.6% Ni. In addition, revised metallurgical recovery parameters have also resulted in an increase to the reserve.

(5) Leinster – Increases in open-cut Ore Reserves are due to lowering the cut-off grade from 0.8% Ni to 0.6% Ni based on revised economic parameters, and including a second cutback on the Rocky's Reward Open Pit.

(6) Mt Keith – A mining study undertaken in 2007 has resulted in significant changes to the MKO pit stage designs. The resulting evaluation has determined that some of the deeper reserve, which was reclassified in the previous year from Proved Reserve to Probable Reserve, has been removed from the reserves as it is uneconomic under current economic conditions. The remainder of that Probable Reserve has been reclassified as Proven Reserves as a result of the pit stage redesign and due to the greater geotechnical knowledge of the project.

Iron Ore Customer Sector Group

Ore Reserves

The table below details the total Ore Reserves for the Iron Ore Customer Sector Group estimated as at 30 June 2008 in 100 per cent terms (unless otherwise stated).

As at 30 June 2008																			As at 30 June 2007			
Commodity Deposit (1,2,3,4,5,6)	Ore Type	Proved Ore Reserve						Probable Ore Reserve						Total Ore Reserve						Total Ore Reserve Millions of wet metric tonnes	Mine life (7)	BHP Billiton Interest %
		Millions of wet metric tonnes	% Fe	% P	% SiO ₂	% Al ₂ O ₃	% LOI	Millions of wet metric tonnes	% Fe	% P	% SiO ₂	% Al ₂ O ₃	% LOI	Millions of wet metric tonnes	% Fe	% P	% SiO ₂	% Al ₂ O ₃	% LOI			
Iron Ore																						
Mt Newman JV ⁽⁸⁾	BKM	342	63.2	0.07	4.7	2.0	2.2	481	62.2	0.08	5.8	2.1	2.4	823	62.6	0.08	5.3	2.1	2.3	23	780	85
	MM	23	61.6	0.06	3.0	1.6	6.8	42	62.0	0.07	2.8	1.8	6.2	65	61.9	0.07	2.9	1.7	6.4	67	23	
Jimblebar ^(9,10)	BKM	99	63.2	0.09	3.5	2.4	3.4	326	62.6	0.10	3.3	2.4	4.1	425	62.7	0.10	3.3	2.4	3.9	61	253	100
Mt Goldsworthy JV Northern ⁽¹¹⁾	NIM	8.9	59.5	0.06	9.6	1.7	3.0	15	59.1	0.05	10.8	1.1	2.4	24	59.2	0.05	10.4	1.3	2.6	12	3.2	85
Mt Goldsworthy JV Area C ^(12,13)	BKM	53	62.6	0.14	2.9	1.9	5.0	127	61.7	0.13	3.7	2.1	5.2	180	62.0	0.13	3.5	2.0	5.1	18	—	85
	MM	180	62.4	0.06	2.8	1.6	5.8	216	61.4	0.06	3.6	1.9	6.1	396	61.9	0.06	3.2	1.8	6.0	418	18	
Yandi JV ^(14,15)	CID	791	57.4	0.04	5.6	1.4	10.5	301	56.9	0.04	6.2	1.5	10.6	1,092	57.2	0.04	5.8	1.4	10.5	24	913	85
		Millions of dry metric tonnes	% Fe	% Pc				Millions of dry metric tonnes	% Fe	% Pc				Millions of dry metric tonnes	% Fe	% Pc					Millions of dry metric tonnes	
Samarco JV ⁽¹⁶⁾	ROM	451	44.9	0.05				173	44.0	0.05				624	44.7	0.05				21	480	50

(1) The reserves are divided into joint ventures and material types that reflect the various products produced. The West Australian ore types are classified as per the host Archaean or Proterozoic banded iron formations. Ore types are BKM- Brockman, MM - Marra Mamba, NIM - Nimingarra, CID - Channel Iron Deposit. ROM - Run of Mine for Samarco, comprising itabirites and friable hematite ores.

(2) The reserve grades listed: Fe - iron, P - phosphorous, SiO₂ - silica, Al₂O₃ - alumina, LOI - loss of ignition, refer to *in situ* mass percentage on a dry weight basis. For Mt Newman, Jimblebar, Mt Goldsworthy and Yandi joint ventures tonnages represent wet tonnes based on the following moisture contents: BKM -3%, MM - 4%, CID -8%, NIM -3.5%. Iron ore is marketed as Lump (direct blast furnace feed) and Fines (sinter blast feed). For Samarco: %Pc - phosphorous in concentrate, Samarco is marketed predominantly as direct reduction and blast furnace pellets.

(3) Metallurgical recovery is 100%, except for Mt Newman JV -Whaleback BKM where recovery is 92%. For Samarco, metallurgical recovery is 83.8%.

(4) Approximate drill hole spacings used to classify the reserves are:

	Proved Ore Reserves	Probable Ore Reserves
Mt Newman JV	50m x 50m	300m x 50m
Jimblebar	50m x 50m	300m x 50m
Mt Goldsworthy JV Northern	25m x 25m	50m x 50m

Mt Goldsworthy JV Area C	50m x 50m	300m x 50m
Yandi JV	50m x 50m	150m x 150m
Samarco JV	AL North: 200m x 200m x 16m AL Center: 200m x 200m x 16m AL South: 200m x 200m x 16m	AL North: 400m x 400m x 16m AL Center: 400m x 400m x 16m AL South: 400m x 400m x 16m

- (5) Some cut-off grades have been adjusted to align with revised product strategy. Cut-off grades used to estimate reserves: Mt Newman 50-62%Fe for BKM, 59%Fe for MM; Jimblebar 53%Fe for BKM; Mt Goldsworthy 50%Fe for NIM, 57%Fe for MM, 59.5%Fe for BKM; Yandi 55-55.5%Fe for CID.
- (6) Our Western Australian iron ore reserves are all located on State Agreement mining leases that guarantee the right to mine, except the Cattle Gorge mine (part of Mt Goldsworthy JV Northern), which is an operating mine on a standard Western Australian mining lease. We are required to obtain certain State Government approvals (including environmental and heritage clearances) before we commence mining operations on a particular area. We have included in our reserves areas where one or more approvals remain outstanding but where, based on the technical investigations we carry out as part of our mine planning process and our knowledge and experience of the approvals process, we expect that such approvals will be obtained as part of the normal course of business and within the timeframe required by the current life-of-mine schedule.
- (7) Mine life (years) is calculated as Total Reserve divided by current approved nominal production rate.
- (8) Changes to Mt Newman JV are due to additional deposit definition drilling, new geological interpretation and deposit models for Whaleback, OB24, OB25 Pit 4 and OB30, and changed MM and BKM (except Whaleback) cut-off grade from 60%Fe to 59%Fe.
- (9) Changes to Jimblebar are due to additional deposit definition drilling, new geological interpretation, new deposit modelling and new pit designs for Jimblebar W1/2/3, and a change in cut-off grade from 60%Fe to 59%Fe.
- (10) The Jimblebar Reserves listed include the Wheelarra Hill 3, 4 and Hashimoto 1 and 2 deposits at Jimblebar in which the Wheelarra Joint Venture participants (BHP Iron Ore (Jimblebar) Pty Ltd (51%), ITOCHU Minerals and Energy of Australia Pty Ltd (4.8%), Mitsui Iron Ore Corporation Pty Ltd (4.2%) and subsidiaries of Chinese steelmakers Magang, Shagang, Tanggang and Wugang (10% each)) have a legal interest. At the commencement of the Wheelarra Joint Venture on 1 October 2005, the Wheelarra Joint Venture participants had a legal interest in 175 million dry metric tonnes of Jimblebar Reserves (Wheelarra Joint Venture tonnes). The effect of the sales contracts entered into between the Wheelarra Joint Venture participants and the Mt Newman Joint Venture participants and other associated agreements is that BHP Billiton (as a Mt Newman Joint Venture participant) has an entitlement to 85% of these Wheelarra Joint Venture tonnes. This disclosure and the financial statements are prepared on this basis.
- (11) Changes to Mt Goldsworthy JV Northern are due to the inclusion of Cundaline, Nimingarra A and B deposits, and a change in cut-off from 58%Fe to 50%Fe for Cattle Gorge.
- (12) Changes to Mt Goldsworthy JV Area C are due to additional deposit definition drilling, new geological interpretation and deposit models for A Deposit, Packsaddle 1 and 3. New Reserve for Packsaddle 1 and 3 (BKM).
- (13) The Area C Reserves listed include C Deposit within Area C in which the POSMAC Joint Venture participants (BHP Billiton Minerals Pty Ltd (68%), ITOCHU Minerals and Energy of Australia Pty Ltd (6.4%), Mitsui Iron Ore Corporation Pty Ltd (5.6%) and a subsidiary of POSCO (a Korean steelmaker) (20%)) have a legal interest. The effect of the sales contracts entered into between the POSMAC Joint Venture participants and the Mt Goldsworthy Joint Venture participants and other associated agreements is that BHP Billiton (as a Mt Goldsworthy Joint Venture participant) has an entitlement to 85% of the reserves in C Deposit. This disclosure and the financial statements are prepared on this basis.
- (14) Changes to Yandi JV are due to a change in cut-off grade from 56%Fe to 55%Fe and 55.5%Fe, additional deposit definition drilling, new geological interpretation and deposit modelling for Yandi W1 and E4, and new pit designs.
- (15) The Yandi Reserves listed include the Western 4 deposit in which the JFE Western 4 Joint Venture (JW4 JV) participants (BHP Billiton Minerals Pty Ltd (68%), ITOCHU Minerals and Energy of Australia Pty Ltd (6.4%), Mitsui Iron Ore Corporation Pty Ltd (5.6%) and a subsidiary of JFE Steel Corporation (a Japanese steelmaker) (20%)) have a legal interest. The effect of the sales contracts entered into between the JW4 JV participants and the Yandi Joint Venture participants and other associated agreements is that BHP Billiton (as a Yandi Joint Venture participant) has an entitlement to 85% of the Reserves in the Western 4 deposit. This disclosure and the financial statements are prepared on this basis.
- (16) During the feasibility studies for the Third Pelletizing Plant Project, further drilling has confirmed a reserve for more than 20 years of mine life. The reported reserve is inside the 2027 pit designed for the Third Pelletizing Plant Project.

Manganese Customer Sector Group

Ore Reserves

The table below details the Ore Reserve for the Manganese Customer Sector Group estimated as at 30 June 2008 in 100 per cent terms (unless otherwise stated).

As at 30 June 2008											As at 30 June 2007					
Commodity Deposit ^(1,2,3)	Ore Type	Proved Ore Reserve			Probable Ore Reserve			Total Ore Reserve			Mine Life (years)	Total Ore Reserve			Mine Life (years)	BHP Billiton Interest %
		Millions of dry metric tonnes	% Mn	% Yield	Millions of dry metric tonnes	% Mn	% Yield	Millions of dry metric tonnes	% Mn	% Yield		Millions of dry metric tonnes	% Mn	% Yield		
Manganese GEMCO ⁽⁴⁾	ROM	74	48.2	49	43	47.2	48	117	47.8	48	17	129	47.8	49	20	60
Wessels ^(5,6,7)	ROM Lower Body-HG Lower Body-LG	Millions of dry metric tonnes	% Mn	% Fe	Millions of dry metric tonnes	% Mn	% Fe	Millions of dry metric tonnes	% Mn	% Fe	20	Millions of dry metric tonnes	% W1 Lump	% Fe	17	54.6
		—	—	—	—	—	—	—	—	—		11	48.3	—		
		3.4	47.5	10.6	9.2	47.9	10.7	13	47.8	10.7						
		1.3	41.0	13.5	5.7	41.1	13.1	7.0	41.1	13.2						
Mamatwan ^(5,6,8)	ROM M, C and N Zones X Zone	Millions of dry metric tonnes	% Mn	% Fe	Millions of dry metric tonnes	% Mn	% Fe	Millions of dry metric tonnes	% Mn	% Fe	14	Millions of dry metric tonnes	% Mn	% Fe	20	54.6
		—	—	—	—	—	—	—	—	—		47	37.2	4.84		
		38	37.8	4.5	7.9	36.8	4.3	46	37.6	4.4						
		4.3	37.3	4.8	0.2	35.6	4.6	4.4	37.2	4.8						

(1) Approximate drill hole spacings used to classify the reserves are:

	Proved Ore Reserves	Probable Ore Reserves
GEMCO	60m x 120m and 60m x 60m	120m x 120m
Wessels	Defined as rim ±30m wide around mined-out areas, plus ±142m spaced surface drill holes, supplemented by some economically viable remnant blocks within mined-out areas. underground drilling and sampling	Underground chip sampling, limited underground drill holes and ±142m spaced surface drill holes
Mamatwan	80m x 80m	160m x 160m

(2) Metallurgical recoveries for the operations are:

Deposit	% Metallurgical Recovery
GEMCO	See yield in the Reserves table
Wessels	76% recovery for W1 lump product
Mamatwan	94%

(3) ROM – run of mine product, %Mn – per cent manganese, %W1 lump – Wessels main manganese lump product grade on a per cent basis

(4) GEMCO—Manganese grades are given as per washed ore samples and should be read together with their respective yields.

(5) An agreement has been signed between Samancor Manganese and empowerment consortium Ntsimbintle Mining Pty Ltd. The Ntsimbintle agreement has been signed by both parties but remains subject to government approval which is believed to be administrative in nature. This transaction allows for the inclusion of part of the Prospecting Rights held by Ntsimbintle into the Wessels and Mamatwan Mining Areas in exchange for 9% equity in Hotazel Mines, thereby adding the mineralisation within the Ntsimbintle Prospecting Right to the Wessels and Mamatwan Mining Rights. The BHP

Billiton share of Wessels and Mamatwan mines (Hotazel Manganese Mines) therefore drops from 60% to 54.6%. Reserve from the Ntsimbintle agreement area has not yet been included in this Ore Reserve statement.

(6) Wessels and Mamatwan – The criteria for determining reserves at Wessels and Mamatwan are geological stratigraphic controls, cut-off grade and plant feed requirements. Plant feed requirements vary depending on the product specifications. Improvements in the rail system and inclusion of lower grade ores as discussed below has allowed production increases at both Wessels and Mamatwan and therefore changes in the mine life.

(7) Wessels – Wessels Mine used to be a high-grade mine—mean manganese content for W1 lump being 48%. As a result, only this high-grade portion was previously included in our reserve estimate and classified as 'ROM' (now called Lower body-HG). A low-grade portion, W4 lump at a mean grade of 42.2% Mn (now called Lower body-LG), was not included in reserves as the selling of this product is dependent on marketing requirements. Positive changes in market conditions now allow for the inclusion of all grades above a cut-off of 37.5% Mn. This report reflects these increased tonnages. The traditional W1 lump at a mean grade of 48% Mn was also adjusted to 47% Mn.

(8) Mamatwan – The X Zone has not previously been declared as Ore Reserve. This is lower grade material and has to be mined in the process of accessing the economic higher grade M, C and N Zones (previously called ROM). Due to positive market conditions, this X Zone material now has economic value.

Metallurgical Coal Customer Sector Group

Metallurgical Coal Reserves

The table below details the total Coal Reserves for the Metallurgical Coal Customer Sector Group estimated as at 30 June 2008 in 100 per cent terms (unless otherwise stated).

As at 30 June 2008						As at 30 June 2007										
Commodity Deposit ^(1,2)	Mining Method	Coal Type	Proved Coal Reserve	Probable Coal Reserve	Total Coal Reserve ⁽³⁾	Total Marketable Reserves ⁽³⁾				Mine Life (years)	Total Marketable Reserves				Mine Life (years)	BHP Billiton Interest %
			Millions of metric tonnes	Millions of metric tonnes	Millions of metric tonnes	Millions of metric tonnes	% Ash	% VM	% S		Millions of metric tonnes	% Ash	% VM	% S		
Queensland Coal reserves at operating mines - CQCA JV																
Goonyella Riverside Broadmeadow ⁽⁴⁾	OC	Met	375	99	474	372	9.1	23.2	0.52	32	349	9.1	23.4	0.52	29	50
	UG	Met	20	117	137	118	6.6	23.6	0.50		123	6.6	23.6	0.50		
Peak Downs ⁽⁵⁾	OC	Met	265	686	950	535	9.2	21.0	0.60	59	473	9.4	20.6	0.60	52	50
Saraji ⁽⁶⁾	OC	Met	207	217	424	252	9.8	18.4	0.60	31	176	9.7	18.5	0.60	22	50
Norwich Park ⁽⁷⁾	OC	Met	78	100	178	125	10.2	14.8	0.70	21	86	10.2	17.6	0.70	16	50
Blackwater ⁽⁸⁾	OC	Met/Th	98	198	295	254	8.8	25.8	0.50	20	256	10.2	25.3	0.42	19	50
Gregory JV																
Gregory Crinum	OC	Met/Th	0.8	4.4	5.2	4.2	7.5	33.1	0.60	6	5.5	7.4	33.3	0.60	7	50
	UG	Met/Th	-	35	35	30	7.5	33.0	0.60		30	7.5	33.1	0.60		
BHP Mitsui																
South Walker Ck	OC	Met/Th	38	3.2	41	31	8.4	12.7	0.39	8	35	8.5	12.9	0.37	10	80
Poitrel-Winchester	OC	Met/Th	43	25	67	53	8.5	23.8	0.36	17	51	8.5	23.8	0.36	17	80
Illawarra Coal, operating mines																
Appin ⁽⁹⁾	UG	Met/Th	8.0	28	36	32	8.9	23.4	0.40	10	27	8.9	23.2	0.37	12	100
West Cliff	UG	Met/Th	3.6	12	16	13	8.9	21.5	0.40	5	17	8.9	21.6	0.37	7	100
Dendrobium	UG	Met/Th	3.2	42	45	33	9.5	23.6	0.60	13	32	9.5	23.5	0.58	15	100

(1) OC – open-cut, UG – underground, Met – metallurgical coal, Th – thermal coal, %VM – per cent volatile matter, %S – per cent sulphur

(2) Approximate drill hole spacings used to classify the reserves are:

Deposit	Proved Ore Reserves	Probable Ore Reserves
Goonyella Riverside Broadmeadow	Maximum 500m spacing of geophysically logged, analysed coreholes with >=95% recovery or <+/-10% expected error at 95% confidence on a 50m x 100m block, 3D seismic coverage for UG resources	500m to 1000m spacing of geophysically logged, analysed coreholes with > 95% recovery or +/-10% to +/-20% expected error at 95% confidence on a 50m x 100m block
Peak Downs, Saraji, Norwich Park, Blackwater, South Walker Creek	Maximum 500m spacing of geophysically logged, analysed coreholes with >=95% recovery	500m to 1000m spacing of geophysically logged, analysed coreholes with >=95% recovery
Gregory Crinum	Maximum 500m spacing of geophysically logged, analysed , coreholes with >=95% recovery, 3D seismic coverage for UG resources	500m to 1000m spacing of geophysically logged, analysed coreholes with >=95% recovery
Poitrel / Winchester	Maximum 650m spacing of geophysically logged, analysed , coreholes	650m to 1000m spacing of geophysically logged, analysed coreholes

	with >=95% recovery	with >=95% recovery
Appin, West Cliff, Dendrobium	Maximum of 700m between data points	Maximum of 1000m between data points

(3) Total Coal Reserve (tonnes) is the sum of Proved and Probable Coal Reserve estimates, which includes allowances for diluting materials, and for losses that occur when the coal is mined, and are at the moisture content when mined. Marketable Coal Reserve (tonnes) is the tonnage of coal available, at specified moisture and air-dried quality, for sale after the beneficiation of the Total Coal Reserves. Note that where the coal is not beneficiated, the Total Coal Reserve tonnes are the Marketable Coal Reserve tonnes, with moisture adjustment where applicable.

(4) Goonyella Riverside Broadmeadow – The combined OC and UG Marketable Coal Reserve has increased by 18 million metric tonnes (mt) compared to the June 2007 reserve. After FY2008 production depletion (12mt), the changes are attributed to the OC creek buffer exclusions (-22mt marketable coal), forecast improved mining recovery (11mt marketable coal), favourable economic assumptions (43mt marketable coal), and UG mined out adjustments (-2mt marketable coal).

(5) Peak Downs – The 2008 reserves estimate is 535mt of marketable coal, which is an increase of 62mt of marketable coal compared to the 2007 reserve. After FY2008 production depletion (8mt marketable coal), the changes are attributed to update of the Caval Pit geological model (55mt marketable coal), additional surface rights (21mt marketable coal), mining recovery and mined out adjustments (-17mt marketable coal) and favourable economic assumptions (11mt marketable coal). The Caval Pit geological model was updated in March 2008.

(6) Saraji – The 2008 reserves estimate is 252mt of marketable coal, which is an increase of 76mt of marketable coal compared to the 2007 reserve. After FY2008 production depletion (6mt marketable coal), the changes in reserve estimates are attributed to forecast improved mining recovery (22mt marketable coal), additional drilling and mine planning (73mt marketable coal), and others including a reserve limit adjustment (-13mt marketable coal).

(7) Norwich Park – The 2008 reserves estimate is 125mt of marketable coal, which is an increase of 39mt of marketable coal compared to the 2007 reserve. After FY2008 production depletion (5mt marketable coal), the changes in reserve estimates are attributed to additional drilling and mine planning (23mt marketable coal), forecast improved mining recovery (6mt marketable coal), surface rights approval in Lotus (10mt marketable coal), favourable economic assumptions (3mt marketable coal) and a reserve limit adjustment (3mt marketable coal). This year's reserve includes the lower seams in Lotus and South Leichhardt pits.

(8) Blackwater – The 2008 reserve includes the Blackwater and the South Blackwater deposits, which were reported separately in previous years. Additional drilling, improvements in mining recovery over the previous two years and a reallocation of the split between metallurgical and thermal coal products have resulted in a reduction in ash forecast in the marketable reserve compared to the June 2007 Marketable Coal Reserve.

(9) Appin – The increase in reserves is a result of the reclassification of part of the geological model due to the exploration program carried out throughout the year.

Energy Coal Customer Sector Group

Energy Coal Reserves

The tables below detail the total Coal Reserves for the Energy Coal Customer Sector Group estimated as at 30 June 2008 in 100 per cent terms (unless otherwise stated).

As at 30 June 2008											As at 30 June 2007							
Commodity Deposit ⁽¹⁾	Mining Method ⁽²⁾	Coal Type ⁽²⁾	Proved Coal Reserve	Probable Coal Reserve	Total Coal Reserve ⁽³⁾	Total Marketable Reserves ^(3,4)					Total Moisture ⁽⁵⁾	Total Marketable Reserves ^(3,4)						BHP Billiton Interest %
			Millions of tonnes	Millions of tonnes	Millions of tonnes	Millions of tonnes	% Ash	% VM	% S	KCal/kg	CV	Millions of tonnes	% Ash	% VM	% S	KCal/kg	CV	
New Mexico- Operating mines																		
San Juan	UG	Th	73	1.0	74	74	19.0	0.70		5,600	9.9%	12	79	19.0	-	-	5,600	12
Navajo	OC	Th	181	8.9	190	190	22.0	0.88		4,800	13.0%	25	205	-	-	0.85	4,800	27
South Africa- Operating mines ⁽⁶⁾																		
Douglas ⁽⁷⁾	OC	Th	211	115	326	229	20.9	24.5	0.60	6,200	7.5%	27	0.9	15.3	26.4	0.50	6,600	1
	UG	Th	-	-	-	-	-	-	-	-			2.4	15.2	25.5	0.68	6,600	
Khutala	OC	Met	4.9	-	4.9	3.9	18.0	30.5	1.73	6,200	8.0%	18	5.6	18.6	30.0	1.73	6,100	20
	OC	Th	45	21	66	66	36.1	20.3	0.98	4,400	8.0%		62	36.8	20.5	0.99	4,400	
	UG	Th	170	-	170	170	33.9	20.9	0.90	4,500	8.0%		184	34.3	21.6	0.93	4,500	
Klipspruit ⁽⁸⁾	OC	Th	76	14	89	74	22.2	22.9	0.59	5,800	8.8%	12	83	21.8	23.0	0.57	5,800	12
Middelburg ⁽⁹⁾	OC	Th	268	-	268	193	22.4	23.0	0.82	6,000	6.8%	27	232	23.6	22.4	0.82	5,800	10
Optimum ⁽¹⁰⁾	OC	Th	116	-	116	86	19.5	26.5	0.74	6,000	8.0%	7	97	19.6	26.5	0.74	6,000	7
Australia - Operating mine and project																		
mt Arthur Coal	OC	Th	178	35	213	168	17.2	30.8	0.7	6,500	8.4%	14	180	17.2	30.8	0.70	6,500	15
Colombia - Operating mine																		
Cerrejon Coal Company ⁽¹¹⁾	OC	Th	630	181	811	819	-	-	-	6,200	12.0%	25	893	-	-	-	6,200	27

(1) Approximate drill hole spacings used to classify the reserves are:

Deposit	Proved Ore Reserves	Probable Ore Reserves
San Juan	0m - 500m	500m - 1000m
Navajo	Less than 500m	500m - 1000m
Douglas	A minimum of 8 drillholes per 100Ha	4-8 drillholes per 100Ha
Khutala	A minimum of 16 drillholes per 100Ha	5-16 drillholes per 100Ha
Middelburg	A minimum of 8 drillholes per 100Ha	4-8 drillholes per 100Ha

Optimum	A minimum of 16 drillholes per 100Ha	5-16 drillholes per 100Ha
Klipspruit	A minimum of 8 drillholes per 100Ha	4-8 drillholes per 100Ha
mt Arthur Coal	Less than 250m spacing	250m spacing and zones of increased structural activity
Cerrejon Coal Company	A minimum of 6 drillholes per 100Ha	2-6 drillholes per 100Ha

(2) OC – open-cut, UG – underground, Th – thermal coal, Met – metallurgical coal

(3) Total Coal Reserve (tonnes) is the sum of Proved and Probable Coal Reserve estimates, which includes allowances for diluting materials, and for losses that occur when the coal is mined, and are at the moisture content when mined. Marketable Coal Reserve (tonnes) is the tonnage of coal available, at specified moisture and air-dried quality, for sale after the beneficiation of the Total Coal Reserves. Note that where the coal is not beneficiated, the Total Coal Reserve tonnes are the Marketable Coal Reserve tonnes, with moisture adjustment where applicable.

(4) %VM – per cent volatile matter, %S – per cent sulphur, Kcal/kg CV – kilo-calories per kilogram calorific value

(5) Coal moisture content is on an as received basis.

(6) Koorfontein – The deposit was sold effective 1 July 2007 and is no longer reported.

(7) Douglas – Approval of the Douglas Middelburg project has enabled an increase of 324 million tonnes (mt) in the open-cut Coal Reserves (228mt Marketable Reserves). Previously reported underground Coal Reserves have now been incorporated into the open-cut reserve. As a result of the Douglas Middelburg project, the Douglas Colliery and Middelburg Mine will be reported as a single entity from next year. The total complex is designed to supply coal until the cessation of the current ESKOM contract in 2034. The mine life for both Douglas and Middelburg is therefore stated as 27 years.

(8) Klipspruit – Additional drilling has allowed the upgrading of 17mt of Probable Reserve to Proved Reserve.

(9) Middelburg – The approval of the Douglas Middelburg optimisation project has provided increased confidence in the coal marketability and transfer of the Total Coal Reserve to Proved status.

(10) Optimum – The operation has been sold, effective 1 July 2008.

(11) Cerrejón Coal Company – The 74mt reduction in Marketable Coal Reserves compared to that reported in June 2007 is due to changes in the geological model as well as a change in modelling practices, reconciliation of the beneficiation plant recovery factors, revised moisture estimation and production depletion. The Cerrejón reserves are located on mining leases that provide Cerrejón the right to mine. In addition, Cerrejón is required to obtain environmental approvals to allow creek diversion for access and mining. These approvals are sought and approved in the normal course of business and in a time frame that meets the current life of mine schedule.

3 OPERATING AND FINANCIAL REVIEW AND PROSPECTS

3.1 Introduction

This 'Operating and financial review and prospects' section is intended to convey management's perspective of the BHP Billiton Group and its operational and financial performance as measured and prepared in accordance with IFRS as issued by the International Accounting Standards Board ('IFRS'). We intend this disclosure to assist readers to understand and interpret the financial statements included in this Report. This section should be read in conjunction with the financial statements, together with the accompanying notes.

We are the world's largest diversified natural resources company, with a combined market capitalisation of approximately US\$225 billion as at 30 June 2008. We generated revenue of US\$59.5 billion and profit attributable to shareholders of US\$15.4 billion for FY2008.

We extract and process minerals, oil and gas from our production operations, located primarily in Australia, the Americas and southern Africa. We sell our products globally with sales and marketing taking place through our principal hubs of The Hague and Singapore. The following table shows the revenue by location of our customers:

US\$ million	Segment revenue by location of customer		
	2008	2007	2006
Europe	14,349	12,485	11,663
China	11,670	9,292	6,557
Japan	6,885	5,337	5,177
Other Asia	6,411	5,471	3,254
Australia	5,841	4,334	3,548
North America	4,771	3,205	2,615
South Korea	3,700	2,574	2,143
South America	2,640	1,966	1,848
Southern Africa	2,003	1,748	1,439
Rest of World	1,203	1,061	855
BHP Billiton Group	59,473	47,473	39,099

We operate nine Customer Sector Groups (CSGs) aligned with the commodities which we extract and market:

Customer Sector Group	Principal activities
Petroleum	Oil and gas exploration, production, development and marketing
Aluminium	Mining of bauxite, refining of bauxite into alumina and smelting of alumina into aluminium metal
Base Metals	Mining of copper, silver, lead, zinc, molybdenum, uranium and gold
Diamonds and Specialty Products	Mining of diamonds and titanium minerals
Stainless Steel Materials	Mining and production of nickel products
Iron Ore	Mining of iron ore
Manganese	Mining of manganese ore and production of manganese metal and alloys
Metallurgical Coal	Mining of metallurgical coal
Energy Coal	Mining and marketing of thermal (energy) coal

The work of our nine CSGs is supported by our Exploration and Marketing teams and other Group-wide functions.

A detailed discussion on our CSGs is located in section 2.2 of this Report. A detailed discussion of our Marketing and Minerals Exploration functions is located in sections 2.4 and 2.5 respectively of this Report.

3.2 Our strategy

Our objective as a corporation is to create long-term shareholder value through the discovery, development and conversion of natural resources, and the provision of innovative customer and market-focused solutions.

To achieve this we aim to own and operate a portfolio of upstream, large, long-life, low-cost, expandable, export-oriented assets across a diversified geographic and commodity base, and pursue growth opportunities consistent with our core skills by:

- discovering resources through our Exploration activities
- developing and converting them in our CSGs
- developing customer and market-focused solutions through our Marketing arm
- adding shareholder value beyond the capacity of these groups through the activities of the Group Functions

In pursuing our objective, we are guided by our commitment to safety, simplicity and accountability.

Our overriding commitment is to safety: ensuring the safety of our people, respecting our environment and the communities in which we work. This commitment transcends everything we do and guides every aspect of our work.

Our commitment to simplicity and accountability allows us to focus on the most important drivers of value while empowering our people to operate within their authority and make a difference.

Our objective and commitments are pursued through the six strategic drivers of our strategy:

- *People* – the foundation of our business is our people. We require people to find resources, develop those resources, operate the businesses that produce our products, and then deliver that product to our customers. Talented and motivated people are our most precious resource.
- *Licence to operate* – we aim to ensure that the communities in which we operate value our citizenship. Licence to operate means win-win relationships and partnerships. This includes a central focus on health, safety, environment and the community, and making a positive difference to our host communities.
- *World-class assets* – our world-class assets provide the cash flows that are required to build new projects, to contribute to the economies of the countries in which we operate, to meet our obligations to our employees, suppliers and partners, and ultimately to pay dividends to our shareholders. We maintain high-quality assets by managing them in the most effective and efficient way.
- *Financial strength and discipline* – we have a solid 'A' credit rating, which balances financial flexibility with the cost of finance. Our capital management program has three priorities:
 - To reinvest in our extensive pipeline of world-class projects that carry attractive rates of return regardless of the economic climate.
 - To ensure a solid balance sheet.
 - To return excess capital to shareholders.
- *Project pipeline* – we are focused on delivering an enhanced resource endowment to underpin future generations of growth. We have an abundance of tier one resources in stable countries that provide us with a unique set of options to deliver brownfield growth.
- *Growth options* – we use exploration, technology and our global footprint to look beyond our current pipeline to secure a foundation of growth for future generations. We pursue growth options in several ways – covering the range from extending existing operations to new projects in emerging regions, through exploration, technology and, on occasion, merger and acquisition activity.

3.3 Key measures

Our management and Board use a number of financial and operational measures to assess our performance.

Overall financial success – We use several financial measures to measure the success of our overall strategy. The two key measures are profit attributable to members of the BHP Billiton Group and Underlying EBIT. Profit attributable to members of the BHP Billiton Group for FY2008 was US\$15.4 billion, an increase of US\$2.0 billion, or 14.7 per cent, from FY2007. Underlying EBIT for FY2008 was US\$24.3 billion compared with US\$20.1 billion in FY2007, an increase of 21.0 per cent. Underlying EBIT is the internally defined, key financial measure used by management for monitoring the performance of our operations. We explain the calculations and why we use this measure in section 3.6.1. Other measures in addition are as follows:

	2008	30 June 2007	2006
Net operating cash flow (US\$M)	18,159	15,957	11,325
Gearing ⁽¹⁾	17.8%	25.0%	27.2%
Basic earnings per share (US cents)	275.3	229.5	173.2

(1) Refer to section 10 'Glossary' for definitions.

All measures show a strong performance in the context of a challenging supply environment. Refer to section 3.6 for a detailed analysis of the operating results.

The following are other measures that assist us to monitor our overall performance.

People and Licence to operate – These foundational strategic drivers bring together health, safety, environment and community related measures. These measures are a subset of the HSEC Targets Scorecard, which can be found in our full Sustainability Report at www.bhpbilliton.com.

On 1 July 2007, we introduced new five-year Health, Safety, Environment and Community targets; this is the first year we report against these targets.

We experienced 11 fatalities in seven separate incidents during FY2008, compared to eight fatalities in FY2007. We remain determined to do all in our power to eliminate fatalities from our operations. While low injury frequency rates do not mean low fatality rates, during FY2008, we improved our injury frequency rate. Our Total Recordable Injury Frequency Rate decreased by 20 per cent, from 7.4 per million hours worked for FY2007 to 5.9.

During FY2008, 207 new cases of occupational illness were reported Group-wide. This represents a 26 per cent reduction in the rate of illnesses per 10,000 employees against the target of a 30 per cent reduction by June 2012. There has been a 4.0 per cent increase in potential employee exposures over the occupational exposure limit (excluding noise) since 2007. Occupational exposure relates to instances where our people would be exposed if they were not wearing personal protection equipment. Refer to section 10 'Glossary' for definitions.

Our five-year targets include a six per cent reduction in greenhouse gas emissions per unit of production and a 13 per cent reduction in carbon-based energy use per unit of production, both by 30 June 2012. In FY2008, our carbon based energy intensity increased by one per cent. In FY2008, we experienced a five per cent increase in the greenhouse gas emissions intensity index for BHP Billiton's global sites. This was due, in part, to the switching of fuels used by third party electricity generators that serve our operations in Chile.

We have set a target to improve our use of recycled water relative to our use of high-quality water from the environment. Our aggregate target is to see a 10 per cent improvement by 2012 in the ratio of water recycled to high-quality water consumed. During the FY2008 period we made an improvement of seven per cent towards our target.

We have a five-year target to improve by 10 per cent the ratio of land rehabilitated compared to land disturbed. The FY2008 ratio has not changed since last year.

We continue to invest one per cent of our pre-tax profits (on a three-year rolling average) in community programs to ensure our host communities share in our success. During FY2008, this voluntary investment totalled US\$141 million, comprising cash, in-kind support and administration costs. This is equivalent to 1.0 per cent of pre-tax profits, based on a three-year average of the profit before tax, as publicly reported in each of those years.

During the reporting period, our sites received 536 community complaints, a decrease from 543 during FY2007. Similar to the previous reporting year, the most common type of community complaints were related to noise and dust.

World-class assets – Our diversified and high-margin portfolio, with an abundance of tier one resources in fiscally stable regimes, provides us with a unique set of options to deliver growth. In FY2008, annual production records were set in seven commodities and production increased in a further six. This provides a stable platform as we continue to develop and deliver world-class projects that are expected to add significant shareholder value.

Actual production volumes for this year and the previous two years are shown below. Further details appear in section 2.3 of this Report.

	2008	30 June 2007	2006
World-class assets			
Production			
Total petroleum products (millions of barrels of oil equivalent)	129.50	116.19	117.36
Alumina ('000 tonnes)	4,554	4,460	4,187
Aluminium ('000 tonnes)	1,298	1,340	1,362
Copper cathode and concentrate ('000 tonnes)	1,375.5	1,250.1	1,267.8
Nickel ('000 tonnes)	167.9	187.2	176.2
Iron ore ('000 tonnes)	112,260	99,424	97,072
Metallurgical coal ('000 tonnes)	35,193	38,429	35,643
Energy coal ('000 tonnes)	80,868	87,025	85,756

Financial strength and discipline – Financial strength is measured by attributable profit and Underlying EBIT as overall measures, along with liquidity and capital management. Our solid 'A' credit rating and net gearing and net debt are discussed in section 3.7.3 of this Report. The final dividend declared for FY2008 represents the thirteenth consecutive dividend increase, and the second consecutive year in which we have rebased our dividend. Since August 2004 we have announced capital management initiatives totalling US\$17 billion, under which 680 million shares have been repurchased.

Project pipeline and growth options – Our project pipeline focuses on high-margin commodities that are expected to create significant future value. The details of our project pipeline are located in section 3.7.2 of this Report, with a summary presented below.

	2008	30 June 2007	2006
Project pipeline and growth options (major projects)			
Number of projects approved during the year ⁽¹⁾	8	3	7
Number of projects currently under development approved in prior years	6	12	6
Number of completed projects ⁽²⁾	11	1	4
Budgeted capital expenditure for projects approved in the year (US\$M) ⁽¹⁾	5,800	2,355	5,048
Budgeted capital expenditure for projects under development approved in prior years (US\$M)	6,265	10,426	4,455
Capital expenditure of completed projects (US\$M) ⁽²⁾	7,967	1,100	1,405

(1) Includes projects approved between end of the financial year and date of profit release.

(2) Includes projects completed between end of the financial year and date of profit release.

In addition to the above projects the Board approved pre-expenditure of US\$930 million for Rapid Growth Project 5 (Western Australia Iron Ore).

3.4 External factors and trends affecting our results

The following section describes some of the external factors and trends that have a material impact on our financial condition and results of operations. We operate our business in a dynamic and changing environment, and with information that is rarely complete and exact. We primarily manage the risks discussed in this section under our portfolio management approach, which relies on the effects of diversification, rather than individual price risk management programs. Details of our financial risk management and financial instruments outstanding at 30 June 2008 may be found in note 26 'Financial risk management' in the financial statements.

Management monitors particular trends arising in the external factors with a view to managing the potential impact on our future financial condition and results of operations. The following external factors could have a material adverse effect on our business and areas where we make decisions on the basis of information that is incomplete or uncertain.

3.4.1 Commodity prices

The 2008 financial year has seen higher average prices for most of our major commodities than in the prior year. Demand for raw materials in the emerging market economies has remained strong. In particular, China remains a key driver of global commodity consumption through its position as a net importer of raw materials. China's competitiveness and ability to innovate in downstream processing has been demonstrated again with sustained nickel pig iron production.

In light of differing activity for the developed and emerging market economies, there have been mixed spot prices for key commodities. In particular, bulk and energy related commodities have tended to outperform the LME traded metals. We expect the effects of current weaknesses in the developed economies on demand for our commodities to be offset by ongoing demand from the emerging economies. Supply side pressures remain high and price outcomes have regularly been underestimated by industry observers. In the short-term, we expect prices to remain high relative to historical levels, albeit with higher volatility.

Looking to the longer term, demand for our commodities is expected to remain strong. We expect that higher long-run raw materials and energy prices and stronger producer currencies should place upward pressure on industry supply costs, and hence, prices of minerals commodities. We continue to expect that commodity prices will be driven by long-run marginal cost of supply.

The following table shows prices of our most significant commodities for each of the years ended 30 June 2008, 2007 and 2006. These prices represent the average quoted price except where indicated otherwise.

Commodity	2008	2007	2006
Crude oil (WTI) (US\$/bbl)	96.98	63.00	64.41
Aluminium (LME) ⁽¹⁾ (3mth) (US\$/t)	2,718	2,699	2,260
Copper (LME) ⁽¹⁾ (cash) (US¢/lb)	353.10	321.47	228.58
Nickel (LME) ⁽¹⁾ (US\$/lb)	12.93	17.15	7.03
Iron ore ⁽²⁾⁽³⁾ (US\$/dmtu)	1.4466	0.8042	0.7345
Metallurgical coal ⁽³⁾⁽⁴⁾ (US\$/t)	300	98	115
Energy coal (API4) (US\$/t)	94.60	51.52	47.63

(1) Refer to section 10, 'Glossary' for definitions.

(2) Newman fines price in Japan.

(3) Price represents that set in April of the relevant fiscal year.

(4) Prime hard coking coal worldwide.

The following summarises the trends of our most significant commodities for FY2008.

Oil: Crude oil prices continued their rise, to an average of US\$96.98/bbl, up 54 per cent from a year ago. This is due to a confluence of factors such as sustained weakness in the US dollar, speculative activity, strong geopolitical factors in Iran and Nigeria and tightness in global refinery capacity. We believe that fundamentals remain supportive of the higher prices, as weakness in oil demand growth in the OECD region was offset by key players in the non-OECD region, namely by China, India and the Middle East. These non-OECD parties contributed strongly to the overall 86.6 MMbbl/d in oil demand. Although we expect an easing in fundamentals in 2009 on positive non-OPEC supply outlook and softening global demand caused by higher oil prices, prices should continue to be well supported in the short to medium term.

Aluminium: The aluminium market remained strong throughout FY2008. The benchmark three-month price on the LME for the final month of the fiscal year was US\$3,005 per tonne, up from a price of US\$2,788 per tonne for the opening month. For the fiscal year as a whole the LME three-month price averaged \$2,718 per tonne compared to \$2,699 per tonne in FY2007. Official LME stocks have risen over the course of FY2008. Prices have been supported by a combination of concerns relating to supply interruptions and rapid increases in production input costs, with energy being a central theme.

Copper: Copper demand, driven by China, grew close to four per cent year-on-year during the 2007 calendar year, with the International Copper Study Group (ICSG) estimating total global copper demand at 39.9 billion pounds. However, in the first three months of calendar year 2008, refined copper demand is estimated by the ICSG to have fallen by around one per cent year-on-year. Combined exchange stocks at LME/Comex/Shanghai fell during FY2008 by 134 million pounds, from 497 million pounds to 363 million pounds. LME cash prices in the first half of FY2008 averaged 337.9US¢/lb and despite weaker fundamentals in the second half of FY2008 prices averaged 368.3US¢/lb.

Nickel: Nickel prices have continued to demonstrate greater price volatility than most other metals, and the last year has been no exception with sharp falls in prices. The nickel price began FY2008 with a price of US\$16.76/lb. A bearish outlook driven by a boom in nickel pig iron production in China and de-stocking in the global stainless steel industry led to a price decline through the first half of FY2008, with an average nickel price of US\$13.54/lb. During the second half of FY2008, bearish sentiment in the investment community combined with a sustained increase in LME stock made the nickel price fall further to an average price of US\$12.38/lb. The nickel price closed at US\$9.83/lb at the end of the year. LME nickel stocks increased from 19.5 million pounds at the start of the financial year to 103 million pounds at the end of FY2008.

Iron ore: Demand for iron ore continues to surge with imports by China expected to be higher by approximately 60 million

tonnes in calendar year 2008 compared to 2007. However, supply is now beginning to catch up with demand at the close of FY2008 as expansion volumes from Vale, Rio Tinto, BHP Billiton, Fortescue Metals Group and Indian suppliers reach the market. Benchmark prices increased 96.5 per cent for lump and 79.9 per cent for fines effective from 1 April 2008, reflecting the continued optimism in the steel and iron ore markets. Spot market prices remain higher than benchmark prices for Australian suppliers with the newly established forward curve for iron ore prices currently showing US\$170–175/dmt CFR China for the period to June 2009.

Metallurgical coal: Markets remained very tight due to strong Indian demand and tightening Chinese markets, leading to a record contract price settlement for metallurgical coal, with an average price increase of 206 per cent effective from 1 April 2008. Chinese coke prices hit another record in excess of US\$650 per tonne.

Energy coal: Global energy coal consumption has increased at an average rate of 7.4 per cent per annum since 2002. FY2008 witnessed strong growth in the energy sector on the back of significant rises in oil prices and this saw coal, despite the near record prices across all energy coal indices, remain the cheapest fossil fuel for electricity generation in most seaborne markets, ahead of gas and oil, even when emissions costs (credits) are accounted for. Energy coal prices continued to strengthen as global seaborne supply struggled to match strong growth in demand, particularly in the Pacific. Other factors contributing to high energy coal prices include a surge in freight rates, a weaker US dollar relative to some of the key coal exporting country currencies and equally large increases in global oil and gas prices.

The following table indicates the estimated impact on FY2008 profit after taxation of changes in the prices of our commodities. With the exception of price-linked costs, the sensitivities below assume that all other variables, such as exchange rate, costs, volumes and taxation, remain constant. There is an inter-relationship between changes in commodity prices and changes in currencies that is not reflected in the sensitivities below. Volumes are based on FY2008 actual results and sales prices of our commodities under a mix of short-, medium- and long-term contracts. Movements in commodities prices can cause movements in exchange rates and vice versa. These sensitivities should therefore be used with care.

Estimated impact on FY2008 profit after taxation of changes of:	US\$M
US\$1/bbl on oil price	32
US¢1/lb on aluminium price	24
US¢1/lb on copper price	26
US¢1/lb on nickel price	2
US\$1/t on iron ore price	62
US\$1/t on metallurgical coal price	27
US\$1/t on energy coal price	24

The impact of the commodity price movements in FY2008 is discussed in section 3.6 'Operating results'.

3.4.2 Exchange rates

We are exposed to exchange rate transaction risk on foreign currency sales and purchases as we believe that active currency hedging does not provide long-term benefits to our shareholders. Because a majority of our sales are denominated in US dollars, and the US dollar otherwise plays a dominant role in our business, we borrow and hold surplus cash predominantly in US dollars to provide a natural hedge. Operating costs and costs of local equipment are influenced by the fluctuations in the Australian dollar, South African rand, Chilean peso and Brazilian real. Foreign exchange gains and losses reflected in operating costs owing to fluctuations in the abovementioned currencies relative to the US dollar may potentially offset one another. The Australian dollar, Chilean peso and Brazilian real generally strengthened against the US dollar throughout FY2008, while the South African rand generally weakened.

We are also exposed to exchange rate translation risk in relation to net monetary liabilities, being our foreign currency denominated monetary assets and liabilities, including debt and other long-term liabilities (other than closure and rehabilitation provisions at operating sites where foreign currency gains and losses are capitalised in property, plant and equipment).

The following table indicates the estimated impact on FY2008 profit before taxation of a weakening of the US dollar against the Australian dollar or South African rand, which are the two principal currencies outside of the US dollar to which we are exposed in terms of our net monetary liabilities. The sensitivities give the estimated impact on profit before taxation based on the exchange rate movement in isolation. The sensitivities assume all variables except for exchange rate remain constant. As outlined above, there is an inter-relationship between currencies and commodity prices that is not reflected in the sensitivities below. Movements in commodities prices can cause movements in exchange rates and vice versa. These sensitivities should therefore be used with care.

Estimated impact on FY2008 profit before taxation of a weakening US dollar against local currency:		US\$ M
Australian dollar (US¢1/A\$)		
Net monetary liabilities ⁽¹⁾		(18)
South African rand (0.2 rand/US\$)		
Net monetary liabilities ⁽¹⁾		(13)
Rand debt ⁽¹⁾		(4)

(1) Impact based on difference in opening and closing exchange rates for the period.

The impact of exchange rate movements in the current year is discussed in section 3.6 'Operating results'.

3.4.3 Interest rates

We are exposed to interest rate risk on our outstanding borrowings and investments. Our policy on interest rate exposure is for interest on our borrowings to be on a US dollar floating interest rate basis. Deviation from our policy requires the prior approval of our Financial Risk Management Committee, and is managed within our Cash Flow at Risk (CFaR) limit, which is described in note 26 'Financial risk management' in the financial statements. When required under this strategy, we use interest rate swaps, including cross currency interest rate swaps, to convert a fixed rate exposure to a floating rate exposure. As at 30 June 2008, we had US\$1.6 billion of fixed interest borrowings that had not been swapped to floating rates, arising principally from legacy positions that were in existence prior to the merger that created the DLC structure.

3.4.4 Growth in product demand

The demand for our products is directly related to the strength of the global economy. However, the diversification of our portfolio of assets and commodities we extract limits the impact of a particular industry or region.

The global economy has remained resilient in the face of significant structural weaknesses in developed economies. The continuing massive industrialisation in China is providing solid support to the global economy.

Over the past financial year there has been considerable weakening in most major developed economies. The deflation of asset values within these economies has led to a reduction in wealth effect for consumers. This appears to have ended the past decade's unsustainable consumer debt driven economic growth, particularly in the US.

However, a direct spill over into emerging market economies has remained largely contained. Emerging market economies have contributed more than their industrial counterparts to global growth since the year 2000. Led by China and India, economic growth in these economies has been strong with solid support from growth in domestic demand and strong trading activity with other emerging market economies.

We expect short-term global economic growth to slow as developed economies experience further weakening in the coming quarters. Liquidity is likely to remain low, and risk premiums high for some time into the future. Rising inflation, particularly in food and energy, alongside weakening economic growth has restricted the flexibility of central banks to inject liquidity and stimulate their economies.

Higher inflation will also have a likely negative impact on emerging market economies through their adoption of tighter monetary policies. However, we believe that emerging market economies should remain relatively strong on the back of continued domestic infrastructure investment and regional trade. While short-term disruptions may occur, we expect that their long-term economic growth will remain robust as they continue on the path to industrialisation.

3.4.5 Operating costs and capital expenditures

Strong global demand for resources continues to provide cost challenges for the whole industry. Rising prices for inputs such as diesel, coke and explosives, labour and contractor charges, shipping and freight costs added to already tight market conditions. Severe weather disruptions in Queensland also had an adverse cost impact. However, our world-class orebodies, strong supplier relationships, internal systems, the capabilities of our people and our continuing focus on our 'Business Excellence' improvement program have provided some relief against significant cost pressures.

3.4.6 Exploration and development of resources

Because most of our revenues and profits are related to our oil and gas and minerals operations, our results and financial condition are directly related to the success of our exploration efforts and our ability to replace existing reserves. However, there are no guarantees that our exploration program will be successful. When we identify an economic deposit, there are often significant challenges and hurdles entailed in its development, such as negotiating rights to extract ore with governments and landowners, design and construction of required infrastructure, utilisation of new

technologies in processing, and building customer support.

3.4.7 Health, safety, environment and community

We aspire to Zero Harm to people, our host communities and the environment and strive to achieve leading industry practice. Sound principles to govern safety, business conduct, social, environmental and economic activities are integral to the way we do business. Our Charter highlights that we care as much about how results are obtained as we do about delivering good results. Our Health, Safety, Environment and Community Management Standards provide the basis for developing and applying management systems at all levels of our Company and are a driver of our contribution to sustainable development.

As a global company, operating in many different countries, we are subject to extensive regulation surrounding health and safety of our people and the environment. We make every effort to comply with the regulations and, where less stringent than our standards, exceed applicable legal and other requirements. However, regulatory standards and community expectations are constantly evolving, and as a result, we may be exposed to increased litigation, compliance costs and unforeseen environmental remediation expenses, despite our best efforts to work with governments, community groups and scientists to keep pace with regulations, law and public expectation.

3.5 Application of critical accounting policies and estimates

The preparation of our consolidated financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent liabilities at the date of the financial statements, and the reported revenue and costs during the periods presented therein. On an ongoing basis, management evaluates its estimates and judgements in relation to assets, liabilities, contingent liabilities, revenue and costs. Management bases its estimates and judgements on historical experience and on various other factors it believes to be reasonable under the circumstances, the results of which form the basis of making judgements about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions and conditions.

We have identified the following critical accounting policies under which significant judgements, estimates and assumptions are made and where actual results may differ from these estimates under different assumptions and conditions and may materially affect financial results or the financial position reported in future periods:

- reserve estimates
- exploration and evaluation expenditure
- development expenditure
- property, plant and equipment – recoverable amount
- defined benefit superannuation schemes
- provision for closure and rehabilitation
- taxation

In accordance with IFRS, we are required to include information regarding the nature of the judgements and estimates and potential impacts on our financial results or financial position in the financial statements. This information can be found in note 1 'Accounting policies' in the financial statements.

3.6 Operating results

During FY2008, we adopted the policy of recognising our proportionate interests in the assets, liabilities, revenues and expenses of jointly controlled entities. All such interests were previously equity accounted. Full details of the impact of this change in policy may be found in note 1 'Accounting policies' in the financial statements. Results for FY2007 and FY2006 have been restated on the same basis.

3.6.1 Consolidated results

Year ended 30 June 2008 compared with year ended 30 June 2007

We have achieved another year of record earnings, driven by excellent operating performance, cost control and the delivery of high-margin growth projects into strong market conditions.

Annual production records were set in seven commodities and production increased in a further six commodities. Strong volume growth has allowed us to capture the benefits of very high prices. Most of the records were set in consecutive years, as we reaped the benefit of our drive to deliver consistent, predictable and sustainable performance across all of our businesses. This provides a stable platform as we continue to develop and deliver world-class projects that are expected to add significant shareholder value.

Our strong performance demonstrates the power of our uniquely diversified and high-margin portfolio across the energy, steelmaking and non-ferrous product suites. This performance also reflects the success of our unrelenting focus on our strategy to create lasting shareholder value by owning and operating a diversified portfolio of upstream, large, long-life, low-cost, expandable, export-oriented assets.

Our profit attributable to members of BHP Billiton of US\$15.4 billion represents an increase of 14.7 per cent over the prior year. Attributable profit excluding exceptional items of US\$15.4 billion represents an increase of 12.4 per cent over FY2007. It is our seventh consecutive record annual result, with record Underlying EBIT generated by the Petroleum, Base Metals, Iron Ore, Manganese and Energy Coal CSGs.

Revenue was US\$59.5 billion, up 25.3 per cent from US\$47.5 billion in the corresponding period.

On 18 August 2008, the Board declared a final dividend of 41.0 US cents per share, thus bringing the total dividends declared for FY2008 to 70.0 US cents per share. During the year, 96,904,086 shares, or 1.7 per cent of the issued share capital of the Group, were repurchased. Capital management initiatives are discussed in section 3.7.6 of this Report.

Year ended 30 June 2007 compared with year ended 30 June 2006

Our profit attributable to members of BHP Billiton of US\$13.4 billion represented an increase of 28.4 per cent over FY2006. Attributable profit excluding exceptional items of US\$13.7 billion represented an increase of 34.7 per cent over FY2006. Revenue was US\$47.5 billion, up 21.4 per cent from US\$39.1 billion in FY2006.

On 22 August 2007, the Board declared a final dividend of 27.0 US cents per share, bringing the total dividends declared for FY2007 to 47.0 US cents per share. During FY2007, we announced US\$13 billion of capital management initiatives. Under that initiative, 287,820,269 shares, or 4.8 per cent of the issued share capital of the Group, were repurchased, at an approximate average price of US\$20.26.

Underlying EBIT

In discussing the operating results of our business, we focus on a non-GAAP (IFRS or US) financial measure we refer to as 'Underlying EBIT'. Underlying EBIT is the key measure that management uses internally to assess the performance of our business, make decisions on the allocation of resources and assess operational management. Management uses this measure because financing structures and tax regimes differ across our assets, and substantial components of our tax and interest charges are levied at a Group, rather than an operational, level. Underlying EBIT is calculated as earnings before interest and taxation (EBIT), which is referred to as 'profit from operations' on the face of the income statement, excluding the effects of exceptional items.

We exclude exceptional items from Underlying EBIT in order to enhance the comparability of the measure from period to period and provide clarity into the underlying performance of our operations. Our management monitors exceptional items separately.

Underlying EBIT is not a measure that is recognised under IFRS and it may differ from similarly titled measures reported by other companies.

The following table reconciles Underlying EBIT to profit from operations for the years ended 30 June 2008, 2007 and 2006.

Year ended 30 June	2008	2007	2006
	US\$M	US\$M	US\$M
Underlying EBIT	24,282	20,067	15,277
Exceptional items (before taxation)	(137)	(343)	439
Profit from operations (EBIT)	24,145	19,724	15,716

The following tables and commentary describe the approximate impact of the principal factors that affected Underlying EBIT for FY2008 and FY2007.

	US\$M	US\$M
Year ended 30 June 2007		20,067
Change in volumes:		
Increase in volumes	805	
Decrease in volumes	(596)	
New operations	<u>1,619</u>	1,828
Net price impact:		
Change in sales prices	6,693	
Price-linked costs	<u>(134)</u>	6,559
Change in costs:		
Costs (rate and usage)	(1,183)	
Exchange rates	(1,133)	
Inflation on costs	<u>(532)</u>	(2,848)
Asset sales		28
Ceased and sold operations		(154)
Exploration and business development		(404)
Other		(794)
Year ended 30 June 2008		24,282

	US\$M	US\$M
Year ended 30 June 2006		15,277
Change in volumes:		
Increase in volumes	438	
Decrease in volumes	(220)	
New operations	<u>368</u>	586
Net price impact:		
Change in sales price	7,101	
Price-linked costs	<u>(979)</u>	6,122
Change in costs:		
Cost (rate and usage)	(859)	
Exchange rates	(271)	
Inflation on costs	<u>(416)</u>	(1,546)
Asset sales		(61)
Ceased and sold operations		(198)
Exploration and business development		(149)
Other		36
Year ended 30 June 2007		20,067

Year ended 30 June 2008 compared with year ended 30 June 2007

Profit from operations (EBIT) for FY2008 was US\$24.1 billion compared with US\$19.7 billion in FY2007, an increase of 22.4 per cent. Underlying EBIT for FY2008 was US\$24.3 billion compared with US\$20.1 billion, an increase of 21.0 per cent.

Base Metals, Iron Ore, Manganese and Energy Coal had record Underlying EBIT at a time when prices were high, reflecting strong demand. In Petroleum, newly commissioned projects in fiscally stable regimes, 93.8 per cent operational up time and record high oil prices led to record Underlying EBIT. The following commentary details the approximate impact of the principal factors that affected EBIT and Underlying EBIT for FY2008 and FY2007.

Volumes

Strong volume growth reflected our commitment to deliver more product, more quickly to our customers. During the year we delivered strong growth in sales volumes, allowing us to take advantage of continued strong customer demand.

Newly commissioned petroleum projects and the continued ramp-up of the Spence (Chile) and Pinto Valley copper projects contributed US\$1,619 million to Underlying EBIT.

Higher sales volumes of copper, iron ore, manganese ore, energy coal, diamonds, alumina, and aluminium increased Underlying EBIT by US\$805 million. This was partially offset by lower nickel and metallurgical coal volumes, as well as oil and gas volumes from existing operations.

Prices

Net changes in price increased Underlying EBIT by US\$6,693 million (excluding the impact of newly commissioned projects). This was due to higher iron ore, oil, manganese, energy coal and base metals prices. Additional detail on the effect of price changes appears in the Customer Sector Group summary in section 3.6.2.

Higher price-linked costs reduced Underlying EBIT by US\$134 million primarily due to higher royalties and LME-linked costs in the aluminium business. This was offset by decreased charges for third party nickel ore and more favourable rates for copper treatment and refining charges (TCRCs).

Costs

Strong global demand for resources continues to provide cost challenges for the whole industry. This is mainly due to shortages of skilled labour and rising prices for other inputs such as diesel, coke and explosives. However, our world-class orebodies, strong supplier relationships, systems and capabilities of our people have provided some relief against cost increases. In this environment, costs for the Group have increased by US\$1,183 million.

Approximately US\$575 million of the increase in costs was due to higher fuel, energy and raw materials costs. Severe weather interruptions in Queensland also had an adverse cost impact. Other areas of cost increase include labour and contractor charges and shipping and freight costs. Our continued focus on the 'Business Excellence' improvement program has delivered US\$225 million of cost reductions.

Exchange rates

Exchange rate movements had a negative impact on Underlying EBIT of US\$1,133 million. All Australian operations were adversely impacted by the stronger Australian dollar, which reduced Underlying EBIT by US\$986 million. The appreciation of South American currencies against the US dollar also adversely impacted Underlying EBIT by US\$158 million.

Average and closing exchange rates for FY2008 and FY2007 are detailed in note 1 to the financial statements.

Inflation on costs

Inflationary pressures on input costs across all our businesses had an unfavourable impact on Underlying EBIT of US\$532 million. These pressures were most evident in Australia and South Africa.

Asset sales

The sale of assets increased Underlying EBIT by US\$28 million. This was mainly due to the sale of the Elouera mine (Illawarra Coal, Australia) and other Queensland Coal (Australia) mining leases. Asset sales in the corresponding period included the sale of one million tonnes of annual capacity at the Richards Bay Coal Terminal (South Africa), Moranbah Coal Bed Methane assets (Australia), the Koorfontein energy coal mine (South Africa) and the interest in Eyesizwe coal mine in South Africa.

Ceased and sold operations

The unfavourable impact of US\$154 million was mainly due to lower insurance recoveries and movements in the closure and rehabilitation provisions for closed operations in the corresponding period.

Exploration and business development

We continued to focus on finding new long-term growth options for our business. Exploration expense was US\$906 million during the year, an increase of US\$284 million. We increased activity on nickel targets in Western Australia, Guatemala, Indonesia and the Philippines, on diamond targets in Angola and iron ore targets in Western Australia. The main expenditure for the Petroleum CSG was on targets in the Gulf of Mexico, Colombia and Australia.

Expenditure on business development was US\$119 million higher than last year, mainly due to the pre-feasibility study on the Olympic Dam expansion along with earlier stage activities in Base Metals and Iron Ore.

Other

Other items decreased Underlying EBIT by US\$794 million. The start-up of operations at Ravensthorpe and the Yabulu Expansion Project (both Australia) adversely impacted earnings by US\$313 million and contribution from third party trading was US\$458 million lower compared to last year.

Year ended 30 June 2007 compared with year ended 30 June 2006

Profit from operations (EBIT) for FY2007 was US\$19.7 billion compared with US\$15.7 billion in FY2006, an increase of 25.5 per cent. Underlying EBIT for FY2007 was US\$20.1 billion compared with US\$15.3 billion, an increase of 31.4 per cent.

The increase in EBIT and Underlying EBIT was due primarily to higher commodity prices. Nickel, copper, aluminium, iron ore and petroleum product prices contributed significantly to the increase in revenue and Underlying EBIT. The following commentary details the approximate impact of the principal factors that affected EBIT and Underlying EBIT for FY2007 compared with FY2006.

Volumes

Continued strong demand underpinned increased sales volumes of metallurgical coal, petroleum products, nickel, manganese ore, alumina, zinc, iron ore, aluminium and energy coal, which contributed approximately US\$438 million more (measured at FY2006's average margins) to Underlying EBIT than in FY2006. Sales volumes of base metals were lower at Olympic Dam (Australia) due to a smelter shutdown and at Cannington (Australia) due to the temporary closure of the southern zone. However, this was more than offset by copper sales from Spence (Chile), which commenced operations in December 2006, and added US\$363 million, and the ramp-up of the Sulphide Leach project at Escondida (Chile). We experienced a decrease in diamond sales for the year as a result of inventory sales in FY2006.

Prices

Net changes in prices increased Underlying EBIT by US\$7,101 million. Lower prices for metallurgical coal and manganese ore had a negative impact. Additional detail on the effect of price changes appears in the Customer Sector Group summary in section 3.6.2.

Higher price-linked costs reduced Underlying EBIT by US\$979 million with increased charges for third party nickel contributing US\$658 million to this amount. Higher royalties for nickel, iron ore, and higher LME-linked power charges in aluminium were offset by lower metallurgical coal royalties (in line with lower prices) and more favourable rates for copper TCRCs, including the removal or limiting of price participation in new contracts.

Costs

Continued strong global demand for resources led to increased costs across the industry for labour, contractors, raw materials, fuel, energy and other input costs. In addition, port congestion and other third party infrastructure constraints resulted in increased demurrage costs and shipping, freight and other distribution charges. In this environment, our costs increased by US\$859 million in FY2007 compared to FY2006.

Specific areas of cost increases include labour and contractor charges, consumables and fuels, business development expenditure, maintenance and other operating costs. Changed mining conditions, particularly at Cannington where we had a temporary closure of the southern zone and higher strip ratios at Queensland Coal (Australia), had a negative impact. However, we generated savings of US\$203 million on our 2006 cost base through a wide range of business improvement initiatives across the Group.

Exchange rates

Exchange rate movements had a negative impact on Underlying EBIT of US\$271 million. The stronger Australian dollar had a negative impact of US\$478 million. This was partially offset by the favourable impact of a weaker South African rand on operating costs for our South African businesses. The Western Australian Iron Ore and Queensland Coal operations were both significantly impacted by the strength of the Australian dollar.

Average and closing exchange rates for FY2007 and FY2006 are detailed in note 1 to the financial statements.

Inflation on costs

Inflationary pressures on input costs across all of our businesses had an unfavourable impact on Underlying EBIT of US\$416 million. These pressures were most evident in Australia and South Africa.

Asset sales

The sale of assets and interests decreased Underlying EBIT by US\$61 million compared to FY2006. FY2007 was principally impacted by the sale of one million tonnes of annual capacity at the Richards Bay Coal Terminal (South

Africa), the Moranbah Coal Bed Methane assets (Australia), the Koornfontein energy coal mine (South Africa), the interest in Eyesizwe (South Africa) and Alliance Copper (Chile). In FY2006, we had higher profits arising largely from the divestment of our interest in the Wonderkop chrome joint venture (South Africa), the Vincent Van Gogh undeveloped oil discovery (Australia) and the Green Canyon oil fields (US).

Ceased and sold operations

FY2007 was negatively impacted by the loss of US\$343 million of Underlying EBIT from Tintaya (Peru) (divested in June 2006) and the Southern Cross Fertiliser operations (Australia) (divested in August 2006). This was partly offset by a US\$82 million year-on-year impact of movements in closure and rehabilitation provisions for closed operations.

Exploration and business development

Gross exploration expenditure increased to US\$805 million during FY2007. We increased activity on nickel targets in Western Australia, Guatemala, Indonesia and the Philippines and on energy coal targets in New South Wales (Australia). This increased expenditure, however, was offset by a higher level of capitalisation of oil and gas exploration expenditure, primarily in Australia. This resulted in exploration expense being US\$17 million lower than in FY2006.

Expenditure on business development was US\$166 million higher than in FY2006 mainly due to the pre-feasibility study on the Olympic Dam expansion and other Base Metals activities.

Other

Other items increased Underlying EBIT by US\$36 million. These included higher insurance recoveries than in FY2006, partially offset by a lower contribution from freight and other activities.

Net finance costs

Year ended 30 June 2008 compared with year ended 30 June 2007

Net finance costs increased to US\$662 million, from US\$512 million in the corresponding period. This was driven predominantly by lower capitalised interest and foreign exchange impacts.

Year ended 30 June 2007 compared with year ended 30 June 2006

Net finance costs decreased to US\$512 million, from US\$600 million in FY2006. This was driven predominantly by higher capitalised interest, partially offset by higher average interest rates and foreign exchange impacts.

Taxation expense

Year ended 30 June 2008 compared with year ended 30 June 2007

The total taxation expense on profit before tax was US\$7,521 million, representing an effective rate of 32.0 per cent (calculated as total taxation expense divided by profit before taxation).

Excluding the impacts of royalty-related taxation, non-tax-effected foreign currency adjustments, translation of tax balances and other functional currency translation adjustments and exceptional items, the underlying effective tax rate was 30.4 per cent, compared to the UK and Australian statutory tax rate (28 and 30 per cent respectively). Royalty-related taxation represents an effective rate of 3.1 per cent for the current period.

Year ended 30 June 2007 compared with year ended 30 June 2006

The total taxation expense on profit before tax was US\$5,716 million, representing an effective rate of 29.8 per cent (calculated as total taxation expense divided by profit before taxation).

When compared to the UK and Australian statutory tax rate (30 per cent), the effective tax rate included a benefit of 2.2 per cent due to the impact of foreign exchange and other translation adjustments (US\$395 million), and a benefit of 1.4 per cent due to the recognition of prior year US tax benefits (US\$282 million). Royalty-related taxation represented an effective rate of 2.1 per cent for FY2007.

Exceptional items

Year ended 30 June 2008

Tax losses incurred by WMC Resources Ltd (WMC), acquired by BHP Billiton in June 2005, were not recognised as a deferred tax asset at acquisition pending a ruling application to the Australian Taxation Office. A ruling was issued during the year confirming the availability of those losses. This has resulted in the recognition of a deferred tax asset (US\$197 million) and a consequential adjustment to deferred tax liabilities (US\$38 million) through income tax expense at current Australian dollar/US dollar exchange rates. As a further consequence the Group has recognised an expense of US\$137 million for a corresponding reduction in goodwill measured at the Australian dollar/US dollar exchange rate at the date of acquisition. Refer to note 5 'Exceptional items' in the financial statements for more information.

Year ended 30 June 2007

Impairment of South African coal operations - As part of our regular review of asset carrying values, a charge of US\$176 million (before a taxation benefit of US\$34 million) was recorded in relation to coal operations in South Africa.

Newcastle Steelworks rehabilitation - We recognised a charge of US\$167 million (before a taxation benefit of US\$50 million) for additional rehabilitation obligations in respect of former operations at the Newcastle Steelworks (Australia). The increase in obligations related to increases in the volume of sediment in the Hunter River requiring remediation and treatment and increases in treatment costs.

Year ended 30 June 2006

Sale of Tintaya - During June 2006, we sold our interest in the Tintaya copper mine in Peru (Base Metals). Gross consideration received was US\$853 million before deducting intercompany trade balances. The net consideration of US\$717 million (net of transaction costs) included US\$634 million for shares plus the assumption of US\$116 million of debt, working capital adjustments and deferred payments contingent upon future copper prices and production volumes. The profit on disposal was US\$439 million (before a taxation charge of US\$143 million).

3.6.2 Customer Sector Group summary

The following table provides a summary of the Customer Sector Group revenues and results for FY2008 and the two prior corresponding periods.

Revenues: ⁽¹⁾

Year ended 30 June	2008	2007	2006
US\$M			
Petroleum	9,547	5,885	5,230
Aluminium	5,746	5,879	5,084
Base Metals	14,774	12,635	10,294
Diamonds and Specialty Products	969	893	1,263
Stainless Steel Materials	5,088	6,901	2,955
Iron Ore	9,455	5,524	4,782
Manganese	2,912	1,244	1,037
Metallurgical Coal	3,941	3,769	3,941
Energy Coal	6,560	4,576	3,965
Group and unallocated items ⁽²⁾⁽³⁾	481	167	548
BHP Billiton Group	59,473	47,473	39,099

Results: ⁽¹⁾

Year ended 30 June	2008			2007			2006		
US\$M	Profit from operations (EBIT)	Adjustments in arriving at Underlying EBIT	Underlying EBIT	Profit from operations (EBIT)	Adjustments in arriving at Underlying EBIT	Underlying EBIT	Profit from operations (EBIT)	Adjustments in arriving at Underlying EBIT	Underlying EBIT
Petroleum	5,489		5,489	3,014		3,014	2,968		2,968
Aluminium	1,465		1,465	1,856		1,856	1,186		1,186
Base Metals	7,890	99	7,989	6,875		6,875	5,873	(439)	5,434
Diamonds and Specialty Products	189		189	197		197	287		287
Stainless Steel Materials	1,237	38	1,275	3,675		3,675	878		878
Iron Ore	4,631		4,631	2,728		2,728	2,533		2,533
Manganese	1,644		1,644	253		253	132		132
Metallurgical Coal	937		937	1,247		1,247	1,834		1,834
Energy Coal	1,057		1,057	305	176	481	326		326
Group and unallocated items ⁽²⁾⁽³⁾	(394)		(394)	(426)	167	(259)	(301)		(301)
BHP Billiton Group	24,145	137	24,282	19,724	343	20,067	15,716	(439)	15,277

(1) Includes the sale of third party product.

(2) Exploration and technology activities, which were previously recognised as part of Group and unallocated items, are now recognised within relevant segments as a result of a change in management responsibilities over such activities. This change in segment reporting has been reflected in all periods presented.

(3) Includes consolidation adjustments, unallocated items and external sales from the Group's freight, transport and logistics operations and certain closed operations.

The changes in revenue, profit from operations (EBIT) and Underlying EBIT are discussed below. The changes in the non-GAAP measure of Underlying EBIT, also apply to the GAAP measure except where noted.

Petroleum

Year ended 30 June 2008 compared with year ended 30 June 2007

Revenue was US\$9,547 million for FY2008, an increase of US\$3,662 million, or 62.2 per cent over the corresponding period. This was mainly due to higher average realised prices for petroleum products.

Total production for FY2008 was 129.5 million barrels of oil equivalent (boe) compared with total production in the corresponding period of 116.2 million boe. Strong growth in production was achieved due to the newly commissioned Stybarrow (Australia), Genghis Khan and Atlantis (both US), excellent operated performance and record natural gas volumes. Ramp up of these projects and future growth options will continue to increase the weighting of high margin liquids in our portfolio mix.

Both EBIT and Underlying EBIT were US\$5,489 million, an increase of US\$2,475 million, or 82.1 per cent over the corresponding period. There were no exceptional items in the current or prior period. The increase was due mainly to higher average realised prices for petroleum products, with higher average realised oil prices per barrel of US\$96.27 (compared with US\$63.87), higher average realised natural gas prices of US\$3.87 per thousand standard cubic feet (compared with US\$3.19) and higher average realised prices for liquefied natural gas of US\$8.95 per thousand standard cubic feet (compared with US\$6.97).

Gross expenditure on exploration was US\$692 million, US\$297 million higher than last year. Exploration expenditure charged to profit was US\$359 million, including US\$47 million of previously capitalised expenditure. During the year, we successfully captured significant acreage in the Gulf of Mexico lease sale process, made the large Thebe gas discovery (offshore Australia) and continued to build a solid portfolio of opportunities with seismic data acquired in Colombia, Malaysia, Falklands, Australia and the deepwater Gulf of Mexico.

In addition, for the second consecutive year we achieved greater than 100 per cent reserve replacement.

Year ended 30 June 2007 compared with year ended 30 June 2006

Revenue was US\$5,885 million for FY2007, an increase of US\$655 million, or 12.5 per cent over FY2006. This was mainly due to higher average realised prices for most petroleum products.

Total production for FY2007 was 116.2 million barrels of oil equivalent (boe) compared with total production in FY2006 of 117.4 million boe. During the year, we acquired a 44 per cent interest in the Genghis Khan oil and gas field. This development, together with Atlantis and Neptune (both Gulf of Mexico), commenced producing in FY2008, significantly increasing petroleum production.

Both EBIT and Underlying EBIT were US\$3,014 million, an increase of US\$46 million, or 1.5 per cent, compared to FY2006. There were no exceptional items in FY2007 or FY2006. The increase was due mainly to higher average realised prices for most petroleum products, with higher average realised oil prices per barrel of US\$63.87 (compared with US\$61.90), higher average realised prices for liquefied natural gas of US\$6.97 per thousand standard cubic feet (compared with US\$6.76), and higher average realised prices for liquefied petroleum gas of US\$529.96 per tonne (compared to US\$483.74 per tonne). This was partially offset by lower average realised natural gas prices of US\$3.19 per thousand standard cubic feet (compared with US\$3.33). The impact of foreign exchange (Australian dollar and UK pound sterling) and price-linked costs was unfavourable.

Gross expenditure on exploration of US\$395 million was US\$52 million lower than FY2006. Exploration expenditure charged to profit was US\$334 million, including US\$82 million of previously capitalised expenditure.

Aluminium

Year ended 30 June 2008 compared with year ended 30 June 2007

Revenue was US\$5,746 million for FY2008, a decrease of US\$133 million, or 2.3 per cent, over the corresponding period.

Full year production records were achieved at Worsley (Australia), Paranam (Suriname) and Alumar (Brazil) increasing total alumina production to 4,554,000 tonnes in the current period, from 4,460,000 tonnes in FY2007. However, southern African smelters operated at reduced levels to comply with the mandatory reduction in power consumption reducing aluminium smelter production from 1,340,000 tonnes in FY2007 to 1,298,000 tonnes in FY2008.

Underlying EBIT and EBIT were US\$1,465 million, a decrease of US\$391 million, or 21 per cent, over the corresponding period. Unfavourable exchange rate movements as a result of a weaker US dollar and foreign exchange gains in the prior period associated with the Alumar (Brazil) refinery expansion had a negative impact on Underlying EBIT. The average LME aluminium price of US\$2,668 per tonne was in line with last year's price of US\$2,692 per tonne.

Underlying EBIT was adversely impacted by inflationary pressures and industry-wide cost escalation for energy and fuel, coke, pitch and caustic soda. The closure of Potlines B and C at Bayside also reduced Underlying EBIT. However an intensive focus on cost containment through various Business Excellence initiatives mitigated the full impact of cost increases.

Year ended 30 June 2007 compared with year ended 30 June 2006

Revenue was US\$5,879 million for FY2007, an increase of US\$795 million, or 15.6 per cent, over FY2006.

Aluminium smelter production decreased slightly from 1,362,000 tonnes in FY2006 to 1,340,000 tonnes in FY2007, while alumina production increased to 4.5 million tonnes in FY2007, from 4.2 million tonnes in FY2006. Full year production records were achieved at Worsley (Australia), Paranam (Suriname) and Alumar (Brazil) refineries and the Hillside, Bayside and Mozal smelters (all southern Africa). The expansion at Worsley reached nameplate capacity in the fourth quarter.

Both EBIT and Underlying EBIT were US\$1,856 million, an increase of US\$670 million, or 56.5 per cent, compared with FY2006. There were no exceptional items in FY2007 or FY2006. Higher prices for aluminium and alumina had a favourable impact, with the average LME aluminium price increasing to US\$2,692 per tonne (compared with US\$2,244 per tonne in FY2006).

Favourable exchange rate movements as a result of a weaker rand and foreign exchange contracts associated with the Alumar refinery expansion increased Underlying EBIT. In FY2006 the write-down of our interest in Valesul to fair value, in line with the value achieved on its subsequent divestment, impacted Underlying EBIT unfavourably by US\$50 million.

EBIT was adversely impacted by higher charges for electricity, depreciation, maintenance, raw materials and labour. Despite these higher costs, EBIT margins improved to 40 per cent (30 per cent in FY2006) and were at record levels. This improved translation of higher prices to the bottom line reflected an intensive focus on cost containment through various Business Excellence initiatives. The contribution from third party trading was lower than in FY2006.

In April 2007, we announced the acquisition of a 33.3 per cent interest in Global Alumina's refinery project in Guinea, West Africa. The project, which is known as the Guinea Alumina project, comprises the design, construction and operation of a 3.3 mtpa alumina refinery, a 10 mtpa bauxite mine and associated infrastructure.

Base Metals

Year ended 30 June 2008 compared with year ended 30 June 2007

Revenue was US\$14,774 million for FY2008, an increase of US\$2,139 million, or 16.9 per cent, over the corresponding period. This revenue increase was mainly attributable to higher LME prices for copper, lead, silver, and gold and higher volumes, primarily due to the ramp-up of Sulphide Leach and Spence.

Payable copper production increased by 10 per cent to 1.375 million tonnes compared with 1.250 million tonnes in the corresponding period. Zinc production was 144,490 tonnes, an increase of 21.7 per cent compared with the corresponding period. Attributable uranium production at Olympic Dam (Australia) was 4,144 tonnes for the period compared with 3,486 tonnes for the corresponding period. Silver production was 43.5 million ounces, an increase of 18.9 per cent compared with 36.6 million ounces in the corresponding period. Lead production was 253,126 tonnes, an increase of 19.2 per cent compared with the corresponding period.

A third consecutive record copper production, from continuing operations, was achieved with the continued ramp-up of Escondida Sulphide Leach and Spence (Chile), and the commissioning of Pinto Valley (USA). Higher volumes were also reported at Cannington as the rehabilitation of ground support was successfully completed during FY2007.

EBIT was US\$7,890 million, an increase of US\$1,015 million, or 14.8 per cent, over the corresponding period. FY2008 included an exceptional charge of US\$99 million, being adjustments to the acquisition accounting for WMC arising from the finalisation of a ruling on tax losses by the Australian Taxation Office. Underlying EBIT was US\$7,989 million, an increase of US\$1,114 million, or 16.2 per cent, over the corresponding period. This increase was predominantly attributable to higher production of copper, silver, lead and zinc. Higher average LME prices for copper of US\$3.53/lb (compared to US\$3.21/lb) as well as higher prices for silver, lead, molybdenum and gold, offset by lower prices for zinc, also contributed to the Underlying EBIT increase. Lower Treatment and Refining Charges also positively impacted Underlying EBIT.

These gains were partially offset by higher costs during the period, mostly due to higher energy, shipping, fuel, acid and labour charges. The effect of inflation and the weaker US dollar against the Australian dollar and Chilean peso also impacted negatively. Higher costs were partially mitigated by cost reductions achieved through several Business Excellence projects. In addition, the Olympic Dam Expansion pre-feasibility study expenditures have increased as the project studies progress, also reducing earnings. Underlying EBIT was also adversely impacted by the purchase of third party uranium from the spot market to meet contractual requirements.

Provisional pricing of copper shipments, including the impact of finalisations and revaluations of the outstanding shipments, resulted in the calculated average realised price being US\$3.62/lb versus an average LME price of US\$3.53/lb. The average realised price was US\$3.24/lb in the corresponding period. The positive impact of provisional pricing for the period was US\$225 million. Outstanding copper volumes, subject to the fair value measurement, amounted to 327,941 tonnes at 30 June 2008. These were revalued at a weighted average price of US\$8,555 per tonne, or US\$3.88/lb.

Year ended 30 June 2007 compared with year ended 30 June 2006

Revenue was US\$12,635 million for FY2007, an increase of US\$2,341 million, or 22.7 per cent, over FY2006.

Payable copper production decreased by 1.4 per cent to 1.250 million tonnes compared with 1.268 million tonnes in the corresponding period mainly due to the divestment of Tintaya in July 2006. Zinc production was 118,700 tonnes, an increase of 8.8 per cent compared with FY2006. Attributable uranium production at Olympic Dam (Australia) was 3,486 tonnes for the period compared with 3,936 tonnes for FY2006. Silver production was 36.6 million ounces, a decrease of 21.3 per cent compared with 46.5 million ounces in FY2006. Lead production was 210,800 tonnes, a decrease of 20.8 per cent compared with FY2006.

EBIT and Underlying EBIT were US\$6,875 million. This was an increase of US\$1,002 million or 17.1 per cent for EBIT, and an increase of US\$1,441 million or 26.5 per cent for Underlying EBIT over FY2006. There were no exceptional items in FY2007. FY2006 included the profit of US\$439 million (before tax) on the sale of Tintaya, which is shown as an exceptional item. This increase was predominantly attributable to higher average LME prices for copper of US\$3.21/lb (compared to US\$2.28/lb) as well as higher prices for silver, zinc, lead and gold.

Record copper cathode production from continuing operations was achieved due to the ramp up of the Sulphide Leach Project at Escondida, the commissioning of Spence (Chile) in December 2006 and the recovery at Cerro Colorado (Chile) following the earthquake. This was partly reduced by lower volumes at Olympic Dam because of a scheduled smelter shutdown, lower head grades and lower tonnes milled. Lower volumes were also reported at Cannington as the

rehabilitation of ground support was successfully completed during the period.

These gains were partially offset by higher labour and contractor costs, higher price-linked costs at Antamina (Peru), higher fuel and energy charges and the impact of industrial activity at Escondida. Increased expenditure on the Cannington rehabilitation project, and the combined effect of inflation and the impact of a stronger Australian dollar/US dollar exchange rate also negatively impacted the result. Higher costs were partially mitigated by cost reductions

achieved through several improvement projects. In addition, the Olympic Dam expansion pre-feasibility study expenditures increased as project studies progressed. The cessation of the contribution from Tintaya (Peru), which was sold in June 2006, also reduced Underlying EBIT.

Provisional pricing of copper shipments, including the impact of finalisations and revaluations of the outstanding shipments, resulted in the calculated average realised price being US\$3.24/lb versus US\$2.66/lb in FY2006. The positive impact of provisional pricing for FY2007 was US\$108 million. Outstanding copper volumes, subject to the fair value measurement, amounted to 346,610 tonnes at 30 June 2007. These were revalued at a weighted average price of US\$7,152 per tonne or US\$3.24/lb.

Diamonds and Specialty Products

Year ended 30 June 2008 compared with year ended 30 June 2007

Revenue was US\$969 million for FY2008, an increase of US\$76 million, or 8.5 per cent over the corresponding period predominantly due to higher realised diamond prices.

EKATI diamond production was 3,349,000 carats, an increase of 3.9 per cent compared with the corresponding period mainly reflecting the increasing underground production and variations in the mix of ore processed.

EBIT and Underlying EBIT were US\$189 million, a decrease of US\$8 million, or 4.1 per cent over the corresponding period. There were no exceptional items in the current or corresponding periods. Strong operating earnings at EKATI (Canada) resulted from higher realised diamond prices and lower unit costs mainly due to higher value per carat and higher grade underground production, tight cost control and improved plant recoveries. Higher earnings were offset by an increase in exploration and development expense of US\$63 million for diamonds (Angola), potash (Canada) and titanium minerals (Mozambique) and unfavourable exchange rate movements for the Canadian dollar against the US dollar.

Year ended 30 June 2007 compared with year ended 30 June 2006

Revenue was US\$893 million for FY2007, a decrease of US\$370 million, or 29.3 per cent, compared with FY2006 predominantly due to the disposal of Southern Cross Fertilisers on 1 August 2006.

EKATI diamond production was 3,224,000 carats, an increase of 25.9 per cent compared with FY2006 mainly reflecting the increasing underground production and variations in the mix of ore processed.

EBIT and Underlying EBIT were US\$197 million, a decrease of US\$90 million, or 31.4 per cent, over FY2006. There were no exceptional items in FY2007 or FY2006. The reduction was due to lower sales volumes for diamonds (down 23 per cent following inventory sales in the prior year) and higher unit costs reflecting variations in the mix of ore processed. The cessation of earnings from the Southern Cross Fertiliser operation, which was sold effective 1 August 2006, also had a negative impact. This was partially offset by higher value per carat diamonds and good performance at Richards Bay Minerals (South Africa) with a firm market for metallic and zircon co-products.

Stainless Steel Materials

Year ended 30 June 2008 compared with year ended 30 June 2007

Revenue was US\$5,088 million in FY2008, a decrease of US\$1,813 million, or 26.3 per cent, over the corresponding period.

Nickel production was 167,900 tonnes in the current period, a 10.3 per cent decrease from 187,200 tonnes in the corresponding period. Production for FY2008 was impacted by an industrial stoppage at Cerro Matoso (Colombia), wet weather interruptions at Yabulu (Australia) and scheduled maintenance across all operations. This was partially offset by strong production from the Kwinana Nickel Refinery (Australia) and the continued ramp-up of Ravensthorpe and the Yabulu Extension Project (both Australia). Towards the end of the fourth quarter of FY2008, Kalgoorlie Nickel Smelter (Australia) commenced a major rebuild of the furnace.

EBIT was US\$1,237 million, a decrease of US\$2,438 million, or 66.3 per cent, over the corresponding period. FY2008 included an exceptional charge of US\$38 million, being adjustments to the acquisition accounting for WMC arising from the finalisation of a ruling on tax losses by the Australian Taxation Office. There were no exceptional items in the corresponding period. Underlying EBIT for FY2008 was US\$1,275 million, a reduction of US\$2,400 million, or 65.3 per cent, below last year. This was mainly due to the lower average LME price for nickel of US\$13.00/lb compared with US\$17.21/lb in the prior year. Lower prices (net of price-linked costs) reduced Underlying EBIT by US\$1,021 million.

Higher operating costs had an adverse impact and were largely due to a strengthening Australian dollar and higher charges for fuel, energy and labour reflecting industry wide cost pressures. Costs were also impacted by the start-up of operations at Ravensthorpe and the Yabulu Extension Project, higher use of third party ore at Nickel West (Australia) and increased exploration activity in Australia, South America and Asia. In addition, sales volumes decreased reflecting lower production volumes as aforementioned.

Year ended 30 June 2007 compared with year ended 30 June 2006

Revenue was US\$6,901 million in FY2007, an increase of US\$3,946 million, or 133.5 per cent, over FY2006.

Nickel production was 187,200 tonnes in FY2007, a 6.5 per cent increase from 176,200 tonnes in FY2006. The record production was driven by strong performances at all operations and at Yabulu (Australia), in particular, where annual production increased by almost 40 per cent.

EBIT and Underlying EBIT were a record US\$3,675 million, an increase of US\$2,797 million, or 318.6 per cent, over FY2006. Higher nickel and cobalt prices were the main contributors with an average LME nickel price of US\$17.21/lb (compared with US\$7.03/lb). The higher prices (net of price-linked costs) added US\$3,109 million to Underlying EBIT.

Higher use of third party ore at Nickel West and higher costs at the Yabulu and Kwinana refinery (all Australia) impacted Underlying EBIT negatively as did the impact of the stronger Australian dollar/US dollar exchange rate on operating costs at the Australian operations. In addition, Underlying EBIT was impacted by higher electricity and gas costs at Cerro Matoso (Colombia) and higher maintenance and depreciation costs at Yabulu.

Exploration expenditure was higher than FY2006 due to increased activity in Western Australia, Indonesia, the Philippines and Guatemala. FY2006 included a US\$61 million profit on the sale of our interest in the Wonderkop joint venture (South Africa).

Iron Ore

Year ended 30 June 2008 compared with year ended 30 June 2007

Revenue was US\$9,455 million for FY2008, an increase of US\$3,931 million, or 71.2 per cent over the corresponding period.

A consecutive eighth production record was achieved at our Western Australian iron ore operation, following the successful commissioning of RGP3 and other business improvement initiatives. Western Australian iron ore production was 103.8 million wet tonnes (tonnes) an increase of 12.2 million tonnes or 13.3% on the previous financial year. Samarco (Brazil) operations also achieved record production as a result of production efficiencies and commissioning of the third pellet plant. Production of Samarco pellets and pellet feed was 8.5 million tonnes, an increase of 8.5 per cent from 7.8 million tonnes in the corresponding period. Record sales volumes reflect shipping efficiency, the RGP3 ramp-up and improvement initiatives.

EBIT and Underlying EBIT were US\$4,631 million, an increase of US\$1,903 million, or 69.8 per cent, over the corresponding period. This was driven by increased iron ore prices, higher sales volumes and higher priced spot sales.

Higher operating costs were largely attributable to the weaker US dollar against the Australian dollar and Brazilian real, higher price-linked costs, fuel, freight and demurrage. A number of cost saving initiatives in Western Australian iron ore operations such as negotiation of contract mining rates, strategic sourcing of input materials and services have partially mitigated the impact of external cost pressures on the business.

Depreciation was higher, due to the completion of our RGP3 project at Western Australia Iron Ore. This project was delivered on schedule and within budget in local currency.

Year ended 30 June 2007 compared with year ended 30 June 2006

Revenue for FY2007 was US\$5,524 million, an increase of US\$742 million, or 15.5 per cent over FY2006.

Attributable Western Australia iron ore production was a record at 91.6 million wet tonnes, a slight increase compared to 89.6 million wet tonnes in FY2006. Production of Samarco (Brazil) pellets and pellet feed was 7.8 million tonnes, an increase of 4.0 per cent from 7.5 million tonnes in FY2006.

EBIT and Underlying EBIT were US\$2,728 million up US\$195 million, or 7.7 per cent, over FY2006. There were no exceptional items in either FY2007 or FY2006. The increase was driven mainly by increased prices, together with higher sales volumes.

Record sales reflected business improvement initiatives implemented to promote increased shipping efficiency.

Higher operating costs had an adverse impact during the period, largely attributable to the stronger Australian dollar/US dollar exchange rate, but also to higher contractor and labour costs, price-linked royalties, freight costs and demurrage. A number of initiatives were undertaken during the year to minimise the impact of external cost pressures on the business with the benefits mainly realised in the second six months of the year.

Depreciation was higher due to the commissioning of the expanded capacity at Western Australia Iron Ore.

Manganese

Year ended 30 June 2008 compared with year ended 30 June 2007

Revenue was US\$2,912 million for FY2008, an increase of US\$1,668 million, or 134.1 per cent over the corresponding period.

Manganese alloy production at 775,000 tonnes was 5.9 per cent higher than the previous year mainly as a result of operating efficiencies at the alloy plants and reduced down time for major rebuilds. Production was slightly offset by Metalloys Plant (South Africa) operating at lower levels to comply with the mandatory reduction in power consumption. Manganese ore production was 6.6 million tonnes, an increase of 9.4 per cent compared to the corresponding period. Both were production records.

EBIT and Underlying EBIT were US\$1,644 million, an increase of US\$1,391 million, or 550 per cent, over the corresponding period. Stronger demand drove increased sales volumes of manganese ore and higher prices for manganese ore and manganese alloy.

The positive EBIT result was slightly offset by increased distribution costs, unfavourable exchange rate impacts and higher ore development, coke and labour costs. A portion of the increase in costs was deliberately incurred to maximise production to take advantage of the high prices.

Year ended 30 June 2007 compared with year ended 30 June 2006

Revenue for FY2007 was US\$1,244 million, an increase of US\$207 million, or 20.0 per cent, over FY2006.

Manganese alloy production was 732,000 tonnes, an increase of 12.3 per cent, compared with FY2006 of 652,000 tonnes. Manganese ore production reached a record 6.0 million tonnes, an increase of 729,000 tonnes or 13.8 per cent, compared with FY2006.

EBIT and Underlying EBIT were US\$253 million, an increase of US\$121 million, or 91.7 per cent, over FY2006. Stronger demand drove increased sales volumes of manganese ore and higher prices for manganese alloy. The favourable movement of the rand against the US dollar also contributed to this positive result.

Operating costs were lower resulting from production efficiencies, but were partly offset by increased freight and distribution costs.

Metallurgical Coal

Year ended 30 June 2008 compared with year ended 30 June 2007

Revenue was US\$3,941 million for FY2008, an increase of US\$172 million, or 4.6 per cent over the corresponding period.

Production was 35.2 million tonnes in the current period, a decrease of 8.3 per cent compared with 38.4 million tonnes in the corresponding period.

EBIT and Underlying EBIT were US\$937 million, a decrease of US\$310 million, or 24.9 per cent over the corresponding period. The decrease in Underlying EBIT was mainly due to the significant rainfall events in January and February 2008 which unfavourably impacted sales volumes at Queensland Coal (Australia). This was partially offset by an increase in volumes from the full year of production from the Poitrel (Australia) mine.

Costs attributable to the recovery from the rainfall events at Queensland Coal were approximately US\$40 million in the period, with an additional US\$80 million of cost inefficiencies associated with lower volumes. Recovery efforts continue and on average, mines are operating at approximately 90 per cent capacity.

Other operating costs were higher due to increased demurrage and labour costs which were offset by improved mining conditions and operating efficiencies at Illawarra Coal. A weaker US dollar against the Australian dollar and inflationary pressures also had an unfavourable impact on Underlying EBIT.

Higher average realised prices for metallurgical coal (three per cent) and thermal coal (52 per cent) had a favourable impact on the Underlying EBIT.

Profits on the sale of the Elouera mine and the sale of mining leases to Millennium were realised in the current period.

Year ended 30 June 2007 compared with year ended 30 June 2006

Revenue was US\$3,769 million for FY2007, a decrease of US\$172 million, or 4.4 per cent over FY2006.

Production was 38.4 million tonnes in FY2007, a 7.8 per cent increase compared with 35.6 million tonnes in FY2006.

EBIT and Underlying EBIT were US\$1,247 million, a decrease of US\$587 million. This was attributable mostly to lower prices for hard coking coal (down 10 per cent) and weak coking coal (down 32 per cent). Higher sales volumes at Queensland Coal and Illawarra Coal (Australia) impacted Underlying EBIT. The increase in sales volume at Queensland Coal was supported by the expanded capacity at our Hay Point coal terminal. Royalties were lower due to lower prices.

Operating costs were higher at Queensland Coal following the start-up of the new longwall panel at the Broadmeadow mine (Australia) as were demurrage costs as a result of third party rail and port constraints. Difficult mining conditions and an extended longwall change-out at Illawarra Coal also increased operating costs. A stronger Australian dollar to US dollar exchange rate had an unfavourable impact across our operations, as did inflationary pressure.

Depreciation and amortisation charges were higher due to commissioning of new projects during the year, the write-off of the coal dryer at Dendrobium (Australia) and higher amortisation of deferred development costs at Illawarra Coal.

Energy Coal

Year ended 30 June 2008 compared with year ended 30 June 2007

Revenue was US\$6,560 million for FY2008, an increase of US\$1,984 million, or 43.4 per cent over the corresponding period.

Production was 80.9 million tonnes in FY2008, a decrease of 7.0 per cent compared with 87.0 million tonnes in the corresponding period.

EBIT was US\$1,057 million, an increase of US\$752 million, or 246.6 per cent, compared with last year. FY2007 included an exceptional item at our South African operations—a charge of US\$176 million (before taxation benefit of US\$34 million).

Underlying EBIT was US\$1,057 million, an increase of US\$576 million, or 119.8 per cent, over last year. The increase was mainly attributable to higher prices resulting from continued strong demand in the Atlantic and Pacific markets, record production at Hunter Valley Coal (Australia) and Cerrejón Coal (Colombia) and weakening of the South African rand against the US dollar.

This was partially offset by higher costs due to inflationary pressures, weakening of the US dollar against the Australian dollar and Colombian peso, and increased diesel, labour and contractors, maintenance and demurrage costs. Lower earnings from trading activities also negatively impacted Underlying EBIT.

The purchase price adjustments associated with the sale of the Optimum asset (South Africa), and the cessation of contribution from the Koorfontein mine (South Africa) following its divestment last year also reduced Underlying EBIT. The comparative period included US\$67 million profit on the sale of Koorfontein, Eyesizwe investment and part of our Richards Bay Coal Terminal entitlement.

Year ended 30 June 2007 compared with year ended 30 June 2006

Revenue for FY2007 was US\$4,576 million, an increase of US\$611 million, or 15.4 per cent, from FY2006.

Production was 87.0 million tonnes in FY2007, an increase of 1.5 per cent compared with 85.8 million tonnes in FY2006.

EBIT was US\$305 million, a decrease of US\$21 million, or 6.4 per cent, compared with FY2006. FY2007 included an exceptional item resulting from our regular review of asset carrying values at our South African operations—a charge of US\$176 million (before taxation benefit of US\$34 million). There were no exceptional items in FY2006.

Underlying EBIT was US\$481 million, an increase of US\$155 million, or 47.6 per cent, over FY2006. The increase was mainly attributable to higher export prices resulting from continued strong demand and a favourable movement of the South African rand against the US dollar. The profit on divestment of Koorfontein, one million tonnes of Richards Bay Coal Terminal annual capacity and the Eyesizwe investment increased Underlying EBIT.

Despite adverse weather conditions in the last quarter and high demurrage costs in Australia, Hunter Valley Coal achieved record production volumes as well as increased cost efficiencies. At Cerrejón Coal (Colombia) higher volumes also had a favourable impact on results. In South Africa, unit costs were adversely affected by inflationary pressure, a redundancy provision for the closure of the Douglas underground mine and lower production as a result of safety interventions and equipment availability.

The cessation of earnings from the Zululand Anthracite Colliery (South Africa) following its divestment during the prior year had a negative impact on the result.

Group and unallocated items

This category represents corporate activities, including Group Treasury, Freight, Transport and Logistics operations.

Year ended 30 June 2008 compared with year ended 30 June 2007

These corporate activities produced a loss before net finance costs and taxation of US\$394 million in FY2008 compared to a loss of US\$426 million in the corresponding period. FY2008 had no exceptional items whereas FY2007 included an exceptional item of US\$167 million relating to rehabilitation obligations at the former Newcastle Steelworks operations.

Excluding exceptional items, corporate operating costs were US\$394 million compared to US\$259 million in the corresponding period, an increase of US\$135 million. The higher costs resulted predominantly from unfavourable fluctuations in the Australian dollar to US dollar exchange rate. Higher costs for corporate projects and sponsorship also had an adverse impact.

Year ended 30 June 2007 compared with year ended 30 June 2006

These corporate activities produced a loss before net finance costs and taxation of US\$426 million in FY2007 compared to a loss of US\$301 million in FY2006. FY2007 includes an exceptional item of US\$167 million (before tax of US\$50 million) for additional rehabilitation obligations in respect of former operations at the Newcastle Steelworks.

Corporate operating costs, excluding exchange impacts, were US\$231 million for FY2007 compared to US\$251 million in FY2006, a decrease of US\$20 million.

The current period benefited from lower insurance claims, offset by higher costs for corporate projects, sponsorships and regulatory compliance.

One-off costs in relation to the acquisition of WMC were incurred in FY2006. There were no similar costs in FY2007.

Third party sales

We differentiate sales of our production from sales of third party products due to the significant difference in profit margin earned on these sales. The table below shows the breakdown between our production (which includes marketing of equity production) and third party products.

Year ended 30 June ^(a)	2008 US\$M	2007 US\$M	2006 US\$M
Group production			
Revenue	51,918	41,271	34,139
Related operating costs	(27,389)	(21,621)	(18,534)
Operating profit	24,529	19,650	15,605
Margin ^(b)	47.2%	47.6%	45.7%
Third party products			
Revenue	7,555	6,202	4,960
Related operating costs	(7,939)	(6,128)	(4,849)
Operating (loss)/profit	(384)	74	111
Margin ^(b)	(5.1)%	1.2%	2.2%

(a) Excluding exceptional items.

(b) Operating profit divided by revenue.

We engage in third party product trading for two reasons:

- In providing solutions for our customers, sometimes we provide products that we do not produce, such as a particular grade of coal. To meet customer needs and contractual commitments, we may buy physical product from third parties and manage risk through both the physical and financial markets.
- The active presence in the commodity markets provides us with physical market insight and commercial knowledge. From time to time, we actively engage in these markets in order to take commercial advantage of business opportunities. These trading activities provide not only a source of revenue, but also a further insight into planning, and can, in some cases, give rise to business development opportunities.

3.7 Liquidity and capital resources

As a result of our record production volumes and record prices in many of our key commodities over the past several years, we have generated very strong cash flows throughout our operations. These cash flows have been fundamental to our ability to internally fund our existing operations, maintain a pipeline of 28 growth projects, and return capital to shareholders through dividends and share buy-backs. Our priority for cash is to reinvest in the business. In line with our strategy, we have grown our business rapidly and consistently through project developments and acquisitions. Through a combination of borrowings and payments to shareholders, we manage our balance sheet with the goal of maintaining levels of gearing that we believe optimise our costs of capital and return on capital employed.

Net operating cash flows are our principal source of cash. We also raise cash from debt financing to manage temporary fluctuations in liquidity arrangements and to refinance existing debt. Our liquidity position is supported by our strong and stable credit rating and committed debt facilities.

3.7.1 Cash flow analysis

A full consolidated cash flow statement is contained in the financial statements. The explanatory notes appear in note 30 'Notes to the consolidated cash flow statement' in the financial statements. A summary table has been presented below to show the key sources and uses of cash.

	2008 US\$M	2007 US\$M	2006 US\$M
Net operating cash flows	18,159	15,957	11,325
Cash outflows from investing activities	(9,244)	(8,691)	(7,243)
Net proceeds from investing activities	180	378	1,100
Net investing cash flows	(9,064)	(8,313)	(6,143)
Net proceeds from/(repayment of) interest bearing liabilities	(750)	1,614	(1,245)
Share buy-back	(3,115)	(5,741)	(2,028)
Dividends paid	(3,250)	(2,339)	(2,126)
Other financing activities	(226)	(143)	(153)
Net financing cash flows	(7,341)	(6,609)	(5,552)
Net increase/(decrease) in cash and cash equivalents	1,754	1,035	(370)

Year ended 30 June 2008 compared with year ended 30 June 2007

Net operating cash flow after interest and tax increased by 13.8 per cent to US\$18.2 billion. Higher profits increased cash generated from operating activities, offset by an increase in working capital (principally due to higher prices) and increased taxation payments.

Capital and exploration expenditure totalled US\$8.9 billion for FY2008. Expenditure on major growth projects was US\$5.3 billion, including US\$1.6 billion on petroleum projects and US\$3.8 billion on minerals projects. Capital expenditure on maintenance, sustaining and minor capital items was US\$2.2 billion. Exploration expenditure was US\$1.4 billion, including US\$0.5 billion which has been capitalised.

Financing cash flows include US\$6.3 billion in relation to the capital management program and increased dividend payments.

Year ended 30 June 2007 compared with year ended 30 June 2006

Net operating cash flow after interest and tax increased by 40.9 per cent to US\$16.0 billion. Higher profits increased cash generated from operating activities, offset by an increase in working capital (principally due to higher prices) and increased taxation payments.

Capital and exploration expenditure totalled US\$7.9 billion for FY2007. Expenditure on major growth projects was US\$5.5 billion, including US\$1.7 billion on petroleum projects and US\$3.8 billion on minerals projects. Other capital expenditure on maintenance, sustaining and minor capital items was US\$1.6 billion. Exploration expenditure was approximately US\$800 million, including US\$265 million, which has been capitalised. Other investing cash flows included the purchase of interests in the Genghis Khan oil field, and the Guinea Alumina project.

Financing cash flows include US\$8.0 billion in relation to the capital management program and dividend payments.

3.7.2 Growth projects

We continue to invest substantially in our future. Our project pipeline focuses on high-margin opportunities that are expected to create significant future value. We have 28 projects in either execution or feasibility, which represents an expected capital investment of US\$24.8 billion.

During the 2008 financial year we completed 10 major growth projects. In addition, Neptune (oil and gas) delivered first production on 6 July 2008.

Completed projects

Customer Sector Group	Project	Capacity ⁽⁴⁾	Capital expenditure (US\$M) ⁽⁴⁾		Date of initial production ⁽¹⁾	
			Budget	Actual	Target	Actual
Base Metals	Pinto Valley (US) BHP Billiton – 100%	70,000 tonnes per annum of copper in concentrate	140	144	Q4 2007	Q4 2007
Petroleum	Atlantis South (US) BHP Billiton – 44%	200,000 barrels of oil and 180 million cubic feet of gas per day (100%)	1,630 ⁽³⁾	1,630 ⁽²⁾	H2 2007 ⁽³⁾	H2 2007
	Stybarrow (Australia) BHP Billiton – 50%	80,000 barrels of oil per day (100%)	380	389	Q1 2008	Q4 2007
	Genghis Khan (US) BHP Billiton – 44%	55,000 barrels of oil per day (100%)	365	365 ⁽²⁾	H2 2007	H2 2007
	Neptune (US) BHP Billiton – 35%	50,000 barrels of oil and 50 million cubic feet of gas per day (100%)	405 ⁽³⁾	418	Q1 2008	Q3 2008
Iron Ore	WA Iron Ore Rapid Growth Project 3 (Australia) BHP Billiton – 85%	20 million tonnes per annum of iron ore (100%)	1,300	1,300 ⁽²⁾	Q4 2007	Q4 2007
	Samarco (Brazil) BHP Billiton – 50%	7.6 million tonnes per annum of iron pellets (100%)	590	740 ⁽²⁾	H1 2008	H1 2008
Stainless Steel Materials	Ravensthorpe Nickel (Australia) BHP Billiton – 100%	Up to 50,000 tonnes per annum of contained nickel in concentrate	2,200 ⁽³⁾	2,086	Q1 2008 ⁽³⁾	Q4 2007
	Yabulu Extension (Australia) BHP Billiton – 100%	45,000 tonnes per annum of nickel	556 ⁽³⁾	580	Q1 2008 ⁽³⁾	Q1 2008
	Cliffs (Australia) BHP Billiton – 100%	360,000 tonnes per annum nickel ore	139	139 ⁽²⁾	H1 2008 ⁽³⁾	H1 2008
Diamonds and Specialty Products	Koala Underground (Canada) BHP Billiton – 80%	3,300 tonnes per day of ore processed (100%)	200	176	End 2007	End 2007
			7,905	7,967		

- References to quarters and half-years are based on calendar years.
- Number subject to finalisation. For projects where capital expenditure is required after initial production, the costs represent the estimated total capital expenditure.
- As per revised budget or schedule.
- All references to capital expenditure and capacity are BHP Billiton's share unless noted otherwise.

Projects currently under development (approved in prior years)

Customer Sector Group	Project	Capacity (1)	Budgeted capital expenditure (US\$M) (1)	Target date for initial production (2)
Petroleum	North West Shelf 5th Train (Australia) BHP Billiton – 16.67%	LNG processing capacity 4.2 million tonnes per annum (100%)	350	Late 2008
	North West Shelf Angel (Australia) BHP Billiton – 16.67%	800 million cubic feet of gas per day and 50,000 barrels of condensate per day (100%)	200	End 2008
	Shenzi (US) BHP Billiton – 44%	100,000 barrels of oil and 50 million cubic feet of gas per day (100%)	1,940	Mid 2009
	Pyrenees (Australia) BHP Billiton – 71.43%	96,000 barrels of oil and 60 million cubic feet gas per day (100%)	1,200	H1 2010
Aluminium	Alumar Refinery Expansion (Brazil) BHP Billiton – 36% (3)	2 million tonnes per annum of alumina (100%)	725	Q2 2009
Iron Ore	WA Iron Ore Rapid Growth Project 4 (Australia) BHP Billiton – 86.2%	26 million tonnes per annum of iron ore (100%)	1,850	H1 2010
			6,265	

1. All references to capital expenditure and capacity are BHP Billiton's share unless noted otherwise.
2. References to quarters and half-years are based on calendar years.
3. Schedule and budget are under review following advice from the Operator.

Projects approved since 30 June 2007

Customer Sector Group	Project	Capacity (1)	Budgeted capital expenditure (US\$M) (1)	Target date for initial production (2)
Petroleum	Bass Strait Kipper (Australia) BHP Billiton – 32.5% - 50%	10,000 bpd condensate and processing capacity of 80 million cubic feet gas per day (100%)	500	2011
	Bass Strait Turrum (Australia) BHP Billiton – 50%	11,000 bpd condensate and processing capacity of 200 million cubic feet gas per day (100%)	625	2011
	North West Shelf North Rankin B (Australia) BHP Billiton – 16.67%	2,500 million cubic feet gas per day (100%)	850	2012
Aluminium	Worsley Efficiency and Growth (Australia) BHP Billiton – 86%	1.1 million tonnes per annum (100%)	1,900	H1 2011
Manganese	GEMCO (Australia) BHP Billiton – 60%	1 million tonnes per annum manganese concentrate (100%)	110	H1 2009
Energy Coal	Klipspruit (South Africa) BHP Billiton – 100%	1.8 million tonnes per annum export coal. 2.1 million tonnes per annum domestic	450	H2 2009
	Douglas-Middelburg Optimisation (South Africa) BHP Billiton – 100%	10 million tonnes per annum export thermal coal and 8.5 million tonnes per annum domestic thermal coal (sustains current output)	975	Mid 2010
	Newcastle Third Export Coal Terminal (Australia) BHP Billiton – 35.5%	Third coal berth, 30 million tonnes per annum (100%)	390	Late 2010
			5,800	

1. All references to capital expenditure and capacity are BHP Billiton's share unless noted otherwise.
2. References to half-years and years are based on calendar years.

In addition to the above projects the Board approved pre-expenditure of US\$930 million for Rapid Growth Project 5 (Western Australia Iron Ore).

3.7.3 Net debt and sources of liquidity

Our policies on debt and treasury management are as follows:

- commitment to a solid 'A' credit rating
- cash flow positive before dividends, debt service and capital management, excluding cash effects of major acquisitions
- target a minimum interest cover ratio of eight times over the commodity cycle
- maintain net gearing (net debt/net debt + net assets) of 35 per cent to 40 per cent
- flexibility from diversification of funding sources
- generally maintain borrowings and excess cash in US dollars

Solid 'A' credit ratings

The Group's credit ratings are currently A1/P-1 (Moody's) and A+/A-1 (Standard & Poor's). There has been no change to these ratings during the year, however the ratings were placed on negative outlook following the announcement of proposed offers for Rio Tinto plc and Rio Tinto Limited.

Interest rate risk

Interest rate risk on our outstanding borrowings and investments is managed as part of the Portfolio Risk Management Strategy. Refer to note 26 'Financial risk management' in the financial statements for a detailed discussion on the strategy. When required under this strategy, we use interest rate swaps, including cross currency interest rate swaps, to convert a fixed rate exposure to a floating rate exposure. All interest swaps have been designated and are effective as hedging instruments under IFRS.

Net gearing and net debt

30 June 2008 compared with 30 June 2007

Net debt, comprising cash and interest bearing liabilities, was US\$8.5 billion, a decrease of US\$1.5 billion, or 15.2 per cent, compared to 30 June 2007. Gearing, which is the ratio of net debt to net debt plus net assets, was 17.8 per cent at 30 June 2008, compared with 25.0 per cent at 30 June 2007.

Cash at bank and in hand less overdrafts at 30 June 2008 was US\$4,173 million compared with US\$2,398 million at 30 June 2007. In addition, we had money market deposits at 30 June 2008 of US\$2,462 million compared with US\$1,467 million at 30 June 2007.

30 June 2007 compared with 30 June 2006

Net debt, comprising cash and interest bearing liabilities, was US\$10.0 billion, an increase of US\$0.8 billion, or 8.7 per cent, compared to 30 June 2006. Gearing, which is the ratio of net debt to net debt plus net assets, was 25.0 per cent at 30 June 2007 compared with 27.2 per cent at 30 June 2006.

Cash at bank and in hand less overdrafts at 30 June 2007 was US\$2,398 million compared with US\$1,351 million at 30 June 2006. In addition, we had money market deposits at 30 June 2007 of US\$1,467 million compared with US\$536 million at 30 June 2006.

Funding sources

The maturity profile of our debt obligations is set forth in note 26 'Financial risk management' in the financial statements. The following table sets forth the details of our undrawn committed facilities as at 30 June 2008 and 2007.

	Facility available 2008 US\$M	Used 2008 US\$M	Unused 2008 US\$M	Facility available 2007 US\$M	Used 2007 US\$M	Unused 2007 US\$M
Acquisition finance facility	55,000	–	55,000	–	–	–
Revolving credit facility	3,000	–	3,000	3,000	–	3,000
Other facilities	60	–	60	58	–	58
Total financing facilities	58,060	–	58,060	3,058	–	3,058

The Group's US\$3.0 billion multi-currency revolving credit facility, established in October 2006, matures in October 2011. As at 30 June 2008, this facility was undrawn. The interest rates under this facility are based on an interbank rate plus a margin. The applicable margin is typical for a credit facility extended to a company with our credit rating. A negative pledge applies to the credit facility.

In February 2008, we entered into a US\$55 billion facility and subscription agreement to, among other things, meet potential funding requirements in relation to our offers for Rio Tinto. This facility is currently undrawn. The terms of the facility are summarised in section 2.13 'Material contracts'.

Apart from the new facility and subscription agreement referred to above, none of our general borrowing facilities are subject to financial covenants. Certain specific financing facilities in relation to specific businesses are the subject of financial covenants that vary from facility to facility, but which would be considered normal for such facilities.

3.7.4 Quantitative and qualitative disclosures about market risk

We identified above in 'Our business – external factors and trends affecting our results' (section 3.4 in this Report) our primary market risks. A description of how we manage our market risks, including both quantitative and qualitative information about our market risk sensitive instruments outstanding at 30 June 2008, is contained in note 26 'Financial risk management' to the financial statements.

3.7.5 Portfolio management

Our strategy is focused on long-life, low-cost, expandable assets and we continually review our portfolio to identify assets which do not fit this strategy. These activities continued during the period, with proceeds amounting to US\$180 million being realised from divestments including the Elouera coal mine (Illawarra Coal Operation, Australia). Other disposals include mining leases at Poitrel (Queensland Coal, Australia) and Optimum Colliery (South Africa). Proceeds from the sale or distribution of our assets and interests since 2001 now surpass US\$6 billion.

We will purchase interests in assets where they fit our strategy. During the year we announced an arrangement to acquire Anglo Potash Limited which was subsequently completed on 10 July 2008. In addition, in September 2008 BHP Billiton Mitsubishi Alliance (BMA) acquired 100 per cent of the New Saraji Coal Project for a cash consideration of approximately US\$2 billion (US\$1 billion our share).

3.7.6 Dividend and capital management

On 18 August 2008, the Board declared a final dividend of 41.0 US cents per share. This rebased dividend represents a 51.9 per cent increase over last year's final dividend of 27.0 US cents per share. This brings the total dividends for FY2008 to 70.0 US cents per share, an increase of 23.0 US cents per share, or 48.9 per cent, over last year and 150.0 per cent over the past three years. The Board's declaration represents our thirteenth consecutive dividend increase and signals our confidence in the outlook and our ability to consistently deliver future earnings and cash flow. Our dividend has increased by more than 530 per cent since the interim dividend paid in FY2002. Our compound annual dividend growth rate has been 32.3 per cent over this period. We intend to continue with our progressive dividend policy from this new base, with further increases dependent upon the expectations for future market conditions and investment opportunities.

We continued to purchase shares under the previously announced US\$13 billion buy back program. During the year, we repurchased and cancelled 96,904,086 BHP Billiton Plc shares, through on-market buy-backs, at an approximate average price of US\$31.57 (A\$36.46/GBP15.51). These shares were purchased via an independent third party under an irrevocable mandate. When the mandate expired on 14 December 2007, the buy-back program was suspended. At the time of the suspension, we had returned US\$8.8 billion of the US\$13 billion.

Since August 2004, we have announced capital management initiatives totalling US\$17 billion. Since the first buy-back in 2004, 680 million shares have been repurchased, representing approximately 11 per cent of the total shares on issue at an approximate price of US\$18.53 (A\$23.25/GBP9.57).

3.8 Off-balance sheet arrangements and contractual commitments

Information in relation to our material off-balance sheet arrangements, principally contingent liabilities, commitments for capital expenditure and other expenditure and commitments under leases at 30 June 2008 is provided in note 27 'Contingent liabilities' and note 28 'Commitments' to the financial statements.

We expect that these contractual commitments for expenditure, together with other expenditure and liquidity requirements will be met from internal cash flow and, to the extent necessary, from the existing facilities described in section 3.7.3.

On 6 February 2008, we announced the terms of two inter-conditional offers for the entire ordinary share capital of Rio Tinto plc and Rio Tinto Limited. Under the announced offers, we will offer 3.4 BHP Billiton shares for each Rio Tinto share tendered. The offers are subject to certain pre-conditions relating to merger control and regulatory approvals in a number of jurisdictions, including the approval of anti-trust authorities in the European Union, the United States, Australia, Canada and South Africa, and foreign investment authorities in Australia. Provided the pre-conditions have been satisfied or waived, we will be obliged to make the offers on the terms we have announced (or terms no less favourable to Rio Tinto shareholders).

3.9 Subsidiaries and related party transactions

Subsidiary information

Information on our significant subsidiaries is included in note 37 'Subsidiaries' to the financial statements.

Related party transactions

Related party transactions are outlined in note 32 'Related party transactions' in the financial statements.

3.10 Significant changes

Other than the matters disclosed elsewhere in this Report, no matters or circumstances have arisen since the end of the year that have significantly affected, or may significantly affect, the operations, results of operations or state of affairs of the BHP Billiton Group in subsequent accounting periods.

4 BOARD OF DIRECTORS AND GROUP MANAGEMENT COMMITTEE

4.1 Board of Directors

Don Argus AO, SF FIN, FCPA, 70

Term of office: Director of BHP Limited since November 1996 and Chairman since April 1999. Chairman of BHP Billiton Limited and BHP Billiton Plc since June 2001. Mr Argus was last re-elected in 2007 and, in accordance with the Group's policy described under 'Tenure' in section 5.3.5 of this Annual Report, is retiring and standing for re-election in 2008.

Independent: Yes

Skills and experience: Don Argus has considerable experience in international business and a strong management background. He has more than 40 years' experience in the banking industry and is a former Managing Director and CEO of the National Australia Bank Limited.

Other directorships and offices (current and recent):

- Director of Australian Foundation Investment Company Limited (since May 1999)
- Former Chairman of Brambles Limited (from September 1999 to February 2008) and a Director (from May 1999 to February 2008)
- Member of the International Advisory Council of Allianz Aktiengesellschaft (since April 2000)
- Member of International Advisory Committee to the New York Stock Exchange Board of Directors (since November 2005)

Board Committee membership:

- Chairman of the Nomination Committee

Marius Kloppers BE (Chem), MBA, PhD (Materials Science), 46

Term of office: Director of BHP Billiton Limited and BHP Billiton Plc since January 2006. Mr Kloppers was appointed Chief Executive Officer on 1 October 2007. He was appointed Group President Non-Ferrous Materials and executive Director in January 2006 and was previously Chief Commercial Officer. Mr Kloppers was elected in 2006.

Independent: No

Skills and experience: Marius Kloppers has extensive knowledge of the mining industry and of BHP Billiton's operations. Active in the mining and resources industry since 1993, he was appointed Chief Commercial Officer in December 2003. He was previously Chief Marketing Officer, Group Executive of Billiton Plc, Chief Executive of Samancor Manganese and held various positions at Billiton Aluminium, including Chief Operating Officer and General Manager of Hillside Aluminium.

Other directorships and offices (current and recent):

- None

Board Committee membership:

- None

Paul Anderson B S (Mech Eng), MBA, 63

Term of office: Appointed a non-executive Director of BHP Billiton Limited and BHP Billiton Plc on 26 April 2006 with effect from 6 June 2006. He was the Chief Executive Officer and Managing Director of BHP Limited from December 1998 until June 2001 and of BHP Billiton Limited and BHP Billiton Plc from June 2001 until July 2002. He was a non-executive Director of BHP Billiton Limited and BHP Billiton Plc from July to November 2002. Mr Anderson was last elected in 2006 and is retiring and standing for re-election in 2008.

Independent: Yes

Skills and experience: Paul Anderson has an extensive background in natural resources and energy and, as one of the architects of the merger that created BHP Billiton, has a deep understanding of the strategy behind the Group's success. He is Chairman of Spectra Energy Corporation and retired as Chairman of Duke Energy Corporation in January 2007 where he had more than 20 years' experience at Duke Energy and its predecessors.

Other directorships and offices (current and recent):

- Chairman of Spectra Energy Corporation (since January 2007)
- Former Director of Qantas Airways Limited (from September 2002 to April 2008)
- Former Chairman of Duke Energy Corporation (from November 2003 to January 2007) and former Chief Executive Officer (from November 2003 to April 2006)
- Former Director of Temple Inland Inc (from February 2002 to May 2004)
- Member of the US President's Council of Advisors on Science and Technology

Board Committee membership:

- Member of the Sustainability Committee

Alan Boeckmann BE (Electrical Eng), 60

Term of office: Director of BHP Billiton Limited and BHP Billiton Plc since September 2008. Mr Boeckmann will seek election at the 2008 Annual General Meetings.

Independent: Yes

Skills and experience: Alan Boeckmann is currently Chairman and Chief Executive Officer of Fluor Corporation, USA, having originally joined Fluor in 1974. He holds non-executive directorships with Archer Daniels Midland and Burlington Northern Santa Fe Corporation. Mr Boeckmann has extensive experience in running large-scale international industrial companies and experience in the oil and gas industry. He has global experience in engineering, procurement, construction, maintenance and project management across a range of industries, including resources and petroleum.

Other directorships and offices (current and recent):

- Chairman and CEO of Fluor Corporation (since February 2002)
- Director of Archer Daniels Midland Company (from November 2007 to November 2008)
- Director of Burlington Northern Santa Fe Corporation (since September 2001)

Board Committee membership:

- None

John Buchanan BSc, MSc (Hons 1), PhD, 65

Term of office: Director of BHP Billiton Limited and BHP Billiton Plc since February 2003. Dr Buchanan has been designated as the Senior Independent Director of BHP Billiton Plc since his appointment. Dr Buchanan was last re-elected in 2006 and is retiring and standing for re-election in 2008.

Independent: Yes

Skills and experience: Educated at Auckland, Oxford and Harvard, John Buchanan has had a wide international business career gained in large and complex international businesses. He has substantial experience in the petroleum industry, and knowledge of

the international investor community. He has held various leadership roles in strategic, financial, operational and marketing positions, including executive experience in different countries. He is a former executive director and Group CFO of BP, serving on the BP Board for six years.

Other directorships and offices (current and recent):

- Chairman of Smith & Nephew Plc (since April 2006) and Former Deputy Chairman (from February 2005 to April 2006)
- Chairman of ICC UK (since May 2008)
- Director of AstraZeneca Plc (since April 2002)
- Senior Independent Director and Deputy Chairman of Vodafone Group Plc (since July 2006) and Director (since April 2003)

Board Committee membership:

- Chairman of the Remuneration Committee
- Member of the Nomination Committee

Carlos Cordeiro AB, MBA, 52

Term of office: Director of BHP Billiton Limited and BHP Billiton Plc since February 2005. Mr Cordeiro was last re-elected in 2007.

Independent: Yes

Skills and experience: Carlos Cordeiro brings to the Board more than 25 years' experience in providing strategic and financial advice to corporations, financial institutions and governments around the world. He was previously Partner and Managing Director of Goldman Sachs Group Inc.

Other directorships and offices (current and recent):

- Non-executive Advisory Director of The Goldman Sachs Group Inc (since December 2001)
- Non-executive Vice Chairman of Goldman Sachs (Asia) (since December 2001)

Board Committee membership:

- Member of the Remuneration Committee

David Crawford BComm, LLB, FCA, FCPA, FAICD, 64

Term of office: Director of BHP Limited since May 1994. Director of BHP Billiton Limited and BHP Billiton Plc since June 2001. Mr Crawford was last re-elected in 2007 and, in accordance with the Group's policy described under 'Tenure' in section 5.3.5 of this Annual Report, is retiring and standing for re-election in 2008.

Independent: Yes

Skills and experience: David Crawford has extensive experience in risk management and business reorganisation. He has acted as a consultant, scheme manager, receiver and manager and liquidator to very large and complex groups of companies. He was previously Australian National Chairman of KPMG, Chartered Accountants. The Board has nominated Mr Crawford as the financial expert of the Risk and Audit Committee for the purposes of the US Securities and Exchange Commission Rules, and is satisfied that he has recent and relevant financial experience for the purposes of the UK Listing Authority's Combined Code.

Other directorships and offices (current and recent):

- Chairman of Lend Lease Corporation Limited (since May 2003) and Director (since July 2001)

- Chairman of Foster's Group Limited (since November 2007) and Director of Foster's Group Limited (since August 2001)
- Former Director of Westpac Banking Corporation (from May 2002 to December 2007)
- Former Chairman of National Foods Limited (Director from November 2001 to June 2005)

Board Committee membership:

- Chairman of the Risk and Audit Committee

Gail de Planque AB (Mathematics), MS (Physics), PhD (Env Health Sciences), 63

Term of office: Director of BHP Billiton Limited and BHP Billiton Plc since 19 October 2005. The Hon. E. Gail de Planque was last re-elected in 2007.

Independent: Yes

Skills and experience: Gail de Planque is an expert in nuclear technology and has over 40 years' experience as a physicist, adviser and regulator in the field of nuclear energy. She also has significant experience as a non-executive director of global energy companies and is a consultant on atomic energy matters. She is a former Commissioner of the United States Nuclear Regulatory Commission, a former Director of the Environmental Measurements Laboratory of the US Department of Energy, a Fellow and former President of the American Nuclear Society, a fellow of the American Association of the Advancement of Science and a Member of the US National Academy of Engineering.

Other directorships and offices (current and recent):

- Director of Northeast Utilities (since October 1995)
- Director of Energy Solutions, Inc (since November 2007)
- President of Strategy Matters Inc (since March 2000)
- Director of Energy Strategists Consultancy Ltd (since May 1999)
- Former Director of TXU Corporation (from February 2004 to February 2007)
- Former Director of BNFL Plc (from November 2000 to March 2005) and of BNG America Inc (from March 1995 to March 2006)
- Former Director of Landauer Inc (from December 2001 to June 2008)

Board Committee membership:

- Member of the Sustainability Committee
- Member of the Remuneration Committee

David Jenkins BA, PhD (Geology), 69

Term of office: Director of BHP Limited since March 2000. Director of BHP Billiton Limited and BHP Billiton Plc since June 2001. Dr Jenkins was last re-elected in 2007.

Independent: Yes

Skills and experience: David Jenkins is a recognised authority on oil and gas technology. He was previously Chief Geologist, Director Technology and Chief Technology Advisor to BP Plc. He was also a member of the Technology Advisory Committee of the Halliburton Company and the Advisory Council of Consort Resources and Chairman of the Energy Advisory Panel of Science Applications International Corporation.

Other directorships and offices (current and recent):

- Director of Chartwood Resources Ltd (since November 1998)
- Director of Mintaka International (Oil & Gas) Limited (previously Orion International (Oil & Gas) Ltd) (since March 2005)
- Director of Orion International Petroleum Limited (previously Director of Orion International Petroleum (Gibraltar) Limited) (since June 2007)
- Director of Orion Sangaw North Limited (since July 2008)

Board Committee membership:

- Member of the Remuneration Committee
- Member of the Risk and Audit Committee

David Morgan BEc, MSc, PhD, 61

Term of office: Director of BHP Billiton Limited and BHP Billiton Plc since January 2008. Dr Morgan will seek election at the 2008 Annual General Meeting.

Independent: Yes

Skills and experience: David Morgan was the Managing Director and Chief Executive Officer of Westpac Banking Corporation from March 1999 until January 2008. He has extensive experience in the financial sector, having worked in the International Monetary Fund in Washington DC in the 1970s and the Australian Federal Treasury in the 1980s where he headed all major areas before being appointed Senior Deputy Secretary. Dr Morgan joined Westpac in 1990 where he had responsibility for all major operating divisions including, Westpac Financial Services, Retail Banking, Commercial Banking, Corporate and Institutional Banking and International Banking.

Other directorships and offices (current and recent):

- Chairman of J C Flowers & Co. Australia (since June 2008)
- Former Managing Director and Chief Executive Officer of Westpac Banking Corporation (from March 1999 to January 2008)
- Former Chairman of Westpac New Zealand Limited (from September 2006 to December 2007)
- Former Director of Westpac New Zealand Limited (from September 2006 to January 2008)
- Former Member of Australian Bankers' Association, Business Council of Australia, ASIC Business Consultative Panel and International Monetary Conference (from March 1999 to January 2008)

Board Committee membership:

- Member of the Risk and Audit Committee

Jacques Nasser AO, BBus, Hon DT, 60

Term of office: Appointed a non-executive Director of BHP Billiton Limited and BHP Billiton Plc on 26 April 2006 with effect from 6 June 2006. Mr Nasser was last elected in 2006 and is retiring and standing for re-election in 2008.

Independent: Yes

Skills and experience: Following a 33-year career with Ford in various leadership positions in Europe, Australia, Asia, South America and the US, Jacques Nasser served as a member of the Board of Directors and as President and Chief Executive Officer of Ford Motor Company from 1998 to 2001. He has more than 30 years' experience in large-scale global businesses.

Other directorships and offices (current and recent):

- Director of British Sky Broadcasting Ltd (since November 2002)
- Partner of One Equity Partners (since November 2002)
- Member of the International Advisory Council of Allianz Aktiengesellschaft (since February 2001)
- Former Chairman of Polaroid Corporation (from November 2002 to April 2005)
- Former Director of Quintiles Transnational Corporation (from March 2004 to November 2007)
- Former Director of Brambles Limited (from March 2004 to January 2008)

Board Committee membership:

- Member of the Risk and Audit Committee

Keith Rumble BSc, MSc (Geochemistry), 54

Term of office: Director of BHP Billiton Limited and BHP Billiton Plc since September 2008. Mr Rumble will seek election at the 2008 Annual General Meetings.

Independent: Yes

Skills and experience: Keith Rumble was until recently Chief Executive Officer of SUN Mining, a wholly-owned entity of the Sun Group, a principal investor and private equity fund manager in Russia, India and other emerging and transforming markets. He has over 30 years' experience in the resources industry, specifically in titanium and platinum mining, and is a former CEO of Impala Platinum (Pty) Ltd and former CEO of Rio Tinto Iron and Titanium Inc. He began his career at Richards Bay Minerals in 1980, and held various management positions, before becoming CEO in 1996.

Other directorships and offices (current and recent):

- Board of Governors of Rhodes University (since 2005) and Michaelhouse College (since 2002)
- Trustee of the World Wildlife Fund, South Africa (since 2006)

Board Committee membership:

- None

John Schubert BCh Eng, PhD (Chem Eng), FIEAust, FTSE, 65

Term of office: Director of BHP Limited since June 2000 and a Director of BHP Billiton Limited and BHP Billiton Plc since June 2001. Dr Schubert was last re-elected in 2006 and is retiring and standing for re-election in 2008.

Independent: Yes

Skills and experience: John Schubert has considerable experience in the international oil industry, including at CEO level. He has had executive mining and financial responsibilities and was CEO of Pioneer International Limited for six years, where he operated in the building materials industry in 16 countries. He has experience in mergers, acquisitions and divestments, project analysis and management. He was previously Chairman and Managing Director of Esso Australia Limited and President of the Business Council of Australia.

Other directorships and offices (current and recent):

- Chairman of Commonwealth Bank of Australia (since November 2004) and Director (since October 1991)

- Director of Qantas Airways Limited (since October 2000)
- Chairman of G2 Therapies Pty Limited (since November 2000)
- Former Chairman and Director of Worley Parsons Limited (from November 2002 until February 2005)

Board Committee membership:

- Chairman of the Sustainability Committee
- Member of the Nomination Committee

Group Company Secretary

Jane McAloon BEc (Hons), LLB, GDipGov, FCIS, 44

Term of office: Jane McAloon was appointed Group Company Secretary in July 2007 and joined the BHP Billiton Group in September 2006 as Company Secretary for BHP Billiton Limited.

Skills and experience: Prior to joining BHP Billiton, Jane McAloon held the position of Company Secretary and Group Manager External and Regulatory Services in the Australian Gas Light Company. She previously held various State and Commonwealth government positions, including Director General of the NSW Ministry of Energy and Utilities and Deputy Director General for the NSW Cabinet Office, as well as working in private legal practice. She is a Fellow of the Institute of Chartered Secretaries.

4.2 Group Management Committee

Marius Kloppers BE (Chem), MBA, PhD (Materials Science), 46

Chief Executive Officer and Executive Director

Chairman of the Group Management Committee

Marius Kloppers has been active in the mining and resources industry since 1993 and was appointed Chief Executive Officer in October 2007. He was previously Chief Commercial Officer, Chief Marketing Officer, Group Executive of Billiton Plc, Chief Executive of Samancor Manganese and held various positions at Billiton Aluminium, among them Chief Operating Officer and General Manager of Hillside Aluminium.

Alberto Calderon PhD Econ, M Phil Econ – Yale University, JD Law, BA Econ – Andes University, 48

Group Executive and Chief Commercial Officer

Member of the Group Management Committee

Alberto Calderon joined the Group as President Diamonds and Specialty Products in February 2006 and has been in his current position since July 2007. Prior to this, he was Chief Executive Officer of Cerrejón Coal Company from July 2002. His previous positions include President of Ecopetrol, President of the Power Company of Bogotá and various senior roles in investment banking and in the Colombian Government.

Marcus Randolph BSc, MBA Harvard Business School, 52

Group Executive and Chief Executive Ferrous and Coal

Member of the Group Management Committee

Marcus Randolph was previously Chief Organisation Development Officer, President Diamonds and Specialty Products, Chief Development Officer Minerals and Chief Strategic Officer Minerals for BHP Billiton. His prior career includes Chief Executive Officer, First Dynasty Mines, Mining and Minerals Executive, Rio Tinto Plc, Director of Acquisitions and Strategy, Kennecott Inc, General Manager Corporacion Minera Nor Peru, Asarco Inc, and various mine operating positions in the US with Asarco Inc. He has been in his current position since October 2005.

Alex Vanselow BComm, Wharton AMP, 46

Group Executive and Chief Financial Officer

Member of the Group Management Committee and Chairman of the Investment Review Committee and Financial Risk Management Committee

Alex Vanselow joined the Group in 1989 and was appointed President Aluminium in March 2004 and appointed Chief Financial Officer in March 2006. He was previously Chief Financial Officer of Aluminium, Vice President Finance and Chief Financial Officer of Orinoco Iron CA and Manager Accounting and Control BHP Iron Ore. His prior career was with Arthur Andersen. He has been in his current position since April 2006.

Karen Wood BEd, LLB (Hons), FCIS, 52

Group Executive and Chief People Officer

Member of the Group Management Committee and Chairman of the Global Ethics Panel

Karen Wood's previous positions with BHP Billiton were Chief Governance Officer, Group Company Secretary and Special Adviser and Head of Group Secretariat. She is a member of the Takeovers Panel (Australia), a Fellow of the Institute of Chartered Secretaries and a member of the Law Council of Australia and the Law Institute of Victoria. Before joining BHP Billiton, she was General Counsel and Company Secretary for Bonlac Foods Limited. She has been in her current position since December 2005.

J Michael Yeager BSc, MSc, 55

Group Executive and Chief Executive Petroleum

Member of the Group Management Committee

Mike Yeager joined the Group in April 2006 as Group President Energy. He was previously Vice President, ExxonMobil Development Company with responsibility for major joint venture projects. Other previous roles include Senior Vice President, Imperial Oil Ltd and Chief Executive Officer, Imperial Oil Resources, Vice President Africa, ExxonMobil Production Company, Vice President Europe, ExxonMobil Production Company and President, Mobil Exploration and Production in the US. He has been in his current position since May 2006.

5 CORPORATE GOVERNANCE STATEMENT

5.1 Governance at BHP Billiton

BHP Billiton’s Corporate Objective is to create long-term value through the discovery, development and conversion of natural resources and the provision of innovative customer and market-focused solutions.

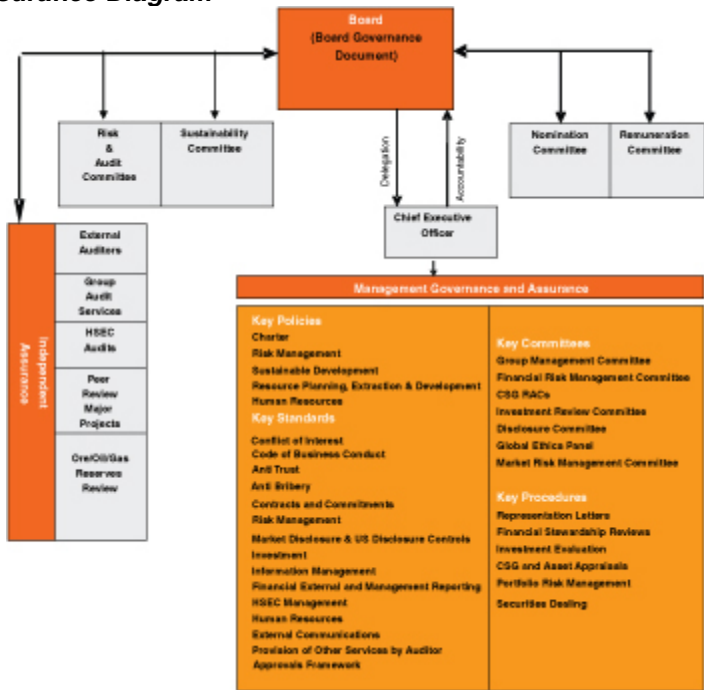
In pursuing the Corporate Objective, we have committed to the highest level of governance and strive to foster a culture that values and rewards exemplary ethical standards, personal and corporate integrity and respect for others.

Our approach to governance is predicated on the belief that there is a link between high-quality governance and the creation of shareholder value. Our expectations of our employees and those to whom we contract business are set out in our Code of Business Conduct.

This statement outlines our system of governance. Shareholders are reminded that we operate as a single economic entity under a Dual Listed Company (DLC) structure with a unified Board and management. We have primary listings in Australia and the UK and are registered with the US Securities and Exchange Commission and listed on the New York Stock Exchange (NYSE). In formulating our governance framework, the regulatory requirements in Australia, the UK and the US have been taken into account, together with prevailing standards of best practice. Where governance principles vary across these jurisdictions the Board has resolved to adopt what we consider to be the better of the prevailing standards.

It is our view that governance is not just a matter for the Board, a good governance culture must be fostered throughout the organisation.

BHP Billiton Governance Assurance Diagram



5.2 Shareholder engagement

The Board represents the Group's shareholders and is accountable to them for creating and delivering value through the effective governance of the business. Shareholders vote on important matters affecting the business, including the election of Directors, changes to our constitutional documents, the receipt of annual financial statements and incentive arrangements for executive Directors.

Shareholders are encouraged to make their views known to us and to raise directly any matters of concern. The Chairman has regular meetings with institutional shareholders and investor representatives to discuss governance matters and keeps the Board informed of the views and concerns that have been raised. The Chief Executive Officer (CEO), Chief Financial Officer (CFO) and investor relations team meet regularly with institutional shareholders to discuss our strategy, financial and operating performance.

The Dual Listed Company structure means that Annual General Meetings of BHP Billiton Plc and BHP Billiton Limited are held in the United Kingdom and Australia around late October and November, respectively, each year. Shareholders are encouraged to attend the Annual General Meetings and to use these opportunities to ask questions. Questions can be registered prior to the meeting by completing the relevant form accompanying the Notice of Meeting or by emailing the Group at investor.relations@bhpbilliton.com. Questions that have been lodged ahead of the meeting, and the answers to them, are posted to our website. The External Auditor attends the Annual General Meetings and is available to answer questions. Shareholders may appoint proxies electronically through our website. The Notice of Meeting describes how this can be done.

Proceedings at shareholder meetings and important briefings are broadcast live from our website. Copies of the speeches delivered by the Chairman and CEO to the Annual General Meetings, a summary of the proceedings and the outcome of voting on the items of business are posted to our website following both meetings.

5.3 Board of Directors

5.3.1 Role and responsibilities

The Board's role is to represent the shareholders and it is accountable to them for creating and delivering value through the effective governance of the business.

The Board has published a *Board Governance Document*, which is a statement of the practices and processes the Board has adopted to discharge its responsibilities. It includes the processes the Board has implemented to undertake its own tasks and activities; the matters it has reserved for its own consideration and decision-making; the authority it has delegated to the CEO, including the limits on the way in which the CEO can execute that authority; and provides guidance on the relationship between the Board and the CEO. The *Board Governance Document* can be found at www.bhpbilliton.com/aboutus/governance.

The matters that the Board has specifically reserved for its decision are:

- the appointment of the CEO and approval of the appointments of direct reports to the CEO
- approval of the overall strategy and annual budgets of the business
- determination of matters in accordance with the Approvals Framework
- formal determinations that are required by the Group's constitutional documents, by statute or by other external regulation.

The Board is free to alter the matters reserved for its decision, subject to the limitations imposed by the constitutional documents and the law.

Beyond those matters, the Board has delegated all authority to achieve the Corporate Objective to the CEO, who is free to take all decisions and actions which, in the CEO's judgement, are reasonable having regard to the limits imposed by the Board. The CEO remains accountable to the Board for the authority that is delegated, and for the performance of the business. The Board monitors the decisions and actions of the CEO and the performance of the business to gain assurance that progress is being made towards the Corporate Objective, within the limits it has imposed. The Board also monitors the performance of the Group through its Committees. Reports from each of the Committees are set out in section 5.5.

The CEO is required to report regularly in a spirit of openness and trust on the progress being made by the business. The

Board and its Committees determine the information required from the CEO and any employee or external party, including the External Auditor. Open dialogue between individual members of the Board and the CEO and other employees is encouraged to enable Directors to gain a better understanding of our business.

Key activities during the year

The most important task undertaken by the Board during the year was to consider, and approve, the offers for Rio Tinto. The offers are discussed in more detail in section 1.1 of this Report. The Board also considered other major business decisions, including capital projects and capital management strategies. Examples of capital projects approved by the Board are:

- The Klipspruit Project, part of the Group's Energy Coal operations in South Africa. This project includes expanding the capacity of the Klipspruit opencast mine (100 per cent BHP Billiton owned) from 4.8 million tonnes per annum (mtpa) to 8 mtpa. The Board approved capital expenditure of approximately US\$450 million.
- Bass Strait Kipper, a project to produce new supplies of natural gas and liquids through new and existing Bass Strait facilities. The Board approved capital expenditure of approximately US\$500 million.

The Board is satisfied that it has discharged its obligations as set out in the *Board Governance Document*.

5.3.2 Membership

The Board currently has 13 members. Of these, 12, including the Chairman, are independent non-executive Directors. The non-executive Directors are considered by the Board to be independent of management and free from any business relationship or other circumstance that could materially interfere with the exercise of objective, unfettered or independent judgement. Further information on the process for assessing independence is in section 5.3.5. Mr Charles Goodyear retired from the Board on 30 September 2007 and Dr David Brink retired from the Board on 28 November 2007. Dr David Morgan joined the Board on 1 January 2008, and Mr Alan Boeckmann and Mr Keith Rumble joined the Board on 1 September 2008.

The Directors of the Group are:

Mr Don Argus AO (Chairman)	The Hon E Gail de Planque
Mr Marius Kloppers	Dr David Jenkins
Mr Paul Anderson	Dr David Morgan
Mr Alan Boeckmann	Mr Jacques Nasser AO
Dr John Buchanan	Mr Keith Rumble
Mr Carlos Cordeiro	Dr John Schubert
Mr David Crawford	

The biographical details of the Directors are set out in section 4.1 of this Report.

Balance of non-executive and executive Directors



5.3.3 Skills, knowledge, experience and attributes of Directors

The Board considers that the executive and non-executive Directors together have the range of skills, knowledge and experience necessary to enable them to effectively govern the business. The non-executive Directors contribute international and operational experience; understanding of the sectors in which we operate; knowledge of world capital markets and an understanding of the health, safety, environmental and community challenges that we face. The executive Director brings additional perspectives to the Board's work through a deep understanding of the Group's business.

Directors must demonstrate unquestioned honesty and integrity, a preparedness to question, challenge and critique and a willingness to understand and commit to the highest standards of governance. Each Director must ensure that no decision or action is taken that places his or her interests in front of the interests of the business.

Directors commit to the collective decision-making processes of the Board. Individual Directors are required to debate issues openly and constructively and be free to question or challenge the opinions of others.

The Nomination Committee assists the Board in ensuring that the Board is comprised of high-calibre individuals whose background, skills, experience and personal characteristics will augment the present Board and meet its future needs.

Director qualifications



Director industry background/experience



5.3.4 Chairman

The Chairman, Mr Don Argus, is considered by the Board to be independent. He was appointed Chairman of BHP Limited in 1999 and has been Chairman of the Group since 2001. As Chairman, he is responsible for:

- ensuring that the principles and processes of the Board are maintained, including the provision of accurate, timely and clear information
- encouraging debate and constructive criticism
- setting agendas for meetings of the Board, in conjunction with the CEO and Group Company Secretary, that focus on the strategic direction and performance of our business
- leading the Board and individual Director performance assessments
- speaking and acting for the Board and representing the Board to shareholders
- presenting shareholders' views to the Board
- facilitating the relationship between the Board and the CEO.

Mr Argus was Chairman of Brambles Limited, a company listed on the ASX, until 6 February 2008. The Board considers that none of his other commitments (set out in section 4.1 of this Report) interfere with the discharge of his responsibilities to the Group. The Board is satisfied that he makes sufficient time available to serve the Group effectively.

The Group does not have a Deputy Chairman but has identified Dr John Schubert to act as Chairman should the need arise at short notice.

5.3.5 Independence

The Board considers that an appropriate balance between executive and non-executive Directors is necessary to promote shareholder interests and to govern the business effectively. It is committed to ensuring a majority of Directors are independent.

Process to determine independence

The Board has developed a policy that it uses to determine the independence of its Directors. This determination is carried out annually or at any other time where the circumstances of a Director change such as to warrant reconsideration. A copy of the Policy on Independence of Directors is available at: www.bhpbilliton.com/aboutus/governance.

The Policy provides that the test of independence is whether the Director is: 'independent of management and any business or other relationship that could materially interfere with the exercise of objective, unfettered or independent judgement by the Director or the Director's ability to act in the best interests of the BHP Billiton Group'.

Where a Director is considered by the Board to be independent but is affected by circumstances that may give rise to a perception that the Director is not independent, the Board has undertaken to explain the reasons why it reached its conclusion. In applying the independence test, the Board considers relationships with management, major shareholders, subsidiary and associated companies and other parties with whom the Group transacts business against predetermined materiality thresholds, all of which are set out in the Policy. A summary of the factors that may be perceived to impact the independence of Directors is set out below.

Tenure

The Board has a policy requiring non-executive Directors who have served on the Board for nine years or more to stand for annual re-election. These Directors must undergo a formal performance assessment (as must all other Directors standing for re-election) before the Board determines whether to recommend their re-election. Mr Don Argus and Mr David Crawford have served on the Board for more than nine years and will therefore stand for re-election at the 2008 Annual General Meetings. The Board does not believe that either of these Directors has served for a period that could materially interfere with their ability to act in the best interests of the Group. The Board also believes that they have retained independence of character and judgement and have not formed associations with management (or others) that might compromise their ability to exercise independent judgement or act in the best interests of the Group.



Retirement Plan

The former Directors of BHP Limited (Mr Don Argus, Mr David Crawford, Dr David Jenkins and Dr John Schubert) participated in a retirement plan approved by shareholders in 1989. The plan was closed on 24 October 2003 and benefits accrued to that date, together with interest earned on the benefits, have been preserved and will be paid on retirement. The Board does not believe that the independence of any participating Director is compromised as a result of this plan.

Relationships and associations

Mr David Crawford was the National Chairman of KPMG in Australia. He retired in June 2001 and has no ongoing relationship with KPMG. KPMG was a joint auditor of Billiton Plc prior to the merger with BHP Limited and of BHP Billiton up to 2003 and the sole auditor of BHP Billiton from December 2003. The Board considers this matter on an annual basis and does not consider Mr Crawford's independence to be compromised. The Board considers Mr Crawford's financial acumen to be important in the discharge of the Board's responsibilities. Accordingly, his membership of the Board and Chairmanship of the Risk and Audit Committee is considered by the Board to be appropriate and desirable.

In June 2006, the Board reappointed former Chief Executive Officer Mr Paul Anderson as a non-executive Director. Before appointing Mr Anderson, the Board considered his independence in light of the Policy on Independence of Directors, the UK Combined Code and the ASX Corporate Governance Council Principles and Recommendations. Each of these include that a measure of independence is whether a Director is a former executive. The Policy on Independence of Directors and the UK Combined Code use a five-year timeframe, while the ASX Corporate Governance Council uses a benchmark of three years between leaving executive office and joining the board. The Board considers Mr Anderson to be independent. At the time of his appointment as non-executive Director, almost four years had elapsed since Mr Anderson had retired as Chief Executive Officer. The Board maintains the view that this previous employment history does not interfere with his objective, unfettered or independent judgement or affect his ability to act in the best interests of the Group.

Some of the Directors hold or previously held positions in companies with which we have commercial relationships. Those positions and companies are set out in section 4.1 of this Report. The Board has assessed all of the relationships between the Group and companies in which Directors hold or held positions and concluded that in all cases, the relationships do not interfere with the Directors' exercise of objective, unfettered or independent judgement or their ability to act in the best interests of our business. A specific instance is Mr Alan Boeckmann, who was appointed to the Board on 1 September 2008, and who is the Chairman and CEO of Fluor Corporation. BHP Billiton has commercial dealings with Fluor Corporation, which operates in the engineering, procurement, construction and project management sectors. Prior to appointing Mr Boeckmann as a Director, the Board assessed the relationships between BHP Billiton and Fluor Corporation, and was satisfied that Mr Boeckmann would be able to apply objective, unfettered and independent judgement and act in the best interests of the BHP Billiton Group notwithstanding his role with Fluor Corporation. Transactions during the year that amounted to related-party transactions with Directors or Director-related entities under International Financial Reporting Standards (IFRS) are outlined in note 32 'Related party transactions' to the financial statements.

Mr Don Argus and Mr Jacques Nasser hold cross-directorships as they are both members of the International Advisory Board of Allianz Aktiengesellschaft. The Board has assessed these relationships and concluded that the relationships do not interfere with the Directors' exercise of objective, unfettered or independent judgement or the Directors' ability to act in the Group's best interests.

Executive Director

The executive Director, Mr Marius Kloppers, is not considered independent because of his executive responsibilities. Mr Kloppers does not hold directorships in any other company included in the ASX 100 or FTSE 100.

5.3.6 Senior Independent Director

The Board has appointed Dr John Buchanan as the Senior Independent Director of BHP Billiton Plc in accordance with the UK Combined Code. Dr Buchanan is available to shareholders who have concerns that cannot be addressed through the Chairman, CEO or CFO.

5.3.7 Terms of appointment

The Board has adopted a letter of appointment that contains the terms on which non-executive Directors will be appointed, including the basis upon which they will be indemnified. A copy of the letter is available at www.bhpbilliton.com/aboutus/governance.

5.3.8 Induction and training

Each new non-executive Director undertakes an induction program specifically tailored to their needs. A copy of an indicative induction program is available at www.bhpbilliton.com/aboutus/governance.

Non-executive Directors participate in the Board's training and development program, which has been designed to ensure that non-executive Directors update their skills and knowledge to maximise their effectiveness as Directors throughout their tenure.

5.3.9 Independent advice

The Board and its Committees may seek advice from independent experts whenever it is considered appropriate. Individual Directors, with the consent of the Chairman, may seek independent professional advice on any matter connected with the discharge of their responsibilities, at the Group's expense.

5.3.10 Remuneration

Details of our remuneration policies and practices and the remuneration paid to the Directors (executive and non-executive) are set out in the Remuneration Report in section 6 of this Report. Shareholders will be invited to consider and to approve the Remuneration Report at the 2008 Annual General Meetings.

5.3.11 Share ownership

Non-executive Directors have agreed to apply at least 25 per cent of their remuneration to the purchase of BHP Billiton shares until they achieve a shareholding equivalent in value to one year's remuneration. Thereafter, they must maintain at least that level of shareholding throughout their tenure. All dealings by Directors are reported to the Board and to the stock exchanges.

Information on our policy governing the use of hedge arrangements over shares in BHP Billiton by both Directors and members of the Group Management Committee is set out in section 6.3.5 of this Report.

Details of the Shares held by Directors are set out in section 7.19 of this Report.

5.3.12 Meetings

The Board meets as often as necessary to fulfil its role. During the reporting year it met 12 times with nine of those meetings being held in Australia, two in the UK and one in Hong Kong. Generally, meetings run for two days. The non-executive Directors meet at the end of each Board meeting in the absence of the executive Director and management. Attendance by Directors at Board and Board Committee meetings is set out in the table in section 5.4.1.

Members of the Group Management Committee and other members of senior management attended meetings of the Board by invitation. Senior managers delivered presentations on the status and performance of our businesses and matters reserved for the Board including the approval of budgets, annual financial statements and business strategy.

5.3.13 Company Secretaries

Ms Karen Wood was the Chief Governance Officer and Group Company Secretary until 11 July 2007. From that date, Ms Jane McAloon became Group Company Secretary. Prior to this appointment, Ms McAloon was the Company Secretary of BHP Billiton Limited. The Group Company Secretary is responsible for developing and maintaining the information systems and processes that enable the Board to fulfil its role. The Group Company Secretary is also responsible to the Board for ensuring that Board procedures are complied with and advising the Board on governance matters. All Directors have access to the Group Company Secretary for advice and services. Independent advisory services are retained by the Group Company Secretary at the request of the Board or Board Committees. Ms McAloon is supported by Ms Fiona Smith, who is Deputy Company Secretary of BHP Billiton Limited, and Ms Elizabeth Hobley, Deputy Company Secretary of BHP Billiton Plc. Mr Robert Franklin was Company Secretary of BHP Billiton plc until his resignation on 4 April 2008. The Board appoints and removes the Company Secretaries.

5.4 Board of Directors – Review, re-election and renewal

5.4.1 Review

The Board is committed to transparency in determining Board membership and in assessing the performance of Directors. Contemporary performance measures are considered an important part of this process.

The Board conducts regular evaluations of its performance, its Committees, the Chairman, individual Directors and the governance processes that support Board work. The evaluation of the Board's performance is conducted by focusing on individual Directors in one

year and the Board as a whole in the following year. In addition, the Board conducts evaluations of the performance of Directors retiring and seeking re-election and uses the results of the evaluation when considering the re-election of Directors. External independent advisers are engaged to assist these processes as necessary. It is thought that the involvement of an independent third party has assisted the evaluation processes to be both rigorous and fair. This year, the Board has undertaken a review of the four permanent Committees, and an evaluation of individual Directors (excluding Mr Boeckmann and Mr Rumble, who joined the Board after the review process was largely complete). The reviews were carried out with the assistance of external independent advisers. These reviews indicated that the Committees were meeting their Terms of Reference.

The effectiveness of the Board as a whole and of its Committees is assessed against the accountabilities set down in the Board Governance Document and each of the Committees' Terms of Reference. Matters considered in the assessment include:

- the effectiveness of discussion and debate at Board and Committee meetings
- the effectiveness of the Board's (and Committees') processes and relationship with management
- the quality and timeliness of meeting agendas, Board and Committee papers and secretariat support
- the composition of the Board, and each Committee, focusing on the blend of skills and experience.

The performance of individual Directors is assessed against a range of criteria including the ability of the Director to:

- consistently take the perspective of creating shareholder value
- contribute to the development of strategy
- understand the major risks affecting the business
- provide clear direction to management
- contribute to Board cohesion
- commit the time required to fulfil the role
- listen to and respect the ideas of fellow Directors and members of management.

The process is managed by the Chairman, but feedback on the Chairman's performance is provided to him by Dr Schubert.

Attendance at Board and Board Committee meetings during the year ended 30 June 2008

	Board		Risk and Audit		Nomination		Remuneration		Sustainability	
	A	B	A	B	A	B	A	B	A	B
Paul Anderson	12	10	--	--	--	--	--	--	6	6
Don Argus	12	12	--	--	7	7	--	--	--	--
David Brink ⁽¹⁾	5	5	3	3	--	--	--	--	--	--
John Buchanan	12	10	--	--	7	6	5	4	--	--
Carlos Cordeiro	12	12	--	--	--	--	5	4	--	--
David Crawford	12	12	9	9	--	--	--	--	--	--
E Gail de Planque	12	12	--	--	--	--	5	5	6	6
Charles Goodyear ⁽²⁾	1	1	--	--	--	--	--	--	--	--
David Jenkins	12	12	9	9	--	--	5	5	--	--
Marius Kloppers	12	12	--	--	--	--	--	--	--	--
David Morgan ⁽³⁾	5	5	3	3	--	--	--	--	--	--
Jacques Nasser	12	11	9	8	--	--	--	--	--	--
John Schubert	12	12	--	--	7	7	--	--	6	6

Column A – indicates the number of meetings held during the period the Director was a member of the Board and/or Committee

Column B – indicates the number of meetings attended during the period the Director was a member of the Board and/or Committee

(1) David Brink retired from the Board on 28 November 2007.

(2) Charles Goodyear retired from the Board on 30 September 2007.

(3) David Morgan was appointed to the Board on 1 January 2008, and to the Risk and Audit Committee on 11 March 2008.

5.4.2 Re-election

At least one-third of Directors retire at each Annual General Meeting. Directors are not appointed for a fixed term and must submit themselves to shareholders for re-election after three years. The period that Directors have served on the Board and the years in which they were first appointed and last elected are set out in section 4.1 of this Report.

The Board has determined that non-executive Directors who have served on the Board for more than nine years from the date of their first election must stand for re-election annually from the first Annual General Meeting after the expiration of their current term.

Re-appointment is not automatic. Retiring Directors who are seeking re-election are subject to a performance appraisal overseen by the Nomination Committee. Following that appraisal, the Board, on the recommendation of the Nomination Committee, makes a determination as to whether it will endorse a retiring Director for re-election. The Board will not endorse a Director for re-election if his or her performance is not considered satisfactory. The Board will advise shareholders in the Notice of Meeting whether or not re-election is supported.

5.4.3 Renewal

The Board plans for its own succession with the assistance of the Nomination Committee. In doing this, the Board:

- considers the skills, knowledge and experience necessary to allow it to meet the strategic vision for the business
- assesses the skills, knowledge and experience currently represented
- identifies any skills, knowledge and experience not adequately represented and agrees the process necessary to ensure a candidate is selected that brings those traits
- reviews how Board performance might be enhanced, both at an individual Director level and for the Board as a whole.

When considering new appointments to the Board, the Nomination Committee oversees the preparation of a position specification that is provided to an independent recruitment organisation retained to conduct a global search. In addition to the specific skills, knowledge and experience deemed necessary, the specification contains criteria such as:

- a proven track record of creating shareholder value
- unquestioned integrity
- a commitment to the highest standards of governance
- having the required time available to devote to the job
- strategic mind set, an awareness of market leadership, outstanding monitoring skills
- a preparedness to question, challenge and critique
- an independent point of view.

Newly appointed Directors must submit themselves to shareholders for election at the first Annual General Meeting following their appointment.

5.5 Board Committees

The Board has established Committees to assist it in exercising its authority, including monitoring the performance of the business to gain assurance that progress is being made towards the Corporate Objective within the limits imposed by the Board. The permanent Committees of the Board are the Risk and Audit Committee, the Sustainability Committee, the Nomination Committee and the Remuneration Committee. Other Committees are formed from time to time to deal with specific matters.

Each of the permanent Committees has Terms of Reference under which authority is delegated by the Board. The Terms of Reference for each Committee can be found at: www.bhpbilliton.com/aboutus/governance.

The office of the Company Secretary provides secretariat services for each of the Committees. Committee meeting agendas, papers and minutes are made available to all members of the Board. Subject to appropriate controls and the overriding scrutiny of the Board, Committee Chairmen are free to use whatever resources they consider necessary to discharge their responsibilities.

Reports from each of the Committees appear below.

5.5.1 Risk and Audit Committee Report

The Risk and Audit Committee (RAC) met nine times during the year. The current members are Mr David Crawford (Chairman), Dr David Jenkins, Dr David Morgan and Mr Jacques Nasser, all of whom are independent non-executive Directors. The Board has nominated Mr David Crawford as the Committee's financial expert.

Role and focus

The role of the RAC is to assist the Board in monitoring the decisions and actions of the CEO and the Group and to gain assurance that progress is being made towards the Corporate Objective within the CEO limits. The RAC undertakes this by overseeing:

- the integrity of the financial statements
- the appointment, remuneration, qualifications, independence and performance of the External Auditor and the integrity of the audit process as a whole
- the performance and leadership of the internal audit function
- the effectiveness of the system of internal controls and risk management
- compliance with applicable legal and regulatory requirements
- compliance by management with constraints imposed by the Board.

CSG Risk and Audit Committees

To assist management in providing the information necessary to allow the RAC to discharge its responsibilities, separate Risk and Audit Committees have been established for each Customer Sector Group (CSG) and key functional area. These Committees, known as CSG RACs, have been established and operate as committees of management but are chaired by members of the RAC or by other external appointees with appropriate skills and experience. They perform an important monitoring function in the overall governance of the Group.

Management reports on significant matters raised at CSG RAC meetings to the RAC.

Activities undertaken during the year

Integrity of financial statements

The RAC assists the Board in assuring the integrity of the financial statements. The RAC evaluates and makes recommendations to the Board about the appropriateness of accounting policies and practices, areas of judgement, compliance with Accounting Standards, stock exchange and legal requirements and the results of the external audit. It reviews the half-yearly and annual financial statements and makes recommendations on specific actions or decisions (including formal adoption of the financial statements and reports) the Board should consider in order to maintain the integrity of the financial statements. From time-to-time, the Board may delegate authority to the RAC to approve the release of the statements to the stock exchanges, shareholders and the financial community.

The CEO and CFO have certified that the 2008 financial statements present a true and fair view, in all material respects, of our financial condition and operating results and are in accordance with applicable regulatory requirements.

External Auditor

The RAC manages the relationship with the External Auditor on behalf of the Board. It recommends to the Board potential auditors for appointment and the terms of engagement, including remuneration. In December 2003, the Board, on the recommendation of the RAC, approved the appointment of KPMG. Shareholders are asked to approve reappointment of the auditors each year in the UK.

The RAC evaluates the performance of the External Auditor during its term of appointment against specified criteria including delivering value to shareholders and ourselves. RAC reviews the integrity, independence and objectivity of the External Auditor. This review includes:

- confirming that the External Auditor is, in its judgement, independent of the Group
- obtaining from the External Auditor an account of all relationships between the External Auditor and the Group
- monitoring the number of former employees of the External Auditor currently employed in senior positions and assessing whether those appointments impair, or appear to impair, the External Auditor's judgement or independence

- considering whether the various relationships between the Group and the External Auditor collectively impair, or appear to impair, the External Auditor's judgement or independence
- determining whether the compensation of individuals employed by the External Auditor who conduct the audit is tied to the provision of non-audit services and, if so, whether this impairs, or appears to impair, the External Auditor's judgement or independence

- reviewing the economic importance of our business to the External Auditor and assessing whether that importance impairs, or appears to impair, the External Auditor's judgement or independence.

The audit engagement partner rotates every five years.

We have a policy governing the conduct of non-audit work by the External Auditor. Under the Provision of Other Services Policy the External Auditor cannot provide services where the External Auditor:

- may be required to audit its own work
- participates in activities that would normally be undertaken by management
- is remunerated through a 'success fee' structure
- acts in an advocacy role for our business.

This Policy on Provision of Other Services by the External Auditor can be viewed at www.bhpbilliton.com/aboutus/governance.

Fees paid to the Group's External Auditor during the year for audit and other services were US\$21.8 million, of which 57 per cent comprised audit fees, 23 per cent related to legislative requirements (including Sarbanes-Oxley) and 20 per cent other services. Details of the fees paid are set out in note 33 'Auditor's remuneration' to the financial statements.

Based on the review by the RAC, the Board is satisfied that the External Auditor is independent.

Internal Audit

The Internal Audit function is carried out internally by Group Audit Services (GAS). The role of GAS is to determine whether risk management, control and governance processes are adequate and functioning. The Internal Audit function is independent of the External Auditor. The RAC reviews the mission and charter of GAS, the staffing levels and its scope of work to ensure that it is appropriate in light of the key risks we face. It also reviews and approves the annual internal audit plan.

The RAC also approves the appointment and dismissal of the Vice President Risk Management and Assurance and assesses his or her performance, independence and objectivity. The role of the Vice President Risk Management and Assurance includes achievement of the internal audit objectives, enterprise-wide risk management systems, risk management information systems and insurance strategy. The position is held by Mr Stefano Giorgini. Mr Giorgini reports to management and has all necessary access to management and the right to see information and explanations, and has unfettered access to the RAC.

Effectiveness of systems of internal control and risk management

In delegating authority to the CEO, the Board has established CEO limits set out in the *Board Governance Document*. One of the limits is to ensure that there is a system of control in place for identifying and managing risk. The Directors, through the RAC, review the systems that have been established for this purpose and regularly review their effectiveness.

The RAC is responsible for the oversight of risk management and reviews the internal controls and risk management systems. In undertaking this role the RAC reviews the following:

- procedures for identifying business risks and controlling their financial impact on the Group and the operational effectiveness of the policies and procedures related to risk and control
- budgeting and forecasting systems, financial reporting systems and controls
- policies and practices put in place by the CEO for detecting, reporting and preventing fraud and serious breaches of business conduct and whistle-blowing procedures
- procedures for ensuring compliance with relevant regulatory and legal requirements
- arrangements for protecting intellectual property and other non-physical assets
- operational effectiveness of the CSG RAC structures
- overseeing the adequacy of the internal controls and allocation of responsibilities for monitoring internal financial

controls

- policies, information systems and procedures for preparation and dissemination of information to shareholders, stock exchanges and the financial community.

For further discussion on our approach to risk management, refer to section 5.6 of this Report.

During the year, the Board conducted reviews of the effectiveness of the Group's system of internal controls for the financial year and up to the date of this Report in accordance with the UK Combined Code on Corporate Governance (Turnbull Guidance) and the Principles and Recommendations published by the ASX Corporate Governance Council. These reviews covered financial, operational and compliance controls and risk assessment. During the year management presented an assessment of the material business risks facing the Group and the level of effectiveness of risk management over the material business risks. The reviews were overseen by the RAC with findings and recommendations reported to the Board. In addition to considering key risks facing the Group, the Board received an assessment of the effectiveness of internal controls over key risks identified through the work of the Board Committees. The Board is satisfied that the effectiveness of the internal controls has been properly reviewed.

CEO and CFO certification

The CEO and CFO have certified to the Board that the financial statements are founded on a sound system of risk management and internal compliance and that the system is operating efficiently and effectively in all material respects.

During the year the RAC reviewed our compliance with the obligations imposed by the US Sarbanes-Oxley Act, including evaluating and documenting internal controls as required by section 404 of the Act.

The CEO and CFO, along with the management team have performed an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as of 30 June 2008. Disclosure controls and procedures are designed to provide reasonable assurance that the material financial and non-financial information required to be disclosed is recorded, processed, summarised and reported on a timely basis and that such information is accumulated and communicated to the members of the Group Management Committee, as appropriate, to allow timely decisions regarding required disclosure.

We conclude that our disclosure controls and procedures are effective in providing that reasonable assurance. In reaching that conclusion, we recognise that any controls and procedures, no matter how well designed and operated, have the inherent limitation that they can provide only reasonable, not absolute, assurance that:

- the objectives of the disclosure controls and procedures are met
- all control issues and instances of fraud, if any have occurred, have been detected.

Further, when designing and evaluating possible disclosure controls and procedures for the Group, our management is required to apply its judgement with respect to relevant costs and benefits of the various internal controls.

During the year the Group commenced implementing a new operating model to provide increased definition of roles and accountabilities between the Group Functions and the CSGs. As part of this review, GAS has implemented a co-source model and will provide assurance on key Group policies, standards and procedures. Full implementation will be completed in FY2009. In all other respects, there have been no changes in our internal control over financial reporting (as that term is defined by the Securities Exchange Act) during FY2008 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Further information on our controls and procedures, including Management's assessment of our internal control over financial reporting can be found in section 5.11.

Assessment of RAC performance

During the year the RAC assessed its performance in accordance with its Terms of Reference, with the assistance of an independent external adviser. As a result of that assessment the Committee is satisfied it has met its Terms of Reference.

5.5.2 Remuneration Committee Report

The Remuneration Committee met five times during the year. Its members are Dr John Buchanan (Chairman), Dr David Jenkins, the Hon Gail de Planque and Mr Carlos Cordeiro. All of the Committee members are independent non-executive Directors. Mr Gordon Clark of Kepler Associates acts as an independent adviser to the Committee.

Role and focus

The role of the Committee is to assist the Board in its oversight of:

- the remuneration policy and its specific application to the CEO and the CEO's direct reports, and its general

application to all employees

- the adoption of annual and longer-term incentive plans

- the determination of levels of reward for the CEO and approval of reward to the CEO's direct reports
- the annual evaluation of the performance of the CEO, by giving guidance to the Chairman
- communication to shareholders regarding remuneration policy and the Committee's work on behalf of the Board, including the preparation of the Remuneration Report for inclusion in the Annual Report
- compliance with applicable legal and regulatory requirements associated with remuneration matters.

Activities undertaken during the year

Full details of the Committee's work on behalf of the Board are set out in the Remuneration Report in section 6.

During the year the Committee assessed its performance in accordance with its Terms of Reference, with the assistance of an independent external adviser. As a result of that assessment the Committee is satisfied it has met its Terms of Reference.

5.5.3 Nomination Committee Report

The Nomination Committee met seven times during the year. The members of the Committee are Mr Don Argus (Chairman), Dr John Buchanan and Dr John Schubert. All members of the Committee are independent non-executive Directors.

Role and focus

The role of the Committee is to assist in ensuring that the Board is comprised of individuals who are best able to discharge the responsibilities of a Director, having regard to the highest standards of governance. It does so by focusing on:

- reviewing the skills represented on the Board and identifying skills that may be required
- retaining the services of independent search firms and identifying suitable candidates for the Board
- overseeing the review of the assessment of the performance of individual Directors and making recommendations to the Board on the endorsement of retiring Directors seeking re-election (refer to section 5.4.2 of this Report)
- communicating to shareholders regarding the work of the Committee on behalf of the Board.

Activities undertaken during the year

There were changes to the composition of the Board during the year. Mr Charles Goodyear retired from the Board on 30 September 2007 and Dr David Brink retired from the Board on 28 November 2007. Dr David Morgan joined the Board on 1 January 2008. The Committee retained the services of Heidrick & Struggles and Egon Zehnder to assist in the identification of potential candidates for the Board, and as mentioned in section 5.3.2 Mr Alan Boeckmann and Mr Keith Rumble joined the Board after the end of the financial year. During the year the Committee assessed its performance, with the assistance of an independent external adviser. As a result of that assessment the Committee is satisfied that it is functioning effectively.

5.5.4 Sustainability Committee Report

The Sustainability Committee met six times during the year. The members of the Committee are: Dr John Schubert (Chairman), Mr Paul Anderson and the Hon E Gail de Planque. All members of the Committee are independent non-executive Directors.

Role and focus

The role of the Sustainability Committee is to assist the Board in its oversight of:

- our compliance with applicable legal and regulatory requirements associated with health, safety, environment and community (HSEC) matters
- our performance in relation to HSEC matters
- the performance and leadership of the HSEC and the Sustainable Development functions

- HSEC risks
- our Annual Sustainability Summary Report
- communication to shareholders regarding the work of the Committee on behalf of the Board.

Sustainable development governance

Our approach to HSEC and sustainable development governance is characterised by:

- the Sustainability Committee overseeing the HSEC matters across the Group
- business line management having primary responsibility and accountability for HSEC performance
- the HSEC function providing advice and guidance directly, as well as through a series of networks across the business
- seeking input and insight from external experts such as our Forum for Corporate Responsibility
- clear links between remuneration and HSEC performance.

Activities undertaken during the year

During the year the Sustainability Committee considered reports on HSEC audits and implementation of the Group's Climate Change Policy, reviewed the Group's performance against the HSEC public targets and the Key Performance Indicators for the HSEC and Sustainable Development functions, and conducted a site visit. The Committee also reviewed the performance of the Vice President HSEC and Sustainable Development. The Committee reviewed and recommended to the Board the approval of the annual Sustainability Summary Report for publication. The Sustainability Summary Report identifies our targets for HSEC matters and its performance against those targets. A copy of the Sustainability Summary Report and Full Sustainability Report can be found at www.bhpbilliton.com. The Committee also assessed its performance in accordance with its Terms of Reference, with the assistance of an independent external adviser. As a result of that assessment the Committee is satisfied it has met its Terms of Reference.

5.6 Risk management

5.6.1 Approach to risk management

We believe that the identification and management of risk is central to achieving the Corporate Objective of delivering long-term value to shareholders. Each year, the Board reviews and considers the risk profile for the whole business. This risk profile covers both operational and strategic risks.

The Board has delegated the oversight of risk management to the RAC. In addition, the Board specifically requires the CEO to implement a system of control for identifying and managing risk. The Directors, through the RAC, review the systems that have been established for this purpose and regularly review their effectiveness.

The Group operates an Enterprise-Wide Risk Management System (EWRM) that provides an over-arching and consistent framework for the assessment and management of risks. Risks are ranked using a common methodology. Where a risk is assessed as material it is reported and reviewed by senior management. During the year, updated Risk Management Standards were approved and implemented across the Group. Our Risk Management Policy can be found at www.bhpbilliton.com/aboutus/governance.

5.6.2 Business risks

The scope of our operations and the number of industries in which we operate and engage mean that a range of factors may impact our results. Material risks that could negatively affect our results and performance include:

- fluctuations in commodity prices and impacts arising from global economic uncertainty
- fluctuations in currency exchange rates
- influence of demand from China and related investments seeking resource security
- failure to discover new reserves, maintain or enhance existing reserves or develop new operations
- actions by governments including additional taxation, infrastructure development and political events in the countries in which we operate
- inability to successfully integrate acquired businesses

- inability to recover investments in mining and oil and gas projects
- non-compliance to the Group's standards by non-controlled assets
- operating cost pressures and shortages on existing operations and expansion plans

- impact of health, safety and environmental exposures and related regulations on operations and reputation
- unexpected natural and operational catastrophes
- climate change and greenhouse effects
- inadequate human resource talent pool
- breaches in information technology security
- breaches in governance processes.

5.6.3 Risk management governance structure

The principal aim of the Group's risk management governance structure and system of internal control is to manage business risks, with a view to enhancing the value of shareholders' investments and safeguarding assets.

Management has put in place a number of key policies, processes and independent controls to provide assurance to the Board and the RAC as to the integrity of our reporting and effectiveness of our systems of internal control and risk management. The governance assurance diagram in section 5.1 highlights the relationship between the Board and the various controls in the assurance process. Some of the more significant internal control systems include Board and management Committees, CSG RACs, the EWRM and internal audit.

CSG Risk and Audit Committees

The CSG RACs assist the RAC to monitor the Group's obligations in relation to financial reporting, internal control structure, risk management systems and the internal and external audit functions.

Each half year, the Presidents and CFOs of each CSG and each of the Marketing, Shared Services Centres and Treasury functions must review internal controls and provide formal representations to the Group Financial Controller, which are noted by the applicable CSG RAC, assuring compliance with our policies and procedures and confirming that internal control systems are adequate. These representations are summarised and provided to the RAC.

Board Committees

Directors also monitor risks and controls through the RAC, the Remuneration Committee and the Sustainability Committee.

Management Committees

Management Committees also perform roles in relation to risk and control. Strategic risks and opportunities arising from changes in our business environment are regularly reviewed by the Group Management Committee (GMC) and discussed by the Board. The Financial Risk Management Committee (FRMC) reviews the effectiveness of internal controls relating to commodity price risk, counterparty credit risk, currency risk, financing risk, interest rate risk and insurance. Minutes of the GMC and the FRMC are provided to the Board. The Investment Review Committee (IRC) provides oversight for investment processes across the business and coordinates the investment toll-gating process for major investments. Reports are made to the Board on findings by the IRC in relation to major capital projects.

5.7 Management

Except for those matters that the Board has reserved for its own decision making, the CEO holds delegated authority from the Board to achieve the Corporate Objective. The CEO has developed an Approvals Framework that delegates authority to management Committees and individual members of management. Notwithstanding those further delegations, the CEO remains accountable to the Board for the authority delegated to him.

5.7.1 Group Management Committee

The senior management team of the Group is the GMC. The role of the GMC is to provide advice to the CEO on matters that are strategic and long-term in nature or have the potential to significantly impact the Group's performance and reputation, and to make decisions on key business-wide policies including the Charter, Code of Business Conduct, the Sustainable Development Policy, the Human Resources Strategy and the Risk Management Policy.

The members of the GMC are:

- Mr Marius Kloppers, Chief Executive Officer and executive Director

- Mr Marcus Randolph, Group Executive and Chief Executive Ferrous and Coal
- Mr J Michael Yeager, Group Executive and Chief Executive Petroleum
- Mr Alex Vanselow, Group Executive and Chief Financial Officer
- Ms Karen Wood, Group Executive and Chief People Officer, and
- Mr Alberto Calderon, Group Executive and Chief Commercial Officer.

Mr Charles Goodyear was a member of the GMC until 30 September 2007. Mr Andrew Mackenzie has been appointed, with effect from a date to be fixed, as Group Executive and Chief Executive Non Ferrous. Mr Mackenzie will be a member of the GMC. The biographical details of members of the GMC are set out in section 4.2 of this Annual Report.

5.7.2 Other management Committees

The CEO draws on the work of other Committees to assist in monitoring and achieving outcomes consistent with the Corporate Objective. The management Committees and their purposes are listed below:

- Financial Risk Management Committee (FRMC) - The FRMC monitors the Group's financial risk management policies and exposures and approves financial transactions within the scope of its authority.
- Investment Review Committee (IRC) - The IRC oversees the management approval processes for major investments, which are designed to ensure that investments are aligned to our agreed strategies and values, risks are identified and evaluated, investments are fully optimised to produce the maximum shareholder value within an acceptable risk framework, and appropriate risk management strategies are pursued.

5.8 Business conduct

Code of Business Conduct

We have published a Code of Business Conduct, which is available in eight languages. The Code reflects our Charter values of integrity, respect, trust and openness. It provides clear direction and advice on conducting business internationally, interacting with communities, governments and business partners and general workplace behaviour. The Code applies to Directors and to all employees, regardless of their position or location. Consultants, contractors and business partners are also expected to act in accordance with the Code. The Code of Business Conduct can be found at our website at www.bhpbilliton.com/aboutus/governance.

Insider trading

We have a Securities Dealing Code that covers dealings by Directors and identified employees and a Securities Dealing Policy that covers dealings by all other employees. Both these documents restrict dealings by Directors and employees in shares and other securities during designated prohibited periods and at any time that they are in possession of unpublished price-sensitive information. A copy of the Securities Dealing Code and Securities Dealing Policy can be found at our website at www.bhpbilliton.com/aboutus/governance.

Global Ethics Panel

The CEO has formed a Global Ethics Panel to:

- advise on matters affecting the values and behaviours of the Group
- assist business leaders in assessing acceptable outcomes on issues of business ethics
- review the rationale, structure and content of the Code of Business Conduct and propose changes
- promote awareness and effective implementation of the Code of Business Conduct.

Panel members have been selected on the basis of their knowledge of and experience in contemporary aspects of ethics and culture that are relevant to the Group and consists of both employees and external members. The Panel is chaired by the Group Executive and Chief People Officer.

Employee help lines

We have established regional help lines so that employees can seek guidance or express concerns on business-related issues. Reports can be made anonymously and without fear of retaliation. A fraud hotline facility is available for reporting cases of suspected misappropriations, fraud, bribery or corruption. Arrangements are in place to investigate such matters. Where appropriate, investigations are conducted independently. Levels of activity and support processes for the employee and fraud help lines are monitored with activity reports presented to the RAC and the Board. Further information on the Business Conduct Helpline and fraud hotline can be found in the Code of Business Conduct.

Political donations

We maintain a position of impartiality with respect to party politics and do not contribute funds to any political party, politician or candidate for public office. We do, however, contribute to the public debate of policy issues that may affect our business in the countries in which we operate.

5.9 Market disclosure

We are committed to maintaining the highest standards of disclosure ensuring that all investors and potential investors have the same access to high-quality, relevant information in an accessible and timely manner to assist them in making informed decisions. A Disclosure Committee manages our compliance with the market disclosure obligations and is responsible for implementing reporting processes and controls and setting guidelines for the release of information.

Disclosure Officers have been appointed in each of the Group's CSGs and Group Functions. These officers are responsible for identifying and providing the Disclosure Committee with material information about the activities of the CSG or functional areas using disclosure guidelines developed by the Committee.

To safeguard the effective dissemination of information we have developed a Market Disclosure and Communications Policy, which outlines how we identify and distribute information to shareholders and market participants. A copy of the Market Disclosure and Communications Policy is available at www.bhpbilliton.com/aboutus/governance.

Copies of announcements to the stock exchanges on which we are listed, investor briefings, half-yearly financial statements, the Annual Report and other relevant information are posted to the Group's website at www.bhpbilliton.com. Any person wishing to receive advice by email of news releases can subscribe at www.bhpbilliton.com.

5.10 Conformance with corporate governance standards

Our compliance with the governance standards in each of the jurisdictions in which we operate is summarised in this Statement, the Remuneration Report, the Directors' Report and the financial statements.

The Listing Rules of the UK Listing Authority require UK-listed companies to report on the extent to which they comply with the Principles of Good Governance and Code of Best Practice, which are contained in Section 1 of the Combined Code, and explain the reasons for any non-compliance.

The Listing Rules of the ASX require Australian-listed companies to report on the extent to which they meet the Principles and Recommendations published by the ASX Corporate Governance Council as part of its Principles of Good Corporate Governance (ASX Principles and Recommendations) and explain the reasons for any non-compliance.

Both the Combined Code and the ASX Principles and Recommendations require the Board to consider the application of the relevant corporate governance principles, while recognising that departures from those principles are appropriate in some circumstances. We have complied with the provisions set out in Section 1 of the Combined Code and with the ASX Principles and Recommendations throughout the financial period and have continued to comply up to the date of this Annual Report.

A checklist summarising our compliance with the UK Combined Code and the ASX Principles and Recommendations has been posted to the website at www.bhpbilliton.com/aboutus/governance.

BHP Billiton Limited and BHP Billiton Plc are registrants with the Securities and Exchange Commission in the US. Both companies are classified as foreign private issuers and both have American Depositary Receipts listed on the New York Stock Exchange (NYSE).

We have reviewed the governance requirements currently applicable to foreign private issuers under the Sarbanes-Oxley Act (US) including the rules promulgated by the Securities and Exchange Commission and the rules of the NYSE and are satisfied that we comply with those requirements.

Section 303A of the NYSE Listed Company Manual has instituted a broad regime of corporate governance requirements for NYSE-listed companies. Under the NYSE rules foreign private issuers, such as ourselves, are permitted to follow home country practice in lieu of the requirements of Section 303A, except for the rule relating to compliance with Rule 10A-3 of the Securities Exchange Act of 1934 (Rule 10A-3) and certain notification provisions contained in Section 303A of the Listed Company Manual. Section 303A.11 of the Listed Company Manual, however, requires us to disclose any significant ways in which our corporate governance practices differ from those followed by US-listed companies under the NYSE corporate governance standards. Following a comparison of our corporate governance practices with the requirements of Section 303A of the NYSE Listed Company Manual that would otherwise currently apply to foreign private issuers, the following differences were identified:

- our Nomination Committee Charter does not include the purpose of developing and recommending to the Board a set of corporate governance principles applicable to the corporation. We believe that this task is integral to the governance of the Group and is therefore best dealt with by the Board as a whole.
- Rule 10A-3 of the Securities Exchange Act of 1934 requires NYSE-listed companies to ensure that their audit committees are directly responsible for the appointment, compensation, retention and oversight of the work of the external auditor unless the company's governing law or documents or other home country legal requirements require or permit shareholders to ultimately vote on or approve these matters. While the RAC is directly responsible for remuneration and oversight of the External Auditor, the ultimate responsibility for appointment and retention of External Auditors rests with our shareholders, in accordance with UK law and our constitutional documents. The RAC does, however, make recommendations to the Board on these matters, which are in turn reported to shareholders.

While the Board is satisfied with its level of compliance with the governance requirements in Australia, the UK and the US, it recognises that practices and procedures can always be improved, and there is merit in continuously reviewing its own standards against those in a variety of jurisdictions. The Board's program of review will continue throughout the year ahead.

5.11 Controls and procedures

Controls and procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, has performed an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as of 30 June 2008. Disclosure controls and procedures are designed to provide reasonable assurance that the material financial and non-financial information required to be disclosed by BHP Billiton in the reports that it files or submits under the Securities Exchange Act of 1934 is recorded, processed, summarised and reported on a timely basis and that such information is accumulated and communicated to BHP Billiton's management, including our CEO and CFO, as appropriate to allow timely decisions regarding required disclosure. Based on the foregoing, our management, including the CEO and CFO, have concluded that our disclosure controls and procedures are effective in providing that reasonable assurance.

In designing and evaluating our disclosure controls and procedures, our management, including the CEO and CFO, recognise that any controls and procedures, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the objectives of the disclosure controls and procedures are met. Because of the inherent limitations in all control systems, no evaluations of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Group have been detected. Further, in the design and evaluation of our disclosure controls and procedures our management necessarily was required to apply its judgement in evaluating the cost-benefit relationship of possible controls and procedures.

Management's assessment of our internal control over financial reporting

Management of the Company is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rule 13a-15(f) and 15d-15(f) under the Securities Act of 1934). Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we have evaluated the effectiveness of the Company's internal control over financial reporting based on the framework and criteria established in Internal Controls – Integrated Framework, issued by the Sponsoring Organisation of the Treadway Commission (COSO). Based on this evaluation, management has concluded that the Company maintained effective internal control over financial reporting as at 30 June 2008.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements and even when determined to be effective, can only provide reasonable assurance with respect to financial statement preparation and presentation. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the

policies or procedures may deteriorate.

Our independent registered public accounting firms, KPMG and KPMG Audit Plc, have issued an audit report on the effectiveness of our internal control over financial reporting which is contained on page F-2 of this Annual Report.

There have been no changes in our internal control over financial reporting during the year ended 30 June 2008 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Principal Accountant fees and services

Fees billed

Refer to note 33 'Auditor's Remuneration' in the financial statements for a description of the fees paid to, and the services provided by, our independent accountants.

Policies and procedures

We have adopted a policy entitled 'Provision of Other Services by External Auditors' covering the Risk and Audit Committee's pre-approval policies and procedures to maintain the independence of the external auditors. The full policy can be accessed in the BHP Billiton internet site at: www.bhpbilliton.com/aboutus/governance.

In addition to audit services, the external auditor will be permitted to provide other (non-audit) services that are not, and are not perceived to be, in conflict with the role of the external auditor. In accordance with the requirements of the Exchange Act and guidance contained in PCAOB Release 2004-001, certain specific activities are listed in our detailed policy which has been 'pre-approved' by our Risk and Audit Committee.

The categories of 'pre-approved' services are as follows:

- Audit services – This is the work that constitutes the agreed scope of the statutory audit and includes the statutory audits of the Group and its entities (including interim reviews). Our Risk and Audit Committee will monitor the Audit services engagements and approve, if necessary, any changes in terms and conditions resulting from changes in audit scope, Group structure or other relevant events.
- Audit-related/assurance services – This work that is outside the required scope of the statutory audit, but is consistent with the role of the external statutory auditor. This category includes work that is reasonably related to the performance of an audit or review and is a logical extension of the audit or review scope, is of an assurance or compliance nature and is work that the auditors must or are best placed to undertake.
- Tax services – This work is of a tax nature that does not compromise the independence of the external auditor.
- Other advisory services – This work is of an advisory nature that does not compromise the independence of the external auditor.

Activities not listed specifically are therefore not 'pre-approved' and must be approved by our Risk and Audit Committee prior to engagement, regardless of the dollar value involved. Additionally, any engagement for other services with a value over US\$100,000, even if listed as a 'pre-approved' service, can only be approved by our Risk and Audit Committee, and all engagements for other services, whether 'pre-approved' or not, and regardless of the dollar value involved are reported quarterly to our Risk and Audit Committee.

While not specifically prohibited by our policy, any proposed non-audit engagement of the external auditor relating to internal control (such as a review of internal controls or assistance with implementing the regulatory requirements including the Exchange Act) must obtain specific prior approval by our Risk and Audit Committee. With the exception of the external audit of the Group financial report, any engagement identified that contains an internal control-related element is not considered to be pre-approved. In addition, whilst the categories shown above include a list of certain pre-approved services, the use of the external auditors to perform such services shall always be subject to our over-riding governance practices as articulated in the policy.

An exception can be made to the above policy where such an exception is in our interests and appropriate arrangements are put in place to ensure the integrity and independence of the external auditor. Any such exception requires the specific prior approval of our Risk and Audit Committee and must be reported to our Board. No exceptions were approved during the year ended 30 June 2008.

In addition, our Risk and Audit Committee approved no services during the year ended 30 June 2008 pursuant to paragraph (c)(7)(i)(C) of Rule 2-01 of Regulation S-X.

6.0 REMUNERATION REPORT

6.1 *The Remuneration Committee*

The Committee is committed to the principles of accountability and transparency, and to ensuring that remuneration arrangements demonstrate a clear link between reward and performance. Operating under delegated authority from the Board, its activities are governed by Terms of Reference (adopted by the Board in June 2006), which are available on our website. The Committee focuses on:

- Remuneration policy and its specific application to the CEO and other executives reporting to the CEO (Group Management Committee - GMC) as well as the general application to all our employees
- The determination of levels of reward to the CEO and other members of the GMC
- Providing guidance to the Chairman on evaluating the performance of the CEO
- Effective communication with shareholders on the remuneration policy and the Committee's work on behalf of the Board.

The members of the Committee during FY2008 were Dr John Buchanan (Chairman), Mr Carlos Cordeiro, Dr David Jenkins and the Hon E Gail de Planque. The Committee met five times in FY2008, and attendance at those meetings is set out in section 5 Corporate Governance Statement. At the invitation of the Committee, Mr Don Argus (the Group Chairman), Mr Marius Kloppers (the CEO as of 1 October 2007), Mr Charles Goodyear (the CEO pre October 2007) and Ms Karen Wood (Group Executive and Chief People Officer) attended meetings except where matters associated with their own remuneration were considered. Mr Derek Steptoe (Vice President Group Reward and Recognition) and Ms Jane McAloon (Group Company Secretary) also attended meetings by invitation. A report from the Committee and details of Board and Committee performance appear in section 5 Corporate Governance Statement.

The Committee has access to advice and views from those invited to attend meetings, as mentioned above, and can draw on services from a range of external sources, including remuneration consultants. A list of all consultants, together with the type of services supplied and whether services are provided elsewhere in the Group, is available on our website. Kepler Associates LLP, independent advisers to the Committee, supplies specialist remuneration advice. They do not provide any other services to the Group.

6.2 *Reporting requirements*

The senior management team of the Group during FY2008 was the Group Management Committee (GMC). The names and titles of the members of the GMC are set out in section 6.4 of this Report.

Australian Accounting Standards and International Financial Reporting Standards require BHP Billiton to make certain disclosures for 'key management personnel' (KMP). KMP is defined as those persons having authority and responsibility for planning, directing and controlling the activities of the Group, directly or indirectly.

For the purposes of this Report, it has been determined that the KMP are the Directors and the members of the GMC who served during FY2008. In addition, the Australian Corporations Act 2001 requires BHP Billiton to make certain disclosures in respect of the five highest-paid executives below Board level. In FY2008, the five highest-paid executives below Board level were all members of the GMC and are, therefore, already included as KMP.

6.3 *Remuneration policy and structure*

The Committee recognises that we operate in a global environment and that our performance depends on the quality of our people. It keeps the remuneration policy under regular review to ensure it is appropriate for the needs of the Group.

6.3.1 Key principles of our remuneration policy

The key principles of our remuneration policy are to:

- Provide competitive rewards to attract, motivate and retain highly-skilled executives willing to work around the world
- Apply demanding key performance indicators (KPIs), including financial and non-financial measures of performance
- Link a large component of pay to our performance and the creation of value for our shareholders

- Ensure remuneration arrangements are equitable and facilitate the deployment of human resources around our businesses

- Limit severance payments on termination to pre-established contractual arrangements that do not commit us to making unjustified payments.

The Committee is confident that these principles, which were applied in the year under review and are expected to be applied in FY2009 and beyond, continue to meet the Group's objectives.

The remuneration paid and payable to members of the GMC (including executive Directors) in respect of FY2008 is disclosed in this Report. It comprises *fixed* and *at risk* components. The manner in which these components are determined is outlined in this section. Tables showing the actual remuneration paid and payable, prepared in accordance with the requirements of the UK Companies Act 1985 and the Australian Corporations Act 2001, and relevant accounting standards, are set out in section 6.5.5 for the GMC and section 6.6.2 for non-executive Directors. A summary of remuneration paid to Mr Kloppers, as CEO and executive Director, appears in section 6.5.1 of this Report.

6.3.2 Service contracts

It is our policy that service contracts have no fixed term, but are capable of termination on 12 months' notice and that we retain the right to terminate the contract immediately by making a payment equal to 12 months' base salary and retirement benefit contribution in lieu of notice. All members of the GMC have service contracts (see section 6.4.4 of this Report for full details). These contracts typically outline the components of remuneration paid, but do not prescribe how remuneration levels are to be modified from year-to-year.

6.3.3 Fixed remuneration

Fixed remuneration is made up of base salary, retirement and other benefits. It represents approximately 28 per cent of the individual's remuneration package (based on target performance and using Expected Values for share awards).

Base salary is targeted at industry average levels for comparable roles in global companies of similar complexity and size. Market data are used to benchmark salary levels and to inform decisions on base salary changes. Base salaries are set by reference to the scope and nature of the individual's performance and experience, and are reviewed each year. The review takes into account any change in the scope of the role performed by the individual, any changes required to meet the principles of the remuneration policy and our market competitiveness.

Retirement benefits for new entrants are delivered under defined contribution plans. All defined benefit plans are now closed to new entrants. Employees who participate in these legacy defined benefit plans can continue to accrue benefits in such plans for both past and future service unless they have opted to transfer to a defined contribution plan.

Other benefits include health insurance, relocation costs, life assurance and tax advisory services as applicable. All such benefits are non-pensionable.

6.3.4 At risk remuneration

At risk remuneration is geared to Group performance and is made up of short-term and long-term incentives. It represents approximately 72 per cent of the individual's remuneration package (based on target performance and using Expected Values for share awards).

Short-term incentives are delivered annually under the Group Incentive Scheme (GIS). Awards under the GIS are split equally between a cash award (being a percentage of base salary) and a grant of Deferred Shares and/or Options (to encourage employee retention and share ownership). These Deferred Shares and/or Options are subject to a two-year vesting period before they can be exercised. If, during that period, an individual resigns without the Committee's consent, or is dismissed for cause, their entitlement is forfeited. Members of the GMC have a target cash award of 70 per cent of base salary and a maximum award of 105 per cent.

The Board has proposed a series of changes to the Group Incentive Scheme, subject to the approval of shareholders at the 2008 Annual General Meetings. In summary, it is proposed that the target cash award for the CEO and members of the GMC be increased to 80 per cent of base salary and the maximum award be increased to 160 per cent of base salary. Further details of the proposed changes are set out in the Notices convening the 2008 Annual General Meetings.

The GIS incentivises the executives to achieve annual goals linked to the business strategy, budget and personal objectives. Measures are set to reflect the critical KPIs of the Group in a combination of financial and non-financial areas. The key Group measures for the GMC in FY2008 were Health and Safety, Shareholder Value Added and Net Present Value Added. In addition, each member of the GMC had personal KPIs based on their key area of responsibility. Eighty per cent of the GMC measures were Group-based and 20 per cent were personal.

The Committee believes that the KPIs set, and the relative weightings given to the different categories of KPI effectively incentivise short-term performance. At the end of each year, the performance level achieved against each KPI is measured and awards are calculated and paid according to the level of performance.

For FY2009, the GMC scorecard will continue to be based on health and safety, financial and personal performance.

Long-term incentives, in the form of Performance Shares, are awarded annually under the Long Term Incentive Plan (LTIP). The diversified natural resources industry is capital intensive, cyclical and long term. Outstanding performance comes from accessing high-quality resources, successfully developing new projects and maintaining efficient and safe operations. The Committee believes that in this environment, success can best be measured by our Total Shareholder Return (TSR) performance relative to the TSR of an index of a peer group of companies weighted 75 per cent to mining and 25 per cent to oil and gas (the Index).

The Performance Hurdle applicable to the awards granted in December 2007, and to those to be granted in December 2008, requires BHP Billiton's TSR over a five-year performance period to be greater than the weighted average TSR of the Index. To the extent that the Performance Hurdle is not achieved, awards are forfeited. There is no retesting.

For all Performance Shares to vest, BHP Billiton's TSR must exceed the weighted average TSR of the Index by a specified percentage, determined each year by the Committee. Since the establishment of the LTIP in 2004, this percentage has been set each year at 5.5 per cent. This annual amount equates to exceeding the weighted average TSR of the Index over the five-year performance period by more than 30 per cent. For performance between the weighted average TSR of the Index and 5.5 per cent per annum above the Index, vesting occurs on a sliding scale.

In the event that the Committee does not believe that BHP Billiton's achievement of the TSR hurdle properly reflects the financial performance of the Group, it retains the discretion to lapse the Performance Shares. It is anticipated that such discretion would only be used in exceptional circumstances.

The maximum award that may be made to a participant in any one financial year is limited by the rules of the LTIP to an award with an Expected Value of twice their annual base salary. Expected Value has been used because it enables the Committee to set total target remuneration levels for the CEO and his direct reports, taking into account the degree of difficulty of the LTIP Performance Hurdle and the consequent probability of awards vesting, together with ensuring that awards are externally competitive. The Expected Value can be defined as the average outcome weighted by probability, and takes into account the difficulty of achieving performance conditions and the correlation between these and share price appreciation. The valuation methodology also takes into account factors including volatility and forfeiture risk.

Participants in the GIS and the LTIP are eligible to receive a payment equal to the dividend amount that would have been earned on the underlying shares represented by the Deferred Shares, Options and Performance Shares awarded to those participants (the Dividend Equivalent Payment). The Dividend Equivalent Payment is made to the participants once the underlying shares are issued or transferred to them. No Dividend Equivalent Payment is made in respect of Deferred Shares, Options and Performance Shares that lapse.

During FY2009, the Group will introduce a new incentive plan for employees below the GMC. The Plan will provide short-term and long-term incentives that attract, retain and motivate our senior managers. The Plan will be performance focused and make awards so as to maintain our market competitive position.

6.3.5 Share ownership guidelines

Participation in the GIS and the LTIP is approved by the Committee, and participants may be required to hold a minimum number of BHP Billiton shares (Minimum Shareholding Requirement-MSR), the level of which is determined by the Committee throughout their period of participation in the schemes. The current MSR for the CEO is 300 per cent of one year's base salary on an after-tax basis and for other members of the GMC is 200 per cent of one year's base salary on an after-tax basis, each calculated using the year-end BHP Billiton share price.

Members of the GMC are subject to a policy governing the use of hedge arrangements over BHP Billiton shares. This prohibits them from entering into hedge arrangements in relation to unvested shares and options and shares forming part of their MSR. Any permitted hedge arrangements require advance clearance under our Securities Dealing Code from specified officers and must be disclosed in this Report. None of these individuals currently has any hedge arrangement in place. In addition, the executives are prohibited from entering into any form of margin loan arrangements.

6.4 Group Management Committee remuneration details

This section contains information on the members of the GMC, including the executive Directors who served during FY2008.

The executive Directors who served during the year were Mr Marius Kloppers (CEO as of 1 October 2007 and previously Group President, Non-Ferrous Materials) and Mr Charles Goodyear (CEO pre October 2007). Mr Goodyear stood down as a Director and a member of the GMC on 30 September 2007 and retired from the Group on 1 January 2008.

In addition to the executive Directors, the other executives who served as members of the GMC during the year were Mr Alberto Calderon (Group Executive and Chief Commercial Officer), Mr Marcus Randolph (Group Executive and Chief Executive Ferrous and Coal), Mr Alex Vanselow (Group Executive and Chief Financial Officer), Ms Karen Wood (Group Executive and Chief People Officer) and Mr J Michael Yeager (Group Executive and Chief Executive Petroleum).

6.4.1 Summary of remuneration arrangements

Total remuneration for members of the GMC is divided into two components: *fixed* and *at risk*. The *at risk* component is derived only in circumstances where the individual has met challenging KPIs and Performance Hurdles that contribute to our overall profitability and performance.

6.4.2 Short-term incentives (*at risk*)

The 2008 short-term incentive outcomes were influenced by strong Shareholder Value Added performance, moderate Net Present Value Added performance impacted by increasing cost pressures and disappointing Health and Safety performance marked by an unacceptable number of fatalities. The poor Health and Safety performance for the year was taken into account in assessing incentive outcomes for the CEO and other members of the GMC. The personal performance of the CEO and other members of the GMC was strong. Details of the performance of each member of the GMC are set out in the table below. ⁽¹⁾:

	Actual GIS cash award (% of base salary) ⁽²⁾	
	Year ended 30 June 2008	Year ended 30 June 2007
Executive Directors		
Charles Goodyear ⁽³⁾	52.5	85.0
Marius Kloppers	97.6	93.0
Other members of the GMC		
Alberto Calderon ⁽⁴⁾	88.9	N/A
Marcus Randolph	105.0	93.0
Alex Vanselow	92.0	101.0
Karen Wood	92.0	102.0
J Michael Yeager	102.0	105.0

Notes

- (1) Cash awards are paid in September following the release of our annual results. They are matched with a grant of Deferred Shares and/or Options made after the Annual General Meetings. Charles Goodyear's bonus was paid after he retired from the Group. He is not eligible to receive a grant of Deferred Shares.
- (2) The maximum award is 105 per cent.
- (3) Charles Goodyear's annual cash award has been pro-rated to reflect his period of service from 1 July 2007 to his retirement date, 1 January 2008. The percentage shown is based on an annualised salary.
- (4) Alberto Calderon joined the GMC in July 2007.

6.4.3 Long-term incentives (*at risk*)

All shares under award form part of an individual's *at risk* remuneration. The extent to which the Performance Shares will vest is dependent on the extent to which the Performance Hurdle is met and continued employment. A summary of interests in incentive schemes held by members of the GMC, including details of awards granted in FY2008, is shown in section 6.5.2 of this Report.

6.4.4 Service contracts and termination provisions

The service contracts for the CEO and his direct reports have no fixed term. They typically outline the components of remuneration paid to the individual, but do not prescribe how remuneration levels are to be modified from year-to-year. The contracts are all capable of termination on 12 months' notice. In addition, we retain the right to terminate a contract immediately by making a payment equal to 12 months' base salary plus retirement benefits for that period.

	Date of contract	Notice period – Employing company	Notice period – Employee
Name			
Executive Directors			
Charles Goodyear	21 August 2003	12 months	3 months
Marius Kloppers	12 February 2008	12 months	6 months
Other members of the GMC			
Alberto Calderon	16 January 2008	12 months	6 months
Marcus Randolph	13 December 2005	12 months	6 months
Alex Vanselow	14 June 2006	12 months	6 months
Karen Wood	21 February 2006	12 months	6 months
J Michael Yeager	21 March 2006	12 months	6 months

Entitlements under the GIS, LTIP and Retirement Plans on ceasing employment

The rules of the GIS and LTIP cover any entitlements participants might have on termination in relation to short-term and long-term incentives. They outline the circumstances in which all participants would be entitled to receive any Deferred Shares, Options or Performance Shares that had been granted, but which had not vested at the date of termination. The rules of the GIS and LTIP provide that should a participant cease employment for any reason other than death/disability, resignation or termination for cause, the following would apply:

- Deferred Shares and Options already granted would vest in full
- Participants would have a right to retain entitlements to Performance Shares that have been granted but that are not yet exercisable. The number of such Performance Shares would be pro-rated to reflect the period of service from the commencement of the relevant performance period to the date of departure and would only vest and become exercisable to the extent that the Performance Hurdles are met.

The Committee regards it as an important principle that where a participant resigns without the Committee's consent, or their employment is terminated for cause, they forfeit the entitlement to their unvested Deferred Shares, Options and Performance Shares.

The rules of the GIS outline the circumstances in which participants would be entitled to a cash award for the performance year in which they cease employment. Such circumstances depend on the reason for leaving. The only circumstances in which the Committee has considered using its discretion to allow members of the GMC to receive a cash award in event of departure is for those individuals who have retired or are retiring.

On retirement, the CEO and his direct reports will receive any entitlements accrued under the rules of their respective retirement plans and as defined under their contractual arrangements.

6.4.5 Retirement benefits

With the exception of Alex Vanselow, who receives a defined benefit entitlement, all members of the GMC receive a defined contribution entitlement. To deliver the entitlement, the individual is given a choice of funding vehicles: a defined contribution plan, an unfunded Retirement Savings Plan, an International Retirement Plan, or a cash payment in lieu.

Executive Directors

Prior to his appointment as CEO, **Marius Kloppers** had the choice of a (1) 'defined benefit', (2) 'defined contribution' underpinned by a defined benefit promise, or (3) 'cash in lieu' pension entitlement for each year since 1 July 2001. He elected to take cash in lieu for each year except for FY2004 when he elected to take a defined contribution entitlement with a defined benefit underpin. Mr Kloppers retains the option to convert the entitlement accrued in the defined contribution fund to a defined benefit entitlement. However, since the value of his defined contribution entitlement (US\$531,431) exceeds the transfer value of the defined benefit underpin that he would be entitled to should he revert to the defined benefit promise (US\$530,865) (both measured at 30 June 2008), the entitlement is being treated on a defined contribution basis. Upon his succession as CEO on 1 October 2007, Mr Kloppers relinquished all future defined benefit entitlements. His defined contribution entitlement is fixed at an annual rate of 40 per cent of base salary.

Prior to his retirement, on 1 January 2008, **Charles Goodyear's** remuneration included a payment in lieu of a contribution by the Group to a pension fund fixed at an annual rate of 48 per cent of base salary. Mr Goodyear elected to defer receipt of this amount into an unfunded Retirement Savings Plan established for this purpose. The Plan allowed him to accumulate the annual payments and to defer receipt until after he retired from the Group. On retirement, he was entitled to receive the accumulated value of funds under the Retirement Savings Plan.

6.5 Group Management Committee remuneration and share awards

6.5.1 Summary of remuneration for Marius Kloppers

The following table sets out the *fixed* and *at risk* remuneration for Marius Kloppers for the year ended 30 June 2008. A remuneration table prepared in accordance with the requirements of the UK Companies Act 1985 and the Australian Corporations Act 2001, and relevant accounting standards, is provided in section 6.5.5 of this Report.

US dollars	Base salary	Retirement benefits	Other benefits	Total <i>fixed</i> remuneration	Annual cash award	Expected Value Performance Shares	Expected Value Deferred Shares	Total <i>at risk</i> remuneration
2008	1,677,070	671,215	74,288	2,422,573	1,805,878	3,779,409	970,563	6,555,850 ⁽¹⁾

Notes

(1) Consists of annual cash award to be paid in respect of FY2008 and the Expected Values of the Performance Shares and Deferred Shares granted in December 2007.

6.5.2 Share awards

The following tables set out the interests held by members of the GMC in BHP Billiton's incentive schemes, and include ordinary shares under award and ordinary shares under option.

With the exception of Alberto Calderon, whose awards were over BHP Billiton Plc ordinary shares, members of the GMC were granted awards in FY2008 over BHP Billiton Limited ordinary shares. No member of the GMC was awarded Options under the GIS in FY2008. All vested GIS Deferred Shares, GIS Performance Shares, PSP Performance Rights, GIS Options and ESP Options are exercisable (subject to limitations imposed by the Group's Securities Dealing Code).

No further awards of GIS Performance Shares, ESP Options and PSP Performance Rights will be granted.

Awards of Performance Shares under the LTIP (including the number of shares awarded in FY2008)

In accordance with the rules of the LTIP, no Performance Shares vest, or can be exercised, prior to the end of the performance period unless a participant ceases employment due to death, serious injury, disability or illness, which renders the participant incapable of continuing employment. The first vesting date will be in August 2009.

The index of peer group companies for the LTIP since its implementation in 2004, comprises, or has comprised, the following companies: Alcan, Alcoa, Alumina, Anglo American, Apache, BG Group, BP, Cameco, Vale, ConocoPhillips, Devon Energy, Exxon Mobil, Falconbridge, Freeport McMoRan, Impala, Inco, Marathon Oil, Newmont Mining, Norilsk, Peabody Energy, Phelps Dodge, Rio Tinto, Shell, Southern Copper, Teck Cominco, Total, Unocal, Woodside Petroleum and Xstrata. A description of the Performance Hurdle applying to the LTIP Performance Shares is set out in section 6.3.4 of this Report.

Name	Date of grant	At 1 July 2007	Granted	Vested	Lapsed ⁽¹⁾	At date of resignation as a Director	At 30 June 2008	Date award vests and becomes exercisable ⁽²⁾
Executive Directors								
Charles Goodyear	7 Dec 2006	592,558	-	-	414,791	592,558 ⁽³⁾	177,767	Aug 2011
	5 Dec 2005	600,000	-	-	300,000	600,000 ⁽³⁾	300,000	Aug 2010
	3 Dec 2004	500,000	-	-	150,000	500,000 ⁽³⁾	350,000	Aug 2009
	Total	1,692,558	-	-	864,791	1,692,558⁽³⁾	827,767	
Marius Kloppers	14 Dec 2007 ⁽⁴⁾	-	333,327	-	-	n/a	333,327	Aug 2012
	7 Dec 2006	225,000	-	-	-	-	225,000	Aug 2011
	5 Dec 2005	225,000	-	-	-	-	225,000	Aug 2010
	3 Dec 2004	225,000	-	-	-	-	225,000	Aug 2009
	Total	675,000	333,327				1,008,327	
Other members of the GMC								
Alberto Calderon	14 Dec 2007 ⁽⁴⁾	-	211,993	-	-	n/a	211,993	Aug 2012
	7 Dec 2006	80,000	-	-	-	-	80,000	Aug 2011
	5 Dec 2005	40,000	-	-	-	-	40,000	Aug 2010
	Total	120,000	211,993				331,993	
Marcus Randolph	14 Dec 2007 ⁽⁴⁾	-	197,676	-	-	n/a	197,676	Aug 2012
	7 Dec 2006	175,000	-	-	-	-	175,000	Aug 2011
	5 Dec 2005	110,000	-	-	-	-	110,000	Aug 2010
	3 Dec 2004	110,000	-	-	-	-	110,000	Aug 2009
	Total	395,000	197,676				592,676	
Alex Vanselow	14 Dec 2007 ⁽⁴⁾	-	197,676	-	-	n/a	197,676	Aug 2012
	7 Dec 2006	225,000	-	-	-	-	225,000	Aug 2011
	5 Dec 2005	110,000	-	-	-	-	110,000	Aug 2010
	3 Dec 2004	110,000	-	-	-	-	110,000	Aug 2009
	Total	445,000	197,676				642,676	
Karen Wood	14 Dec 2007 ⁽⁴⁾	-	154,187	-	-	n/a	154,187	Aug 2012
	7 Dec 2006	175,000	-	-	-	-	175,000	Aug 2011
	5 Dec 2005	80,000	-	-	-	-	80,000	Aug 2010
	3 Dec 2004	80,000	-	-	-	-	80,000	Aug 2009
	Total	335,000	154,187				489,187	
J Michael Yeager	14 Dec 2007 ⁽⁴⁾	-	187,702	-	-	n/a	187,702	Aug 2012
	7 Dec 2006	225,000	-	-	-	-	225,000	Aug 2011
	26 Apr 2006	325,000	-	-	-	-	325,000	Aug 2010
	Total	550,000	187,702				737,702	

Notes

- (1) In accordance with the LTIP rules, a proportion of the original share award lapsed when Charles Goodyear retired from the Group. Awards have been pro-rated to reflect the period of service from the start of each performance period to the date of retirement.
- (2) The performance period for each award ends on 30 June in the year the award vests and becomes exercisable. The expiry date of awards is the day prior to the fifth anniversary of the date the award vests and becomes exercisable.
- (3) Charles Goodyear resigned as a Director on 30 September 2007.
- (4) The market prices on date of grant were A\$42.05 and £15.45. The fair values, estimated using a Monte Carlo simulation, were A\$15.56 and £5.71.

Awards of Deferred Shares under the GIS (including the number of shares awarded in FY2008)

Name	Date of grant	At 1 July 2007	Granted	Vested	Lapsed	Exercised	At date of resignation as a Director	At 30 June 2008	Date award vests and becomes exercisable (1)	Market price on date of exercise	Aggregate gain of shares exercised
Executive Directors											
Charles Goodyear	14 Dec 2007 ⁽⁴⁾	-	39,658	39,658	-	39,658	..(2)	-	1 Jan 2008 ⁽³⁾	A\$40.30	A\$1,598,217
	7 Dec 2006	56,691	-	56,691	-	56,691	56,691 ⁽²⁾	-	1 Jan 2008 ⁽³⁾	A\$40.30	A\$2,284,647
	5 Dec 2005	76,569	-	76,569	-	76,569	76,569 ⁽²⁾	-	22 Aug 2007 ⁽³⁾	A\$39.50	A\$3,024,476
Total		133,260	39,658	172,918	-	172,918	133,260⁽²⁾	-			
Marius Kloppers	14 Dec 2007 ⁽⁴⁾	-	27,582	-	-	-	n/a	27,582	Aug 2009	-	-
	7 Dec 2006	37,300	-	-	-	-	-	37,300	Aug 2008 ⁽⁵⁾	-	-
	5 Dec 2005	52,771	-	52,771	-	-	-	52,771	22 Aug 2007 ⁽⁶⁾	-	-
Total		90,071	27,582	52,771	-	-	-	117,653			
Other members of the GMC											
Alberto Calderon	14 Dec 2007 ⁽⁴⁾	-	17,207	-	-	-	n/a	17,207	Aug 2009	-	-
	7 Dec 2006	11,926	-	-	-	-	-	11,926	Aug 2008 ⁽⁵⁾	-	-
Total		11,926	17,207	-	-	-	-	29,133			
Marcus Randolph	14 Dec 2007 ⁽⁴⁾	-	23,648	-	-	-	n/a	23,648	Aug 2009	-	-
	7 Dec 2006	29,455	-	-	-	-	-	29,455	Aug 2008 ⁽⁵⁾	-	-
	5 Dec 2005	32,199	-	32,199	-	-	-	32,199	22 Aug 2007 ⁽⁶⁾	-	-
Total		61,654	23,648	32,199	-	-	-	85,302			
Alex Vanselow	14 Dec 2007 ⁽⁴⁾	-	24,847	-	-	-	n/a	24,847	Aug 2009	-	-
	7 Dec 2006	23,030	-	-	-	-	-	23,030	Aug 2008 ⁽⁵⁾	-	-
	5 Dec 2005	25,633	-	25,633	-	-	-	25,633	22 Aug 2007 ⁽⁶⁾	-	-
Total		48,663	24,847	25,633	-	-	-	73,510			
Karen Wood	14 Dec 2007 ⁽⁴⁾	-	19,643	-	-	-	n/a	19,643	Aug 2009	-	-
	7 Dec 2006	18,267	-	-	-	-	-	18,267	Aug 2008 ⁽⁵⁾	-	-
	5 Dec 2005	20,462	-	20,462	-	-	-	20,462	22 Aug 2007 ⁽⁶⁾	-	-
	3 Dec 2004	26,631	-	-	-	-	-	26,631	Vested prior to 1 July 2007	-	-
Total		65,360	19,643	20,462	-	-	-	85,003			
J Michael Yeager	14 Dec 2007 ⁽⁴⁾	-	26,460	-	-	-	n/a	26,460	Aug 2009	-	-
	7 Dec 2006	6,614	-	-	-	-	-	6,614	Aug 2008 ⁽⁵⁾	-	-
Total		6,614	26,460	-	-	-	-	33,074			

Notes

- (1) The expiry date of awards is the day prior to the third anniversary of the date the award vests and becomes exercisable.
- (2) Charles Goodyear resigned as a Director on 30 September 2007.
- (3) As per the rules of the GIS, the awards of Deferred Shares vested when Mr Goodyear retired. The market price on the date the shares vested was A\$40.30. The market price on date of grant was A\$26.40 (2006 awards) and A\$42.05 (2007 awards).
- (4) The market prices on date of grant were A\$42.05 and £15.45. The fair values, estimated using a Net Present Value model, were A\$35.56 and £13.41.
- (5) In accordance with the GIS rules, these awards will vest and become exercisable on, or as soon as practicable after, the first non-prohibited period date occurring after 30 June 2008.
- (6) The holding period for awards ended on 30 June 2007. 100 per cent of the awards vested and became exercisable. The market prices on date of vesting were A\$35.40 and £13.65. The market prices on date of grant were A\$22.03 and £8.90.

Awards of Performance Shares under the GIS

Name	Date of grant	At 1 July 2007	Granted	Vested	Lapsed	Exercised	At 30 June 2008	Date award vests and becomes exercisable (1)	Market price on date of exercise	Aggregate gain of shares exercised
Karen Wood	21 Nov 2003	16,547	-	-	-	-	16,547	Vested prior to 1 July 2007	-	-

Notes

- (1) The expiry date of awards is the day prior to the third anniversary of the date the award vested and became exercisable.

Awards of Options under the GIS and the Employee Share Plan

Name	Date of grant	Exercise Price payable (A\$)	At 1 July 2007	Granted	Vested	Lapsed	Exercised	At date of resignation as a Director	At 30 June 2008	Date award vests and becomes exercisable	Expiry date	Market price on date of exercise	Aggregate gain of shares exercised
Charles Goodyear	3 Dec 2004	15.39	180,613	-	-	-	180,613	180,613 ⁽²⁾	-	23 Aug 2006	22 Aug 2009	A\$39.20	A\$4,300,396
	21 Nov 2003	11.11	320,725	-	-	-	320,725	320,725 ⁽²⁾	-	24 Aug 2005	23 Aug 2008	A\$36.50	A\$8,143,208
	3 Apr 2000	7.60 ⁽¹⁾	722,785	-	-	-	722,785	722,785 ⁽²⁾	-	3 Apr 2003	1 Jan 2010	A\$34.82	A\$19,675,874 ⁽³⁾
	23 Apr 1999	6.92 ⁽¹⁾	351,065	-	-	-	351,065	351,065 ⁽²⁾	-	23 Apr 2002	22 Apr 2009	A\$38.55	A\$11,104,256 ⁽⁴⁾

Notes

- (1) Represents exercise price adjusted for issues of bonus shares in respect of the DLC merger and for exercise price reduction as a result of the demergers of OneSteel Limited and BHP Steel Limited.
- (2) Charles Goodyear resigned as a Director on 30 September 2007.
- (3) Mr Goodyear exercised 350,000 Options at the original exercise price of A\$15.69. A further 372,785 bonus shares were also exercised with no exercise price to pay.
- (4) Mr Goodyear exercised 170,000 Options at the original exercise price of A\$14.29. A further 181,065 bonus shares were also exercised with no exercise price to pay.

Awards of Performance Rights under the Performance Share Plan

Name	Date of grant	At 1 July 2007	Granted	Vested	Lapsed	Exercised	At date of resignation as a Director	At 30 June 2008	Date award vests and becomes exercisable	Market price on date of exercise	Aggregate gain of shares exercised
Charles Goodyear	8 Nov 2001	15,716	-	-	-	15,716	15,716 ⁽¹⁾	-	Vested prior to 1 July 2007	A\$39.50	A\$620,782
Karen Wood	8 Nov 2001 ⁽²⁾	25,846	-	-	-	-	-	25,846	Vested prior to 1 July 2007	-	-

Notes

- (1) Charles Goodyear resigned as a Director on 30 September 2007.
- (2) The unexercised Performance Rights expire on 30 September 2011.

6.5.3 Shareplus

Shareplus, an all-employee share purchase plan, was launched in April 2007. Employees may contribute money to acquire shares (Acquired Shares) in any Plan year. The maximum annual contribution for Shareplus 2007 and Shareplus 2008 was and is US\$5,000. On the third anniversary of a Plan year, subject to the employee still being in employment, the Company will match the number of Acquired Shares held by the employee at that time and award Matched Shares on a 1:1 basis. The employees have no beneficial entitlement to the Matched Shares until they are awarded. Acquired Shares are purchased on a quarterly basis. Employees can sell their Acquired Shares at any time. All executive Directors and members of the GMC are eligible to participate in Shareplus; non-executive Directors are not. The Acquired Shares that have been purchased on behalf of the executive Directors and members of the GMC are shown in their holdings of ordinary shares in section 7 Directors' Report.

6.5.4 Estimated value range of awards

The maximum possible value of awards yet to vest to be disclosed under the Australian Corporations Act 2001 is not determinable as it is dependent on, and therefore fluctuates with, the share prices of BHP Billiton Limited and BHP Billiton Plc at a date that any award is exercised. An estimate of a maximum possible value of awards for members of the GMC can be made using the highest share price during FY2008, which was A\$49.55 and £21.96, multiplied by the number of awards for each scheme.

6.5.5 Remuneration for GMC members

The table that appears in this section has been prepared in accordance with the requirements of the UK Companies Act 1985, and the Australian

		Short-term employee benefits					Post-employment benefits	Share-based payments			
US dollars		Base salary (1)	Annual cash award	Non-monetary benefits	Other benefits	Subtotal: UK requirements	Retirement benefits	Dividend Equivalent Payment value	Value of Deferred Shares	Long-term incentive awards	Total: Australian requirements
Executive Directors											
Charles Goodyear ⁽²⁾	2008	888,750	933,188	1,324,751 ⁽³⁾	554,534 ⁽³⁾	3,701,223	426,600	249,440	824,373	947,906	6,149,542
	2007	1,777,500	1,517,985	100,762	-	3,396,247	853,200	234,053	1,486,559	1,849,039	7,819,098
Marius Kloppers	2008	1,677,070	1,805,878	74,288	-	3,557,236	671,215	264,170	985,135	1,395,886	6,873,642
	2007	1,008,036	1,025,000	34,575	-	2,067,611	416,364	126,390	732,037	659,945	4,002,347
Other GMC members											
Alberto Calderon	2008	987,023	903,783	12,773	201,929	2,105,508	345,458	83,762	473,899	548,664	3,557,291
	2007	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Marcus Randolph	2008	1,099,370	1,176,656	44,433	-	2,320,459	373,786	159,955	738,475	876,212	4,468,887
	2007	864,282	875,000	44,783	-	1,784,065	293,856	77,123	563,980	439,770	3,158,794
Alex Vanselow	2008	1,094,477	1,031,143	69,299	175,000	2,369,919	415,901	159,075	676,035	940,512	4,561,442
	2007	838,730	925,000	61,759	175,000	2,000,489	318,717	87,989	518,186	504,070	3,429,451
Karen Wood	2008	854,514	804,292	-	-	1,658,806	293,953	137,232	531,417	721,634	3,343,042
	2007	658,500	730,000	-	-	1,388,500	226,524	69,443	404,881	381,210	2,470,558
J Michael Yeager	2008	1,028,907	1,062,135	19,670	-	2,110,712	368,349	139,916	618,480	955,971	4,193,428
	2007	964,600	1,012,000	22,260	2,000,000	3,998,860	345,327	66,674	324,551	541,550	5,276,962
Former GMC members⁽⁴⁾											
	2008	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	2007	2,780,030	3,915,000	2,617	1,272,425	7,970,072	819,239	178,117	1,692,309	1,907,607	12,567,344

Notes

- (1) Base salaries are generally reviewed on 1 September each year. Amounts shown reflect salary increases paid over the 12-month period ending 30 June 2008. Base salary for Charles Goodyear reflects the period 1 July 2007 to his retirement date, 1 January 2008.
- (2) For Mr Goodyear, remuneration shown in this table is the total for FY2008. His total remuneration for the proportion of the year before he stood down as a Director and a member of the GMC was US\$946,337 for UK requirements (which is comprised of base salary: US\$444,375; annual cash award: US\$466,594; and non-monetary benefits: US\$35,368) and US\$2,170,497 for Australian requirements (which comprises the items included for UK requirements plus post-employment benefits: US\$213,300, dividend equivalent payment value: US\$124,720; value of Deferred Shares: US\$412,187 and long-term incentive awards: US\$473,953).
- (3) Non-monetary and other benefits for Mr Goodyear include a payment in respect of accrued leave and settlement of UK tax liabilities.
- (4) John Fast, Robert Kirkby, Chris Lynch and Miklos Salamon were members of the GMC in FY2007, but not in FY2008.

Explanation of terms

- (a) **Dividend Equivalent Payment value:** Participants who are awarded shares under the GIS and the LTIP are entitled to a payment in lieu of dividends. The Dividend Equivalent Payment is equal to the amount that would have been earned over the holding or performance period based on the number of awards that vest, and will be made to the participant on exercise. The value is included in remuneration over the period prior to exercising of the underlying awards and is defined as a cash-settled share-based payment.
- (b) **Other benefits (including non-monetary benefits):** Includes medical insurance, professional fees paid in respect of tax compliance and consulting, payout of unused leave entitlements, life assurance-related benefits, relocation allowance and expenses where applicable.
- (c) **Retirement benefits:** Charles Goodyear was entitled to receive retirement benefits equal to 48 per cent of his base salary. He elected to defer receipt and participate in the Group's Retirement Savings Plan. From 1 October 2007, Marius Kloppers was entitled to receive retirement benefits equal to 40 per cent of his base salary. He elected to defer receipt of the majority of the benefit and participate in the Group's Retirement Savings Plan.
- (d) **Value of Deferred Shares:** The amounts shown represent the estimated fair value of Deferred Shares earned in the year. The fair value of the Deferred Shares is estimated at grant date by discounting the total value of the shares that will be issued in the future using the risk-free interest rate for the term of the vesting period. Deferred Shares are equity-settled share-based payments. The

actual Deferred Shares will be awarded to participants following the Annual General Meetings in 2008. Participants in the GIS can elect to receive Options instead of Deferred Shares or a combination of both. In December 2007, all KMP who were eligible to participate received Deferred Shares. Once awarded (subsequent to meeting KPIs and approval at the Annual General Meetings), the only vesting condition is for participants to remain in employment for two further years. Accordingly, the number of shares (if any) that will ultimately vest cannot be determined until the service period has been completed. The estimated fair value of the Deferred Shares forms part of the *at risk* remuneration appearing throughout this Report. The fair value of Deferred Shares is apportioned to annual remuneration based on the expected future service period, which is normally three years. The vesting of Deferred Shares may be accelerated in the event of leaving or retirement from the Group, in which case the expected future service period is amended.

- (e) **Long-term incentive awards:** Long-term incentive awards are defined as equity-settled share-based payments in the form of shares. The amount in respect of long-term incentive awards represents the estimated fair value of Performance Shares granted under the LTIP. The estimated fair value has been independently determined using a Monte Carlo simulation methodology taking account of Performance Hurdles, the exercise price, the term of the award, the share price at grant date and expected price volatility of the underlying share, and the risk-free interest rate for the term of the award. Details of outstanding awards and awards vesting in the year are set out in the tables in section 6.5.2 of this Report. The estimated fair value of the award made in any year is allocated in equal amounts to each of the years during the vesting period. The fair value of Performance Shares is apportioned to annual remuneration based on the expected future service period, which is normally five years. Where entitlements to Performance Shares are preserved on leaving or retirement from the Group, the expected future service period is amended.

6.6 Non-executive Directors

The aggregate sum available to remunerate non-executive Directors is currently US\$3 million. Shareholders will be asked at the 2008 Annual General Meetings to approve an increase in this sum to US\$3.8 million, reflecting the recent appointment of additional non-executive Directors and increases in the level of fees since the aggregate sum was last fixed by shareholders.

The Board is conscious that just as it must set remuneration levels to attract and retain talented executives, so it must ensure that remuneration rates for non-executive Directors are set at a level that will attract the calibre of Director necessary to contribute effectively to a high-performing Board. Fees for the Chairman and the non-executive Directors were reviewed in July/August 2008, with the assistance of external advisers, in accordance with the policy of conducting annual reviews. The table below sets out the fees before and after the 2008 review.

The remuneration rates reflect the size and complexity of the Group, the multi-jurisdictional environment arising from the Dual Listed Companies structure, the multiple stock exchange listings, the extent of the geographic regions in which we operate and the enhanced responsibilities associated with membership of Board Committees. They also reflect the considerable travel burden imposed on members of the Board.

Non-executive Directors are not eligible to participate in any of our incentive arrangements. A standard letter of appointment has been developed for non-executive Directors and is available on our website. Each non-executive Director is appointed subject to periodic re-election by shareholders (see section 5 Corporate Governance Statement for an explanation of the process). There are no provisions in any of the non-executive Directors' appointment arrangements for compensation payable on early termination of their directorship. Mr Alan Boeckmann and Mr Keith Rumble were appointed as non-executive Directors with effect from 1 September 2008. Dates of appointment of all Directors appear in section 4 Board of Directors and Group Management Committee.

Levels of fees and travel allowances for non-executive Directors

	At 1 July 2008	At 1 July 2007
US dollars		
Base fee	140,000	121,000
Plus additional fees for:		
Senior Independent Director of BHP Billiton Plc	30,000	25,000
Committee Chair:		
Risk and Audit	50,000	45,000
Remuneration	35,000	30,000
Sustainability	35,000	30,000
Nomination	No additional fees	No additional fees
Committee membership:		
Risk and Audit	25,000	25,000
Remuneration	20,000	20,000
Sustainability	20,000	20,000
Nomination	No additional fees	No additional fees
Travel allowance:		
Greater than 3 but less than 12 hours	7,000	5,000
Greater than 12 hours	15,000	10,000
Chairman's remuneration	1,000,000	825,000

6.6.1 Retirement benefits

The following table sets out the accrued retirement benefits under the now-closed Retirement Plan of BHP Billiton Limited. The Retirement Plan was closed on 24 October 2003 and entitlements that had accumulated in respect of each of the participants were frozen. These will be paid on retirement. An earnings rate equal to the five-year Australian Government Bond Rate is being applied to the frozen entitlements from that date.

US dollars				
Name	Completed service at 30 June 2008 (years)	Increase in lump sum entitlement during the year ⁽¹⁾	Lump sum entitlement at ⁽²⁾	
			30 June 2008	30 June 2007
Don Argus	11	303,555	1,744,560	1,441,005
David Crawford	14	78,781	452,764	373,983
David Jenkins	8	54,666	314,173	259,507
John Schubert	8	39,366	226,238	186,872

Notes

- (1) Since the closure of the Retirement Plan, no further entitlements have accrued. The increase reflects the accrual at the date of closure, together with the application of the earnings rate and foreign exchange rate (the translation from Australian dollars to US dollars).
- (2) Lump sum entitlements disclosure in prior years included compulsory Group contributions to the BHP Billiton Superannuation Fund. Certain Directors have elected to transfer accumulated contributions to self-managed superannuation funds. Accordingly the entitlement amounts disclosed relate to the benefits under the retirement Plan.

6.6.2 Remuneration

The table that appears in this section has been prepared in accordance with the requirements of the UK Companies Act 1985 and the Australian Corporations Act 2001, and relevant accounting standards.

US dollars		Short-term benefits					Subtotal: UK requirements ⁽²⁾	Post-employment benefits ⁽³⁾	Total: Australian Requirements ⁽²⁾
		Fees	Committee Chair fees	Committee membership fees	Travel allowances	Other benefits (non-monetary) ⁽¹⁾			
Paul Anderson	2008	121,000	-	20,000	60,000	17,656	218,656	-	218,656
	2007	110,000	-	17,000	55,000	-	182,000	-	182,000
Don Argus	2008	825,000	-	-	25,000	27,631	877,631	42,844	920,475
	2007	750,000	-	-	30,000	-	780,000	38,651	818,651
David Brink ⁽⁴⁾	2008	62,917	-	10,417	35,000	16,868	125,202	-	125,202
	2007	110,000	22,500	25,000	40,000	3,184	200,684	-	200,684
John Buchanan	2008	146,000	30,000	-	40,000	577	216,577	-	216,577
	2007	135,000	30,000	-	35,000	-	200,000	-	200,000
Carlos Cordeiro	2008	121,000	-	20,000	45,000	3,025	189,025	-	189,025
	2007	110,000	-	20,000	55,000	1,830	186,830	-	186,830
David Crawford	2008	121,000	45,000	-	25,000	12,145	203,145	8,620	211,765
	2007	110,000	45,000	-	30,000	2,794	187,794	7,989	195,783

David Morgan ⁽⁵⁾	2008	60,500	-	7,594	-	901	68,995	3,354	72,349
	2007	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
E Gail de Planque	2008	121,000	-	40,000	70,000	2,404	233,404	-	233,404
	2007	110,000	-	37,000	64,500	1,830	213,330	-	213,330
David Jenkins	2008	121,000	-	45,000	65,000	-	231,000	-	231,000
	2007	110,000	-	45,000	45,000	990	200,990	-	200,990
Jacques Nasser	2008	121,000	-	25,000	80,000	-	226,000	-	226,000
	2007	110,000	-	25,000	50,000	-	185,000	-	185,000
John Schubert	2008	121,000	30,000	-	30,000	13,219	194,219	8,043	202,262
	2007	110,000	7,500	17,000	20,000	125	154,625	6,546	161,171

Notes

- (1) Other benefits include professional fees and reimbursements of the cost of travel, accommodation and subsistence for the Director, and where applicable, their spouse.
- (2) UK requirements: UK Companies Act 1985. Australian requirements: Australian Corporations Act 2001 and relevant accounting standards.
- (3) BHP Billiton Limited makes superannuation contributions of 9 per cent of fees paid in accordance with Australian superannuation legislation.
- (4) David Brink retired from the Board at the conclusion of the Annual General Meetings in 2007 (28 November 2007).
- (5) David Morgan was appointed a Director of BHP Billiton Limited and BHP Billiton Plc with effect from 1 January 2008.

6.7 Aggregate Directors' remuneration

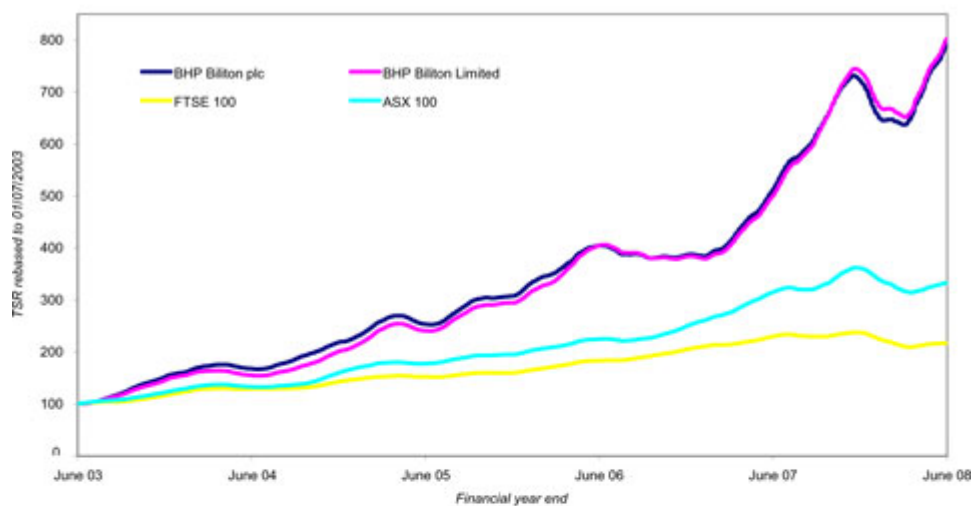
This table sets out the aggregate remuneration of executive and non-executive Directors in accordance with the requirements of the UK Companies Act 1985.

US dollars million	2008	2007
Emoluments	7	12
Termination payments	-	-
Awards vesting under long-term incentive schemes	4	19
Gains on exercise of Options	-	-
Pension contributions	1	2
Total	12	33

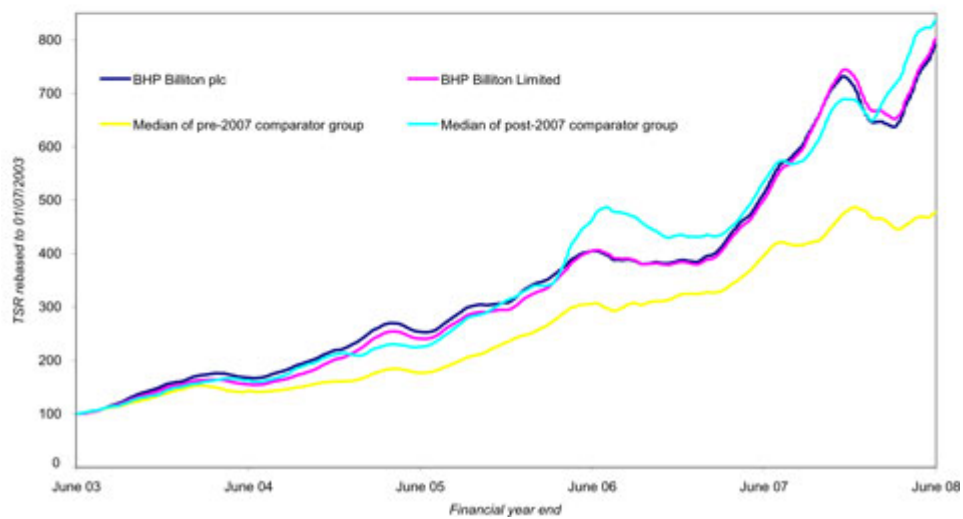
6.8 Group performance

The performance of the Group relative to the markets in which it operates over the past five years is illustrated by the two charts below. The first compares our TSR performance with that of the ASX 100 and the FTSE 100, both of which are broadly-based indices. The second illustrates performance against the LTIP's peer group index (the relevant companies are listed in section 6.5.2 of this Report). The Committee believes that the broadly-based indices and the index of peer group companies are the most appropriate benchmarks for measuring our performance. For FY2008, the total return to BHP Billiton Limited shareholders (as measured by the change in share price plus dividends reinvested) was 60.72 per cent. Over the same period the total return to BHP Billiton Plc shareholders (measured on the same basis) was 54.86 per cent. As illustrated by the charts below, BHP Billiton has strongly outperformed both the market and the pre-2007 LTIP peer group in the level of returns it has delivered to shareholders. Details of the Group's performance, share price, dividends and other Group highlights over the past five years can be found as pages 2 and 3 of the 2008 Business Review available on our website.

5-year TSR performance of BHP Billiton measured against the ASX 100 and FTSE 100 - Rebased in US\$



5-year TSR performance of BHP Billiton measured against the LTIP comparator group - Rebased in US\$



6.9 Earnings performance

Earnings performance over the last five years is represented by profit attributable to BHP Billiton shareholders and is detailed in the table following. ⁽¹⁾

US dollars million	Profit attributable to shareholders ⁽²⁾
FY2008	15,368
FY2007	13,675
FY2006	10,154
FY2005	6,426
FY2004	3,510

Notes

- (1) The impact on TSR and earnings of the share buy-back program was considered when assessing the relative performance of the Group.
(2) 2005 to 2008 are prepared in accordance with IFRS. 2004 is prepared in accordance with UK GAAP. Amounts are stated before exceptional items.

6.10 Share prices

The share prices of BHP Billiton Limited and BHP Billiton Plc on 30 June 2008 were A\$43.70 and £19.20 respectively. BHP Billiton Limited's highest and lowest share prices in the year ended 30 June 2008 were A\$49.55 (19 May 2008) and A\$31.00 (22 January 2008) respectively. BHP Billiton Plc's highest and lowest share prices in the year ended 30 June 2008 were £21.96 (19 May 2008) and £11.83 (16 August 2007) respectively.

6.11 Bonus amount for petroleum executives

Oil and gas reserve targets are one of the specific performance measures by which the BHP Billiton Petroleum executive's bonus awards are determined. The addition of reserves is a key indicator of the future success of the Petroleum business, therefore all BHP Billiton Petroleum executives, who are participants in the GIS (approximately 95), have 5 per cent weighting tied to reserve additions in their personal scorecards.

Our Petroleum Reserves Manager has overriding responsibility for the calculation of recorded reserves, and reports to our Chief Financial Officer on all matters to do with oil and gas reserves. His specific performance measures for the purpose of bonus awards do not include any component relating to recorded reserves.

Reserve Target setting for fiscal 2009

Executives are not expected to be impacted directly by the reserve target in fiscal 2009. This measure will be one of several in the areas of HSEC, Production, Finance, Growth and Corporate Citizenship that are taken into account to determine the discretionary bonus pool available for Petroleum executives. The bonus pool will then be allocated to executives based upon relative overall performance, rather than being tied to any specific reserve target achievement and weighting in a balanced scorecard.

Target reserve levels are based on expected production for the year in millions of barrels of oil equivalent. Gas is converted to an equivalent liquid. All reserves revisions are included, whether positive or negative, but sales or purchases of properties are excluded.

7.0 DIRECTORS' REPORT

The information presented by the Directors in this Directors' Report relates to BHP Billiton Limited and BHP Billiton Plc and their subsidiaries. The Chairman's Review in section 1.2, Chief Executive Officer's Report in section 1.3 and section 1 Key information, section 2 Information on the Company, section 3 Operating and Financial Review and Prospects and section 11 Shareholder information of this Annual Report are each incorporated by reference into, and form part of, this Directors' Report.

7.1 *Principal activities, state of affairs and business review*

A review of the operations of the Group during FY2008, and the expected results of those operations in future financial years, is set out in sections 1.2, 1.3, 2.2 and 3 and other material in this Annual Report. Information on the development of the Group and likely developments in future years also appears in those sections of this Annual Report. The Directors believe that to include further information on those matters and on the strategies and expected results of the operations of the Group in this Annual Report would be likely to result in unreasonable prejudice to the Group.

Our principal activities during FY2008 were minerals exploration, development, production and processing (in respect of alumina, aluminium, copper, iron ore, metallurgical coal, energy coal, nickel, manganese ores and alloys, diamonds, titanium minerals and uranium), and oil and gas exploration, development and production.

Significant changes in the state of affairs of the Group that occurred during FY2008 and significant post-balance date events are set out below and in sections 2.2 and 3 of this Annual Report.

- There were significant changes to the composition of the Board and management during the year. The CEO, Mr Charles Goodyear, ceased as a Director and as CEO on 30 September 2007. Mr Marius Kloppers commenced as CEO on 1 October 2007. Dr David Brink retired as a Director on 28 November 2007, Dr David Morgan commenced as a Director on 1 January 2008 and Mr Alan Boeckmann and Mr Keith Rumble each commenced as a Director on 1 September 2008.
- On 3 July 2007, we announced approval of the Pyrenees project located in licence block number WA-12-R in the Exmouth Sub-basin, off the northwest Australian coast. First production is expected during the first half of calendar year 2010. Project costs for the Pyrenees development are approximately US\$1.7 billion, of which BHP Billiton's share is 71.43 per cent (approximately US\$1.2 billion). The Pyrenees fields of Crosby, Ravensworth and Stickle were discovered in WA-12-R in July 2003. BHP Billiton is the operator.
- On 4 February 2008, we announced approval for US\$1.094 billion (BHP Billiton share US\$930 million) of capital expenditure to underpin accelerated growth of our Western Australian Iron Ore (WAIO) business. This amount represents pre-approval expenditure for Rapid Growth Project 5 (RGP5). The pre-approval funding will be used to commence duplication of the railway track between the Yandi mine and Port Hedland and begin the expansion of the inner harbour at Port Hedland. The early funding will also allow early procurement of long lead items and detailed engineering studies to expand capacity at Yandi and Area C.
- On 6 February 2008, we announced the terms of two inter-conditional offers for the entire the ordinary share capital of Rio Tinto Limited and Rio Tinto plc (together 'Rio Tinto'). Under the announced offers, we will offer 3.4 BHP Billiton shares for each Rio Tinto share tendered. We believe the combination of BHP Billiton and Rio Tinto is a logical and compelling combination for both companies and will unlock unique value and substantial benefits to BHP Billiton and Rio Tinto shareholders. The offers for Rio Tinto are subject to a number of conditions, including approval by BHP Billiton shareholders. In addition, certain regulatory pre-conditions need to be satisfied or waived before we can make the offers.
- On 29 February 2008, BHP Billiton approved the Douglas-Middelburg Optimisation (DMO) Project, with an expected capital investment of US\$975 million. The DMO project scope includes utilising reserves across the Douglas and Middelburg Mine Services (MMS) collieries and development of new mining areas with low strip ratio coal, with product being fed into a new 14 mtpa coal processing plant. First coal from the new mining areas is expected in mid-2008 and the new plant is expected to receive coal in mid-2010.
- On 1 May 2008, BHP Billiton announced approval of the Efficiency and Growth expansion project at Worsley Alumina in Western Australia for an estimated capital investment of US\$1.9 billion (BHP Billiton's 86 per cent share). The expansion project will lift capacity of the Worsley Refinery from 3.5 mtpa of alumina to 4.6 mtpa (100 per cent capacity) through expanded mining operations, additional refinery capacity and upgrade port facilities. The construction phase will start immediately and first production is expected in the first half of calendar year 2011.

- On 17 July 2008, we announced that BHP Billiton Mitsubishi Alliance (BMA) had entered into an agreement to acquire 100 per cent of the New Saraji Project from New Hope Corporation Limited for a cash consideration of approximately US\$2.4 billion (US\$1.2 billion, BHP Billiton share). New Saraji is an undeveloped metallurgical coal resource located adjacent to BMA's Saraji mine near Dysart in Queensland's Bowen Basin. The purchase comprises Mining Lease Application (MLA) 70383 and Exploration Prospecting Consent (EPC) 837, and port user contract entitling the purchaser to 10 mtpa of capacity at the Abbott Point coal terminal as it is expanded. Completion is subject to certain third party consents and normal government approvals.

- On 25 July 2008, BHP Billiton approved expenditure of US\$625 million (BHP Billiton share) for the full field development of the Turrum oil and gas field in the Gippsland Basin, offshore Victoria. The Turrum development will produce new supplies of natural gas and liquids through new and existing Bass Strait facilities. Turrum is part of the Gippsland Basin Joint Venture in which BHP Billiton and ExxonMobil subsidiary, Esso Australia Resources Pty Ltd (operator), each have a 50 per cent interest.

No other matter or circumstance has arisen since the end of FY2008 that has significantly affected or may significantly affect the operations, the results of operations or state of affairs of the Group in future years.

The material risks and uncertainties that could affect us are described in sections 1.5 and 5.6.2 of this Annual Report.

7.2 Share capital and buy-back programs

On 23 August 2006, we announced a US\$3 billion capital return to shareholders through an 18-month series of share buy-backs. On 7 February 2007, a US\$10 billion extension to this program was announced.

At the Annual General Meetings held during 2007, shareholders authorised BHP Billiton Plc to make on-market purchases of up to 232,802,528 of its ordinary shares, representing approximately 10 per cent of BHP Billiton Plc's issued share capital at that time. Shareholders will be asked at the 2008 Annual General Meetings to renew this authority.

During FY2008, 96.9 million ordinary shares in BHP Billiton Plc, with a nominal value of US\$0.50 per share and representing 4.1 per cent of BHP Billiton Plc's issued share capital, were purchased. These shares were bought back at an average price of 1,551.09 pence for an aggregate consideration of US\$3,075 million to return value to shareholders under our capital management program. This represented a discount to the average BHP Billiton Limited share price over the buy-back period (being 1 July 2007 to 14 December 2007) of 8.7 per cent. All of those shares purchased were cancelled. This program was suspended until further notice on 14 December 2007. The Directors have no present intention to reactivate this buy-back program.

In addition, up until 30 September 2007, we had in place an on-market share buy-back program under which up to 349 million shares of BHP Billiton Limited could be purchased on-market and cancelled, which represented less than 10 per cent of BHP Billiton Limited's issued share capital. We did not make any on-market share purchases during FY2008.

There have been no off-market purchases of BHP Billiton Limited shares in FY2008.

Some of our executives are entitled to options as part of their remuneration arrangements. We can satisfy these entitlements either by the acquisition of shares on-market or by the issue of new shares.

The shares in column 'A' below were purchased to satisfy awards made under the various BHP Billiton Limited and BHP Billiton Plc employee share schemes, and those shares purchased in BHP Billiton Limited and BHP Billiton Plc as part of our capital management program.

Period	A Total number of shares purchased	B Average price paid per share (a)	C Total number of shares purchased as part of publicly announced plans or programs	D Maximum number of shares that may yet be purchased under the plans or program	
				BHP Billiton Limited	BHP Billiton Plc (b)
1 July 2007 to 31 July 2007	10,258,197	29.58	10,075,000	207,951,445 (c)	222,727,528(d)
1 Aug 2007 to 31 Aug 2007	15,645,857	27.31	14,756,226	207,951,445 (c)	207,971,302(d)
1 Sep 2007 to 30 Sep 2007	23,120,914	30.34	22,035,000	207,951,445 (c)	185,936,302(d)
1 Oct 2007 to 31 Oct 2007	15,819,486	37.01	15,467,510	- (c)	170,468,792(d)
1 Nov 2007 to 30 Nov 2007	24,555,315	33.13	24,182,463	- (c)	146,286,329(d)
1 Dec 2007 to 31 Dec 2007	10,609,119	32.80	10,387,887	- (c)	135,898,442(d)
1 Jan 2008 to 31 Jan 2008	1,566,987	32.76	-	- (c)	135,898,442(d)
1 Feb 2008 to 29 Feb 2008	425,657	34.14	-	- (c)	135,898,442(d)
1 Mar 2008 to 31 Mar 2008	179,439	33.30	-	- (c)	135,898,442(d)

1 Apr 2008 to 30 Apr 2008	588,128	39.71	-	- (c)	135,898,442 ^(d)
1 May 2008 to 31 May 2008	485,213	39.60	-	- (c)	135,898,442 ^(d)
1 June 2008 to 30 June 2008	790,430	41.14	-	- (c)	135,898,442 ^(d)
Total	104,044,742	31.97	96,904,086		

- (a) The shares were purchased in the currency of the stock exchange on which the purchase took place, and the sale price has been converted into US dollars at the exchange rate of the day of the purchase.
- (b) On 14 December 2007, the share buy-back program was suspended.
- (c) These shares in BHP Billiton Limited may be repurchased pursuant to the on-market share buy-back program. On 15 September 2006, BHP Billiton Limited announced the reduction in the maximum number of shares that may be bought back from 358,000,000 to 349,000,000 following cancellation of 95,950,979 BHP Billiton Limited shares on 3 April 2006 and extended the on-market buy-back program for a further 12 months to 30 September 2007. After completion of an off-market share buy-back on 26 March 2007 (pursuant to which 141,098,555 shares were repurchased and cancelled), the maximum amount of shares that could be bought back pursuant to the on-market share buy-back program (without shareholder approval) was reduced from 349,000,000 to 207,951,445. While BHP Billiton Limited is able to buy back and cancel BHP Billiton Limited shares within the '10/12 limit' without shareholder approval in accordance with section 257B of the Corporations Act 2001 (Cth), BHP Billiton Limited has not made any announcement to the market extending the on-market share buy-back program beyond 30 September 2007. Any future on-market share buy-back program will be conducted in accordance with the Corporations Act 2001 (Cth) and will be announced to the market in accordance with the ASX Listing Rules.
- (d) At the Annual General Meetings held during 2007, shareholders authorised BHP Billiton Plc to make on-market purchases of up to 232,802,528 of its ordinary shares, representing approximately 10 per cent of BHP Billiton Plc's issued share capital at that time. As at 30 June 2008, 96,904,086 BHP Billiton Plc shares had been bought back (all by BHP Billiton Limited). All of the 96,904,086 shares purchased by BHP Billiton Limited have been cancelled.

7.3 Results, financial instruments and going concern

Information about our financial position is included in the financial statements in this Annual Report. The income statement set out in this Annual Report shows profit attributable to BHP Billiton members of US\$15,390 million compared to US\$13,416 million in 2007.

Details of our financial risk management objectives and policies are set out in section 5.6 of this Annual Report and note 26 'Financial risk management' in the financial statements, each of which is incorporated into, and forms part of, this Directors' Report.

The Directors, having made appropriate enquiries, consider that the Group has adequate resources to continue in the operational business for the foreseeable future and have therefore continued to adopt the going-concern basis in preparing the financial statements.

7.4 Directors

The Directors who served at any time during or since the end of the financial year were Mr Don Argus, Mr Marius Kloppers, Mr Charles Goodyear, Mr Paul Anderson, Mr Alan Boeckmann, Dr David Brink, Dr John Buchanan, Mr Carlos Cordeiro, Mr David Crawford, Hon. E Gail de Planque, Dr David Jenkins, Dr David Morgan, Mr Jacques Nasser, Mr Keith Rumble and Dr John Schubert. Further details of the Directors of BHP Billiton Limited and BHP Billiton Plc are set out in section 4.1 of this Annual Report. These details include the period for which each Director held office up to the date of this Directors' Report, their qualifications, experience and particular responsibilities, the directorships held in other listed companies since 1 July 2005, and the period for which each directorship has been held.

Mr Charles Goodyear retired as a Director and as CEO of BHP Billiton Limited and BHP Billiton Plc with effect from 30 September 2007, having been a Director since November 2001 and CEO from January 2003. Mr Marius Kloppers took over as CEO from Mr Charles Goodyear on 1 October 2007.

Dr David Brink retired as a Director of BHP Billiton Limited and BHP Billiton Plc with effect from 28 November 2007, having been a Director of BHP Billiton Plc since June 1997 and a Director of BHP Billiton Limited and BHP Billiton Plc since June 2001.

Dr David Morgan was appointed as a Director of BHP Billiton Limited and BHP Billiton Plc with effect from 1 January 2008. Mr Alan Boeckmann and Mr Keith Rumble were each appointed as a Director of BHP Billiton Limited and BHP Billiton Plc with effect from 1 September 2008.

The number of meetings of the Board and its Committees held during the year and each Director's attendance at those meetings are set out in sections 5.3.12 and 5.4.1 of this Annual Report.

7.5 Remuneration and share interests

7.5.1 Remuneration

The policy for determining the nature and amount of emoluments of members of the Group Management Committee (GMC) (including the executive Directors) and the non-executive Directors and information about the relationship between that policy and our performance are set out in sections 6.3 and 6.5 of this Annual Report.

The remuneration tables contained in sections 6.5 and 6.6 of this Annual Report set out the remuneration of members of the GMC (including the executive Directors) and the non-executive Directors.

7.5.2 Directors

The tables contained in section 7.19 of this Directors' Report set out the relevant interests in shares in BHP Billiton Limited and BHP Billiton Plc of the Directors who held office at 30 June 2008, at the beginning and end of FY2008, and in relation to all Directors in office as at the date of this Directors' Report, their relevant interests in shares in BHP Billiton Limited and BHP Billiton Plc as at the date of this Directors' Report. No rights or options over shares in BHP Billiton Limited and BHP Billiton Plc are held by any of the non-executive Directors. Interests held by executive Directors under share and option plans are set out in the tables showing interests in incentive plans contained in section 6.5 of this Annual Report. Further details of all options and rights held as at the date of this Directors' Report (including those issued during or since the end of FY2008), and of shares issued during or since the end of FY2008 upon exercise of options and rights, are set out in note 29 'Key Management Personnel' in the financial statements in this Annual Report. Except as disclosed in these tables, there have been no other changes in the Directors' interests over shares or options in BHP Billiton Limited and BHP Billiton Plc between 30 June 2008 and the date of this Directors' Report.

We have not made available to any Director any interest in a registered scheme.

The former Directors of BHP Limited participated in a retirement plan under which they were entitled to receive a payment on retirement calculated by reference to years of service. This plan was closed on 24 October 2003, and benefits accrued to that date are held by BHP Billiton Limited and will be paid on retirement. Further information about this plan and its closure are set out in section 6.6.1 of this Annual Report.

7.5.3 GMC members

The table contained in section 7.20 of this Directors' Report sets out the relevant interests held by members of the GMC (other than Directors) in shares of BHP Billiton Limited and BHP Billiton Plc at the beginning and end of FY2008, and at the date of this Directors' Report. Interests held by members of the GMC under share and option plans are set out in the tables showing interests in incentive plans contained in section 6.5 of this Annual Report. Further details of all options and rights held as at the date of this Directors' Report (including those issued during or since the end of FY2008), and of shares issued during or since the end of FY2008 upon exercise of options and rights, are set out in note 29 'Key Management Personnel' in the financial statements in this Annual Report.

7.6 Secretaries

Ms Jane McAloon is the Group Company Secretary. Details of her qualifications and experience are set out in section 4.1 of this Annual Report. The following people also act as the Company Secretaries of either BHP Billiton Limited or BHP Billiton Plc: Ms Fiona Smith, BSc LLB, FCIS, Deputy Company Secretary BHP Billiton Limited and Ms Elizabeth Hobley, BA (Hons), ACIS, Deputy Company Secretary BHP Billiton Plc. Each such individual has experience in a company secretariat role arising from time spent in such roles within BHP Billiton or other large listed companies.

7.7 Indemnities and insurance

Rule 146 of the BHP Billiton Limited Constitution and Article 146 of the BHP Billiton Plc Articles of Association require each Company to indemnify to the extent permitted by law, each Director, Secretary or executive officer of BHP Billiton Limited and BHP Billiton Plc respectively against liability incurred in, or arising out of, the conduct of the business of the Company or the discharge of the duties of the Director, Secretary or executive officer. The Directors named in section 4.1 of this Annual Report, the executive officers and the Company Secretaries of BHP Billiton Limited and BHP Billiton Plc have the benefit of this requirement, as do individuals who formerly held one of those positions.

In accordance with this requirement, BHP Billiton Limited and BHP Billiton Plc have entered into Deeds of Indemnity, Access and Insurance (Deeds of Indemnity) with each of their respective Directors. The Deeds of Indemnity are qualifying third party indemnity provisions for the purposes of the Companies Act 1985 (UK) and the Companies Act 2006 (UK).

We have a policy that we will, as a general rule, support and hold harmless an employee who, while acting in good faith, incurs personal liability to others as a result of working for us. In addition, where a person chairs a Customer Sector Group Risk and Audit Committee, and that person is not already indemnified as an officer or a Director, a policy is in place to indemnify that chairperson in the same manner as our officers are indemnified. This policy has been approved by the Board.

From time to time, we engage our External Auditor, KPMG, to conduct non-statutory audit work and provide other services in accordance with our policy on the provision of other services by the External Auditor. The terms of engagement include an indemnity in favour of KPMG:

- against all losses, claims, costs, expenses, actions, demands, damages, liabilities or any proceedings (liabilities) incurred by KPMG in respect of third party claims arising from a breach by the Group under the engagement terms; and

- for all liabilities KPMG has to the Group or any third party as a result of reliance on information provided by the Group that is false, misleading or incomplete.

We have insured against amounts that we may be liable to pay to Directors, Company Secretaries or certain employees pursuant to Rule 146 of the Constitution of BHP Billiton Limited and Article 146 of the Articles of Association of BHP Billiton Plc or that we otherwise agree to pay by way of indemnity. The insurance policy also insures Directors, Company Secretaries and some employees against certain liabilities (including legal costs) they may incur in carrying out their duties for us.

We have paid premiums for this 'Directors and Officers' insurance of US\$3,144,750 net during FY2008. Some Directors, Secretaries and employees contribute to the premium for this insurance.

7.8 Employee policies and involvement

We are committed to open, honest and productive relationships with our employees based on the values of our Charter and aligning the interests of employees with those of our shareholders.

Our approach to people is outlined in our Human Resources Policy, our Code of Business Conduct and our Human Resources Management Standards and Procedures. Together, these documents define our approach to involving and leading our employees, and the standards we expect, especially of our leaders.

It is important to us that we encourage and maintain effective communication and consultation between employees and management. The prime relationship and accountability for this is through the relationship of the employee and their direct supervisor. Employees are also provided with regular briefings by senior management on important issues such as our strategy, performance and health, safety and environmental matters.

To facilitate global communications, we have a dedicated communications support team, which manages the release of information to employees across the world, through regular production and communication of operational and global newsletters, bulletins and staff news releases.

We also provide information about issues of relevance to employees through our intranet and email facilities and other media, including newsletters suitable to the local environment. These are all important tools for gaining employee feedback and increasing awareness of corporate and safety performance and other critical industry and operational issues. Other consultative methods are in place to address issues impacting employees, and in addition, grievance or dispute resolution procedures apply in all businesses.

All employees are invited to participate in Shareplus, the all-employee share purchase plan or, where local regulations limit its operation, cash equivalent schemes. The scheme was introduced in April 2007. By April 2008, 40 per cent of eligible employees had elected to join. Employee share schemes are described in section 6.5.4 of this Annual Report. Incentive and bonus schemes also operate across the Group, which include targets relating to our overall financial and other performance.

All employment decisions are based on merit and not on personal attributes unrelated to job performance (including disability). Should employees become disabled during employment, they will be considered for roles within their capability and may also be retrained. For the purpose of training, career development and promotion, disabled employees will be treated in the same way as other employees and we will be as flexible as practicable in the working routine and workplace environment to accommodate particular needs.

All our employees can access our Annual Reports and other key publications via the intranet or hard copy. The means by which we communicate with shareholders is described in section 5.2 of this Annual Report.

7.9 Environmental performance

Particulars in relation to environmental performance are referred to in sections 3.3 and 7.21 of this Annual Report and in the Sustainability Report, available at www.bhpbilliton.com.

7.10 Dividends

A final dividend of 41.0 US cents per share will be paid on 25 September 2008. Details of the dividends paid and the dividend policy are set out in sections 3.7.6 and 11.3 of this Annual Report.

7.11 Auditors

A resolution to reappoint KPMG Audit Plc as the auditor of BHP Billiton Plc will be proposed at the 2008 Annual General Meetings in accordance with section 385 of the Companies Act 1985 (UK).

No person who was an officer of BHP Billiton during FY2008 was a director or partner of the Group's External Auditors at a time when the Group's External Auditors conducted an audit of the Group.

Each person who held the office of Director at the date the Board resolved to approve this Directors' Report makes the following statements:

- so far as the Director is aware, there is no relevant audit information of which the Group's External Auditors are unaware; and
- the Director has taken all steps that he or she ought to have taken as a Director to make him or herself aware of any relevant audit information and to establish that the Group's External Auditors are aware of that information.

7.12 Non-audit services

Details of the non-audit services undertaken by our External Auditors, including the amounts paid for non-audit services, are set out in note 33 'Auditor's remuneration' in the financial statements. Based on advice provided by the Risk and Audit Committee, the Directors have formed the view that the provision of non-audit services is compatible with the general standard of independence for auditors, and that the nature of non-audit services means that auditor independence was not compromised. Further information about our policy in relation to the provision of non-audit services by the auditor is set out in section 5.5.1 of this Annual Report.

7.13 Value of land

Much of our interest in land consists of leases and other rights that permit the working of such land and the erection of buildings and equipment thereon for the purpose of extracting and treating minerals. Such land is mainly carried in the accounts at cost and it is not possible to estimate the market value, as this depends on product prices over the long term, which will vary with market conditions.

7.14 Political and charitable donations

No political contributions or donations for political purposes were made during FY2008. We made charitable donations in the United Kingdom of US\$1,068,780 (cash) (2007: US\$734,578) and worldwide, including in-kind support and administrative cost totalling US\$141,009,613 (2007: US\$103,362,481).

7.15 Exploration, research and development

Companies within the Group carry out exploration and research and development necessary to support their activities. Further details are provided in sections 2.6 and 2.7 of this Annual Report.

7.16 Creditor payment policy

When we enter into a contract with a supplier, payment terms will be agreed when the contract begins and the supplier will be made aware of these terms. We do not have a specific policy towards our suppliers and do not follow any code or standard practice. However, we settle terms of payment with suppliers when agreeing overall terms of business, and seek to abide by the terms of the contracts to which we are bound. As at 30 June 2008, BHP Billiton Plc (the unconsolidated parent entity) had no trade creditors outstanding and therefore had nil days purchases outstanding in respect of costs, based on the total invoiced by suppliers during FY2008.

7.17 Class order

BHP Billiton Limited is a company of a kind referred to in Australian Securities and Investments Commission Class Order No. 98/100, dated 10 July 1998. Amounts in this Directors' Report and the financial statements, except estimates of future expenditure or where otherwise indicated, have been rounded to the nearest million dollars in accordance with that Class Order.

7.18 Proceedings on behalf of BHP Billiton Limited

No proceedings have been brought on behalf of BHP Billiton Limited, nor any application made under section 237 of the Australian Corporations Act 2001.

7.19 Directors' shareholdings

The tables below set out information pertaining to the shares held by Directors in BHP Billiton Limited and BHP Billiton Plc.

BHP Billiton Limited shares	As at date of Directors' Report	As at 30 June 2008	As at 30 June 2007
Paul Anderson ⁽¹⁾	106,000	106,000	106,000
Don Argus ⁽²⁾	321,890	321,890	321,890
Alan Boeckmann ⁽⁷⁾	–	–	–
David Brink ⁽⁵⁾	–	–	–
John Buchanan	–	–	–
Carlos Cordeiro ⁽³⁾	6,550	6,550	6,550
David Crawford ⁽²⁾	33,127	33,127	33,127
E Gail de Planque ⁽³⁾	3,580	3,580	3,580
Charles Goodyear ^{(2) (4) (6)}	998,755	998,755	998,755
David Jenkins	2,066	2,066	2,066
Marius Kloppers ⁽²⁾	160	160	–
David Morgan ⁽⁷⁾	146,550	146,550	–
Jacques Nasser ⁽³⁾	5,600	5,600	5,600
Keith Rumble ⁽⁷⁾	–	–	–
John Schubert	23,675	23,675	23,675

BHP Billiton Plc shares	As at date of Directors' Report	As at 30 June 2008	As at 30 June 2007
Paul Anderson ⁽¹⁾	4,000	4,000	4,000
Don Argus	–	–	–
Alan Boeckman ⁽⁷⁾	–	–	–
David Brink ^{(2) (5)}	70,000	70,000	70,000
John Buchanan	20,000	20,000	20,000
Carlos Cordeiro	–	–	–
David Crawford	–	–	–
E Gail de Planque	–	–	–
Charles Goodyear ^{(2) (4) (6)}	2,000	2,000	2,000
David Jenkins	10,000	10,000	10,000
Marius Kloppers ⁽²⁾	396,683	396,683	396,683
David Morgan ⁽⁷⁾	–	–	–
Jacques Nasser	–	–	–
Keith Rumble ⁽²⁾⁽⁷⁾	7,000	–	–
John Schubert	–	–	–

- (1) 66,000 BHP Billiton Limited shares are held in the form of 33,000 American Depositary Shares. 4,000 BHP Billiton Plc shares are held in the form of 2,000 American Depositary Shares.
- (2) Includes shares held in the name of spouse, superannuation fund and/or nominee.
- (3) All BHP Billiton Limited shares are held in the form of American Depositary Shares: C Cordeiro (3,275), E G de Planque (1,790) and J Nasser (2,800).
- (4) 82,604 BHP Billiton Limited shares are held in the form of 41,302 American Depositary Shares and 2,000 BHP Billiton Plc shares are held in the form of 1,000 American Depositary Shares.
- (5) D Brink retired as a Director with effect from 28 November 2007. His disclosed holdings as at 30 June 2008 and as at the date of this Directors' Report reflect his holdings as at 28 November 2007.
- (6) C Goodyear retired as a Director with effect from 30 September 2007 and left the Group on 1 January 2008. His holdings as at 30 June 2008 and as at the date of this Directors' Report reflect his holdings as at the date he retired as a Director (30 September 2007).
- (7) Dr David Morgan was appointed to the Board with effect from 1 January 2008. Mr Boeckmann and Mr Rumble were appointed to the Board with effect from 1 September 2008.

7.20 GMC members' shareholdings (other than Directors)

The following table sets out information pertaining to the shares in BHP Billiton Limited held by those senior executives who were members of the GMC during FY2008 (other than the executive Directors).

BHP Billiton Limited shares	As at date of Directors' Report	As at 30 June 2008	As at 30 June 2007
Alberto Calderon ⁽¹⁾ ⁽²⁾	–	–	–
Marcus Randolph ⁽¹⁾	175,594	175,594	175,437
Alex Vanselow ⁽¹⁾	53,057	53,057	52,900
Karen Wood ⁽¹⁾	45,813	45,813	45,656
J Michael Yeager ⁽¹⁾	134	134	–

(1) Includes shares held in the name of spouse, superannuation fund and/or nominee.

(2) Alberto Calderon acquired 156 shares in BHP Billiton Plc, during FY2008 and holds a total of 156 shares in BHP Billiton Plc (as at 30 June 2008 and as at the date of this Directors' Report).

7.21 Performance in relation to environmental regulation

An environmentally significant incident is one with a severity rating of 3 or above based on our internal severity rating scale (tiered from 1 to 5 by increasing severity). There have been no significant incidents during FY2008.

Fines and prosecutions

Further information about our performance in relation to environmental regulation can be found in section 3.3 of this Annual Report.

The following fines were imposed during FY2008:

BHP Billiton business	Description of fine or prosecution
Aluminium – Worsley Alumina	In November 2007, an infringement notice for A\$100 (US\$86) was received from the Shire of Boddington for burning forest residue without a permit between 2 and 11 November 2007.
Base Metals – Cerro Colorado	In June 2007, a fine was received from COREMA regarding breaches of environmental permits for a total of US\$90,000.
Energy Coal – Navajo, New Mexico	In November 2007, two Notices of Violation were issued and a fine for US\$584 was received for failure to protect topsoil from erosion. Additionally, in February 2008, a Notice of Violation was issued and a fine for US\$1,664 was received for failure to report the correct storage capacity of a sediment control impoundment.
Petroleum – Neptune, Gulf of Mexico	In November 2007, a Notice of Violation for US\$250 was received in relation to an incident which occurred during a system flush procedure where a blowback allowed diesel mist to exit from the vent line and into the water. It is estimated that 0.1 gallons of diesel was discharged into the water.
Stainless Steel Materials – Maya Niquel S.A., Guatemala	Maya Niquel S.A. carries out nickel exploration activities in Guatemala. In June 2008, The Ministry of Environment issued a resolution fining Maya Niquel S.A. US\$25,000 for allegedly operating without a proper Environmental Impact Statement. Maya Niquel S.A. has not paid the fine and is appealing the matter.

7.22 Share capital, restrictions on transfer of shares and other additional information

Information relating to BHP Billiton Plc's share capital structure, restrictions on the holding or transfer of its securities or on the exercise of voting rights attaching to such securities and certain agreements triggered on a change of control, is set out in the following sections of this Annual Report:

- Section 2.8 (Government regulations)
- Section 2.12 (Organisational structure)
- Section 2.13 (Material contracts)
- Section 2.14 (Constitution)
- Section 5.4 (Board of Directors – Review, re-election and renewal)
- Section 7.2 (Share capital and buy-back programs)
- Section 11.2 (Share ownership)
- Footnote (a) to note 21 'Share capital' and footnote (d) to note 25 'Employee share ownership plans' to the Financial Statements

Each of the above sections is incorporated by reference into, and forms part of, this Directors' Report.

The Directors' Report is made in accordance with a resolution of the Board.

8 LEGAL PROCEEDINGS

We are involved from time to time in legal proceedings and governmental investigations of a character normally incidental to our business, including claims and pending actions against us seeking damages or clarification of legal rights and regulatory inquiries regarding business practices. In many cases, insurance or other indemnification protection afforded to us relates to such claims and may offset the financial impact on the Group of a successful claim.

This section summarises the significant legal proceedings and investigations in which we are currently involved.

Pinal Creek/Miami Wash area

BHP Copper Inc (BHP Copper) is involved in litigation concerning groundwater contamination resulting from historic mining operations near the Pinal Creek/Miami Wash area located in the State of Arizona. BHP Copper and the other members of the Pinal Creek Group (which consists of BHP Copper, Phelps Dodge Miami Inc and Inspiration Consolidated Copper Co) filed a contribution action in November 1991 in the Federal District Court for the District of Arizona against former owners and operators of the properties alleged to have caused the contamination. As part of this action, BHP Copper is seeking an equitable allocation of cleanup costs between BHP Copper, the other members of the Pinal Creek Group, and BHP Copper's predecessors. BHP Copper's predecessors have asserted a counterclaim in this action seeking indemnity from BHP Copper based upon their interpretation of the historical transaction documents relating to the succession in interest of the parties.

A State consent decree (the Decree) was approved by the Federal District Court for the District of Arizona in August 1998. The Decree authorises and requires groundwater remediation and facility-specific source control activities, and the members of the Pinal Creek Group are jointly liable for performing the non-facility specific source control activities. Such activities are currently ongoing. As of 30 June 2008, we have provided US\$125 million (2007: US\$122 million) for our anticipated share of the planned remediation work, based on a range reasonably foreseeable up to US\$170 million (2007: US\$166 million), and we have paid out US\$58 million up to 30 June 2008. These amounts are based on the provisional equal allocation of these costs among the three members of the Pinal Creek Group. BHP Copper is seeking a judicial restatement of the allocation formula to reduce its share, based upon its belief, supported by relevant external legal and technical advice, that its property has contributed a smaller share of the contamination than the other parties' properties. BHP Copper is contingently liable for the whole of these costs in the event that the other parties are unable to pay.

BHP Copper has also filed suit against a number of insurance carriers seeking to recover under various insurance policies for remediation, response, source control and other costs noted above incurred by BHP Copper.

Rio Algom Pension Plan

In June 2003, Alexander E Lomas, a retired member of the Pension Plan for Salaried Employees of Rio Algom Mines Limited (Plan), filed a Notice of Application in a representative capacity in the Ontario Superior Court of Justice Commercial List against Rio Algom Limited (RAL) and the Plan Trustee alleging certain improprieties in their administration of the Pension Plan and use of Pension Plan funds from January 1966 onward.

Mr Lomas seeks relief both quantified and unquantified, for himself and those Plan members he purports to represent, in respect of a number of alleged breaches committed by RAL, including allegations of breach of employment contracts, breach of trust, breach of the Trust Agreement underlying the Pension Plan. In particular:

- Mr Lomas seeks US\$119 million (C\$121.6 million) on account of monies alleged to have been improperly paid out or withheld from the Pension Plan, together with compound interest calculated from the date of each alleged wrongdoing, and
- punitive, aggravated and exemplary damages in the sum of US\$1.9 million (C\$1.94 million).

Mr Lomas purports to represent members of the defined benefits portion of the Pension Plan. In 2005, the defined contribution members of the Pension Plan were included as parties to this action.

A motion to strike Mr Lomas' request for the winding up of the Plan was heard on 27 November 2006. The court struck out part of Mr Lomas' claim, but allowed the remainder. RAL's appeal from that decision was dismissed, but further leave to appeal to the Ontario Court of Appeal has been granted.

RAL has notified its insurers of the application and has advised other third parties of possible claims against them in respect of matters alleged in the application.

Class action concerning Cerrejón privatisation

The non-government organisation, Corporación Colombia Transparente (CCT) brought three separate class actions (Popular Actions numbers 1,029, 1,032 and 1,048) against various defendants in connection with the privatisation of 50 per cent of the

Cerrejón Zona Norte mining complex in Colombia in 2002. The complex is currently owned by Cerrejón Zona Norte SA (CZN) and Carbones del Cerrejón Limited (CDC). Our subsidiary Billiton Investment 3 BV owns a 33 per cent share in CDC, and our subsidiaries Billiton Investment 3 BV and Billiton Investment 8 BV (BHP Billiton Shareholders) collectively own a 33.33 per cent share in CZN. The BHP Billiton Shareholders have been named as defendants in Popular Action 1,048, and BHP Billiton Company BV, BHP Billiton's original bidder for the complex, has been named as a defendant in Popular Action 1,029.

BHP Billiton Company BV was served with process in 2005 and filed a response in Action 1,029. Neither of the BHP Billiton Shareholders have been served with process.

CCT alleges, in part, that the defendants failed to comply with the privatisation process, and that the offer price for shares in CZN between Stages 1 and 2 of the privatisation process was not correctly adjusted for inflation.

Our share of the alleged adjustment of the CZN share price if converted to year 2000 US dollars would be approximately US\$4 million. In the alternative, CCT seeks declaration that the privatisation is null and void and forfeiture of the transfer price paid, of which our share, if converted to year 2000 US dollars would be approximately US\$133 million. In both instances, CCT also seeks unquantified sanctions, including payment of stamp taxes, an award of 15 per cent of all monies recovered by the defendants, together with interest on all amounts at the maximum rate authorised by law.

In May 2007, CCT filed a further action (Action number 1,667) against CZN. This action was dismissed on the basis that it was a replica of Popular Action 1,032. The Plaintiff did not file an appeal and the matter is therefore at an end.

In 2005, the Colombian Council of State applied a new legal interpretation applicable to popular actions in Colombia providing that plaintiffs may not file additional class actions based on the same facts and legal arguments as existing actions. As a consequence, the court nullified all proceedings in Popular Action 1,029 with effect from 20 May 2004 and dismissed Popular Action 1,048. All shareholder defendants contend that the nullification means that the service of process in Action 1,029, and respective responses, which would include process served on BHP Billiton Company BV and its response, are null and void.

CCT appealed the court's decision in relation to Popular Actions 1,029, and 1,048, and the Council of State confirmed the previous decision by which all proceedings of Popular Actions 1,029, and 1,048 had been nullified. CCT was granted the right of a second appeal, and a decision on this second appeal is now pending. Popular Action 1,032 is currently in discovery phase.

Mt Newman and Goldsworthy railway lines

In June 2004, Fortescue Metals Group Limited (FMG) applied to the National Competition Council (NCC) to have use of parts of the Mt Newman and Goldsworthy railway lines declared as a 'service' under Part IIIA of the Trade Practices Act 1974. Declaration under Part IIIA confers a statutory right to use of the service, on terms that are determined by arbitration if agreement cannot be reached by negotiation. The NCC found that the two railway lines each provide separate services, and that while the Mt Newman line could be declared, the Goldsworthy line could not because it is part of a 'production process'. The NCC then proceeded to consider the Mt Newman railway line aspect of the application.

In December 2004, BHP Billiton Iron Ore Pty Ltd (BHPBIO) lodged an application with the Federal Court, challenging the NCC's decision in relation to the application of the 'production process' definition to the Mt Newman railway. FMG similarly instituted proceedings in the Federal Court appealing NCC's decision in relation to the Goldsworthy railway. The Federal Court held in favour of FMG, and BHPBIO appealed this decision to the Full Court of the Federal Court. The majority of the Full Court decided in favour of FMG. BHPBIO appealed this decision to the High Court, which heard the appeal on 29 July 2008, and has reserved its decision.

In the interim, the NCC proceeded to recommend to the Federal Treasurer that the Mt Newman railway line be declared. In May 2006, having not published a decision, the Federal Treasurer was deemed to have decided not to declare the Mt Newman railway. FMG sought a reconsideration of this decision by the Australian Competition Tribunal. This proceeding is still in its interlocutory stages and a hearing is not expected until the first half of 2009.

In November 2007, FMG lodged a further Part IIIA application with the NCC for declaration of the whole of the Goldsworthy railway line. FMG also lodged applications with the NCC for declaration of Rio Tinto Ltd's Hamersley and Robe railway lines. In June 2008, the NCC issued a draft recommendation that use of the Goldsworthy railway line be declared. The NCC has advised that it issued its final recommendation to the Federal Treasurer on 29 August 2008. The NCC will publish its final recommendation as soon as practicable after the Treasurer publishes his decision as to whether or not to declare the relevant services. The Treasurer has 60 days in which to reach a decision about the recommendation (i.e. by 28 October 2008). If the Treasurer does not publish his decision in relation to one or more of the

applications within 60 days, he is deemed to have decided not to declare the relevant service or services. The decision of the Treasurer is again subject to reconsideration by the Australian Competition Tribunal.

Australian Taxation Office assessments

The Australian Taxation Office (ATO) issued assessments against subsidiary companies, primarily BHP Billiton Finance Ltd, in respect of the financial years 1999 to 2002. The assessments relate to the deductibility of bad debts in respect of funding subsidiaries that undertook the Beenup, Boodarie Iron and Hartley projects. BHP Billiton Finance Ltd lodged appeals in the primary proceedings on 17 July 2006.

BHP Billiton Finance Ltd filed its affidavits between 30 April 2008 and 5 May 2008. The ATO served a notice of discovery on 2 July 2008. BHP Billiton Finance Ltd provided discovery on 1 August 2008. The ATO's affidavits were due to be filed by 27 August 2008, but that deadline was not met. The matter has been relisted for directions on 3 October 2008 and set down for trial on 20 April 2009.

The amount in dispute at 30 June 2008 for the bad debts disallowance is approximately US\$1,162 million (A\$1,224 million) (net of tax), being primary tax US\$656 million (A\$691 million), penalties of US\$164 million (A\$173 million) and interest (net of tax) of US\$342 million (A\$360 million). An amount of US\$606 million (A\$638 million) in respect of the disputed amounts has been paid pursuant to ATO disputed assessments guidelines, which require that taxpayers generally must pay half of the tax in dispute to defer recovery proceedings. Upon any successful challenge of the assessments, any sums paid will be refundable with interest.

BHP Billiton Finance Ltd has also commenced judicial review proceedings in the Federal Court challenging the ATO's decision not to reduce the interest imposed in respect of loss transferees. The judicial review proceedings have been dismissed with a right of reinstatement to enable the BHP Billiton Finance Limited appeal to proceed first.

In November 2007 and March 2008, the ATO issued further assessments disallowing capital allowances claimed on the plant and equipment funded by the loan from BHP Billiton Finance Ltd relating to the Boodarie Iron project. The amount in dispute at 30 June 2008 is approximately US\$629 million (A\$662 million), being primary tax US\$368 million (A\$387 million), penalties US\$92 million (A\$97 million) and interest (net of tax) of US\$169 million (A\$178 million). The Company has lodged objections against the amended assessments which have been disallowed by the ATO. The Company has lodged appeals against some of these objection decisions, and will lodge the remainder by October 2008. The Company also commenced judicial review proceedings in the Federal Court challenging the ATO's decision not to reduce the interest imposed in respect of the amended assessments. The judicial review proceedings have been dismissed with a right of reinstatement to enable the Company's appeal against the amended assessments to proceed first.

Petroleum Resource Rent Tax litigation

BHP Billiton Petroleum (Bass Strait) Pty Ltd commenced litigation in the Federal Court of Australia, disputing the ATO's assessment of the taxing point for Petroleum Resource Rent Tax purposes in relation to sales gas and LPG produced from the Gippsland Joint Venture.

Petroleum Resource Rent Tax has been paid and expensed based on the ATO's assessment and any success will result in a book and cash benefit.

Given the complexity of the matters under dispute, it is not possible at this time to accurately quantify the anticipated benefit to BHP Billiton Petroleum (Bass Strait) Pty Ltd.

Former Operations – Ok Tedi Mining Limited

In December 2006, seven individual plaintiffs (the 'Plaintiffs') said to be representing the members of seven clans from the vicinity of the Ok Tedi mine obtained an order of the National Court of Papua New Guinea joining BHP Billiton Limited as a defendant to proceedings against the current shareholders of Ok Tedi Mining Limited and a previous managing director. Ok Tedi Mining Limited is the owner and operator of the Ok Tedi mine.

BHP Billiton transferred all of its shareholding in OK Tedi Mining Limited to PNG Sustainable Development Programme Company Limited in February 2002.

The plaintiffs sought unspecified damages for numerous matters, including contamination of the environment and adverse effects to fishing, drinking water, irrigation of crops and washing, as well as US\$3.75 billion in exemplary damages.

On 20 November 2007, the National Court of Papua New Guinea dismissed the entire claim. The plaintiffs' appeal of this decision will be heard by the Papua New Guinea Supreme Court on 2 October 2008.

9 FINANCIAL STATEMENTS

Refer to pages F-1 to F-80

10 GLOSSARY

10.1 Non-mining terms

In the context of ADSs and listed investments, the term 'quoted' means 'traded' on the relevant exchange.

A\$	Australian dollars being the currency of the Commonwealth of Australia.
American Depositary Share	An American Depositary Share is a share issued under a deposit agreement that has been created to permit US-resident investors to hold shares in non-US companies and trade them on the stock exchanges in the US. One ADS is equal to two BHP Billiton Limited or BHP Billiton Plc ordinary shares. ADSs are evidenced by American Depositary Receipts, or ADRs, which are the instruments that trade on the NYSE.
BHP Billiton	Being both companies in the dual listed company structure, BHP Billiton Limited and BHP Billiton Plc.
BHP Billiton Limited share	A fully paid ordinary share in the capital of BHP Billiton Limited.
BHP Billiton Limited shareholders	The holders of BHP Billiton Limited shares.
BHP Billiton Limited special voting share	A single voting share was issued to facilitate joint voting by shareholders of BHP Billiton Limited on Joint Electorate Actions.
BHP Billiton Plc equalisation share	A share that has been authorised to be issued to enable a distribution to be made by BHP Billiton Plc Group to the BHP Billiton Limited Group should this be required under the terms of the DLC merger.
BHP Billiton Plc 5.5 per cent preference share	Shares that have the right to repayment of the amount paid up on the nominal value and any unpaid dividends in priority of any other class of shares in BHP Billiton Plc on a return of capital or winding up.
BHP Billiton Plc equalisation share	A share that has been authorised to be issued to enable a distribution to be made by BHP Billiton Plc Group to the BHP Billiton Limited Group should this be required under the terms of the DLC merger.
BHP Billiton Plc share	A fully paid ordinary share in the capital of BHP Billiton Plc.
BHP Billiton Plc shareholders	The holders of BHP Billiton Plc shares.
BHP Billiton Plc special voting share	A single voting share was issued to facilitate joint voting by shareholders of BHP Billiton Plc on Joint Electorate Actions.
Board	The Board of Directors of BHP Billiton.
CEO	Chief Executive Officer.
CFR (Named Port of Destination)	A Term of Sale where the seller pays the costs and freight necessary to bring the goods to the named port of destination, but the risk of loss of or damage to the goods, as well as any additional costs due to events occurring after the time the goods have been delivered on board the vessel, is transferred from the seller to the buyer when the goods pass the ship's rail in the port of shipment. The CFR term requires the seller to clear the goods for export.
Co-Investment Plan	Legacy share scheme. Abbreviates to CIP.
CSG	Customer Sector Group being the strategic business units of BHP Billiton.
Deferred share	A nil-priced option or a conditional right to acquire a share issued under the rules of the GIS.
DLC merger	The Dual Listed Companies merger between BHP Billiton Limited and BHP Billiton Plc on 29 June 2001.
DLC structure	The corporate structure resulting from the DLC merger.
Employee Share Plan	A legacy employee share plan that commenced under the jurisdiction of BHP Limited prior to the formation of BHP Billiton. Abbreviates to ESP.

Expected value	Expected value of a share incentive - the average outcome weighted by probability. This measure takes into account the difficulty of achieving performance conditions and the correlation between these and share price appreciation. The valuation methodology also takes into account factors such as volatility, forfeiture risk, etc.
FY2006	Refers to the financial year ended 30 June 2006.
FY2007	Refers to the financial year ended 30 June 2007.
FY2008	Refers to the financial year ended 30 June 2008.
FY2009	Refers to the financial year ended 30 June 2009.
GAAP	Generally accepted accounting principles as defined in the US or other jurisdiction.
Gearing	Gearing is defined as the ratio of net debt to net debt plus net assets.
Group	BHP Billiton Limited, BHP Billiton Plc and their subsidiaries.
Group Incentive Scheme	Current share scheme. Abbreviates to GIS.
International Financial Reporting Standards	Accounting standards as issued by the International Accounting Standards Board. Abbreviates to IFRS.
Key Management Personnel	Persons having authority and responsibility for planning, directing and controlling the activities of the Group, directly or indirectly (including executive Directors), and non-executive Directors. Abbreviates to KMP.
Key Performance Indicator	Used to measure the performance of the Group, individual businesses and executives in any one year. Abbreviates to KPI.
LME	London Metal Exchange - A London exchange which trades metals (e.g. lead, zinc, aluminium and nickel) in forward and option markets.
Long Term Incentive Plan	Current share scheme. Abbreviates to LTIP.
Major capital projects	Capital projects in the Feasibility or Execution phase where our share of capital expenditure to project completion is greater than US\$100 million.
Market value	The market value based on closing prices, or, in instances when an executive exercises and sells shares, the actual sale price achieved.
Occupational exposure limit	The level of exposure to an agent to which it is believed that nearly all workers may be repeatedly exposed, throughout a working life, without adverse health effects. Occupational Exposure Limits are established for chemical and physical agents and may be expressed as time-weighted average, ceiling or short-term exposure limits. Abbreviates to OEL.
Occupational illness	An occupational illness is an illness that occurs as a consequence of work-related activities or exposure. It includes acute or chronic illnesses or diseases, which may be caused by inhalation, absorption, ingestion or direct contact.
Option	A right to acquire a share on payment of an exercise price issued under the rules of the GIS.
Performance share	A nil-priced option or a conditional right to acquire a share, subject to a Performance Hurdle, issued under the rules of the LTIP.
Performance share plan	A share plan that commenced under the jurisdiction of BHP Limited or Billiton Plc and prior to the formation of BHP Billiton. Legacy share scheme. Abbreviates to PSP.
Restricted Share Scheme	Legacy share scheme. Abbreviates to RSS.
Shareplus	All employee share purchase plan.
Significant environmental incident	A significant environmental incident is an occurrence that has resulted in or had the potential to cause significant environmental harm. Our definition of 'significant' is conservative to ensure all learnings are captured from relevant HSEC incidents. Such an incident is rated at level 3 or

above on the BHP Billiton HSEC Consequence Severity Table which may be viewed at: BHP Billiton 2008 Full Sustainability Report > HSEC Targets Scorecard > BHP Billiton HSEC Consequence Severity Table.

**Total Recordable
Injuries Frequency
Rate**

Total Recordable Injury Frequency Rate = (Fatalities + Lost Time Cases + Restricted Work Cases + Medical Treatment Cases)/1,000,000 work hours
Abbreviates to TRIFR.

**Total shareholder
return**

The change in share price plus dividends reinvested. Abbreviates to TSR.

US\$	Currency of the United States of America and the functional currency the BHP Billiton Group.
Voluntary community contribution	Contributions made to support communities in which we operate. Our contributions to community programs comprise cash, in-kind support and administration costs. Our targeted level of contribution is one per cent of pre-tax profit calculated on the average of the previous three years' pre-tax profit.
Zero Harm	BHP Billiton's aspirational goal that reflects our continual drive to minimise harm to people, our host communities and the environment from our activities.

10.2 Mining and mining-related terms

Alumina	Aluminium oxide (Al_2O_3). Alumina is produced from bauxite in the refining process. Alumina is then converted (reduced) in an electrolysis cell to produce aluminium metal.
Bauxite	Chief ore of aluminium.
Bio-leaching	Use of naturally occurring bacteria, to leach a metal from ore; for example, copper, zinc, uranium, nickel and cobalt from a sulphide mineral.
Brownfield	An exploration or development project located within an existing mineral province which can share infrastructure and management with an existing operation.
Coal Reserves	The same meaning as Ore Reserves, but specifically concerning coal.
Coking coal	By virtue of its carbonisation properties, is used in the manufacture of coke, which is used in the steelmaking process. Coking coal may also be referred to as metallurgical coal.
Condensate	A mixture of hydrocarbons that exist in gaseous form in natural underground reservoirs, but which condense to form a liquid at atmospheric conditions.
Copper cathode	Electrolytically refined copper that has been deposited on the cathode of an electrolytic bath of acidified copper sulphate solution. The refined copper may also be produced through leaching and electrowinning.
Crude oil	A mixture of hydrocarbons that exist in liquid form in natural underground reservoirs, and remain liquid at atmospheric pressure after being produced at the well head and passing through surface separating facilities.
Cut-off grade	A nominated grade above which is defined some mineral aspect of the reserve. For example, the lowest grade of mineralised material that qualifies as economic for estimating an Ore Reserves.
Electrowinning / electrowon	An electrochemical process in which metal is recovered by dissolving a metal within an electrolyte and plating it onto an electrode.
Energy coal	Used as a fuel source in electrical power generation, cement manufacture and various industrial applications. Energy coal may also be referred to as steaming or thermal coal.
Ethane	Where sold separately, is largely ethane gas that has been liquefied through pressurisation. One tonne of ethane is approximately equivalent to 26.8 thousand cubic feet of gas.
Flotation	A method of selectively recovering minerals from finely ground ore using a froth created in water by specific reagents. In the flotation process, certain mineral particles are induced to float by becoming attached to bubbles of froth and the unwanted mineral particles sink.
Grade	The relative quantity, or the percentage, of metal or mineral content in an orebody.
Greenfield	The development or exploration located outside the area of influence of existing mine operations/infrastructure.
Head grade	The average grade of ore delivered to a process for mineral extraction.
Heap leach(ing)	A process used for the recovery of metals such as copper, nickel, uranium and gold from low-grade ores. The crushed material is laid on a slightly sloping, impermeable pad and leached by uniformly trickling (gravity fed) a chemical solution through the beds to ponds. The metals are recovered from the solution.
Ilmenite	The principle ore of titanium composed of iron, titanium and oxygen (FeTiO_3)

Leaching	The process by which a soluble metal can be economically recovered from minerals in ore by dissolution.
Liquefied natural gas (LNG)	Consists largely of methane that has been liquefied through chilling and pressurisation. One tonne of LNG is approximately equivalent to 45.9 thousand cubic feet of natural gas.
Liquefied petroleum gas (LPG)	Consists of propane and butane and a small amount (less than two per cent) of ethane that has been liquefied through pressurisation. One tonne of LPG is approximately equivalent to 11.6 barrels.

Marketable Coal Reserves	Represent beneficiated or otherwise enhanced coal product and should be read in conjunction with, but not instead of, reports of coal reserves.
Metallurgical coal	A broader term than coking coal, which includes all coals used in steelmaking, such as coal used for the pulverised coal injection process.
Open-cut/open-pit	Surface working in which the working area is kept open to the sky. Abbreviates to OC/OP.
Ore Reserves	That part of a mineral deposit that could be economically and legally extracted or produced at the time of the reserve determination.
Probable Ore Reserves	Reserves for which quantity and grade and/or quality are computed from information similar to that used for proven (measured) reserves, but the sites for inspection, sampling and measurement are farther apart or are otherwise less adequately spaced. The degree of assurance, although lower than that for proven (measured) reserves, is high enough to assure continuity between points of observation.
Proved oil and gas reserves	The estimated quantities of crude oil, natural gas and natural gas liquids that geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions (i.e. prices and costs as of the date the estimate is made).
Proved Ore Reserves	Reserves for which (a) quantity is computed from dimensions revealed in outcrops, trenches and workings on drill holes and grade and/or quality are computed from the results of detailed samplings; and (b) the sites for inspection, sampling and measurement are spaced so closely and the geological character is so well defined that size, shape, depth and mineral content of reserves are well established.
Reserve life	Current stated ore reserves divided by the current approved nominal production rate.
Run of mine product	Product mined in the course of regular mining activities. Abbreviates to ROM.
Rutile	It is an ore of titanium composed of titanium and oxygen (TiO ₂).
Solvent extraction	A method of separating one or more metals from a leach solution by treating with a solvent that will extract the required metal, leaving the others. The metal is recovered from the solvent by further treatment.
Spud	Commence drilling of an oil or gas well.
Stockpile	An accumulation of ore or mineral built up when demand slackens or when the treatment plant or beneficiation equipment is incomplete or temporarily unequal to handling the mine output; any heap of material formed to create a reserve for loading or other purposes or material dug and piled for future use. Abbreviates to SP.
Tailing	Those portions of washed or milled ore that are too poor to be treated further or remain after the required metals and minerals have been extracted.
Total Coal Reserves	Run of mine reserves as outputs from the mining activities.
Total Marketable Reserves	Product reserves as outputs from processing plant which includes sizing and beneficiation.
Total Ore Reserves	Represent Proved Ore Reserves plus Probable Ore Reserves.
Underground (UG)	Natural or man-made excavation under the surface of the Earth. Abbreviates to UG.
Zircon	It is the chief ore of zirconium composed of zirconium, silicon and oxygen (ZrSiO ₄).

10.3 Units of measure

Abbreviation	Description
boe	Barrel oil equivalent
MMcf/d	Million of cubic feet per day
Mbbl/d	Thousand barrels per day

MMbbl/d	Million barrels per day
mtpa	Million tonnes per annum
mw	Megawatts
tph	Tonnes per hour

11 SHAREHOLDER INFORMATION

11.1 Markets

BHP Billiton Limited is listed on stock exchanges in Australia (Australian Securities Exchange (ASX)), Germany (Frankfurt), Switzerland (Zurich) and the US (New York Stock Exchange (NYSE)).

BHP Billiton Plc is listed on stock exchanges in the UK (London Stock Exchange (LSE)), South Africa (JSE Limited) and the US (NYSE).

Trading on the NYSE is via American Depositary Shares (ADSs) each representing two ordinary shares evidenced by American Depositary Receipts (ADRs). Citibank N.A. is the Depositary for both ADR programs.

BHP Billiton Limited's ADSs have been listed for trading on the NYSE (ticker BHP) since 28 May 1987 and BHP Billiton Plc's since 25 June 2003 (ticker BBL).

11.2 Share ownership

Share capital

The details of the share capital for both BHP Billiton Limited and BHP Billiton Plc are presented in note 21 'Share capital' in the financial statements.

Major shareholders

The tables in sections 7.19 and 7.20 of this Annual Report present information pertaining to the shares held by Directors and other members of the Group Management Committee in BHP Billiton Limited and BHP Billiton Plc.

Neither BHP Billiton Limited nor BHP Billiton Plc is directly or indirectly controlled by another corporation or by any government. Other than as described in section 2.12.2, no major shareholder possesses voting rights that differ from those attaching to all of BHP Billiton Limited's voting securities.

BHP Billiton Limited

The tables in sections 7.19 and 7.20 of this Annual Report show the holdings for Directors and other members of the Group Management Committee of BHP Billiton Limited, as a group, of BHP Billiton Limited's voting securities. No person beneficially owned more than five per cent of BHP Billiton Limited's voting securities.

BHP Billiton Plc

The following table shows holdings of three per cent or more of voting rights in BHP Billiton Plc's shares as notified to BHP Billiton Plc under the UK Disclosure and Transparency Rule 5^(a).

Title of class	Identity of person or group	Date of notice received	Date of change	Number owned	Percentage of total voting rights ^(b)		
					2008	2007	2006
Ordinary shares	Legal & General Group Plc ^(c)	8 May 2008	26 March 2008	100,123,908	4.45%	3.63%	3.08% ^(d)
Ordinary shares	Credit Suisse Securities (Europe) Limited	4 September 2008	2 September 2008	75,423,161	3.42%		

(a) There has been no change in the holdings of three per cent or more of the voting rights in BHP Billiton Plc's shares notified to BHP Billiton Plc as at the date of this Report.

(b) The percentages quoted are based on the total voting rights of BHP Billiton Plc as at the date of the Annual Report each year of 2,207,007,544 (2008), 2,303,415,288 (2007) and 2,446,627,002 (2006) respectively.

(c) The notification received from Legal & General Group Plc was a group disclosure covering the interests of Legal & General Group Plc and its subsidiaries.

(d) The notification as at 2006 related to holdings by Legal & General Investment Management Limited.

The following table shows holdings of Directors and members of the Group Management Committee of BHP Billiton Plc who were in office as at 30 June 2008, as a group, of BHP Billiton Plc's voting securities as at that date^(a).

Title of class	Identity of person or group	Number owned	Percentage of total voting rights at 30 June 2008 ^(b)
Ordinary shares	Directors and executive officers as a group	502,839	0.02%

(a) There has been no change in the holdings of the Directors and members of the Group Management Committee who were in office at 30 June 2008 as at the date of this Report.

(b) The percentages quoted are based on the total voting rights of BHP Billiton Plc of 2,207,007,544.

Twenty largest shareholders as at 29 August 2008 (as named on the Register of Shareholders)

BHP Billiton Limited	Number of fully paid shares	% of issued capital
1. HSBC Australia Nominees Pty Ltd	479,903,574	14.29
2. J P Morgan Nominees	333,996,181	9.95
3. National Nominees Ltd	303,329,760	9.03
4. Citicorp Nominees Pty Limited <BHP Billiton ADR Holders A/C>	272,788,808	8.12
5. Citicorp Nominees Pty Limited	171,836,864	5.12
6. Australian Mutual Provident Society	96,109,996	2.86
7. ANZ Nominees Limited <Cash Income A/C>	82,212,463	2.45
8. Queensland Investment Corporation	38,348,359	1.14
9. ANZ Nominees Limited <SL Cash Income A/C>	18,936,206	0.56
10. Potter Warburg Nominees Pty Ltd	18,568,818	0.55
11. Australian Foundation Investment Company Limited	14,331,934	0.43
12. RBC Dexia Investor Services Australia Nominees Pty Limited <PIPOOLED A/C>	12,343,897	0.37
13. Australian Reward Investment Alliance	11,998,421	0.36
14. Bond Street Custodians Limited	9,734,403	0.29
15. Perpetual Trustee Australia Group	9,263,487	0.28
16. INVIA Custodian Pty Limited	7,621,190	0.23
17. UBS Nominees Pty Ltd <116C A/C>	7,580,000	0.23
18. HSBC Custody Nominees (Australia) Limited – <A/C 2>	7,073,792	0.21
19. ARGO Investments Limited	6,927,411	0.21
20. RBC Dexia Investor Services Australia Nominees Pty Limited <BKCUST A/C>	6,890,633	0.21
	1,909,796,197	56.89

BHP Billiton Plc	Number of fully paid shares	% of issued capital
1. PLC Nominees (Proprietary) Limited	409,183,515	18.34
2. PIC Int Equity	78,646,793	3.52
3. Nutracor Nominees Limited	71,276,274	3.19
4. Chase Nominees Limited	69,405,651	3.11
5. HSBC Global Custody Nominee (UK) Limited <357206 A/C>	67,243,410	3.01
6. First National Nominees (PTY) LTD	64,751,400	2.90
7. State Street Nominees LTD <OM02 A/C>	51,687,005	2.31
8. Bank of New York Nominees	44,630,109	2.01
9. Industrial Development Corporation	33,804,582	1.52
10. HSBC Global Custody Nominee (UK) Limited <899877 A/C>	32,669,351	1.46
11. Nortrust Nominees Limited <SLEND A/C>	32,023,680	1.44
12. Chase Nominees Limited <LEND A/C>	31,453,853	1.41
13. Prudential Client HSBC GIS Nominee (UK) Limited <PAC A/C>	30,971,549	1.39
14. BNY (OCS) Nominees Limited	30,647,829	1.37
15. Mellon Nominees (UK) Limited <BSDTGABN A/C>	28,916,396	1.30
16. Chase Nominees Limited <BGILIFEL A/C>	27,717,361	1.24
17. Vidacos Nominees Limited <FGN A/C>	27,166,089	1.22
18. Vidacos Nominees Limited <CLRLUX 2 A/C>	26,344,134	1.18
19. Chase Nominees Limited <USRESL A/C>	25,627,292	1.15
20. Hanover Nominees Limited <CSF01 A/C>	24,541,031	1.10
	1,208,707,304	54.17

US share ownership as at 30 June 2008

	BHP Billiton Limited				BHP Billiton Plc			
	Shareholders Numbers	%	Shares Numbers	% of issued capital	Shareholders Numbers	%	Shares Numbers	% of issued capital
Classification of holder								
Registered holders of voting securities	1,873	0.36	5,495,742	0.16	64	0.34	163,172	0.01
ADR holders	1,043	0.20	286,396,862 ^(a)	8.53	100	0.54	21,570,824 ^(b)	0.97

(a) These shares translate to 143,198,431 ADRs.

(b) These shares translate to 10,785,412 ADRs.

Distribution of shareholders and shareholdings as at 29 August 2008

	BHP Billiton Limited				BHP Billiton Plc			
	Shareholders Numbers	%	Shares Numbers	%	Shareholders Numbers	%	Shares Numbers	%
Registered address								
Australia	503,361	95.80	3,286,333,897	97.85	100	0.51	1,166,449	0.06
New Zealand	13,147	2.50	40,837,477	1.22	24	0.13	42,998	0.00
United Kingdom	3,652	0.70	13,616,419	0.41	17,425	88.29	1,713,574,509	76.80
United States	1,888	0.36	5,604,477	0.16	66	0.33	180,181	0.01
South Africa	92	0.02	219,065	0.01	1,178	5.97	486,665,988	21.81
Other	3,272	0.62	11,748,162	0.35	940	4.77	29,491,077	1.32
Total	525,412	100.00	3,358,359,497	100.00	19,733	100.00	2,231,121,202	100.00

	BHP Billiton Limited				BHP Billiton Plc			
	Shareholders Numbers	%	Shares ^(a) Numbers	%	Shareholders Numbers	%	Shares ^(a) Numbers	%
Size of holding								
1 – 500 ^(b)	204,329	38.89	49,667,595	1.48	8,125	41.17	2,208,094	0.10
501 – 1,000	104,049	19.80	82,056,593	2.44	4,904	24.85	3,704,205	0.17
1,001 – 5,000	164,701	31.35	376,794,525	11.22	4,324	21.91	9,013,162	0.40
5,001 – 10,000	29,461	5.61	208,583,782	6.21	554	2.81	3,969,524	0.18
10,001 – 25,000	16,789	3.20	253,618,776	7.55	431	2.18	6,877,908	0.31
25,001 – 50,000	3,803	0.72	130,725,165	3.89	285	1.44	10,169,732	.45
50,001 – 100,000	1,410	0.27	96,459,709	2.87	269	1.36	19,402,967	.87
100,001 – 250,000	590	0.11	86,274,617	2.57	284	1.44	46,247,113	2.07
250,001 – 500,000	136	0.03	46,554,749	1.39	185	0.94	67,565,584	3.03
500,001 – 1,000,000	66	0.01	47,025,172	1.40	145	0.73	102,174,398	4.58
1,000,001 and over	78	0.01	1,980,598,814	58.98	227	1.16	1,959,788,515	87.84
Total	525,412	100.00	3,358,359,497	100.00	19,733	100.00	2,231,121,202	100.00

(a) One share entitles the holder to one vote.

(b) Number of BHP Billiton Limited shareholders holding less than a marketable parcel (A\$500) based on the market price of A\$41.40 as at 29 August 2008 was 3,061.

	BHP Billiton Limited				BHP Billiton Plc			
	Shareholders Numbers	%	Shares Numbers	%	Shareholders Numbers	%	Shares Numbers	%
Classification of holder								
Corporate	101,537	19.33	2,326,446,541	69.27	10,815	54.81	1,949,100,760	87.36
Private	423,875	80.67	1,031,912,956	30.73	8,918	45.19	282,020,442	12.64
Total	525,412	100.00	3,358,359,497	100.00	19,733	100.00	2,231,121,202	100.00

11.3 Dividends

Policy

We have a progressive dividend policy that seeks to steadily increase or at least to maintain the dividend in US dollars at each half yearly payment provided that we generate sufficient profit and cash flow to do so.

Because the US dollar is our main reporting currency, we declare our dividends and other distributions in US dollars. BHP Billiton Limited pays its dividends in Australian dollars, British pounds, New Zealand dollars or US dollars, depending on

the country of residence of the shareholder. BHP Billiton Plc pays its dividends in British pounds to shareholders registered on its principal register in the UK and South African rand to shareholders registered on its branch register in South Africa. If shareholders wish to alter the currency in which they receive dividends they must complete an appropriate election form and return it to the BHP Billiton Share Registrar no later than two days prior to the announcement of the next dividend.

Payments

BHP Billiton Limited shareholders may have their cash dividends paid directly into a nominated bank, building society or credit union, depending on the shareholder's country of residence as shown below.

Country where shareholder is resident	Financial institution
Australia	Bank, building society, credit union
UK	Bank, building society
New Zealand	Bank
US	Bank

Shareholders from the abovementioned locations who do not provide their direct credit details and shareholders with registered addresses outside Australia, UK, New Zealand and US will receive dividend payments by way of a cheque in Australian dollars.

BHP Billiton Plc shareholders may have their cash dividends paid directly into a bank or building society by completing a dividend mandate form which is available from the BHP Billiton Share Registrar in the UK or South Africa.

11.4 Share price information

The following tables show the share prices for the period indicated for ordinary shares and ADSs for each of BHP Billiton Limited and BHP Billiton Plc. The share prices are the highest and lowest closing market quotations for ordinary shares reported on the Daily Official List of the Australian and London Stock Exchange respectively, and the highest and lowest closing prices for ADSs quoted on the NYSE, adjusted to reflect stock dividends.

BHP Billiton Limited

BHP Billiton Limited		Ordinary shares ^(a)		American Depositary Shares ^(a)	
		High	Low	High	Low
		A\$	A\$	US\$	US\$
FY2003		10.66	8.22	12.65	8.90
FY2004		12.79	8.30	20.10	11.30
FY2005		19.50	12.41	31.01	17.36
FY2006		32.00	18.09	49.21	27.35
FY2007	First quarter	29.50	24.25	44.15	36.19
	Second quarter	28.23	24.76	43.67	36.57
	Third quarter	30.04	23.86	48.73	37.16
	Fourth quarter	35.38	29.15	60.39	48.51
FY2008	First quarter	44.60	32.44	79.84	52.27
	Second quarter	47.70	39.50	87.33	67.79
	Third quarter	40.85	31.00	75.75	57.82
	Fourth quarter	49.55	36.65	95.00	66.91

BHP Billiton Limited		Ordinary shares ^(a)		American Depositary Shares ^(a)	
		High	Low	High	Low
		A\$	A\$	US\$	US\$
Month of January 2008		40.85	31.00	72.25	57.82
Month of February 2008		39.85	35.85	75.75	65.80
Month of March 2008		39.80	33.87	74.30	62.81
Month of April 2008		45.10	36.65	85.32	66.91
Month of May 2008		49.55	42.90	95.00	80.00
Month of June 2008		45.88	41.80	86.77	79.22
Month of July 2008		44.40	36.65	82.86	69.45
Month of August 2008		41.75	35.82	72.00	63.96

(a) Each ADS represents the right to receive two BHP Billiton Limited ordinary shares.

The total market capitalisation of BHP Billiton Limited at 30 June 2008 was A\$146.8 billion, which represented approximately 10.52 per cent of the total market capitalisation of all companies listed on the ASX. The closing price for BHP Billiton Limited ordinary shares on the ASX on that date was A\$43.70.

BHP Billiton Plc

BHP Billiton Plc		Ordinary shares ^(a)		American Depositary Shares ^(a)	
		High UK	Low UK	High	Low
		pence	pence	US\$	US\$
FY2003		351.50	259.50	11.25	5.07
FY2004		526.50	311.00	19.77	10.21
FY2005		776.50	474.75	30.23	17.49
FY2006		1,211.50	722.00	45.50	25.90
FY2007	First quarter	1,094.00	853.00	40.16	33.20
	Second quarter	1,060.00	870.00	40.37	33.33
	Third quarter	1,133.00	884.00	44.82	34.55
	Fourth quarter	1,390.00	1,125.00	56.40	45.00
FY2008	First quarter	1,750.00	1,183.00	71.91	47.83
	Second quarter	1,880.00	1,478.00	78.26	59.42
	Third quarter	1,680.00	1,235.00	66.43	51.19
	Fourth quarter	2,196.00	1,495.00	85.62	59.86

BHP Billiton Plc		Ordinary shares ^(a)		American Depositary Shares ^(a)	
		High UK	Low UK	High	Low
		pence	pence	US\$	US\$
	Month of January 2008	1,597.00	1,235.00	63.17	51.19
	Month of February 2008	1,662.00	1,469.00	66.43	58.20
	Month of March 2008	1,680.00	1,361.00	66.02	55.38
	Month of April 2008	1,927.00	1,495.00	76.05	59.86
	Month of May 2008	2,196.00	1,790.00	85.62	71.12
	Month of June 2008	1,950.00	1,791.00	77.48	70.93
	Month of July 2008	1,841.00	1,540.00	74.18	61.25
	Month of August 2008	1,718.00	1,468.00	63.87	56.79

(a) Each ADS represents the right to receive two BHP Billiton Plc ordinary shares.

The total market capitalisation of BHP Billiton Plc at 30 June 2008 was £43.3 billion, which represented approximately 2.65 per cent of the total market capitalisation of all companies listed on the LSE. The closing price for BHP Billiton Plc ordinary shares on the LSE on that date was £19.20.

11.5 Taxation

The taxation discussion below describes the material Australian income tax, UK tax and US federal income tax consequences to a US holder (as hereinafter defined) of owning BHP Billiton Limited ordinary shares or ADSs or BHP Billiton Plc ordinary shares or ADSs. The discussion is based on the Australian, UK and US tax laws currently in effect, as well as on the double taxation convention between Australia and the US (the Australian Treaty), the double taxation convention between the UK and the US (the UK Treaty) and the estate tax conventions between the UK and the US (the UK-US Inheritance and Gift Tax Treaty). For purposes of this discussion, a US holder is a beneficial owner of ordinary shares or ADSs who is, for US federal income tax purposes, a citizen or individual resident of the US, a domestic corporation, an estate whose income is subject to US federal income tax regardless of its source, or a trust if a US court can exercise primary supervision over the trust's administration and one or more US persons are authorised to control all substantial decisions of the trust.

We recommend that holders of ordinary shares or ADSs consult their own tax advisers regarding the Australian, UK and US federal, state and local tax and other tax consequences of owning and disposing of ordinary shares and ADSs in their particular circumstances.

Shareholdings in BHP Billiton Limited

Australia taxation

In this section references to 'resident' and 'non-resident' refer to residence status for Australian income tax purposes.

Dividends

Dividends paid by BHP Billiton Limited to a US holder who or which is a resident of Australia, or to a non-resident of Australia whose holding is effectively connected with a permanent establishment in Australia, may be subject to income tax.

Under the Australian Treaty, dividends paid by BHP Billiton Limited to a US holder who or which is eligible for treaty benefits and whose holding is not effectively connected with a permanent establishment in Australia or, in the case of a shareholder who performs independent personal services from a 'fixed base' situated therein, is not connected with that 'fixed base', may be subject to Australian withholding tax at a rate not exceeding 15 per cent of such gross dividend.

Dividends paid to non-residents of Australia are exempt from withholding tax to the extent to which such dividends are 'franked' under Australia's dividend imputation system or are declared by BHP Billiton Limited to be conduit foreign income (CFI). Dividends are considered to be 'franked' to the extent that they are paid out of post 1986–87 income on which Australian income tax has been levied. CFI is made up of certain amounts that are earned by BHP Billiton Limited that are not subject to tax in Australia, such as dividends remitted to Australia by foreign subsidiaries. Any part of a dividend paid to a US holder that is not 'franked' and is not CFI will generally be subject to Australian withholding tax unless a specific exemption applies.

Sale of ordinary shares and ADSs

A US holder who or which is a resident of Australia (other than certain temporary residents) may be liable for income tax on any profit on disposal of ordinary shares or ADSs, or Australian capital gains tax on the disposal of ordinary shares or ADSs acquired after 19 September 1985.

No income or other tax is payable on any profit on disposal of ordinary shares or ADSs held by a US holder who or which is a non-resident of Australia except if the profit is of an income nature and sourced in Australia, or the sale is subject to Australian capital gains tax. Under the Australian Treaty, if the profit is sourced in Australia, it will not be taxable in Australia if it represents business profits of an enterprise carried on by a US holder entitled to treaty benefits and the enterprise does not carry on business in Australia through a permanent establishment situated in Australia. Australian capital gains tax will not generally apply to a disposal of the ordinary shares or ADSs by a US holder who or which is a non-resident of Australia unless the shares or ADSs have been acquired after 19 September 1985 and:

- the ordinary shares or ADSs have been used by the US holder in carrying on a trade or business through a permanent establishment in Australia;
- the US holder (together with associates) directly or indirectly owns or owned 10 per cent or more of the issued share capital of BHP Billiton Limited at the time of the disposal or throughout a 12-month period during the two years prior to the time of disposal and the underlying value of BHP Billiton Limited at the time of disposal is principally derived from taxable Australian real property; or
- the US holder is an individual who elected on becoming a non-resident of Australia to continue to have the ordinary shares or ADSs subject to Australian capital gains tax.

US taxation

This section describes the material US federal income tax consequences to a US holder of owning ordinary shares or ADSs. It applies only to ordinary shares or ADSs that are held as capital assets for tax purposes. This section does not apply to a holder of ordinary shares or ADSs who is a member of a special class of holders subject to special rules, including a dealer in securities, a trader in securities that elects to use a mark-to-market method of accounting for its securities holdings, a tax-exempt organisation, a life insurance company, a person liable for alternative minimum tax, a person who actually or constructively owns 10 per cent or more of the voting stock of BHP Billiton Limited, a person who holds ordinary shares or ADSs as part of a straddle or a hedging or conversion transaction, or a US holder whose functional currency is not the US dollar.

This section is based in part upon the representations of the Depositary and the assumption that each obligation in the deposit agreement and any related agreement will be performed in accordance with its terms.

In general, for US federal income tax purposes, a holder of ADSs will be treated as the owner of the ordinary shares represented by those ADSs. Exchanges of ordinary shares for ADSs, and ADSs for ordinary shares, will generally not be subject to US federal income tax.

Dividends

Under US federal income tax laws, a US holder must include in its gross income the gross amount of any dividend paid by BHP Billiton Limited out of its current or accumulated earnings and profits (as determined for US federal income tax purposes). The holder must include any Australian tax withheld from the dividend payment in this gross amount even though the holder does not in fact receive it. The dividend is taxable to the holder when the holder, in the case of ordinary shares, or the Depositary, in the case of ADSs, receives the dividend, actually or constructively.

Dividends paid to a non-corporate US holder on shares or ADSs in taxable years beginning before 1 January 2011 will be taxable at the rate applicable to long-term capital gains (generally at a rate of 15 per cent) provided that the ADSs remain readily tradeable on an established securities market in the US and the US holder holds the shares or ADSs for more than 60 days during the 121-day period beginning 60 days before the ex-dividend date and does not enter into certain

risk reduction transactions with respect to the shares or ADSs during the abovementioned holding period. In addition, a non-corporate US holder that elects to treat the dividend income as 'investment income' pursuant to Section 163(d)(4) of the Code will not be

eligible for the reduced rate of taxation. In the case of a corporate US holder, dividends on shares and ADSs are taxed as ordinary income and will not be eligible for the dividends received deduction generally allowed to US corporations in respect of dividends received from other US corporations.

Distributions in excess of current and accumulated earnings and profits, as determined for US federal income tax purposes, will be treated as a non-taxable return of capital to the extent of the holder's tax basis, determined in US dollars, in the ordinary shares or ADSs and thereafter as a capital gain.

The amount of any cash distribution paid in any foreign currency will be equal to the US dollar value of such currency, calculated by reference to the spot rate in effect on the date such distribution is received by the US holder or, in the case of ADSs, by the Depositary, regardless of whether and when the foreign currency is in fact converted into US dollars. If the foreign currency is converted into US dollars on the date received, the US holder generally should not recognise foreign currency gain or loss on such conversion. If the foreign currency is not converted into US dollars on the date received, the US holder will have a basis in the foreign currency equal to its US dollar value on the date received, and will recognise foreign currency gain or loss on a subsequent conversion or other disposal of such currency. Such foreign currency gain or loss generally will be treated as US source ordinary income or loss.

Subject to certain limitations, Australian tax withheld in accordance with the Australian Treaty and paid over to Australia will be creditable against your US federal income tax liability. Special rules apply in determining the foreign tax credit limitation with respect to dividends that are taxed at the capital gains rate. To the extent a refund of the tax withheld is available to a US holder under Australian law or under the Australian Treaty, the amount of tax withheld that is refundable will not be eligible for credit against the holder's US federal income tax liability.

Dividends will be income from sources outside the US, and generally will be 'passive category' income or, in the case of certain taxpayers, 'general category' income, which in either case is treated separately from each other and other types of income for purposes of computing the foreign tax credit allowable to a US holder.

Sale of ordinary shares and ADSs

A US holder who sells or otherwise disposes of ordinary shares or ADSs will recognise a capital gain or loss for US federal income tax purposes equal to the difference between the US dollar value of the amount realised and its tax basis, determined in US dollars, in those ordinary shares or ADSs. The capital gain of a non-corporate US holder that is recognised before 1 January 2011 is generally taxed at a rate of 15 per cent where the holder has a holding period greater than 12 months in the shares or ADSs sold. The gain or loss will generally be income or loss from sources within the US for foreign tax credit limitation purposes.

Shareholdings in BHP Billiton Plc

UK taxation

Dividends

Under UK law, no UK tax is required to be withheld at source from dividends paid on ordinary shares or ADSs.

Sale of ordinary shares and ADSs

US holders will not be liable for UK tax on capital gains realised on disposal of ordinary shares or ADSs unless:

- they are resident or ordinarily resident in the UK; or
- they carry on a trade, profession or vocation in the UK through a branch or agency for the years in which the disposal occurs and the shares or ADSs have been used, held or acquired for the purposes of such trade (or profession or vocation), branch or agency. In the case of a trade, the term 'branch' includes a permanent establishment.

An individual who ceases to be resident in the UK for tax purposes while owning shares or ADSs and then disposes of those shares or ADSs while not UK resident may become subject to UK tax on capital gains if he/she subsequently becomes treated as UK resident again before five complete UK tax years of non UK residence has elapsed from the date he/she left the UK. In this situation US holders will generally be entitled to claim US tax paid on such a disposition as a credit against any corresponding UK tax payable.

UK inheritance tax

Under the current the UK–US Inheritance and Gift Tax Treaty between the UK and the US, ordinary shares or ADSs held

by a US holder who is domiciled for the purposes of the UK–US Inheritance and Gift Tax Treaty in the US, and is not for the purposes of the UK–US Inheritance and Gift Tax Treaty a national of the UK, will generally not be subject to UK inheritance tax on the individual's death or on a chargeable gift of the ordinary shares or ADSs during the individual's lifetime, provided that any

applicable US federal gift or estate tax liability is paid, unless the ordinary shares or ADSs are part of the business property of a permanent establishment of the individual in the UK or, in the case of a shareholder who performs independent personal services, pertain to a fixed base situated in the UK. Where the ordinary shares or ADSs have been placed in trust by a settlor who, at the time of settlement, was a US resident shareholder, the ordinary shares or ADSs will generally not be subject to UK inheritance tax unless the settlor, at the time of settlement, was not domiciled in the US and was a UK national. In the exceptional case where the ordinary shares or ADRs are subject to both UK inheritance tax and US federal gift or estate tax, the UK–US Inheritance and Gift Tax Treaty generally provides for double taxation to be relieved by means of credit relief.

UK stamp duty and stamp duty reserve tax

UK stamp duty or SDRT will, subject to certain exemptions, be payable on any issue or transfer of shares to the depository or their nominee where those shares are for inclusion in the ADS program at a rate of 1.5 per cent of their price (if issued), the amount of any consideration provided (if transferred on sale) or their value (if transferred for no consideration). No SDRT would be payable on the transfer of an ADR. No UK stamp duty should be payable on the transfer of an ADS provided that the instrument of transfer is executed and remains at all times outside the UK. Transfers of ordinary shares to persons other than the depository or their nominee will give rise to stamp duty or stamp duty reserve tax at the time of transfer. The relevant rate is currently 0.5 per cent of the amount payable for the shares. The purchaser normally pays the stamp duty or stamp duty reserve tax.

Special rules apply to transactions involving intermediaries and stock lending.

US taxation

This section describes the material US federal income tax consequences to a US holder of owning ordinary shares or ADSs. It applies only to ordinary shares or ADSs that are held as capital assets for tax purposes. This section does not apply to a holder of ordinary shares or ADSs who is a member of a special class of holders subject to special rules, including a dealer in securities, a trader in securities who elects to use a mark-to-market method of accounting for their securities holdings, a tax-exempt organisation, a life insurance company, a person liable for alternative minimum tax, a person who actually or constructively owns 10 per cent or more of the voting stock of BHP Billiton Plc, a person who holds ordinary shares or ADSs as part of a straddle or a hedging or conversion transaction, or a US holder whose functional currency is not the US dollar.

This section is based in part upon the representations of the Depository and the assumption that each obligation in the deposit agreement and any related agreement will be performed in accordance with their terms.

In general, for US federal income tax purposes, a holder of ADSs will be treated as the owner of the ordinary shares represented by those ADSs. Exchanges of ordinary shares for ADSs, and ADSs for ordinary shares will generally not be subject to US federal income tax.

Dividends

Under US federal income tax laws, a US holder must include in its gross income the gross amount of any dividend paid by BHP Billiton Plc out of its current or accumulated earnings and profits (as determined for US federal income tax purposes).

The dividend is taxable to the holder when the holder, in the case of ordinary shares, or the Depository, in the case of ADSs, receives the dividend, actually or constructively.

Dividends paid to a non-corporate US holder on shares or ADSs in taxable years beginning before 1 January 2011 will be taxable at the rate applicable to long-term capital gains (generally at a rate of 15 per cent) provided that the ADSs remain readily tradeable on an established securities market in the US and the US holder holds the shares or ADSs for more than 60 days during the 121-day period beginning 60 days before the ex-dividend date, and does not enter into certain risk reduction transactions with respect to the shares or ADSs during the abovementioned holding period. In addition, a non-corporate US holder that elects to treat the dividend income as 'investment income' pursuant to Section 163(d)(4) of the Code will not be eligible for the reduced rate of taxation. In the case of a corporate US holder, dividends on shares and ADSs are taxed as ordinary income and will not be eligible for the dividends received deduction generally allowed to US corporations in respect of dividends received from other US corporations.

Distributions in excess of current and accumulated earnings and profits, as determined for US federal income tax purposes, will be treated as a non-taxable return of capital to the extent of the holder's tax basis, determined in US dollars, in the ordinary shares or ADSs and thereafter as a capital gain.

The amount of any cash distribution paid in any foreign currency will be equal to the US dollar value of such currency, calculated by reference to the spot rate in effect on the date such distribution is received by the US holder or, in the case of ADSs, by the Depositary, regardless of whether and when the foreign currency is in fact converted into US dollars. If the foreign currency is converted into US dollars on the date received, the US holder generally should not recognise foreign currency gain or loss on such conversion. If the foreign currency is not converted into US dollars on the date received, the US holder will have a basis in

the foreign currency equal to its US dollar value on the date received, and will recognise foreign currency gain or loss on a subsequent conversion or other disposal of such currency. Such foreign currency gain or loss generally will be treated as US source ordinary income or loss.

Dividends will be income from sources outside the US, and generally will be 'passive category' income or, for certain taxpayers, 'general category' income, which in either case is treated separately from each other and other types of income for purposes of computing the foreign tax credit allowable to a US holder.

Sale of ordinary shares and ADSs

A US holder who sells or otherwise disposes of ordinary shares or ADSs will recognise a capital gain or loss for US federal income tax purposes equal to the difference between the US dollar value of the amount realised and its tax basis, determined in US dollars, in those ordinary shares or ADSs. The capital gain of a non-corporate US holder that is recognised before 1 January 2011 is generally taxed at a rate of 15 per cent where the holder has a holding period greater than 12 months in the shares or ADSs sold. The gain or loss will generally be income or loss from sources within the US for foreign tax credit limitation purposes.

Important Notices

This document is issued subject to the Important Notices appearing below.

The Directors of BHP Billiton Limited and BHP Billiton Plc ('BHP Billiton') accept responsibility for the information contained in this report. Having taken all reasonable care to ensure that such is the case, the information contained in this report is, to the best of the knowledge and belief of the Directors of BHP Billiton, in accordance with the facts and contains no omission likely to affect its import.

Subject to the above, neither BHP Billiton nor any of its Directors, officers, employees or advisers nor any other person makes any representation or warranty, express or implied, as to, and accordingly no reliance should be placed on, the fairness, accuracy or completeness of the information contained in the report or of the views given or implied. To the extent permitted by law, neither BHP Billiton nor any of its Directors, officers, employees or advisers nor any other person shall have any liability whatsoever for any errors or omissions or any loss howsoever arising, directly or indirectly, from any use of this information or its contents or otherwise arising in connection therewith. Information about Rio Tinto plc and Rio Tinto Limited ('Rio Tinto') is based on public information which has not been independently verified.

This report is for information purposes only and does not constitute or form part of any offer for sale or issue of any securities or an offer or invitation to purchase or subscribe for any such securities, nor shall it or any part of it be relied on in connection with, any contract or investment decision, nor does it constitute a proposal to make a takeover bid or the solicitation of any vote or approval in any jurisdiction, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction (or under an exemption from such requirements). No offering of securities shall be made into the United States except pursuant to registration under the US Securities Act of 1933, as amended, or an exemption therefrom. Neither this report nor any copy of it may be taken or transmitted or distributed or redistributed (directly or indirectly) in Japan. The distribution of this document in other jurisdictions may be restricted by law and persons into whose possession this document comes should inform themselves about, and observe, any such restrictions.

No statement concerning expected cost savings, revenue benefits (and resulting incremental EBITDA) and EPS accretion in this report should be interpreted to mean that the future earnings per share of the enlarged BHP Billiton Group for current and future financial years will necessarily match or exceed the historical or published earnings per share of BHP Billiton, and the actual estimated cost savings and revenue benefits (and resulting EBITDA enhancement) may be materially greater or less than estimated.

Certain statements in this presentation are forward-looking statements (including statements regarding contribution synergies, future cost savings, the cost and timing of development projects, future production volumes, increases in production and infrastructure capacity, the identification of additional mineral Reserves and resources and project lives and, without limitation, other statements typically containing words such as 'intends', 'expects', 'anticipates', 'targets', 'plans', 'estimates' and words of similar import.) These statements are based on current expectations and beliefs and numerous assumptions regarding BHP Billiton's present and future business strategies and the environments in which BHP Billiton and Rio Tinto will operate in the future and such assumptions, expectations and beliefs may or may not prove to be correct and by their nature, are subject to a number of known and unknown risks and uncertainties that could cause actual results, performance and achievements to differ materially.

Factors that could cause actual results or performance to differ materially from those expressed or implied in the forward-looking statements include, but are not limited to, BHP Billiton's ability to successfully combine the businesses of BHP Billiton and Rio Tinto and to realise expected synergies from that combination, the presence of a competitive proposal in relation to Rio Tinto, satisfaction of any conditions to any proposed transaction, including the receipt of required regulatory and anti-trust approvals, Rio Tinto's willingness to enter into any proposed transaction, the successful completion of any transaction, and the risk factors discussed in BHP Billiton's and Rio Tinto's filings with the US Securities and Exchange Commission ('SEC') (including in Annual Reports on Form 20-F) which are available at the SEC's website (<http://www.sec.gov>). Save as required by law or the rules of the UK Listing Authority and the London Stock Exchange, the UK Takeover Panel, or the listing rules of ASX Limited, BHP Billiton undertakes no duty to update any forward-looking statements in this presentation.

Information Relating to the US Offer for Rio Tinto plc

BHP Billiton Limited and BHP Billiton Plc ('BHP Billiton') plan to register the offer and sale of securities it would issue to Rio Tinto plc US shareholders and Rio Tinto plc ADS holders by filing with the U.S. Securities and Exchange Commission (the 'SEC') a Registration Statement (the 'Registration Statement'), which will contain a prospectus (the 'Prospectus'), as well as other relevant materials. No such materials have yet been filed. This communication is not a substitute for any Registration Statement or Prospectus that BHP Billiton may file with the SEC.

US INVESTORS AND US HOLDERS OF RIO TINTO PLC SECURITIES AND ALL HOLDERS OF RIO TINTO PLC ADSs ARE URGED TO READ ANY REGISTRATION STATEMENT, PROSPECTUS AND ANY OTHER DOCUMENTS MADE AVAILABLE TO THEM AND/OR FILED WITH THE SEC REGARDING THE POTENTIAL TRANSACTION, AS WELL AS ANY AMENDMENTS AND SUPPLEMENTS TO THOSE DOCUMENTS, WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION.

Investors and security holders will be able to obtain a free copy of the Registration Statement and the Prospectus as well as other relevant documents filed with the SEC at the SEC's website (<http://www.sec.gov>), once such documents are filed with the SEC. Copies of such documents may also be obtained from BHP Billiton without charge, once they are filed with the SEC.

Information for US Holders of Rio Tinto Limited Shares

BHP Billiton Limited is not required to, and does not plan to, prepare and file with the SEC a registration statement in respect of the Rio Tinto Limited Offer. Accordingly, Rio Tinto Limited shareholders should carefully consider the following:

The Rio Tinto Limited Offer will be an exchange offer made for the securities of a foreign company. Such offer is subject to disclosure requirements of a foreign country that are different from those of the United States. Financial statements included in the document will be prepared in accordance with foreign accounting standards that may not be comparable to the financial statements of United States companies.

Information Relating to the US Offer for Rio Tinto plc and the Rio Tinto Limited Offer for Rio Tinto shareholders located in the US

It may be difficult for you to enforce your rights and any claim you may have arising under the US federal securities laws, since the issuers are located in a foreign country, and some or all of their officers and directors may be residents of foreign countries. You may not be able to sue a foreign company or its officers or directors in a foreign court for violations of the U.S. securities laws. It may be difficult to compel a foreign company and its affiliates to subject themselves to a U.S. court's judgement.

You should be aware that BHP Billiton may purchase securities of either Rio Tinto plc or Rio Tinto Limited otherwise than under the exchange offer, such as in open market or privately negotiated purchases.

12 EXHIBITS

Exhibit 1 Constitution

- 1.1 Constitution of BHP Billiton Limited
- 1.2 Constitution of BHP Billiton Plc
- 1.3 Memorandum and Articles of Association of BHP Billiton Plc

Exhibit 4 Material Contracts

- 4.1 DLC Structure Sharing Agreement, dated 29 June 2001, between BHP Limited and Billiton Plc.*
- 4.2 SVC Special Voting Shares Deed, dated 29 June 2001, among BHP Limited, BHP SVC Pty Limited, Billiton Plc, Billiton SVC Limited and The Law Debenture Trust Corporation p.l.c.*
- 4.3 SVC Special Voting Shares Amendment Deed, dated 13 August 2001, among BHP Limited, BHP SVC Pty Limited, Billiton Plc, Billiton SVC Limited and The Law Debenture Trust Corporation p.l.c.*
- 4.4 Deed Poll Guarantee, dated 29 June 2001, of BHP Limited.*
- 4.5 Deed Poll Guarantee, dated 29 June 2001, of Billiton Plc.*
- 4.6 Form of Service Agreement for Specified Executive (referred to in this Annual Report as the Key Management Personnel)***
- 4.7 Amendment Agreement dated 31 March, 2008 relating to the US\$55 billion Multicurrency Term and Revolving Facility and Subscription Agreement dated 5 February 2008
- 4.8 BHP Billiton Ltd Group Incentive Scheme Rules 2004, dated August 2008
- 4.9 BHP Billiton Ltd Long Term Incentive Plan Rules, dated December 2007
- 4.10 BHP Billiton Plc Group Incentive Scheme Rules 2004, dated August 2008
- 4.11 BHP Billiton Plc Long Term Incentive Plan Rules, dated December 2007

Exhibit 8 List of Subsidiaries

- 8.1 List of subsidiaries of BHP Billiton Limited and BHP Billiton Plc

Exhibit 12 Certifications

- 12.1 Certification by Chief Executive Officer, Mr Marius Kloppers, dated 15 September 2008
- 12.2 Certification by Chief Financial Officer, Mr Alex Vanselow, dated 15 September 2008

Exhibit 13 Certifications

- 13.1 Certification by Chief Executive Officer, Mr Marius Kloppers, and Chief Financial Officer, Mr Alex Vanselow, dated 15 September 2008

Exhibit 15

- 15.1 Consent of Independent Registered Public Accounting Firms KPMG and KPMG Audit Plc for incorporation by reference of audit report in registration statements on Form F-3 and Form S-8

- * Previously filed as an exhibit to BHP Billiton's annual report on Form 20-F for the year ended 30 June 2001 on 19 November 2001.
- ** Previously filed as an exhibit to BHP Billiton's annual report on Form 20-F for the year ended 30 June 2003 on 23 October 2003.
- *** Previously filed as an exhibit to BHP Billiton's annual report on Form 20-F for the year ended 30 June 2005 on 3 October 2005.

SIGNATURE

The registrants hereby certify that they meet all of the requirements for filing on Form 20-F and that they have duly caused and authorised the undersigned to sign this annual report on their behalf.

BHP Billiton Limited
BHP Billiton Plc

/s/ Alex Vanselow

Alex Vanselow
Chief Financial Officer

Date: 15 September 2008

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Supplementary oil and gas information - unaudited

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRMS

To the members of BHP Billiton Plc and BHP Billiton Limited:

We have audited BHP Billiton Group's (comprising BHP Billiton Plc, BHP Billiton Limited and their respective subsidiaries) internal control over financial reporting as of 30 June 2008, based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The BHP Billiton Group's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying section 5.11 Controls and procedures. Our responsibility is to express an opinion on BHP Billiton Group's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists and testing and evaluating the design and operating effectiveness of internal control based on assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorisations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorised acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, BHP Billiton Group maintained, in all material respects, effective internal control over financial reporting as of 30 June 2008, based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of the BHP Billiton Group (comprising BHP Billiton Plc, BHP Billiton Limited and their respective subsidiaries) as of 30 June 2008 and 2007, and the related consolidated income statements, consolidated statements of recognized income and expense and consolidated cash flow statements for each of the years in the three-year period ended 30 June 2008, and our report dated 15 September 2008 expressed an unqualified opinion on those consolidated financial statements.

/s/ KPMG Audit Plc

KPMG Audit Plc
London, United Kingdom
15 September 2008

/s/ KPMG

KPMG
Melbourne, Australia
15 September 2008

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRMS

To the members of BHP Billiton Plc and BHP Billiton Limited:

We have audited the accompanying consolidated balance sheets of the BHP Billiton Group (comprising BHP Billiton Plc, BHP Billiton Limited and their respective subsidiaries) as of 30 June 2008 and 2007, and the related consolidated income statements, consolidated statements of recognized income and expense and consolidated cash flow statements for each of the years in the three-year period ended 30 June 2008. These consolidated financial statements are the responsibility of the BHP Billiton Group's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the BHP Billiton Group as of 30 June 2008 and 2007, and the results of their operations and their cash flows for each of the years in the three year period ended 30 June 2008, in conformity with International Financial Reporting Standards as issued by the International Accounting Standards Board.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), BHP Billiton Group's internal control over financial reporting as of 30 June 2008, based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), and our report dated 15 September 2008 expressed an unqualified opinion on the effectiveness of BHP Billiton Group's internal control over financial reporting.

As discussed in Note 1 of the consolidated financial statements, the BHP Billiton Group changed its method of accounting for interests in jointly controlled entities.

/s/ KPMG Audit Plc

/s/ KPMG

KPMG Audit Plc
London, United Kingdom
15 September 2008

KPMG
Melbourne, Australia
15 September 2008

Consolidated Income Statement

for the year ended 30 June 2008

	Notes	2008 US\$M	2007 Restated (a) US\$M	2006 Restated (a) US\$M
Revenue				
Group production		51,918	41,271	34,139
Third party products	2	7,555	6,202	4,960
Revenue	2	59,473	47,473	39,099
Other income	3	648	621	1,229
Expenses excluding net finance costs	4	(35,976)	(28,370)	(24,612)
Profit from operations		24,145	19,724	15,716
Comprising:				
Group production	2	24,529	19,650	15,605
Third party products	2	(384)	74	111
	2	24,145	19,724	15,716
Financial income	6	293	264	222
Financial expenses	6	(955)	(776)	(822)
Net finance costs	6	(662)	(512)	(600)
Profit before taxation		23,483	19,212	15,116
Income tax expense	8	(6,798)	(5,305)	(4,122)
Royalty related taxation (net of income tax benefit)	8	(723)	(411)	(460)
Total taxation expense	8	(7,521)	(5,716)	(4,582)
Profit after taxation		15,962	13,496	10,534
Profit attributable to minority interests		572	80	84
Profit attributable to members of BHP Billiton Group		15,390	13,416	10,450
Earnings per ordinary share (basic) (US cents)	9	275.3	229.5	173.2
Earnings per ordinary share (diluted) (US cents)	9	275.1	229.0	172.4
Dividends per ordinary share – paid during the period (US cents)	10	56.0	38.5	32.0
Dividends per ordinary share – declared in respect of the period (US cents)	10	70.0	47.0	36.0

The accompanying notes form part of these financial statements.

(a) Comparative periods have been restated as described in note 1.

Consolidated Statement of Recognised Income and Expense

for the year ended 30 June 2008

	Notes	2008 US\$M	2007 US\$M	2006 US\$M
Profit after taxation		15,962	13,496	10,534
Amounts recognised directly in equity				
Actuarial (losses)/gains on pension and medical schemes		(96)	79	111
Available for sale investments:				
Valuation (losses)/gains taken to equity		(76)	147	(1)
Cash flow hedges:				
Losses taken to equity		(383)	(50)	(27)
Losses transferred to the income statement		73	-	-
Gains transferred to the initial carrying amount of hedged items		(190)	(88)	(25)
Exchange fluctuations on translation of foreign operations		(21)	12	(1)
Tax on items recognised directly in, or transferred from, equity		306	82	4
Total amounts recognised directly in equity		(387)	182	61
Total recognised income and expense		15,575	13,678	10,595
Attributable to minority interests	24	571	82	84
Attributable to members of BHP Billiton Group	24	15,004	13,596	10,511

The accompanying notes form part of these financial statements.

Consolidated Balance Sheet

as at 30 June 2008

	Notes	2008 US\$M	2007 Restated (a) US\$M
ASSETS			
Current assets			
Cash and cash equivalents	30	4,237	2,449
Trade and other receivables	11	9,801	6,239
Other financial assets	12	2,054	1,059
Inventories	13	4,971	3,744
Other		498	265
Total current assets		21,561	13,756
Non-current assets			
Trade and other receivables	11	720	642
Other financial assets	12	1,448	899
Inventories	13	232	166
Property, plant and equipment	15	47,332	42,261
Intangible assets	16	625	713
Deferred tax assets	8	3,486	2,832
Other		485	135
Total non-current assets		54,328	47,648
Total assets		75,889	61,404
LIABILITIES			
Current liabilities			
Trade and other payables	17	6,774	5,137
Interest bearing liabilities	18	3,461	1,640
Other financial liabilities	19	2,088	655
Current tax payable		2,022	2,193
Provisions	20	1,596	1,383
Deferred income		418	299
Total current liabilities		16,359	11,307
Non-current liabilities			
Trade and other payables	17	138	140
Interest bearing liabilities	18	9,234	10,780
Other financial liabilities	19	1,260	595
Deferred tax liabilities	8	3,116	2,260
Provisions	20	6,251	5,859
Deferred income		488	545
Total non-current liabilities		20,487	20,179
Total liabilities		36,846	31,486
Net assets		39,043	29,918
EQUITY			
Share capital - BHP Billiton Limited	21	1,227	1,221
Share capital - BHP Billiton Plc	21	1,116	1,183
Treasury shares held	21	(514)	(1,457)
Reserves	22	750	991
Retained earnings	23	35,756	27,729
Total equity attributable to members of BHP Billiton Group		38,335	29,667
Minority interests	24	708	251
Total equity	24	39,043	29,918

The accompanying notes form part of these financial statements.

(a) Comparative periods have been restated as described in note 1.

Consolidated Cash Flow Statement

for the year ended 30 June 2008

		2007	2006
	Notes	Restated (a)	Restated (a)
		US\$M	US\$M
Operating activities			
Profit before taxation		19,212	15,116
Adjustments for:			
Depreciation and amortisation expense	3,612	2,754	2,613
Exploration and evaluation expense (excluding impairment)	859	539	566
Net gain on sale of non-current assets	(129)	(101)	(600)
Impairments of property, plant and equipment, investments and intangibles	274	305	163
Employee share awards expense	97	72	61
Financial income and expenses	662	512	600
Other	(629)	(382)	32
Changes in assets and liabilities:			
Trade and other receivables	(4,787)	(1,282)	(1,226)
Inventories	(1,313)	(732)	(427)
Net financial assets and liabilities	512	26	(58)
Trade and other payables	1,661	462	(52)
Provisions and other liabilities	1,188	589	(520)
Cash generated from operations	25,490	21,974	16,268
Dividends received	51	38	27
Interest received	169	139	132
Interest paid	(799)	(633)	(590)
Income tax paid	(5,867)	(5,007)	(3,853)
Royalty related taxation paid	(885)	(554)	(659)
Net operating cash flows	18,159	15,957	11,325
Investing activities			
Purchases of property, plant and equipment	(7,558)	(7,129)	(5,876)
Exploration expenditure (including amounts expensed)	(1,350)	(805)	(771)
Purchase of intangibles	(16)	(18)	–
Purchases of financial assets	(166)	(38)	(65)
Purchases of, or increased investment in, subsidiaries, operations and jointly controlled entities, net of their cash	(154)	(701)	(531)
Cash outflows from investing activities	(9,244)	(8,691)	(7,243)
Proceeds from sale of property, plant and equipment	43	77	103
Proceeds from sale of financial assets	59	98	153
Proceeds from sale or partial sale of subsidiaries, operations and jointly controlled entities, net of their cash	78	203	844
Net investing cash flows	(9,064)	(8,313)	(6,143)
Financing activities			
Proceeds from ordinary share issues	24	22	34
Proceeds from interest bearing liabilities	9,478	7,395	6,273
Repayment of interest bearing liabilities	(10,228)	(5,781)	(7,518)
Purchase of shares by Employee Share Ownership Plan Trusts	(250)	(165)	(187)
Share buy back - BHP Billiton Limited	–	(2,824)	(1,619)
Share buy back - BHP Billiton Plc	(3,115)	(2,917)	(409)
Dividends paid	(3,135)	(2,271)	(1,936)
Dividends paid to minority interests	(115)	(68)	(190)
Net financing cash flows	(7,341)	(6,609)	(5,552)
Net increase/(decrease) in cash and cash equivalents	1,754	1,035	(370)
Cash and cash equivalents, net of overdrafts, at beginning of year	2,398	1,351	1,720
Effect of foreign currency exchange rate changes on cash and cash equivalents	21	12	1
Cash and cash equivalents, net of overdrafts, at end of year	30	2,398	1,351

The accompanying notes form part of these financial statements.

(a) Comparative periods have been restated as described in note 1.

Notes to the Financial Statements

1 Accounting policies

Dual Listed Companies' structure and basis of preparation of financial statements

Merger terms

On 29 June 2001, BHP Billiton Plc (previously known as Billiton Plc), a UK listed company, and BHP Billiton Limited (previously known as BHP Limited), an Australian listed company, entered into a Dual Listed Companies' (DLC) merger. This was effected by contractual arrangements between the Companies and amendments to their constitutional documents.

The effect of the DLC merger is that BHP Billiton Plc and its subsidiaries (the BHP Billiton Plc Group) and BHP Billiton Limited and its subsidiaries (the BHP Billiton Limited Group) operate together as a single economic entity (the Group). Under the arrangements:

- the shareholders of BHP Billiton Plc and BHP Billiton Limited have a common economic interest in both Groups
- the shareholders of BHP Billiton Plc and BHP Billiton Limited take key decisions, including the election of Directors, through a joint electoral procedure under which the shareholders of the two Companies effectively vote on a joint basis
- BHP Billiton Plc and BHP Billiton Limited have a common Board of Directors, a unified management structure and joint objectives
- dividends and capital distributions made by the two Companies are equalised
- BHP Billiton Plc and BHP Billiton Limited each executed a deed poll guarantee, guaranteeing (subject to certain exceptions) the contractual obligations (whether actual or contingent, primary or secondary) of the other incurred after 29 June 2001 together with specified obligations existing at that date

If either BHP Billiton Plc or BHP Billiton Limited proposes to pay a dividend to its shareholders, then the other Company must pay a matching cash dividend of an equivalent amount per share to its shareholders. If either Company is prohibited by law or is otherwise unable to declare, pay or otherwise make all or any portion of such a matching dividend, then BHP Billiton Plc or BHP Billiton Limited will, so far as it is practicable to do so, enter into such transactions with each other as the Boards agree to be necessary or desirable so as to enable both Companies to pay dividends as nearly as practicable at the same time.

The DLC merger did not involve the change of legal ownership of any assets of BHP Billiton Plc or BHP Billiton Limited, any change of ownership of any existing shares or securities of BHP Billiton Plc or BHP Billiton Limited, the issue of any shares or securities or any payment by way of consideration, save for the issue by each Company of one special voting share to a trustee company which is the means by which the joint electoral procedure is operated.

Treatment of the DLC merger for accounting purposes

The basis of accounting for the DLC merger was established under Australian and UK Generally Accepted Accounting Principles (GAAP), pursuant to the requirements of the Australian Securities and Investments Commission (ASIC) Practice Note 71 'Financial Reporting by Australian Entities in Dual-Listed Company Arrangements', an order issued by ASIC under section 340 of the Corporations Act 2001 on 2 September 2002, and in accordance with the UK Companies Act 1985. In accordance with the transitional provisions of IFRS 1/AASB 1 'First-time Adoption of International Financial Reporting Standards', the same basis of accounting is applied under International Financial Reporting Standards. Accordingly, these financial statements consolidate the Group as follows:

- Results for the years ended 30 June 2008, 30 June 2007 and 30 June 2006 are of the consolidated entity comprising the BHP Billiton Plc Group and the BHP Billiton Limited Group
- Assets and liabilities of the BHP Billiton Plc Group and the BHP Billiton Limited Group were consolidated at the date of the merger at their existing carrying amounts

Notes to the Financial Statements continued

1 Accounting policies continued

Basis of preparation

This general purpose financial report for the year ended 30 June 2008 has been prepared in accordance with the requirements of the UK Companies Act 1985 and Australian Corporations Act 2001 and with:

- Australian Accounting Standards, being Australian equivalents to International Financial Reporting Standards as issued by the Australian Accounting Standards Board (AASB) and interpretations effective as of 30 June 2008
- International Financial Reporting Standards and interpretations as adopted by the European Union (EU) effective as of 30 June 2008
- International Financial Reporting Standards and interpretations as issued by the International Accounting Standards Board effective as of 30 June 2008
- those standards and interpretations adopted early for each applicable reporting period as described below

The above standards and interpretations are collectively referred to as 'IFRS' in this report.

The principal standards that have been adopted for the first time in these financial statements are:

- IFRS 7/AASB 7 'Financial Instruments: Disclosures'. IFRS 7/AASB 7 modifies the basis and details of disclosures concerning financial instruments, but does not impact the recognition or measurement of financial instruments
- Amendment to IAS 1/AASB 101 'Presentation of Financial Statements'. This amendment requires new disclosures concerning the objectives, policies and processes for managing capital
- AASB 2007-4 'Amendments to Australian Accounting Standards arising from ED 151 and Other Amendments'. AASB 2007-4 reinstates optional accounting treatments permitted by IFRS that were not initially available under Australian Accounting Standards. Refer 'Change in accounting policy' below for the impact of the adoption of AASB 2007-4 on the financial statements

The following standards and interpretations may have an impact on the Group but are not yet effective. These standards and interpretations are available for early adoption in the 30 June 2008 financial year (other than in the EU) but have not been applied in the preparation of these financial statements:

- IFRIC 12/AASB Interpretation 12 'Service Concession Arrangements' addresses accounting for obligations undertaken and the rights received in service concession arrangements by service concession operators
- IFRIC 14/AASB Interpretation 14 'IAS 19 – The Limit on a Defined Benefit Asset, Minimum Funding Requirements and their Interaction' provides guidance on how to assess the limit on the amount of the surplus that can be recognised as an asset for Defined Benefit Funds in IFRS 19/AASB 119 'Employee Benefits'
- Amendment to IFRS 2/AASB 2 'Share-based Payment' modifies the definition of vesting conditions and broadens the scope of accounting for cancellations
- Amendment to IFRS 3/AASB 3 'Business Combinations'. This amendment modifies the application of acquisition accounting for business combinations. Associated amendments to IAS 27/AASB 127 'Consolidated and Separate Financial Statements' change the accounting for non-controlling interests
- IFRS 8/AASB 8 'Operating Segments' specifies the basis and details of disclosure concerning operating segments
- Amendment to IAS 27/AASB 127 'Consolidated and Separate Financial Statements' results in the removal of the definition of the cost method resulting in all dividends being recognised as income as well as prescribing accounting for new non-operating holding companies
- 'Improvements to IFRSs (2008)'/AASB 2008-5 'Amendments to Australian Accounting Standards arising from the Annual Improvements Project' and AASB 2008-6 'Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project' include a collection of minor amendments to IFRS

The potential impacts on the financial statements of the Group of adopting these standards and interpretations have not yet been determined. Except for IFRS 8/AASB 8 'Operating Segments' none of the above have been endorsed by the EU and hence are not available for early adoption in the EU.

Notes to the Financial Statements continued

1 Accounting policies continued

Basis of measurement

The financial report is drawn up on the basis of historical cost principles, except for derivative financial instruments and certain other financial assets which are carried at fair value.

Currency of presentation

All amounts are expressed in millions of US dollars, unless otherwise stated, consistent with the predominant functional currency of the Group's operations.

Change in accounting policy

The accounting policies have been consistently applied by all entities included in the Group consolidated financial report and are consistent with those applied in all prior years presented, except for the impact of adopting AASB 2007-4 'Amendments to Australian Accounting Standards arising from ED 151 and Other Amendments'. AASB 2007-4 reinstates optional accounting treatments permitted by IFRS that were not initially available under Australian Accounting Standards. The principal impacts of AASB 2007-4 are described below.

Proportionate consolidation

As permitted by AASB 2007-4 'Amendments to Australian Accounting Standards arising from ED 151 and Other Amendments' and IAS 31 'Interests in Joint Ventures', the Group has adopted the policy of recognising its proportionate interests in the assets, liabilities, revenues and expenses of jointly controlled entities within each applicable line item of the financial statements. All such interests were previously recognised using the equity method. The Group believes the change in policy to proportionate consolidation of jointly controlled entities provides more relevant information about the financial performance and financial position of the Group.

Following this change in policy, comparative information has been restated for all periods included in these financial statements, with the impact summarised below. There was no impact on profit after taxation, profit attributable to members of the Group, total equity or the Group's earnings per share in the current or comparative periods.

Consolidated Income Statement	Year ended 30 June 2007		Year ended 30 June 2006	
	Restated US\$M	Published US\$M	Restated US\$M	Published US\$M
Revenue	47,473	39,498	39,099	32,153
Other income	621	588	1,229	1,227
Expenses excluding net finance costs	(28,370)	(26,352)	(24,612)	(22,403)
Share of profits from jointly controlled entities	-	4,667	-	3,694
Net finance costs	(512)	(390)	(600)	(505)
Total taxation expense	(5,716)	(4,515)	(4,582)	(3,632)
Profit after taxation	13,496	13,496	10,534	10,534

Consolidated Balance Sheet	30 June 2007	
	Restated US\$M	Published US\$M
Current and non-current assets:		
Cash and cash equivalents	2,449	1,937
Trade and other receivables	6,881	5,499
Other financial assets	1,958	1,968
Inventories	3,910	3,409
Investments in jointly controlled entities	-	4,924
Property, plant and equipment	42,261	36,705
Intangible assets	713	615
Deferred tax assets	2,832	2,810
Other assets	400	301
Total assets	61,404	58,168
Current and non-current liabilities:		
Trade and other payables	5,277	4,869
Interest bearing liabilities	12,420	10,643
Other financial liabilities	1,250	1,107
Current tax payable	2,193	2,102
Deferred tax liabilities	2,260	1,822
Provisions	7,242	6,860
Deferred income	844	847
Total liabilities	31,486	28,250
Net assets/Total equity	29,918	29,918

Notes to the Financial Statements continued

1 Accounting policies continued

Consolidated Cash Flow Statement	Year ended 30 June 2007		Year ended 30 June 2006	
	Restated US\$M	Published US\$M	Restated US\$M	Published US\$M
Net operating cash flows	15,957	15,595	11,325	10,476
Net investing cash flows	(8,313)	(7,624)	(6,143)	(5,512)
Net financing cash flows	(6,609)	(6,843)	(5,552)	(5,412)

Cash flow presentation

The Group has also elected to adopt the indirect method of cash flow presentation as permitted by AASB 2007-4 'Amendments to Australian Accounting Standards arising from ED 151 and Other Amendments' and IAS 7 'Cash Flow Statements'. The Group believes this change in presentation more effectively conveys the relationship between its financial performance and operating cash flows.

Principles of consolidation

The financial report of the Group includes the consolidation of BHP Billiton Limited, BHP Billiton Plc and their respective subsidiaries. Subsidiaries are entities controlled by either parent entity. Control exists where either parent entity has the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities. Subsidiaries are included in the consolidated financial report from the date control commences until the date control ceases. Where the Group's interest is less than 100 per cent, the interest attributable to outside shareholders is reflected in minority interests. The effects of all transactions between entities within the Group have been eliminated.

Joint ventures

The Group undertakes a number of business activities through joint ventures. Joint ventures are established through contractual arrangements that require the unanimous consent of each of the venturers regarding the strategic financial and operating policies of the venture (joint control). The Group's joint ventures are of two types:

Jointly controlled entities

A jointly controlled entity is a corporation, partnership or other entity in which each participant holds an interest. A jointly controlled entity operates in the same way as other entities, controlling the assets of the joint venture, earning its own income and incurring its own liabilities and expenses. Interests in jointly controlled entities are accounted for using the proportional consolidation method, whereby the Group's proportionate interest in the assets, liabilities, revenues and expenses of jointly controlled entities are recognised within each applicable line item of the financial statements. The share of jointly controlled entities' results is recognised in the Group's financial statements from the date that joint control commences until the date at which it ceases.

Jointly controlled assets and operations

The Group has certain contractual arrangements with other participants to engage in joint activities that do not give rise to a jointly controlled entity. These arrangements involve the joint ownership of assets dedicated to the purposes of each venture but do not create a jointly controlled entity as the venturers directly derive the benefits of operation of their jointly owned assets, rather than deriving returns from an interest in a separate entity.

The financial report of the Group includes its share of the assets in such joint ventures, together with the liabilities, revenues and expenses arising jointly or otherwise from those operations. All such amounts are measured in accordance with the terms of each arrangement, which are usually in proportion to the Group's interest in the jointly controlled assets.

Business combinations

Business combinations occurring after 1 July 2004 are accounted for in accordance with the policy stated below. Business combinations prior to this date have been accounted for in accordance with the Group's previous policies under UK GAAP and Australian GAAP and have not been restated.

Business combinations are accounted for by applying the purchase method of accounting, whereby the purchase consideration of the combination is allocated to the identifiable assets, liabilities and contingent liabilities (identifiable net assets) on the basis of fair value at the date of acquisition. Mineral rights that can be reliably valued are recognised in the assessment of fair values on acquisition. Other potential mineral rights for which values cannot be reliably determined are not recognised.

Goodwill

Where the fair value of consideration paid for a business acquisition exceeds the fair values attributable to the Group's share of the identifiable net assets acquired, the difference is treated as purchased goodwill. Where the fair value of the Group's share of the identifiable net assets exceeds the cost of acquisition, the difference is immediately recognised in the income statement. Goodwill is not amortised, however its carrying amount is assessed annually against its recoverable amount as explained below under 'Impairment of non-current assets'. On the subsequent disposal or termination of a previously acquired business, any remaining balance of associated goodwill is included in the determination of the profit or loss on disposal or termination.

Notes to the Financial Statements continued

1 Accounting policies continued

Intangible assets

Amounts paid for the acquisition of identifiable intangible assets, such as software and licences, are capitalised at the fair value of consideration paid and are recorded at cost less accumulated amortisation and impairment charges. Identifiable intangible assets with a finite life are amortised on a straight-line basis over their expected useful life, which is typically no greater than eight years. The Group has no identifiable intangible assets for which the expected useful life is indefinite.

Foreign currencies

The Group's reporting currency and the functional currency of the majority of its operations is the US dollar as this is the principal currency of the economic environments in which they operate.

Transactions denominated in foreign currencies (currencies other than the functional currency of an operation) are recorded using the exchange rate ruling at the date of the underlying transaction. Monetary assets and liabilities denominated in foreign currencies are translated using the rate of exchange ruling at year end and the gains or losses on retranslation are included in the income statement, with the exception of foreign exchange gains or losses on foreign currency provisions for site closure and rehabilitation, which are capitalised in property, plant and equipment for operating sites.

Exchange variations resulting from the retranslation at closing rate of the net investments in subsidiaries and joint ventures arising after 1 July 2004 are accounted for in accordance with the policy stated below. Exchange variations arising before this date were transferred to retained earnings at the date of transition to IFRS.

Subsidiaries and joint ventures that have functional currencies other than US dollars translate their income statement items to US dollars at the date of each transaction. Assets and liabilities are translated at exchange rates prevailing at year end. Exchange variations resulting from the retranslation at closing rate of the net investment in such subsidiaries and joint ventures, together with differences between their income statement items translated at actual and closing rates, are recognised in the foreign currency translation reserve. For the purpose of foreign currency translation, the net investment in a foreign operation is determined inclusive of foreign currency intercompany balances for which settlement is neither planned nor likely to occur in the foreseeable future. The balance of the foreign currency translation reserve relating to a foreign operation that is disposed of, or partially disposed of, is recognised in the income statement at the time of disposal.

Share-based payments

The fair value at grant date of equity settled share awards granted on or after 8 November 2002 is charged to the income statement over the period for which the benefits of employee services are expected to be derived. The corresponding accrued employee entitlement is recorded in the employee share awards reserve. The fair value of awards is calculated using an option pricing model which considers the following factors:

- exercise price
- expected life of the award
- current market price of the underlying shares
- expected volatility
- expected dividends
- risk-free interest rate
- market-based performance hurdles

For equity settled share awards granted on or before 7 November 2002 and that remained unvested at 1 July 2004, the estimated cost of share awards is charged to the income statement from grant date to the date of expected vesting. The estimated cost of awards is based on the market value of shares at the grant date or the intrinsic value of options awarded, adjusted to reflect the impact of performance conditions, where applicable.

Where awards are forfeited because non-market based vesting conditions are not satisfied, the expense previously recognised is proportionately reversed. Where shares in BHP Billiton Limited or BHP Billiton Plc are acquired by on-market purchases prior to settling vested entitlements, the cost of the acquired shares is carried as treasury shares and deducted from equity. When awards are satisfied by delivery of acquired shares, any difference between their acquisition cost and the remuneration expense recognised is charged directly to retained earnings. The tax effect of awards granted

is recognised in income tax expense, except to the extent that the total tax deductions are expected to exceed the cumulative remuneration expense. In this situation, the excess of the associated current or deferred tax is recognised in equity as part of the employee share awards reserve.

Notes to the Financial Statements continued

1 Accounting policies continued

Sales revenue

Revenue from the sale of goods and disposal of other assets is recognised when persuasive evidence, usually in the form of an executed sales agreement, or an arrangement exists, indicating there has been a transfer of risks and rewards to the customer, no further work or processing is required by the Group, the quantity and quality of the goods has been determined with reasonable accuracy, the price is fixed or determinable, and collectability is reasonably assured. This is generally when title passes.

In the majority of sales for most commodities, sales agreements specify that title passes on the bill of lading date, which is the date the commodity is delivered to the shipping agent. For these sales, revenue is recognised on the bill of lading date. For certain sales (principally coal sales to adjoining power stations and diamond sales), title passes and revenue is recognised when the goods have been delivered.

In cases where the terms of the executed sales agreement allow for an adjustment to the sales price based on a survey of the goods by the customer (for instance an assay for mineral content), recognition of the sales revenue is based on the most recently determined estimate of product specifications.

For certain commodities, the sales price is determined on a provisional basis at the date of sale; adjustments to the sales price subsequently occurs based on movements in quoted market or contractual prices up to the date of final pricing. The period between provisional invoicing and final pricing is typically between 60 and 120 days. Revenue on provisionally priced sales is recognised based on the estimated fair value of the total consideration receivable. The revenue adjustment mechanism embedded within provisionally priced sales arrangements has the character of a commodity derivative. Accordingly, the fair value of the final sales price adjustment is re-estimated continuously and changes in fair value recognised as an adjustment to revenue. In all cases, fair value is estimated by reference to forward market prices.

Revenue is not reduced for royalties and other taxes payable from the Group's production.

The Group separately discloses sales of Group production from sales of third party products due to the significant difference in profit margin earned on these sales.

Exploration and evaluation expenditure

Exploration and evaluation activity involves the search for mineral and petroleum resources, the determination of technical feasibility and the assessment of commercial viability of an identified resource. Exploration and evaluation activity includes:

- researching and analysing historical exploration data
- gathering exploration data through topographical, geochemical and geophysical studies
- exploratory drilling, trenching and sampling
- determining and examining the volume and grade of the resource
- surveying transportation and infrastructure requirements
- conducting market and finance studies

Administration costs that are not directly attributable to a specific exploration area are charged to the income statement. Licence costs paid in connection with a right to explore in an existing exploration area are capitalised and amortised over the term of the permit.

Exploration and evaluation expenditure (including amortisation of capitalised licence costs) is charged to the income statement as incurred except in the following circumstances, in which case the expenditure may be capitalised:

- In respect of minerals activities:
 - the exploration and evaluation activity is within an area of interest which was previously acquired in a business combination and measured at fair value on acquisition, or where the existence of a commercially viable mineral deposit has been established.
- In respect of petroleum activities:
 - the exploration and evaluation activity is within an area of interest for which it is expected that the expenditure will be recouped by future exploitation or sale; or
 - at the balance sheet date, exploration and evaluation activity has not reached a stage which permits a reasonable assessment of the existence of commercially recoverable reserves.

Capitalised exploration and evaluation expenditure considered to be tangible is recorded as a component of property, plant and equipment at cost less impairment charges. Otherwise, it is recorded as an intangible asset (such as licences). As the asset is not available for use, it is not depreciated. All capitalised exploration and evaluation expenditure is monitored for indications of impairment. Where a potential impairment is indicated, assessment is performed for each area of interest in conjunction with the group of operating assets (representing a cash generating unit) to which the exploration is attributed. Exploration areas at which reserves have been discovered but that require major capital expenditure before production can begin are continually evaluated to ensure that commercial quantities of reserves exist or to ensure that additional exploration work is under way or planned. To the extent that capitalised expenditure is not expected to be recovered it is charged to the income statement.

Notes to the Financial Statements continued

1 Accounting policies continued

Cash flows associated with exploration and evaluation expenditure (comprising both amounts expensed and amounts capitalised) are classified as investing activities in the cash flow statement.

Development expenditure

When proved reserves are determined and development is sanctioned, capitalised exploration and evaluation expenditure is reclassified as 'Assets under construction', and is disclosed as a component of property, plant and equipment. All subsequent development expenditure is capitalised and classified as 'Assets under construction'. Development expenditure is net of proceeds from the sale of ore extracted during the development phase. On completion of development, all assets included in 'Assets under construction' are reclassified as either 'Plant and equipment' or 'Other mineral assets'.

Property, plant and equipment

Property, plant and equipment is recorded at cost less accumulated depreciation and impairment charges. Some assets acquired prior to 1 July 1998 are measured at deemed cost, being the revalued amount of the asset immediately prior to that date. Subsequent to 1 July 1998, the cost regime was applied to all assets. Cost is the fair value of consideration given to acquire the asset at the time of its acquisition or construction and includes the direct cost of bringing the asset to the location and condition necessary for operation and the direct cost of dismantling and removing the asset. Disposals are taken to account in the income statement. Where the disposal involves the sale or abandonment of a significant business (or all of the assets associated with such a business) the gain or loss is disclosed as an exceptional item.

Other mineral assets

Other mineral assets comprise:

- Capitalised exploration, evaluation and development expenditure (including development stripping) for properties now in production
- Mineral rights and petroleum interests acquired
- Production stripping (as described below in 'Overburden removal costs')

The Group's mineral leases are of sufficient duration (or convey a legal right to renew for sufficient duration) to enable all declared reserves on the leased properties to be mined in accordance with current production schedules.

Depreciation of property, plant and equipment

The carrying amounts of property, plant and equipment (including initial and any subsequent capital expenditure) are depreciated to their estimated residual value over the estimated useful lives of the specific assets concerned, or the estimated life of the associated mine or mineral lease, if shorter. Estimates of residual values and useful lives are reassessed annually and any change in estimate is taken into account in the determination of remaining depreciation charges. Depreciation commences on the date of commissioning. The major categories of property, plant and equipment are depreciated on a unit of production and/or straight-line basis using estimated lives indicated below, except that where assets are dedicated to a mine or petroleum lease the below useful lives are subject to the lesser of the asset category's useful life and the life of the mine or lease, unless the assets are readily transferable to another productive mine or lease:

• Buildings	– 25 to 50 years
• Land	– not depreciated
• Plant and equipment	– 3 to 30 years straight-line
• Mineral rights	– based on reserves on a unit of production basis
• Petroleum interests	– based on the proved developed oil and gas reserves on a unit of production basis
• Capitalised exploration, evaluation and development expenditure	– based on applicable reserves on a unit of production basis

Leased assets

Assets held under leases which result in the Group receiving substantially all the risks and rewards of ownership of the asset (finance leases) are capitalised at the lower of the fair value of the property, plant and equipment or the estimated

present value of the minimum lease payments.

The corresponding finance lease obligation is included within interest bearing liabilities. The interest element is allocated to accounting periods during the lease term to reflect a constant rate of interest on the remaining balance of the obligation.

Operating lease assets are not capitalised and rental payments are included in the income statement on a straight-line basis over the lease term. Provision is made for the present value of future operating lease payments in relation to surplus lease space when it is first determined that the space will be of no probable future benefit. Operating lease incentives are recognised as a liability when received and subsequently reduced by allocating lease payments between rental expense and reduction of the liability.

Notes to the Financial Statements continued

1 Accounting policies continued

Impairment of non-current assets

Formal impairment tests are carried out annually for goodwill. Formal impairment tests for all other assets are performed when there is an indication of impairment. At each reporting date, an assessment is made to determine whether there are any indications of impairment. The Group conducts annually an internal review of asset values which is used as a source of information to assess for any indications of impairment. External factors, such as changes in expected future processes, costs and other market factors are also monitored to assess for indications of impairment. If any indication of impairment exists an estimate of the asset's recoverable amount is calculated. The recoverable amount is determined as the higher of fair value less direct costs to sell and the asset's value in use.

If the carrying amount of the asset exceeds its recoverable amount, the asset is impaired and an impairment loss is charged to the income statement so as to reduce the carrying amount in the balance sheet to its recoverable amount.

Fair value is determined as the amount that would be obtained from the sale of the asset in an arm's length transaction between knowledgeable and willing parties. Fair value for mineral assets is generally determined as the present value of the estimated future cash flows expected to arise from the continued use of the asset, including any expansion prospects, and its eventual disposal, using assumptions that an independent market participant may take into account. These cash flows are discounted by an appropriate discount rate to arrive at a net present value of the asset.

Value in use is determined as the present value of the estimated future cash flows expected to arise from the continued use of the asset in its present form and its eventual disposal. Value in use is determined by applying assumptions specific to the Group's continued use and cannot take into account future development. These assumptions are different to those used in calculating fair value and consequently the value in use calculation is likely to give a different result (usually lower) to a fair value calculation.

In testing for indications of impairment and performing impairment calculations, assets are considered as collective groups and referred to as cash generating units. Cash generating units are the smallest identifiable group of assets, liabilities and associated goodwill that generate cash inflows that are largely independent of the cash inflows from other assets or groups of assets.

The impairment assessments are based on a range of estimates and assumptions, including:

Estimates/assumptions:

- Future production
- Commodity prices
- Exchange rates
- Discount rates

Basis:

- Proved and probable reserves, resource estimates and, in certain cases, expansion projects
- Forward market and contract prices, and longer-term price protocol estimates
- Current (forward) market exchange rates
- Cost of capital risk adjusted for the resource concerned

Overburden removal costs

Overburden and other mine waste materials are often removed during the initial development of a mine site in order to access the mineral deposit. This activity is referred to as development stripping. The directly attributable costs (inclusive of an allocation of relevant overhead expenditure) are initially capitalised as 'assets under construction'. Capitalisation of development stripping costs ceases at the time that saleable material begins to be extracted from the mine. On completion of development, all assets included in 'assets under construction' are transferred to 'other mineral assets'.

Removal of waste material normally continues throughout the life of a mine. Production stripping commences at the time that saleable materials begin to be extracted from the mine. The costs of production stripping are charged to the income statement as operating costs when the ratio of waste material to ore extracted for an area of interest is expected to be constant throughout its estimated life. When the ratio of waste to ore is not expected to be constant, production stripping costs are accounted for as follows:

- All costs are initially charged to the income statement and classified as operating costs
- When the current ratio of waste to ore is greater than the estimated life-of-mine ratio, a portion of the stripping costs (inclusive of an allocation of relevant overhead expenditure) is capitalised to 'Other mineral assets'
- In subsequent years when the ratio of waste to ore is less than the estimated life-of-mine ratio, a portion of capitalised stripping costs is charged to the income statement as operating costs

The amount of production stripping costs capitalised or charged in a financial year is determined so that the stripping expense for the financial year reflects the estimated life-of-mine ratio. Changes to the estimated life of mine ratio are accounted for prospectively from the date of the change.

Inventories

Inventories, including work in progress, are valued at the lower of cost and net realisable value. Cost is determined primarily on the basis of average costs. For processed inventories, cost is derived on an absorption costing basis. Cost comprises cost of purchasing raw materials and cost of production, including attributable mining and manufacturing overheads.

Notes to the Financial Statements continued

1 Accounting policies continued

Finance costs

Finance costs are generally expensed as incurred except where they relate to the financing of construction or development of qualifying assets requiring a substantial period of time to prepare for their intended future use.

Finance costs are capitalised up to the date when the asset is ready for its intended use. The amount of finance costs capitalised (before the effects of income tax) for the period is determined by applying the interest rate applicable to appropriate borrowings outstanding during the period to the average amount of capitalised expenditure for the qualifying assets during the period.

Taxation

Taxation on the profit or loss for the year comprises current and deferred tax. Taxation is recognised in the income statement except to the extent that it relates to items recognised directly in equity, in which case the tax is recognised in equity.

Current tax is the expected tax payable on the taxable income for the year using rates enacted or substantively enacted at the year end, and includes any adjustment to tax payable in respect of previous years.

Deferred tax is provided using the balance sheet liability method, providing for the tax effect of temporary differences between the carrying amount of assets and liabilities for financial reporting purposes and the amounts used for tax assessment or deduction purposes. Where an asset has no deductible or depreciable amount for income tax purposes, but has a deductible amount on sale or abandonment for capital gains tax purposes, that amount is included in the determination of temporary differences. The tax effect of certain temporary differences is not recognised, principally with respect to goodwill; temporary differences arising on the initial recognition of assets or liabilities (other than those arising in a business combination or in a manner that initially impacted accounting or taxable profit); and temporary differences relating to investments in subsidiaries, jointly controlled entities and associates to the extent that the Group is able to control the reversal of the temporary difference and the temporary difference is not expected to reverse in the foreseeable future. The amount of deferred tax recognised is based on the expected manner and timing of realisation or settlement of the carrying amount of assets and liabilities, with the exception of items that have a tax base solely derived under capital gains tax legislation, using tax rates enacted or substantively enacted at period end. To the extent that an item's tax base is solely derived from the amount deductible under capital gains tax legislation, deferred tax is determined as if such amounts are deductible in determining future assessable income.

A deferred tax asset is recognised only to the extent that it is probable that future taxable profits will be available against which the asset can be utilised. Deferred tax assets are reviewed at each balance sheet date and amended to the extent that it is no longer probable that the related tax benefit will be realised. Deferred tax assets and liabilities are offset when they relate to income taxes levied by the same taxation authority and the Group has both the right and the intention to settle its current tax assets and liabilities on a net or simultaneous basis.

Royalties and resource rent taxes are treated as taxation arrangements when they have the characteristics of a tax. This is considered to be the case when they are imposed under government authority and the amount payable is calculated by reference to revenue derived (net of any allowable deductions) after adjustment for items comprising temporary differences. For such arrangements, current and deferred tax is provided on the same basis as described above for other forms of taxation. Obligations arising from royalty arrangements that do not satisfy these criteria are recognised as current provisions and included in expenses.

Provision for employee benefits

Provision is made in the financial statements for all employee benefits, including on-costs. In relation to industry-based long service leave funds, the Group's liability, including obligations for funding shortfalls, is determined after deducting the fair value of dedicated assets of such funds.

Liabilities for wages and salaries, including non-monetary benefits, annual leave and accumulating sick leave obliged to be settled within 12 months of the reporting date, are recognised in sundry creditors or provision for employee benefits in respect of employees' services up to the reporting date and are measured at the amounts expected to be paid when the liabilities are settled. Liabilities for non-accumulating sick leave are recognised when the leave is taken and measured at the rates paid or payable.

The liability for long service leave for which settlement within 12 months of the reporting date cannot be deferred is

recognised in the current provision for employee benefits and is measured in accordance with annual leave described above. The liability for long service leave for which settlement can be deferred beyond 12 months from the reporting date is recognised in the non-current provision for employee benefits and measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date. Consideration is given to expected future wage and salary levels, experience of employee departures and periods of service. Expected future payments are discounted using market yields at the reporting date on national government bonds with terms to maturity and currency that match, as closely as possible, the estimated future cash outflows.

Notes to the Financial Statements continued

1 Accounting policies continued

Superannuation, pensions and other post-retirement benefits

The Group operates or participates in a number of pension (including superannuation) schemes throughout the world. The funding of the schemes complies with local regulations. The assets of the schemes are generally held separately from those of the Group and are administered by trustees or management boards.

For defined contribution schemes or schemes operated on an industry-wide basis where it is not possible to identify assets attributable to the participation by the Group's employees, the pension charge is calculated on the basis of contributions payable.

For defined benefit schemes, the cost of providing pensions is charged to the income statement so as to recognise current and past service costs, interest cost on defined benefit obligations, and the effect of any curtailments or settlements, net of expected returns on plan assets. Actuarial gains and losses are recognised directly in equity. An asset or liability is consequently recognised in the balance sheet based on the present value of defined benefit obligations, less any unrecognised past service costs and the fair value of plan assets, except that any such asset can not exceed the total of unrecognised past service costs and the present value of refunds from and reductions in future contributions to the plan. Defined benefit obligations are estimated by discounting expected future payments using market yields at the reporting date on high quality corporate bonds in countries that have developed corporate bond markets. However, where developed corporate bond markets do not exist, the discount rates are selected by reference to national government bonds. In both instances, the bonds are selected with terms to maturity and currency that match, as closely as possible, the estimated future cash flows.

Certain Group companies provide post-retirement medical benefits to qualifying retirees. In some cases the benefits are provided through medical care schemes to which the Group, the employees, the retirees and covered family members contribute. In some schemes there is no funding of the benefits before retirement. These schemes are recognised on the same basis as described above for defined benefit pension schemes.

Closure and rehabilitation

The mining, extraction and processing activities of the Group normally give rise to obligations for site closure or rehabilitation. Closure and rehabilitation works can include facility decommissioning and dismantling; removal or treatment of waste materials; site and land rehabilitation. The extent of work required and the associated costs are dependent on the requirements of relevant authorities and the Group's environmental policies.

Provisions for the cost of each closure and rehabilitation program are recognised at the time that environmental disturbance occurs. When the extent of disturbance increases over the life of an operation, the provision is increased accordingly. Costs included in the provision encompass all closure and rehabilitation activity expected to occur progressively over the life of the operation and at the time of closure in connection with disturbances at the reporting date. Routine operating costs that may impact the ultimate closure and rehabilitation activities, such as waste material handling conducted as an integral part of a mining or production process, are not included in the provision. Costs arising from unforeseen circumstances, such as the contamination caused by unplanned discharges, are recognised as an expense and liability when the event gives rise to an obligation which is probable and capable of reliable estimation.

The timing of the actual closure and rehabilitation expenditure is dependent upon a number of factors such as the life and nature of the asset, the operating licence conditions, the principles of our Charter and the environment in which the mine operates. Expenditure may occur before and after closure and can continue for an extended period of time dependent on closure and rehabilitation requirements. The majority of the expenditure is expected to be paid over periods of up to 50 years with some payments into perpetuity.

Closure and rehabilitation provisions are measured at the expected value of future cash flows, discounted to their present value and determined according to the probability of alternative estimates of cash flows occurring for each operation. Discount rates used are specific to the country in which the operation is located. Significant judgements and estimates are involved in forming expectations of future activities and the amount and timing of the associated cash flows. Those expectations are formed based on existing environmental and regulatory requirements or, if more stringent, Group environmental policies which give rise to a constructive obligation.

When provisions for closure and rehabilitation are initially recognised, the corresponding cost is capitalised as an asset, representing part of the cost of acquiring the future economic benefits of the operation. The capitalised cost of closure and rehabilitation activities is recognised in Property, plant and equipment and depreciated accordingly. The value of the provision is progressively increased over time as the effect of discounting unwinds, creating an expense recognised in

financial expenses.

Closure and rehabilitation provisions are also adjusted for changes in estimates. Those adjustments are accounted for as a change in the corresponding capitalised cost, except where a reduction in the provision is greater than the undepreciated capitalised cost of the related assets, in which case the capitalised cost is reduced to nil and the remaining adjustment is recognised in the income statement. In the case of closed sites, changes to estimated costs are recognised immediately in the income statement. Changes to the capitalised cost result in an adjustment to future depreciation and financial charges. Adjustments to the estimated amount and timing of future closure and rehabilitation cash flows are a normal occurrence in light of the significant judgements and estimates involved. Factors influencing those changes include:

- revisions to estimated reserves, resources and lives of operations
- developments in technology
- regulatory requirements and environmental management strategies

Notes to the Financial Statements continued

1 Accounting policies continued

- changes in the estimated costs of anticipated activities, including the effects of inflation and movements in foreign exchange rates
- movements in interest rates affecting the discount rate applied

Financial instruments

All financial assets are initially recognised at the fair value of consideration paid. Subsequently, financial assets are carried at fair value or amortised cost less impairment. Where non-derivative financial assets are carried at fair value, gains and losses on remeasurement are recognised directly in equity unless the financial assets have been designated as being held at fair value through profit, in which case the gains and losses are recognised directly in the income statement. Financial assets are designated as being held at fair value through profit when this is necessary to reduce measurement inconsistencies for related assets and liabilities. All financial liabilities other than derivatives are initially recognised at fair value of consideration received net of transaction costs as appropriate (initial cost) and subsequently carried at amortised cost.

Derivatives, including those embedded in other contractual arrangements but separated for accounting purposes because they are not clearly and closely related to the host contract, are initially recognised at fair value on the date the contract is entered into and are subsequently remeasured at their fair value. The method of recognising the resulting gain or loss on remeasurement depends on whether the derivative is designated as a hedging instrument, and, if so, the nature of the item being hedged. The measurement of fair value is based on quoted market prices. Where no price information is available from a quoted market source, alternative market mechanisms or recent comparable transactions, fair value is estimated based on the Group's views on relevant future prices, net of valuation allowances to accommodate liquidity, modelling and other risks implicit in such estimates.

Forward exchange contracts held for hedging purposes are generally accounted for as cash flow hedges. Interest rate swaps held for hedging purposes are generally accounted for as fair value hedges. Derivatives embedded within other contractual arrangements and the majority of commodity based transactions executed through derivative contracts do not qualify for hedge accounting.

Fair value hedges

Changes in the fair value of derivatives that are designated and qualify as fair value hedges are recorded in the income statement, together with any changes in the fair value of the hedged asset or liability that are attributable to the hedged risk. Any difference between the change in fair value of the derivative and the hedged risk constitutes ineffectiveness of the hedge and is recognised immediately in the income statement.

Cash flow hedges

The effective portion of changes in the fair value of derivatives that are designated and qualify as cash flow hedges is recognised in equity in the hedging reserve. The gain or loss relating to the ineffective portion is recognised immediately in the income statement.

Amounts accumulated in equity are recycled in the income statement in the periods when the hedged item affects profit or loss. However, when the forecast transaction that is hedged results in the recognition of a non-financial asset (for example, plant and equipment purchases) or a non-financial liability, the gains and losses previously deferred in equity are transferred from equity and included in the measurement of the initial carrying amount of the asset or liability.

When a hedging instrument expires or is sold or terminated, or when a hedge no longer meets the criteria for hedge accounting, any cumulative gain or loss existing in equity at that time remains in equity and is recognised when the forecast transaction is ultimately recognised in the income statement. When a hedged forecast transaction is no longer expected to occur, the cumulative hedge gain or loss that was reported in equity is immediately transferred to the income statement.

Derivatives that do not qualify for hedge accounting

Certain derivative instruments do not qualify for hedge accounting. Changes in the fair value of any derivative instrument that does not qualify for hedge accounting are recognised immediately in the income statement.

Available for sale and trading investments

Available for sale and trading investments are measured at fair value. Gains and losses on the remeasurement of trading investments are recognised directly in the income statement. Gains and losses on the remeasurement of available for sale investments are recognised directly in equity and subsequently recognised in the income statement when realised by

sale or redemption, or when a reduction in fair value is judged to represent an impairment.

Notes to the Financial Statements continued

1 Accounting policies continued

Application of critical accounting policies and estimates

The preparation of the consolidated financial statements requires management to make judgements and estimates and form assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent liabilities at the date of the financial statements, and the reported revenue and expenses during the periods presented therein. On an ongoing basis, management evaluates its judgements and estimates in relation to assets, liabilities, contingent liabilities, revenue and expenses. Management bases its judgements and estimates on historical experience and on other various factors it believes to be reasonable under the circumstances, the results of which form the basis of the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions and conditions.

The Group has identified the following critical accounting policies under which significant judgements, estimates and assumptions are made and where actual results may differ from these estimates under different assumptions and conditions and may materially affect financial results or the financial position reported in future periods.

Further details of the nature of these assumptions and conditions may be found in the relevant notes to the financial statements.

Reserve estimates

Reserves are estimates of the amount of product that can be economically and legally extracted from the Group's properties. In order to calculate reserves, estimates and assumptions are required about a range of geological, technical and economic factors, including quantities, grades, production techniques, recovery rates, production costs, transport costs, commodity demand, commodity prices and exchange rates.

Estimating the quantity and/or grade of reserves requires the size, shape and depth of ore bodies or fields to be determined by analysing geological data such as drilling samples. This process may require complex and difficult geological judgements and calculations to interpret the data.

The Group determines and reports ore reserves in Australia and the UK under the principles incorporated in the Australasian Code for Reporting of Mineral Resources and Ore Reserves December 2004, known as the JORC Code. The JORC Code requires the use of reasonable investment assumptions to calculate reserves. Reserve reporting requirements for SEC (United States of America) filings are specified in Industry Guide 7 which requires economic assumptions to be based on current economic conditions, which may differ from assumptions based on reasonable investment assumptions. For example, if current prices remain above long-term historical averages for an extended period of time, internal assumptions about future prices may involve the use of lower prices to estimate reserves under the JORC Code. Lower price assumptions generally result in lower estimates of reserves. Accordingly, for SEC filings, assumed future selling prices are based on existing contract prices for commodities sold under long-term contracts, such as iron ore and coal, and the three-year historical average for commodities that are traded on the London Metals Exchange, such as copper and nickel.

Oil and gas reserves reported in Australia and the UK, and the US for SEC filing purposes, are based on prices prevailing at the time of the estimates as required under Statement of Financial Accounting Standards No. 69 'Disclosures about Oil and Gas Producing Activities', issued by the US Financial Accounting Standards Board.

Because the economic assumptions used to estimate reserves change from period to period, and because additional geological data is generated during the course of operations, estimates of reserves may change from period to period. Changes in reported reserves may affect the Group's financial results and financial position in a number of ways, including the following:

- Asset carrying values may be affected due to changes in estimated future cash flows
- Depreciation, depletion and amortisation charged in the income statement may change where such charges are determined by the units of production basis, or where the useful economic lives of assets change
- Overburden removal costs recorded on the balance sheet or charged to the income statement may change due to changes in stripping ratios or the units of production basis of depreciation
- Decommissioning, site restoration and environmental provisions may change where changes in estimated reserves affect expectations about the timing or cost of these activities
- The carrying value of deferred tax assets may change due to changes in estimates of the likely recovery of the tax benefits

Exploration and evaluation expenditure

The Group's accounting policy for exploration and evaluation expenditure results in certain items of expenditure being capitalised for an area of interest where it is considered likely to be recoverable by future exploitation or sale or where the activities have not reached a stage which permits a reasonable assessment of the existence of reserves. This policy requires management to make certain estimates and assumptions as to future events and circumstances, in particular whether an economically viable extraction operation can be established. Any such estimates and assumptions may change as new information becomes available. If, after having capitalised the expenditure under the policy, a judgement is made that recovery of the expenditure is unlikely, the relevant capitalised amount will be written off to the income statement.

Notes to the Financial Statements continued

1 Accounting policies continued

Development expenditure

Development activities commence after project sanctioning by the appropriate level of management. Judgement is applied by management in determining when a project is economically viable. In exercising this judgement, management is required to make certain estimates and assumptions similar to those described above for capitalised exploration and evaluation expenditure. Any such estimates and assumptions may change as new information becomes available. If, after having commenced the development activity, a judgement is made that a development asset is impaired, the appropriate amount will be written off to the income statement.

Property, plant and equipment – recoverable amount

In accordance with the Group's accounting policy, each asset or cash generating unit is evaluated every reporting period to determine whether there are any indications of impairment. If any such indication exists, a formal estimate of recoverable amount is performed and an impairment loss recognised to the extent that carrying amount exceeds recoverable amount. The recoverable amount of an asset or cash generating group of assets is measured at the higher of fair value less costs to sell and value in use.

The determination of fair value and value in use requires management to make estimates and assumptions about expected production and sales volumes, commodity prices (considering current and historical prices, price trends and related factors), reserves (see 'Reserve estimates' above), operating costs, closure and rehabilitation costs and future capital expenditure. These estimates and assumptions are subject to risk and uncertainty; hence there is a possibility that changes in circumstances will alter these projections, which may impact the recoverable amount of the assets. In such circumstances, some or all of the carrying value of the assets may be impaired and the impairment would be charged against the income statement.

Defined benefit superannuation schemes

The accounting policy for defined benefit superannuation schemes requires management to make judgements as to the nature of benefits provided by each scheme and thereby determine the classification of each scheme. For defined benefit schemes, management is required to make annual estimates and assumptions about future returns on classes of scheme assets, future remuneration changes, employee attrition rates, administration costs, changes in benefits, inflation rates, exchange rates, life expectancy and expected remaining periods of service of employees. In making these estimates and assumptions, management considers advice provided by external advisers, such as actuaries. Where actual experience differs to these estimates, actuarial gains and losses are recognised directly in equity. Refer to note 34 for details of the key assumptions.

Provision for closure and rehabilitation

The Group's accounting policy for the recognition of closure and rehabilitation provisions requires significant estimates and assumptions such as: requirements of the relevant legal and regulatory framework; the magnitude of possible contamination and the timing, extent and costs of required closure and rehabilitation activity. These uncertainties may result in future actual expenditure differing from the amounts currently provided.

The provision recognised for each site is periodically reviewed and updated based on the facts and circumstances available at the time. Changes to the estimated future costs for operating sites are recognised in the balance sheet by adjusting both the closure and rehabilitation asset and provision. For closed sites, changes to estimated costs are recognised immediately in the income statement.

In addition to the uncertainties noted above, certain closure and rehabilitation activities are subject to legal disputes and depending on the ultimate resolution of these issues the final liability for these matters could vary.

Taxation

The Group's accounting policy for taxation requires management's judgement as to the types of arrangements considered to be a tax on income in contrast to an operating cost. Judgement is also required in assessing whether deferred tax assets and certain deferred tax liabilities are recognised on the balance sheet. Deferred tax assets, including those arising from unrecouped tax losses, capital losses and temporary differences, are recognised only where it is considered more likely than not that they will be recovered, which is dependent on the generation of sufficient future taxable profits. Deferred tax liabilities arising from temporary differences in investments, caused principally by retained earnings held in foreign tax jurisdictions, are recognised unless repatriation of retained earnings can be controlled and are not expected to occur in the foreseeable future.

Assumptions about the generation of future taxable profits and repatriation of retained earnings depend on

management's estimates of future cash flows. These depend on estimates of future production and sales volumes, commodity prices, reserves, operating costs, closure and rehabilitation costs, capital expenditure, dividends and other capital management transactions. Judgements are also required about the application of income tax legislation. These judgements and assumptions are subject to risk and uncertainty, hence there is a possibility that changes in circumstances will alter expectations, which may impact the amount of deferred tax assets and deferred tax liabilities recognised on the balance sheet and the amount of other tax losses and temporary differences not yet recognised. In such circumstances, some or all of the carrying amount of recognised deferred tax assets and liabilities may require adjustment, resulting in a corresponding credit or charge to the income statement.

Rounding of amounts

Amounts in this financial report have, unless otherwise indicated, been rounded to the nearest million dollars.

Notes to the Financial Statements continued

1 Accounting policies continued

Comparatives

Where applicable, comparatives have been adjusted to disclose them on the same basis as current period figures.

Exchange rates

The following exchange rates relative to the US dollar have been applied in the financial report:

	Average year ended 30 June 2008	Average year ended 30 June 2007	Average year ended 30 June 2006	As at 30 June 2008	As at 30 June 2007	As at 30 June 2006
Australian dollar ^(a)	0.90	0.79	0.75	0.96	0.85	0.74
Brazilian real	1.78	2.10	2.24	1.60	1.93	2.18
Canadian dollar	1.01	1.13	1.16	1.01	1.06	1.11
Chilean peso	489	534	532	522	528	546
Colombian peso	1,935	2,247	2,324	1,899	1,960	2,635
South African rand	7.29	7.20	6.41	7.91	7.08	7.12
Euro	0.68	0.77	0.82	0.63	0.74	0.78
UK pound sterling	0.50	0.52	0.56	0.50	0.50	0.55

(a) Displayed as US\$ to A\$1 based on common convention.

Notes to the Financial Statements continued

2 Business and geographical segments

Business segments

We operate nine Customer Sector Groups aligned with the commodities which we extract and market:

Customer Sector Group	Principal activities
Petroleum	Oil and gas exploration, production, development and marketing
Aluminium	Mining of bauxite, refining of bauxite into alumina and smelting of alumina into aluminium metal
Base Metals	Mining of copper, silver, lead, zinc, molybdenum, uranium and gold
Diamonds and Specialty Products	Mining of diamonds and titanium minerals
Stainless Steel Materials	Mining and production of nickel products
Iron Ore	Mining of iron ore
Manganese	Mining of manganese ore and production of manganese metal and alloys
Metallurgical Coal	Mining of metallurgical coal
Energy Coal	Mining and marketing of thermal (energy) coal

Group and unallocated items represent Group centre functions and certain comparative data for divested assets and investments. Exploration and technology activities, which were previously recognised as part of Group and unallocated items, are now recognised within relevant segments as a result of a change in management responsibilities over such activities. This change in segment reporting has been reflected in all periods presented and resulted in operating costs of US\$149 million (30 June 2007: US\$139 million; 30 June 2006: US\$134 million) being reported in individual segments rather than Group and unallocated items. Amounts allocated to any individual segment are insignificant.

It is the Group's policy that inter-segment sales are made on a commercial basis.

Notes to the Financial Statements continued

2 Business and geographical segments continued

US\$M	Petroleum	Aluminium	Base Metals	Diamonds and Specialty Products	Stainless Steel Materials	Iron Ore	Manganese	Metallurgical Coal	Energy Coal	Group and unallocated items/ eliminations	BHP Billiton Group
Year ended 30 June 2008											
Revenue											
Group production	7,997	4,675	13,231	969	5,040	9,246	2,844	3,818	3,921	-	51,741
Third party product	653	1,071	1,543	-	48	108	68	61	2,639	1,364	7,555
Rendering of services	10	-	-	-	-	63	-	62	-	42	177
Inter-segment revenue	887	-	-	-	-	38	-	-	-	(925)	-
Segment revenue	9,547	5,746	14,774	969	5,088	9,455	2,912	3,941	6,560	481	59,473
Segment result	5,486	1,427	7,890	180	1,237	4,631	1,644	936	1,057	(343)	24,145
Other attributable income ^(a)	3	38	-	9	-	-	-	1	-	(51)	-
Profit from operations	5,489	1,465	7,890	189	1,237	4,631	1,644	937	1,057	(394)	24,145
Net finance costs											(662)
Taxation											(6,798)
Royalty related taxation											(723)
Profit after taxation											15,962
Adjusted EBITDA	6,679	1,774	8,557	367	1,743	5,086	1,694	1,236	1,306	(242)	28,200
Other significant non-cash items	(22)	1	100	(3)	(4)	(124)	(2)	(27)	20	(108)	(169)
EBITDA^(b)	6,657	1,775	8,657	364	1,739	4,962	1,692	1,209	1,326	(350)	28,031
Depreciation and amortisation	(1,113)	(309)	(658)	(142)	(450)	(331)	(48)	(272)	(241)	(48)	(3,612)
Impairment (losses)/reversals recognised	(55)	(1)	(109)	(33)	(52)	-	-	-	(28)	4	(274)
Profit from operations	5,489	1,465	7,890	189	1,237	4,631	1,644	937	1,057	(394)	24,145
Profit from group production	5,483	1,445	8,091	189	1,237	4,748	1,644	941	1,146	(395)	24,529
Profit from third party production	6	20	(201)	-	-	(117)	-	(4)	(89)	1	(384)
Capital expenditure	2,116	556	989	123	1,191	1,832	155	500	438	29	7,929
Segment assets	11,973	7,672	15,356	1,964	8,477	8,656	1,688	3,916	5,173	11,014	75,889
Segment liabilities	3,037	1,308	4,197	270	1,202	1,862	534	1,269	3,174	19,993	36,846

Notes to the Financial Statements continued

2 Business and geographical segments continued

US\$M	Petroleum	Aluminium	Base Metals	Diamonds and Specialty Products	Stainless Steel Materials	Iron Ore	Manganese	Metallurgical Coal	Energy Coal	Group and unallocated items/ eliminations	BHP Billiton Group
Year ended 30 June 2007											
Revenue											
Group production	4,846	4,564	10,756	893	6,800	5,421	1,149	3,712	2,980	14	41,135
Third party product	454	1,315	1,879	-	101	29	95	10	1,595	724	6,202
Rendering of services	7	-	-	-	-	55	-	41	1	32	136
Inter-segment revenue	578	-	-	-	-	19	-	6	-	(603)	-
Segment revenue	5,885	5,879	12,635	893	6,901	5,524	1,244	3,769	4,576	167	47,473
Segment result	3,007	1,833	6,875	189	3,665	2,728	253	1,246	255	(327)	19,724
Other attributable income (a)	7	23	-	8	10	-	-	1	50	(99)	-
Profit from operations	3,014	1,856	6,875	197	3,675	2,728	253	1,247	305	(426)	19,724
Net finance costs											(512)
Taxation											(5,305)
Royalty related taxation											(411)
Profit after taxation											13,496
Adjusted EBITDA	3,794	2,111	7,309	317	3,946	2,972	294	1,510	761	(318)	22,696
Other significant non-cash items	(4)	28	139	(2)	4	(24)	(1)	(3)	10	(60)	87
EBITDA (b)	3,790	2,139	7,448	315	3,950	2,948	293	1,507	771	(378)	22,783
Depreciation and amortisation	(694)	(268)	(565)	(118)	(275)	(220)	(40)	(238)	(290)	(46)	(2,754)
Impairment (losses)/reversals recognised	(82)	(15)	(8)	-	-	-	-	(22)	(176)	(2)	(305)
Profit from operations	3,014	1,856	6,875	197	3,675	2,728	253	1,247	305	(426)	19,724
Profit from group production	3,010	1,830	6,963	197	3,675	2,729	251	1,246	175	(426)	19,650
Profit from third party production	4	26	(88)	-	-	(1)	2	1	130	-	74
Capital expenditure	1,703	369	868	164	1,509	1,517	72	557	316	41	7,116
Segment assets	9,588	7,184	14,459	1,979	7,745	5,467	971	3,083	4,122	6,806	61,404
Segment liabilities	2,527	1,006	3,505	220	1,150	1,211	381	910	2,276	18,300	31,486

Notes to the Financial Statements continued

2 Business and geographical segments continued

US\$M	Petroleum	Aluminium	Base Metals	Diamonds and Specialty Products	Stainless Steel Materials	Iron Ore	Manganese	Metallurgical Coal	Energy Coal	Group and unallocated items/ eliminations	BHP Billiton Group
Year ended 30 June 2006											
Revenue											
Group production	4,797	3,704	9,034	1,263	2,916	4,735	965	3,926	2,713	5	34,058
Third party product	321	1,374	1,259	-	37	15	72	1	1,252	629	4,960
Rendering of services	3	6	1	-	-	32	-	6	-	33	81
Inter-segment revenue	109	-	-	-	2	-	-	8	-	(119)	-
Segment revenue	5,230	5,084	10,294	1,263	2,955	4,782	1,037	3,941	3,965	548	39,099
Segment result	2,963	1,149	5,873	281	878	2,533	124	1,833	326	(244)	15,716
Other attributable income (a)	5	37	-	6	-	-	8	1	-	(57)	-
Profit from operations	2,968	1,186	5,873	287	878	2,533	132	1,834	326	(301)	15,716
Net finance costs											(600)
Taxation											(4,122)
Royalty related taxation											(460)
Profit after taxation											10,534
Adjusted EBITDA	3,802	1,456	6,159	407	1,115	2,697	172	2,006	596	(185)	18,225
Other significant non-cash items	(7)	46	286	(3)	6	9	(1)	(6)	13	(76)	267
EBITDA (b)	3,795	1,502	6,445	404	1,121	2,706	171	2,000	609	(261)	18,492
Depreciation and amortisation	(724)	(266)	(564)	(117)	(243)	(173)	(38)	(166)	(283)	(39)	(2,613)
Impairment (losses) / reversals recognised	(103)	(50)	(8)	-	-	-	(1)	-	-	(1)	(163)
Profit from operations	2,968	1,186	5,873	287	878	2,533	132	1,834	326	(301)	15,716
Profit from group production	2,963	1,110	5,877	287	878	2,531	137	1,834	289	(301)	15,605
Profit from third party production	5	76	(4)	-	-	2	(5)	-	37	-	111
Capital expenditure	1,133	377	1,292	215	1,423	1,017	45	677	181	41	6,401
Segment assets	7,559	6,943	13,690	1,973	5,692	4,073	859	2,649	3,726	4,179	51,343
Segment liabilities	2,236	1,048	3,383	218	898	1,229	344	791	1,798	14,943	26,888

(a) Other attributable income represents external dividend income and profit from the sale of investments that do not form part of the segment result.

(b) EBITDA is profit from operations, before depreciation, amortisation and impairments.

Notes to Financial Statements continued

2 Business and geographical segments continued

Geographical segments

	2008		
	Segment revenue by location of customer US\$M	Segment assets by location of assets US\$M	Segment capital expenditure US\$M
Europe	14,349	7,908	18
China	11,670	-	-
Japan	6,885	-	-
Other Asia	6,411	-	-
Australia	5,841	31,618	4,961
North America	4,771	8,388	1,144
South Korea	3,700	-	-
South America	2,640	12,181	1,374
Southern Africa	2,003	5,079	323
Rest of World	1,203	1,489	109
Unallocated assets	-	9,226	-
BHP Billiton Group	59,473	75,889	7,929

	2007		
	Segment revenue by location of customer US\$M	Segment assets by location of assets US\$M	Segment capital expenditure US\$M
Europe	12,485	3,959	30
China	9,292	-	-
Other Asia	5,471	-	-
Japan	5,337	-	-
Australia	4,334	26,883	4,319
North America	3,205	7,005	1,168
South Korea	2,574	-	-
South America	1,966	10,944	1,282
Southern Africa	1,748	5,268	224
Rest of World	1,061	1,255	93
Unallocated assets	-	6,090	-
BHP Billiton Group	47,473	61,404	7,116

	2006		
	Segment revenue by location of customer US\$M	Segment assets by location of assets US\$M	Segment capital expenditure US\$M
Europe	11,663	4,473	49
China	6,557	-	-
Japan	5,177	-	-
Australia	3,548	23,002	3,813
Other Asia	3,254	-	-
North America	2,615	5,707	832
South Korea	2,143	-	-
South America	1,848	9,216	1,459
Southern Africa	1,439	5,193	201
Rest of World	855	734	47
Unallocated assets	-	3,018	-
BHP Billiton Group	39,099	51,343	6,401

Notes to Financial Statements continued

3 Other income

	2008 US\$M	2007 US\$M	2006 US\$M
Dividend income	53	43	40
Royalties	18	6	5
Rental income	7	5	5
Gains/(losses) on sale of property, plant and equipment	64	(21)	51
(Losses)/gains on sale of investments	(1)	60	19
Gains on sale of operations	66	62	530
Other income	441	466	579
Total other income	648	621	1,229

4 Expenses

	2008 US\$M	2007 US\$M	2006 US\$M
Changes in inventories of finished goods and work in progress	(750)	(489)	(332)
Raw materials and consumables used	7,529	6,857	5,685
Employee benefits expense	4,271	3,451	3,133
External services (including transportation)	8,947	6,222	6,108
Third party commodity purchases	7,820	6,169	4,907
Net foreign exchange losses/(gains)	243	233	(9)
Research and development costs before crediting related grants	244	169	76
Fair value change on derivatives (a)	433	33	79
Fair value change on other financial assets (a)	-	-	(2)
Government royalties paid and payable	1,369	1,030	825
Depreciation and amortisation expense	3,612	2,754	2,613
Exploration and evaluation expenditure incurred and expensed in the current period	859	539	566
Exploration and evaluation expenditure previously capitalised, written off as unsuccessful or abandoned	47	82	79
Reversal of previously written off capitalised exploration and evaluation expenditure	-	-	(8)
Impairment of property, plant and equipment	90	183	89
Reversal of previously impaired property, plant and equipment	-	-	(2)
Impairment of goodwill and other intangible assets	-	45	5
Reversal of previously impaired other intangible assets	-	(5)	-
Reduction of previously recognised goodwill (b)	137	-	-
Operating lease rentals	451	501	254
All other operating expenses	674	596	546
Total expenses	35,976	28,370	24,612

- (a) Fair value change on derivatives includes realised gains of US\$207 million (2007: US\$136 million realised gains; 2006: US\$265 million realised losses) and unrealised losses of US\$640 million (2007: US\$169 million unrealised losses, 2006: US\$186 million unrealised gains). Fair value change on other financial assets includes unrealised gains of US\$ nil (2007: US\$ nil; 2006: US\$2 million).
- (b) Comprises US\$137 million reduction in goodwill arising as a consequence of the recognition of a benefit of tax losses in respect of the acquisition of WMC Resources Ltd. Refer to note 5.

Notes to Financial Statements continued

5 Exceptional items

Exceptional items are those items where their nature and amount is considered material to the financial report. Such items included within the Group profit for the year are detailed below.

Year ended 30 June 2008	Gross US\$M	Tax US\$M	Net US\$M
Exceptional items by category			
Recognition of benefit of tax losses in respect of the acquisition of WMC and consequent reduction in goodwill	(137)	159	22
	(137)	159	22
Exceptional items by Customer Sector Group			
Base Metals	(99)	(34)	(133)
Stainless Steel Materials	(38)	(4)	(42)
Group and unallocated	-	197	197
	(137)	159	22

Recognition of benefit of tax losses in respect of the acquisition of WMC and consequent reduction in goodwill

Tax losses incurred by WMC Resources Ltd (WMC) were not recognised as a deferred tax asset at acquisition pending a ruling application to the Australian Taxation Office. The ruling has now been issued confirming the availability of those losses. This has resulted in the recognition of a deferred tax asset (US\$197 million) and consequential adjustment to deferred tax liabilities (US\$38 million) through income tax expense at current exchange rates. As a further consequence the Group has recognised an expense for a corresponding reduction in goodwill measured at the exchange rate at the date of acquisition.

Year ended 30 June 2007	Gross US\$M	Tax US\$M	Net US\$M
Exceptional items by category			
Impairment of South African coal operations	(176)	34	(142)
Newcastle steelworks rehabilitation	(167)	50	(117)
	(343)	84	(259)
Exceptional items by Customer Sector Group			
Energy Coal	(176)	34	(142)
Group and unallocated	(167)	50	(117)
	(343)	84	(259)

Impairment of South African coal operations

As part of the Group's regular review of assets whose value may be impaired, a charge of US\$176 million (US\$34 million tax benefit) was recorded in 2007 in relation to coal operations in South Africa.

Newcastle steelworks rehabilitation

The Group recognised a charge against profits of US\$167 million (US\$50 million tax benefit) for additional rehabilitation obligations in respect of former operations at the Newcastle steelworks (Australia). The increase in obligations relate to increases in the volume of sediment in the Hunter River requiring remediation and treatment, and increases in treatment costs.

Year ended 30 June 2006	Gross US\$M	Tax US\$M	Net US\$M
Exceptional items by category			
Sale of Tintaya copper mine	439	(143)	296
Exceptional items by Customer Sector Group			
Base Metals	439	(143)	296

Sale of Tintaya copper mine

Effective 1 June 2006, BHP Billiton sold its interests in the Tintaya copper mine in Peru. Gross consideration received was US\$853 million, before deducting intercompany trade balances. The net consideration of US\$717 million (net of transaction costs) included US\$634 million for shares plus the assumption of US\$116 million of debt, working capital adjustments and deferred payments contingent upon future copper prices and production volumes.

Notes to Financial Statements continued

6 Net finance costs

	2008 US\$M	2007 US\$M	2006 US\$M
Financial expenses			
Interest on bank loans and overdrafts	52	62	167
Interest on all other borrowings	670	613	467
Finance lease and hire purchase interest	14	5	6
Dividends on redeemable preference shares	1	1	17
Discounting on provisions and other liabilities	310	255	268
Discounting on pension and medical benefit entitlements	138	127	108
Interest capitalised (a)	(204)	(353)	(167)
Net fair value change on hedged loans and related hedging derivatives	2	27	(30)
Exchange differences on net debt	(28)	39	(14)
	955	776	822
Financial income			
Interest income	(168)	(155)	(119)
Expected return on pension plan assets	(125)	(109)	(103)
	(293)	(264)	(222)
Net finance costs	662	512	600

- (a) Interest has been capitalised at the rate of interest applicable to the specific borrowings financing the assets under construction or, where financed through general borrowings, at a capitalisation rate representing the average interest rate on such borrowings. For the year ended 30 June 2008, the general capitalisation rate was 5.0 per cent (2007: 5.7 per cent; 2006: 5.0 per cent).

7 Employees

	2008 Number	2007 Number	2006 Number
Average number of employees (a)			
Petroleum	2,143	2,299	2,182
Aluminium	5,145	4,903	5,838
Base Metals	7,443	6,545	6,521
Diamonds and Specialty Products	2,043	1,853	2,064
Stainless Steel Materials	4,223	3,626	2,927
Iron Ore	3,105	2,809	2,705
Manganese	2,142	2,076	2,223
Metallurgical Coal	3,680	3,564	3,534
Energy Coal	9,183	9,595	9,327
Group and unallocated	2,625	2,677	2,681
	41,732	39,947	40,002

	2008 US\$M	2007 US\$M	2006 US\$M
Aggregate employee benefits expense			
Wages, salaries and redundancies (b)	3,949	3,177	2,847
Employee share awards	138	89	71
Social security costs	14	13	25
Pensions and post-retirement medical benefit costs – refer to note 34	259	236	190
	4,360	3,515	3,133

- (a) Average employee numbers include executive directors, 100 per cent of employees of subsidiary companies, and our share of proportionally consolidated entities and operations. Part time employees are included on a full time equivalent basis. Employees of businesses acquired or disposed of during the year are included for the period of ownership. People employed by contractors are not included.
- (b) Payroll expenses of US\$89 million (2007: US\$64 million, 2006: US\$ nil) classified as exploration and evaluation expenditure in note 4 have been included within wages, salaries and redundancies.

Notes to Financial Statements continued

8 Income tax and deferred tax

	2008 US\$M	2007 US\$M	2006 US\$M
Total taxation expense comprises			
Current tax expense	7,103	6,435	5,194
Deferred tax expense	418	(719)	(612)
	7,521	5,716	4,582
UK taxation	217	85	294
Australian taxation	3,397	2,768	2,548
Overseas taxation	3,907	2,863	1,740
	7,521	5,716	4,582

	2008		2007		2006	
	%	US\$M	%	US\$M	%	US\$M
Factors affecting tax charge for the period						
The tax expense is different than the standard rate of corporation tax (30 per cent) (a)						
The differences are explained below:						
Profit before tax		23,483		19,212		15,116
Tax on profit at standard rate of 30 per cent	30.0	7,045	30.0	5,764	30.0	4,535
Investment and development allowance	(1.6)	(386)	(1.7)	(321)	(1.4)	(219)
Amounts under/(over) provided in prior years	(0.3)	(61)	0.2	28	(0.3)	(48)
Recognition of previously unrecognised tax assets (b)	(0.8)	(183)	(1.5)	(290)	(2.9)	(431)
Non-deductible depreciation, amortisation and exploration expenditure	0.6	147	0.3	58	0.4	58
Tax rate differential on foreign income	0.7	166	0.7	142	1.3	195
Foreign tax on remitted and unremitted earnings from investments	0.7	158	0.6	121	0.5	82
Non tax-effected operating losses and capital gains	0.2	54	0.4	71	-	5
Foreign exchange gains and other translation adjustments	(1.0)	(229)	(2.1)	(395)	(0.5)	(83)
Tax rate changes	-	(9)	0.3	47	0.2	25
Other	0.4	96	0.5	80	-	3
Income tax expense	28.9	6,798	27.7	5,305	27.3	4,122
Royalty related taxation (net of income tax benefits)	3.1	723	2.1	411	3.0	460
Total taxation expense	32.0	7,521	29.8	5,716	30.3	4,582

(a) On 1 April 2008, the rate of corporation tax in the UK changed from 30 per cent to 28 per cent.

(b) Includes US\$159 million (2007: US\$ nil, 2006: US\$ nil) relating to the acquisition of WMC. Refer to note 5.

The movement for the year in the Group's net deferred tax position was as follows:

	2008 US\$M	2007 US\$M	2006 US\$M
Net deferred tax asset/(liability)			
At the beginning of the financial year	572	(147)	(787)
Income tax (charge)/credit recorded in the income statement	(427)	764	612
Effect of change in tax rates	9	(45)	-
Income tax credit/(charge) recorded directly in equity (a)	234	55	(24)
Acquisitions and disposals of subsidiaries and operations	-	29	20
Transfers (from)/to assets and liabilities held for sale	-	(93)	69
Exchange differences and other movements	(18)	9	(37)
At the end of the financial year	370	572	(147)

(a) The amounts charged directly to the SORIE include deferred tax relating to actuarial gains/(losses) on pension and medical plans, effective cash flow hedges and available for sale investments, and other amounts charged directly to equity including deferred tax relating to employee share awards.

Notes to Financial Statements continued

8 Income tax and deferred tax continued

The composition of the Group's net deferred tax asset and liability recognised in the balance sheet and the deferred tax expense charged/(credited) to the income statement is as follows:

	Deferred tax assets		Deferred tax liabilities		Charged/(credited) to the income statement		
	2008 US\$M	2007 US\$M	2008 US\$M	2007 US\$M	2008 US\$M	2007 US\$M	2006 US\$M
Type of temporary difference							
Depreciation	(617)	(850)	1,326	1,170	98	(50)	133
Exploration expenditure	360	374	(4)	(4)	(26)	(105)	(154)
Employee benefits	179	154	(319)	(259)	(66)	11	2
Closure and rehabilitation	540	436	(762)	(747)	(113)	(409)	(254)
Resource rent tax	19	(31)	548	207	291	12	20
Other provisions	80	153	(73)	3	(115)	(15)	-
Deferred income	3	(41)	227	(115)	298	138	(115)
Deferred charges	(85)	(52)	403	312	209	(88)	52
Investments, including foreign tax credits	1,465	1,151	865	625	(75)	(8)	(184)
Foreign exchange gains and losses	(55)	4	904	683	332	401	(60)
Non tax-depreciable fair value adjustments, revaluations and mineral rights	(57)	70	208	256	(54)	(360)	42
Tax-effected losses	1,082	1,253	(197)	(4)	(21)	(159)	(71)
Other	572	211	(10)	133	(340)	(87)	(23)
Total BHP Billiton Group	3,486	2,832	3,116	2,260	418	(719)	(612)

	2008 US\$M	2007 US\$M
Unrecognised deferred tax assets:		
Tax losses and tax credits	493	596
Investments in subsidiaries and jointly controlled entities	379	379
Other deductible temporary differences	2,021	1,113
Total unrecognised deferred tax assets	2,893	2,088
Unrecognised deferred tax liabilities:		
Investments in subsidiaries and jointly controlled entities	1,873	1,081
Total unrecognised deferred tax liabilities	1,873	1,081

Tax losses

At 30 June 2008, the Group had income and capital tax losses with a tax benefit of approximately US\$407 million (2007: US\$476 million) which are not recognised as deferred tax assets. The Group anticipates benefits from the recognition of losses in future periods to the extent of income or gains in relevant jurisdictions. The gross amount of tax losses carried forward that have not been tax effected expire as summarised below:

Year of expiry	Australia US\$M	UK US\$M	Foreign US\$M	Total losses US\$M
Income tax losses				
Not later than one year			3	3
Later than one year and not later than two years			23	23
Later than two years and not later than five years			14	14
Later than five years and not later than ten years			77	77
Later than ten years and not later than twenty years			206	206
Unlimited		324	116	440
	-	324	439	763
Capital tax losses				
Unlimited	577	3	2	582
Gross amount of tax losses not recognised	577	327	441	1,345
Tax effect of total losses not recognised	173	92	142	407

Notes to Financial Statements continued

8 Income tax and deferred tax continued

Tax credits

At 30 June 2008, the Group had US\$86 million of tax credits that have not been recognised (2007: US\$120 million).

Deductible temporary differences

At 30 June 2008, the Group had deductible temporary differences for which deferred tax assets of US\$2,400 million (2007: US\$1,492 million) have not been recognised because it is not probable that future taxable profits will be available against which the Group can utilise the benefits. The deductible temporary differences do not expire under current tax legislation.

The Group anticipates it will continue to incur foreign expenditure including exploration, or incur losses, in jurisdictions in which, under current accounting policies, the tax-effect of such expenditure or losses may not be recognised. The Group will continue to incur non-deductible accounting depreciation and amortisation.

Temporary differences associated with investments in subsidiaries and jointly controlled entities

At 30 June 2008, deferred tax liabilities of US\$1,873 million (2007: US\$1,081 million) associated with undistributed earnings of subsidiaries and jointly controlled entities have not been recognised because the Group is able to control the timing of the reversal of the temporary differences and it is probable that such differences will not reverse in the foreseeable future.

Other factors affecting taxation

The Australian Taxation Office (ATO) issued assessments in 2005 against subsidiary companies, primarily BHP Billiton Finance Ltd, in respect of the 1999 to 2002 financial years. The assessments relate to the deductibility of bad debts in respect of funding subsidiaries that undertook the Beenup, Boodarie Iron and Hartley projects. Appeals have been lodged in the Federal Court against the assessments.

The amount in dispute at 30 June 2008 for the bad debts disallowance is approximately US\$1,162 million (net of tax), being primary tax of US\$656 million, and US\$506 million of interest and penalties (after tax). An amount of US\$606 million in respect of the disputed amounts has been paid pursuant to ATO disputed assessments guidelines which require that taxpayers generally must pay half of the tax in dispute to defer recovery proceedings. The amounts paid have been recognised as a reduction of the Group's net deferred tax liabilities. Upon any successful challenge of the assessments, any sums paid will be refundable with interest.

In November 2007 and March 2008 the ATO issued further assessments disallowing capital allowances claimed on the plant and equipment funded by the loan from BHP Billiton Finance Ltd relating to the Boodarie Iron project. The amount in dispute at 30 June 2008 is approximately US\$629 million, being primary tax of US\$368 million and US\$261 million of interest and penalties (after tax). The Group has lodged objections against the amended assessments, which have been disallowed by the ATO. The Group has lodged appeals against some of these objection decisions and will lodge the remainder by October 2008.

The Group is in dispute with the ATO in respect of payments made pursuant to a plant completion guarantee which had been granted by BHP Billiton Limited in 1997 to third party financiers of the Orinoco Project in Venezuela. BHP Billiton Limited claimed tax deductions for the payments in the years ended 30 June 2001, 2002 and 2003. The ATO has issued amended assessments in respect of those years, treating the payments as non-deductible for tax purposes. The dispute involves primary tax of US\$202 million and interest and penalties (after tax) of US\$198 million. The Group has objected against the amended assessments. Partial payment will be made if the objection is determined unfavourably.

9 Earnings per share

	2008	2007	2006
Basic earnings per ordinary share (US cents)	275.3	229.5	173.2
Diluted earnings per ordinary share (US cents)	275.1	229.0	172.4
Basic earnings per American Depositary Share (ADS) (US cents) (a)	550.6	459.0	346.4
Diluted earnings per American Depositary Share (ADS) (US cents) (a)	550.2	458.0	344.8
Basic earnings (US\$M)	15,390	13,416	10,450
Diluted earnings (US\$M) (b)	15,419	13,434	10,456

The weighted average number of shares used for the purposes of calculating diluted earnings per share reconciles to the number used to calculate basic earnings per share as follows:

Weighted average number of shares	2008 Million	2007 Million	2006 Million
Basic earnings per ordinary share denominator	5,590	5,846	6,035
Shares and options contingently issuable under employee share ownership plans	15	20	31
Diluted earnings per share denominator	5,605	5,866	6,066

(a) Each ADS represents two ordinary shares.

(b) Diluted earnings are calculated after adding back dividend equivalent payments of US\$29 million (2007: US\$18 million; 2006: US\$6 million) that would not be made if potential ordinary shares were converted to fully paid.

Notes to Financial Statements continued

10 Dividends

	2008 US\$M	2007 US\$M	2006 US\$M
Dividends paid during the period			
BHP Billiton Limited	1,881	1,346	1,148
BHP Billiton Plc - Ordinary shares	1,252	923	790
- Preference shares (a)	-	-	-
	3,133	2,269	1,938
Dividends declared in respect of the period			
BHP Billiton Limited	2,351	1,605	1,275
BHP Billiton Plc - Ordinary shares	1,545	1,097	885
- Preference shares (a)	-	-	-
	3,896	2,702	2,160

	2008 US cents	2007 US cents	2006 US cents
Dividends paid during the period (per share)			
Prior year final dividend	27.0	18.5	14.5
Interim dividend	29.0	20.0	17.5
	56.0	38.5	32.0
Dividends declared in respect of the period (per share)			
Interim dividend	29.0	20.0	17.5
Final dividend	41.0	27.0	18.5
	70.0	47.0	36.0

Dividends are declared after period end in the announcement of the results for the period. Interim dividends are declared in February and paid in March. Final dividends are declared in August and paid in September. Dividends declared are not recorded as a liability at the end of the period to which they relate. Subsequent to year end, on 18 August 2008, BHP Billiton declared a final dividend of 41.0 US cents per share (US\$2,282 million), which will be paid on 25 September 2008 (2007: 27.0 US cents per share - US\$1,528 million; 2006: 18.5 US cents per share - US\$1,100 million).

Each American Depositary Share (ADS) represents two ordinary shares of BHP Billiton Limited or BHP Billiton Plc. Dividends declared on each ADS represent twice the dividend declared on BHP Billiton ordinary shares.

BHP Billiton Limited dividends for all periods presented are, or will be, fully franked based on a tax rate of 30 per cent.

	2008 US\$M	2007 US\$M	2006 US\$M
Franking credits as at 30 June	1,623	144	20
Franking credits arising from the payment of current tax payable	818	923	811
Total franking credits available ^(b)	2,441	1,067	831

- (a) 5.5 per cent dividend on 50,000 preference shares of £1 each declared and paid annually (2007: 5.5 per cent; 2006: 5.5 per cent).
(b) The payment of the final 2008 dividend declared after 30 June 2008 will reduce the franking account balance by US\$590 million.

11 Trade and other receivables

	2008 US\$M	2007 US\$M
Current		
Trade receivables	8,050	4,837
Provision for doubtful debts	(49)	(10)
Total trade receivables	8,001	4,827
Employee Share Plan loans ^(a)	3	3
Other sundry receivables	1,799	1,410
Provision for doubtful debts	(2)	(1)
Total sundry receivables	1,800	1,412
Total current receivables	9,801	6,239
Non-current		
Employee Share Plan loans ^(a)	21	39
Other sundry receivables	699	603
Total non-current receivables	720	642

- (a) Under the terms of the BHP Billiton Limited Employee Share Plan, shares have been issued to employees for subscription at market price less a discount not exceeding 10 per cent. Interest free employee loans are full recourse and are available to fund the purchase of such shares for a period of up to 20 years, repayable by application of dividends or an equivalent amount. Refer to note 25.

Notes to Financial Statements continued

12 Other financial assets

	2008 US\$M	2007 US\$M
Current		
At fair value		
Cross currency and interest rate swaps	506	290
Forward exchange contracts	39	193
Commodity contracts	1,501	559
Other derivative contracts	1	11
	2,047	1,053
At amortised cost		
Other	7	6
Total current other financial assets	2,054	1,059
Non-current		
At fair value		
Cross currency and interest rate swaps	443	307
Forward exchange contracts	10	14
Commodity contracts	413	50
Other derivative contracts	47	42
Shares – fair value through profit	37	50
Shares – available for sale	332	363
Other investments – available for sale (a)	166	73
Total non-current other financial assets	1,448	899

- (a) Includes investments held by Ingwe, Rio Algom, Samancor and Selbaie environmental trust funds. The future realisation of these investments is intended to fund environmental obligations relating to the closure of the South African coal operations, Rio Algom's, Samancor's and Selbaie's mines, and consequently these investments, whilst under the Group's control, are not available for the general purposes of the Group. Any income from these investments is reinvested or applied to meet these obligations. The Group retains responsibility for these environmental obligations until such time as the former mine sites have been rehabilitated in accordance with the relevant environmental legislation. These obligations are therefore included under non-current provisions. Refer to note 20.

13 Inventories

	2008 US\$M	2007 US\$M
Current		
Raw materials and consumables – at net realisable value (a)	16	67
– at cost	1,433	874
	1,449	941
Work in progress – at net realisable value (a)	5	4
– at cost	1,617	1,056
	1,622	1,060
Finished goods – at net realisable value (a)	1	7
– at cost	1,899	1,736
	1,900	1,743
Total current inventories	4,971	3,744
Non-current		
Raw materials and consumables – at cost	55	58
Work in progress – at cost	171	100
Finished goods – at cost	6	8
Total non-current inventories	232	166

- (a) US\$24 million of inventory write-downs were recognised during the year (2007: US\$16 million; 2006: US\$6 million). Inventory write-downs of US\$7 million made in previous periods were reversed during the year (2007: US\$21 million; 2006: US\$19 million).

Notes to Financial Statements continued

14 Investments in jointly controlled entities

All entities included below are subject to joint control as a result of governing contractual arrangements.

Major shareholdings in jointly controlled entities	Country of incorporation	Principal activities	Reporting date ^(a)	Ownership interest ^(a)	
				2008 %	2007 %
Caesar Oil Pipeline Company LLC	US	Hydrocarbons transportation	31 May	25	25
Cleopatra Gas Gathering Company LLC	US	Hydrocarbons transportation	31 May	22	22
Guinea Alumina Corporation Ltd	British Virgin Islands	Bauxite mine and alumina refinery development	31 Dec	33.3	33.3
Mozal SARL	Mozambique	Aluminium smelting	30 June	47.1	47.1
Compañía Minera Antamina SA	Peru	Copper and zinc mining	30 June	33.75	33.75
Minera Escondida Limitada (c)	Chile	Copper mining	30 June	57.5	57.5
Richards Bay Minerals (b)	South Africa	Mineral sands mining and processing	31 Dec	50	50
Samarco Mineracao SA	Brazil	Iron ore mining	31 Dec	50	50
Carbones del Cerrejón LLC	Anguilla	Coal mining in Colombia	31 Dec	33.3	33.3
Newcastle Coal Infrastructure Group Pty Limited	Australia	New port development	30 June	35.5	35.5

	In aggregate		Group share	
	2008 US\$M	2007 US\$M	2008 US\$M	2007 US\$M
Net assets of jointly controlled entities				
Current assets	7,004	5,698	3,325	2,747
Non-current assets	13,591	12,438	6,395	5,744
Current liabilities	(3,912)	(2,516)	(1,868)	(1,246)
Non-current liabilities	(4,983)	(4,780)	(2,388)	(2,321)
Net assets	11,700	10,840	5,464	4,924

	In aggregate			Group share		
	2008 US\$M	2007 US\$M	2006 US\$M	2008 US\$M	2007 US\$M	2006 US\$M
Share of jointly controlled entities' profit						
Revenue	21,704	16,138	14,205	10,728	7,975	6,946
Net operating costs	(8,231)	(4,307)	(4,689)	(3,912)	(1,985)	(2,207)
Operating profit	13,473	11,831	9,516	6,816	5,990	4,739
Net finance costs	(181)	(251)	(200)	(94)	(122)	(95)
Income tax expense	(2,905)	(2,477)	(1,986)	(1,418)	(1,201)	(950)
Profit after taxation	10,387	9,103	7,330	5,304	4,667	3,694

	2008 US\$M	2007 US\$M
Share of contingent liabilities and expenditure commitments of jointly controlled entities		
Contingent liabilities	535	417
Capital commitments	117	415
Other commitments	2,003	790

- (a) The ownership interest at the Group's and the jointly controlled entity's reporting date are the same. While the annual financial reporting date may be different to the Group's, financial information is obtained as at 30 June in order to report on a consistent annual basis with the Group's reporting date.
- (b) Richards Bay Minerals comprises two legal entities, Tisand (Pty) Limited and Richards Bay Iron and Titanium (Pty) Limited of which the Group's ownership interest is 51 per cent (2007: 51 per cent) and 49.4 per cent (2007: 49.4 per cent) respectively. In accordance with the shareholder agreement between the venturers, Richards Bay Minerals functions as a single economic entity. The overall profit of Richards Bay Minerals is shared equally between the venturers.
- (c) While the Group legally holds a 57.5 per cent interest in Minera Escondida Limitada, the entity is subject to effective joint control due to participant and management agreements which results in the operation of an Owners' Council, whereby significant commercial and operational decisions are determined on aggregate voting interests of at least 75 per cent of the total ownership interest. Accordingly the Group does not have the ability to unilaterally control, and therefore consolidate, the investment in accordance with IAS 27/AASB 127 'Consolidated and Separate Financial Statements'.

Notes to Financial Statements continued

15 Property, plant and equipment

	Land and buildings US\$M	Plant and equipment US\$M	Other mineral assets US\$M	Assets under construction US\$M	Exploration and evaluation US\$M	Total US\$M
2008						
Cost						
At the beginning of the financial year	4,356	37,669	12,842	9,713	824	65,404
Additions	80	925	445	7,180	519	9,149
Acquisitions of subsidiaries and operations	-	-	30	-	-	30
Disposals	(100)	(3,060)	(667)	(5)	(16)	(3,848)
Disposals of subsidiaries and operations	(92)	(596)	(37)	-	-	(725)
Exchange variations	20	579	(2)	-	-	597
Transfers and other movements	850	8,776	458	(10,185)	(74)	(175)
At the end of the financial year	5,114	44,293	13,069	6,703	1,253	70,432
Accumulated depreciation						
At the beginning of the financial year	1,535	17,758	3,706	4	140	23,143
Charge for the year	234	2,812	500	-	39	3,585
Impairments for the year	4	53	33	-	47	137
Disposals	(82)	(3,027)	(667)	-	(15)	(3,791)
Disposals of subsidiaries and operations	(63)	(406)	(33)	-	-	(502)
Exchange variations	20	558	3	-	-	581
Transfers and other movements	11	(70)	5	(1)	2	(53)
At the end of the financial year	1,659	17,678	3,547	3	213	23,100
Net book value at 30 June 2008	3,455	26,615	9,522	6,700	1,040	47,332

	Land and buildings US\$M	Plant and equipment US\$M	Other mineral assets US\$M	Assets under construction US\$M	Exploration and evaluation US\$M	Total US\$M
2007						
Cost						
At the beginning of the financial year	3,685	32,089	12,235	7,597	764	56,370
Additions	72	1,052	275	6,851	163	8,413
Acquisitions of subsidiaries and operations	-	56	524	139	-	719
Disposals	(65)	(765)	(128)	(1)	-	(959)
Disposals of subsidiaries and operations	(4)	(203)	(16)	-	-	(223)
Transfer from current assets held for sale	-	765	209	-	-	974
Exchange variations	3	208	32	1	-	244
Transfers and other movements	665	4,467	(289)	(4,874)	(103)	(134)
At the end of the financial year	4,356	37,669	12,842	9,713	824	65,404
Accumulated depreciation						
At the beginning of the financial year	1,386	15,493	3,325	-	187	20,391
Charge for the year	173	2,112	409	-	28	2,722
Impairments for the year	-	153	30	-	82	265
Disposals	(60)	(714)	(88)	(1)	-	(863)
Disposals of subsidiaries and operations	(3)	(137)	(14)	-	-	(154)
Transfer from current assets held for sale	-	584	164	-	-	748
Exchange variations	2	145	30	-	-	177
Transfers and other movements	37	122	(150)	5	(157)	(143)
At the end of the financial year	1,535	17,758	3,706	4	140	23,143
Net book value at 30 June 2007	2,821	19,911	9,136	9,709	684	42,261

Notes to Financial Statements continued

16 Intangible assets

	2008			2007		
	Goodwill US\$M	Other intangibles US\$M	Total US\$M	Goodwill US\$M	Other intangibles US\$M	Total US\$M
Cost						
At the beginning of the financial year	600	355	955	599	345	944
Additions	24	53	77	21	32	53
Disposals	(45)	(22)	(67)	(20)	(23)	(43)
Transfers and other movements (a)	(137)	32	(105)	-	1	1
At the end of the financial year	442	418	860	600	355	955
Amortisation and impairments						
At the beginning of the financial year	45	197	242	-	179	179
Disposals	(45)	(7)	(52)	-	(9)	(9)
Charge for the year	-	27	27	-	32	32
Impairments for the year	-	-	-	45	(5)	40
Transfers and other movements	-	18	18	-	-	-
At the end of the financial year	-	235	235	45	197	242
Total intangible assets (b)	442	183	625	555	158	713

- (a) Goodwill was reduced during the year as a consequence of the recognition of deferred tax assets relating to the acquisition of WMC. Refer to note 5.
- (b) The Group's aggregate net book value of goodwill is US\$442 million (2007: US\$555 million), representing less than two per cent of net equity at 30 June 2008 (2007: less than two per cent). The goodwill is allocated across a number of cash generating units (CGUs) in different Customer Sector Groups, with no CGU or Customer Sector Group accounting for more than US\$150 million of total goodwill.

17 Trade and other payables

	2008 US\$M	2007 US\$M
Current		
Trade creditors	4,612	3,425
Sundry creditors	2,162	1,712
Total current payables	6,774	5,137
Non-current		
Sundry creditors	138	140
Total non-current payables	138	140

18 Interest bearing liabilities

	2008 US\$M	2007 US\$M
Current		
Unsecured bank loans	597	333
Notes and debentures	2,542	1,006
Secured bank loans	60	59
Finance leases	28	14
Unsecured other	170	177
Unsecured bank overdrafts and short-term borrowings	64	51
Total current interest bearing liabilities	3,461	1,640
Non-current		
Unsecured bank loans	114	99
Notes and debentures	7,373	9,136
Secured bank loans	619	676
Commercial paper	200	-
Redeemable preference shares (a)	15	15
Finance leases	205	79
Unsecured other	708	775
Total non-current interest bearing liabilities	9,234	10,780

- (a) **BHP Billiton Foreign Holdings Inc: Preferred stock**
Series A preferred stock: 150 (2007: 150) shares issued at US\$100,000 each fully paid preferred stock, cumulative, non-participating. The shares are redeemable at the option of BHP Billiton Foreign Holdings Inc after 3 August 2013 and at the option of the holder of the shares after 3 February 2016.

Notes to Financial Statements continued

19 Other financial liabilities

	2008 US\$M	2007 US\$M
Current		
At fair value		
Forward exchange contracts	38	50
Commodity contracts	1,980	551
Other derivative contracts	70	54
Total current other financial liabilities	2,088	655
Non-current		
At fair value		
Cross currency and interest rate swaps	-	170
Forward exchange contracts	9	1
Commodity contracts	1,113	352
Other derivative contracts	138	72
Total non-current other financial liabilities	1,260	595

20 Provisions

	2008 US\$M	2007 US\$M
Current		
Employee benefits (a)	1,112	933
Restructuring (b)	51	27
Closure and rehabilitation (c)	232	240
Post-retirement employee benefits (d)	5	7
Other	196	176
Total current provisions	1,596	1,383
Non-current		
Employee benefits (a)	245	169
Restructuring (b)	73	78
Closure and rehabilitation (c)	5,128	4,861
Post-retirement employee benefits (d)	551	528
Other	254	223
Total non-current provisions	6,251	5,859

- (a) The expenditure associated with total employee benefits will occur in a manner consistent with when employees choose to exercise their entitlement to benefits.
- (b) Total restructuring provisions include provision for business terminations of US\$104 million (2007: US\$102 million).
- (c) Total closure and rehabilitation provisions include provision for closed sites of US\$1,218 million (2007: US\$1,491 million).
- (d) The provision for post-retirement employee benefits includes pension liabilities of US\$228 million (2007: US\$140 million) and post-retirement medical benefit liabilities of US\$328 million (2007: US\$395 million). Refer to note 34. The non-current provision includes non-executive Directors' retirement benefits of US\$3 million (2007: US\$3 million).

	Employee benefits US\$M	Restructuring US\$M	Closure and rehabilitation US\$M	Post-retirement employee benefits US\$M	Other US\$M	Total US\$M
At the beginning of the financial year	1,102	105	5,101	535	399	7,242
Amounts capitalised	-	-	419	-	-	419
Disposals of subsidiaries and operations	(3)	-	(301)	-	-	(304)
Charge/(credit) for the year:						
Underlying	834	22	56	54	125	1,091
Discounting	-	8	297	-	-	305
Exchange variation	77	-	15	(14)	50	128
Released during the year	(3)	-	(19)	-	(4)	(26)
Actuarial gain taken to retained earnings	-	-	-	96	-	96
Exchange variation taken to reserves	-	14	3	-	-	17
Utilisation	(643)	(25)	(177)	(115)	(109)	(1,069)
Transfers and other movements	(7)	-	(34)	-	(11)	(52)
At the end of the financial year	1,357	124	5,360	556	450	7,847

Notes to Financial Statements continued

21 Share capital

	BHP Billiton Limited			BHP Billiton Plc		
	2008 Shares (a)	2007 Shares (a)	2006 Shares (a)	2008 Shares (a)	2007 Shares (a)	2006 Shares (a)
Share capital						
Ordinary shares fully paid	3,358,359,496	3,357,503,573	3,495,949,933			
Ordinary shares paid to A\$1.36	195,000	195,000	195,000			
Special Voting Share of no par value (b)	1	1	1			
Authorised ordinary shares of US\$0.50 par value				2,762,974,200	2,898,315,000	3,000,000,000
5.5% Preference shares of £1 each (c)				50,000	50,000	50,000
Special Voting Share of US\$0.50 par value (b)	1	1	1	1	1	1
Equalisation Share of US\$0.50 par value (d)	1	1	1	1	1	1
Movement in issued fully paid ordinary shares						
Opening number of shares	3,357,503,573	3,495,949,933	3,587,977,615	2,366,462,002	2,468,147,002	2,468,147,002
Shares issued on exercise of Employee Share Plan Options (e)	855,923	2,652,195	3,923,267	-	-	-
Share placement for UK regulatory purposes (g)	-	-	30	-	-	-
Shares bought back and cancelled (h)	-	(141,098,555)	(95,950,979)	(135,340,800)	(101,685,000)	-
Closing number of shares	3,358,359,496	3,357,503,573	3,495,949,933	2,231,121,202	2,366,462,002	2,468,147,002
Comprising						
- Shares held by the public	3,358,260,180	3,357,372,156	3,495,806,525	2,206,662,027	2,302,854,320	2,448,933,189
- Treasury shares	99,316	131,417	143,408	24,459,175	63,607,682	19,213,813
	3,358,359,496	3,357,503,573	3,495,949,933	2,231,121,202	2,366,462,002	2,468,147,002
Movement in shares held by the public						
Opening number of shares	3,357,372,156	3,495,806,525	3,587,790,694	2,302,854,320	2,448,933,189	2,466,863,922
Shares issued on exercise of Employee Share Plan Options (e)	855,923	2,652,195	3,923,267	-	-	-
Share placement for UK regulatory purposes (g)	-	-	30	-	-	-
Purchase of shares by ESOP Trusts	(6,550,854)	(5,873,734)	(7,256,240)	(589,802)	(2,100,000)	(4,250,810)
Employee share awards exercised following vesting	6,582,955	5,885,725	7,299,753	1,301,595	2,742,845	5,140,077
Shares bought back (h)	-	(141,098,555)	(95,950,979)	(96,904,086)	(146,721,714)	(18,820,000)
Closing number of shares (i)	3,358,260,180	3,357,372,156	3,495,806,525	2,206,662,027	2,302,854,320	2,448,933,189
Movement in treasury shares						
Opening number of shares	131,417	143,408	186,921	63,607,682	19,213,813	1,283,080
Purchase of shares by ESOP Trusts	6,550,854	5,873,734	7,256,240	589,802	2,100,000	4,250,810
Employee share awards exercised following vesting	(6,582,955)	(5,885,725)	(7,299,753)	(1,301,595)	(2,742,845)	(5,140,077)
Shares bought back (h)	-	-	-	96,904,086	146,721,714	18,820,000
Shares cancelled (h)	-	-	-	(135,340,800)	(101,685,000)	-
Closing number of shares	99,316	131,417	143,408	24,459,175	63,607,682	19,213,813
Movement in partly paid shares paid to A\$1.36						
Opening number of shares	195,000	195,000	195,000			
Closing number of shares	195,000	195,000	195,000			
Movement in issued preference shares						
Opening number of shares				50,000	50,000	50,000
Closing number of shares				50,000	50,000	50,000

	BHP Billiton Limited			BHP Billiton Plc		
	2008 US\$M	2007 US\$M	2006 US\$M	2008 US\$M	2007 US\$M	2006 US\$M
Share capital						
Balance at the beginning of the financial year	1,221	1,490	1,611	1,183	1,234	1,234
Exercise of Employee Share Plan Options	6	17	24	-	-	-
Shares bought back and cancelled (h)	-	(286)	(145)	(67)	(51)	-
Balance at the end of the financial year	1,227	1,221	1,490	1,116	1,183	1,234
Treasury shares						
Balance at the beginning of the financial year	(2)	(2)	(1)	(1,455)	(416)	(7)
Purchase of shares by ESOP Trusts	(230)	(124)	(120)	(20)	(41)	(67)
Employee share awards exercised following vesting	231	124	119	29	53	67
Shares bought back (h)	-	-	-	(3,075)	(2,957)	(409)
Shares cancelled (h)	-	-	-	4,008	1,906	-
Balance at the end of the financial year	(1)	(2)	(2)	(513)	(1,455)	(416)

Notes to Financial Statements continued

21 Share capital continued

- (a) The total number of BHP Billiton Limited shares of all classes is 3,358,554,497 of which 99.99 per cent are ordinary shares fully paid (2007: 3,357,698,574, 99.99 per cent; 2006: 3,496,144,934, 99.99 per cent). The total number of BHP Billiton Plc shares of all classes is 2,763,024,202, of which 99.99 per cent are authorised ordinary shares of US\$0.50 par value (2007: 2,898,365,002, 99.99 per cent; 2006: 3,000,050,002, 99.99 per cent).
- (b) Each of BHP Billiton Limited and BHP Billiton Plc issued one Special Voting Share to facilitate joint voting by shareholders of BHP Billiton Limited and BHP Billiton Plc on Joint Electorate Actions.
- (c) Preference shares have the right to repayment of the amount paid up on the nominal value and any unpaid dividends in priority to the holders of any other class of shares in BHP Billiton Plc on a return of capital or winding up. The holders of preference shares have limited voting rights if payment of the preference dividends are six months or more in arrears or a resolution is passed changing the rights of the preference shareholders. Since the merger these shares have been held by JPMorgan plc.
- (d) An Equalisation Share has been authorised to be issued to enable a distribution to be made by BHP Billiton Plc Group to the BHP Billiton Limited Group should this be required under the terms of the DLC merger. The Directors have the ability to issue the Equalisation Share if required under those terms. The Constitution of BHP Billiton Limited allows the Directors of that Company to issue a similar Equalisation Share.
- (e) Includes bonus shares.
- (f) At 30 June 2008, 70,000 partly paid shares on issue are entitled to 79,928 bonus shares on becoming fully paid. The remaining partly paid shares are entitled to an equal number of fully paid shares upon conversion to fully paid shares. There were no partly paid shares issued and no existing partly paid shares converted to fully paid shares during the year.
- (g) In December 2005, 30 ordinary shares of BHP Billiton Limited were offered to certain Group employees in the UK at the prevailing market price. The offers were accepted and the shares were issued in December 2005. The issue supports the election by BHP Billiton Limited of the UK as its home member state for the purpose of the European Union Prospectus Directive.
- (h) On 23 August 2006, BHP Billiton announced a US\$3 billion capital return to shareholders through an 18-month series of on-market share buy-backs. On 7 February 2007, a US\$10 billion extension to this program was announced. As of that date, US\$1,705 million of shares in BHP Billiton Plc had been repurchased under the August program, leaving US\$1,295 million to be carried forward and added to the February 2007 program. All BHP Billiton Plc shares bought back are accounted for as Treasury shares within the share capital of BHP Billiton Plc. Details of the purchases are shown in the table below. Cost per share represents the average cost per share for BHP Billiton Plc shares and final cost per share for BHP Billiton Limited shares. Shares in BHP Billiton Plc purchased by BHP Billiton Limited have been cancelled, in accordance with the resolutions passed at the 2006 Annual General Meetings.

Year ended	Shares purchased	Number	Cost per share and discount	Total cost US\$M	Purchased by:			
					BHP Billiton Limited		BHP Billiton Plc	
					Shares	US\$M	Shares	US\$M
30 June 2008	BHP Billiton Plc	96,904,086	£12.37 8.7 per cent ⁽ⁱ⁾	3,075	96,904,086	3,075	-	-
30 June 2007	BHP Billiton Plc	146,721,714	£10.31 8.1 per cent ⁽ⁱⁱ⁾	2,957	140,121,714	2,839	6,600,000	118
	BHP Billiton Limited	141,098,555	A\$24.81 14.0 per cent ⁽ⁱⁱⁱ⁾	2,845	141,098,555	2,845	-	-
30 June 2006	BHP Billiton Plc	18,820,000	£11.54 8.8 per cent ^(iv)	409	-	-	18,820,000	409
	BHP Billiton Limited	95,950,979	A\$23.45 14.0 per cent ⁽ⁱⁱⁱ⁾	1,620	95,950,979	1,620	-	-

- (i) Represents the discount to the average BHP Billiton Limited share price between 7 September 2006 and 14 December 2007.
- (ii) Represents the discount to the average BHP Billiton Limited share price between 7 September 2006 and 30 June 2007.
- (iii) Represents the discount to the volume weighted average price of BHP Billiton Limited shares over the five days up to and including the closing date of the buy-back.
- (iv) Represents the discount to the average BHP Billiton Limited share price between 27 April 2006 and 16 May 2006.

As at 30 June 2008 shares in BHP Billiton Plc bought back as part of the above program but not cancelled are held as Treasury shares. On 14 December 2007, the share buy-back program was suspended in light of the Group's offers for Rio Tinto plc and Rio Tinto Limited.

- (i) During the period 1 July 2008 to 9 September 2008 no Executive Share Scheme partly paid shares were paid up in full, no fully paid ordinary shares (including attached bonus shares) were issued on the exercise of Employee Share Plan Options, no fully paid ordinary shares (including attached bonus shares) were issued on the exercise of Performance Share Plan Performance Rights and no fully paid ordinary shares were issued on the exercise of Group Incentive Scheme awards.

Notes to Financial Statements continued

22 Reserves

	2008 US\$M	2007 US\$M	2006 US\$M
Share premium account (a)			
Balance at the beginning of the financial year	518	518	518
Balance at the end of the financial year	518	518	518
Foreign currency translation reserve (b)			
Balance at the beginning of the financial year	18	6	7
Exchange fluctuations on translation of foreign operations	(21)	6	(1)
Exchange fluctuations transferred to profit on sale of divested operations	-	6	-
Balance at the end of the financial year	(3)	18	6
Employee share awards reserve (c)			
Balance at the beginning of the financial year	261	198	154
Accrued employee entitlement for unvested awards	97	72	61
Deferred tax benefit arising on accrued employee entitlement for unexercised awards	51	37	28
Employee share awards exercised following vesting	(37)	(46)	(45)
Balance at the end of the financial year	372	261	198
Hedging reserve - cash flow hedges (d)			
Balance at the beginning of the financial year	(87)	(7)	-
Adjustment for adoption of IAS 39/AASB 139	-	-	30
Opening balance after adoption of IAS 39/AASB 139	(87)	(7)	30
Net loss on cash flow hedges	(383)	(50)	(27)
Net loss on cash flow hedges transferred to profit and loss	73	-	-
Net gains on cash flow hedges transferred to initial carrying amount of hedged item	(190)	(88)	(25)
Deferred tax benefit relating to hedges	170	58	15
Balance at the end of the financial year	(417)	(87)	(7)
Financial asset reserve (e)			
Balance at the beginning of the financial year	230	109	-
Adjustments for adoption of IAS 39/AASB 139	-	-	116
Opening balance after adoption of IAS 39/AASB 139	230	109	116
Valuation (loss)/gain on revaluation of available for sale financial assets	(76)	145	(1)
Deferred tax expense relating to revaluations	8	(24)	(6)
Balance at the end of the financial year	162	230	109
Share buy-back reserve (f)			
Balance at the beginning of the financial year	51	-	-
BHP Billiton Plc shares cancelled	67	51	-
Balance at the end of the financial year	118	51	-
Total reserves	750	991	824

- (a) The share premium account represents the premium paid on the issue of BHP Billiton Plc shares recognised in accordance with the UK Companies Act 1985.
- (b) The foreign currency translation reserve represents exchange differences arising on the translation of non-US dollar functional currency operations within the Group into US dollars.
- (c) The employee share awards reserve represents the accrued employee entitlements to share awards that have been charged to the income statement and have not yet been exercised.
- (d) The hedging reserve represents hedging gains and losses recognised on the effective portion of cash flow hedges. The cumulative deferred gain or loss on the hedge is recognised in the income statement when the hedged transaction impacts the income statement, or is recognised as an adjustment to the cost of non-financial hedged items.
- (e) The financial assets reserve represents the revaluation of available for sale financial assets. Where a revalued financial asset is sold, the relevant portion of the reserve is recognised in the income statement.
- (f) The share buy-back reserve represents the par value of BHP Billiton Plc shares which were purchased and subsequently cancelled. The cancellation of the shares creates a non-distributable reserve.

Notes to Financial Statements continued

23 Retained earnings

	2008 US\$M	2007 US\$M	2006 US\$M
Balance at the beginning of the financial year	27,729	21,088	14,059
Adjustment for adoption of IAS 39/AASB 139	-	-	55
Retained earnings opening balance after adoption of IAS 39/AASB 139	27,729	21,088	14,114
Dividends paid	(3,133)	(2,269)	(1,938)
Employee share awards exercised following vesting	(147)	(98)	(141)
Actuarial (losses)/gains net of tax recognised through the statement of recognised income and expense	(75)	57	78
BHP Billiton Plc share buy-back - refer to note 21	(4,008)	(1,906)	-
BHP Billiton Limited share buy-back - refer to note 21	-	(2,559)	(1,475)
Profit attributable to members of BHP Billiton Group	15,390	13,416	10,450
Balance at the end of the financial year	35,756	27,729	21,088

24 Total equity

	Attributable to members of BHP Billiton Group			Minority interests		
	2008 US\$M	2007 US\$M	2006 US\$M	2008 US\$M	2007 US\$M	2006 US\$M
Balance at the beginning of the financial year	29,667	24,218	17,575	251	237	341
Adjustment for adoption of IAS 39/AASB 139	-	-	55	-	-	-
- retained earnings	-	-	-	-	-	-
- hedging reserve	-	-	30	-	-	-
- financial asset reserve	-	-	116	-	-	-
Total equity opening balance after adoption of IAS 39/AASB 139	29,667	24,218	17,776	251	237	341
Total recognised income and expense for the year	15,004	13,596	10,511	571	82	84
Transactions with owners - contributed equity	6	17	24	(1)	-	-
Dividends	(3,133)	(2,269)	(1,938)	(113)	(68)	(188)
Accrued employee entitlement to share awards	97	72	61	-	-	-
Purchases of shares made by ESOP Trusts	(231)	(165)	(187)	-	-	-
BHP Billiton Plc share buy-back - refer to note 21	(3,075)	(2,957)	(409)	-	-	-
BHP Billiton Limited share buy-back - refer to note 21	-	(2,845)	(1,620)	-	-	-
Balance at the end of the financial year	38,335	29,667	24,218	708	251	237

Notes to Financial Statements continued

25 Employee share ownership plans

Employee share awards - current plans

2008	Number of awards on issue at the beginning of the financial year ^(b)	Number of awards issued during the year	Number of awards vested and exercised	Number of awards lapsed	Number of awards remaining at the end of the financial year	Number of awards vested and exercisable at the end of the financial year
BHP Billiton Plc						
Long Term Incentive Plan Performance Shares (a)	6,311,626	2,340,993	15,000	443,540	8,194,079	-
Group Incentive Scheme Performance Shares (a)	594,363	-	319,210	124,466	150,687	150,687 (c)
Group Incentive Scheme Deferred Shares (a)	1,670,111	515,152	709,074	19,706	1,456,483	404,426
Group Incentive Scheme Options (a)	723,632	177,158	259,666	-	641,124	302,671
- weighted average exercise price - £	7.86	16.51	7.00	-	10.60	7.61
- weighted average share price - £			16.90			
- weighted average remaining contractual term for outstanding options - days					237	
BHP Billiton Limited						
Long Term Incentive Plan Performance Shares (a)	16,766,200	6,018,068	-	2,523,391	20,260,877	-
Group Incentive Scheme Performance Shares (a)	1,915,489	-	1,073,121	203,081	639,287	639,287 (c)
Group Incentive Scheme Deferred Shares (a)	4,211,961	1,104,588	1,878,079	16,313	3,422,157	1,208,840
Group Incentive Scheme Options (a)	2,067,911	320,094	1,056,712	-	1,331,293	786,351
- weighted average exercise price - A\$	16.26	43.61	13.47	-	25.05	17.14
- weighted average share price - A\$			40.28			
- weighted average remaining contractual term for outstanding options - days					260	
2007						
	Number of awards on issue at the beginning of the financial year ^(b)	Number of awards issued during the year	Number of awards vested and exercised	Number of awards lapsed	Number of awards remaining at the end of the financial year	Number of awards vested and exercisable at the end of the financial year
BHP Billiton Plc						
Long Term Incentive Plan Performance Shares (a)	4,941,466	2,567,500	45,000	1,152,340	6,311,626	-
Group Incentive Scheme Performance Shares (a)	1,946,513	-	1,117,246	234,904	594,363	336,539 (c)
Group Incentive Scheme Deferred Shares (a)	2,274,916	642,078	1,209,510	37,373	1,670,111	238,406
Group Incentive Scheme Options (a)	876,223	167,565	317,746	2,410	723,632	250,165
- weighted average exercise price - £	6.62	9.72	5.42	9.18	7.86	5.45
- weighted average share price - £			10.58			
- weighted average remaining contractual term for outstanding options - days					179	
BHP Billiton Limited						
Long Term Incentive Plan Performance Shares (a)	11,479,084	7,370,058	15,000	2,067,942	16,766,200	-
Group Incentive Scheme Performance Shares (a)	5,205,019	-	2,709,601	579,929	1,915,489	1,479,701 (c)
Group Incentive Scheme Deferred Shares (a)	5,180,015	1,488,581	2,339,938	116,697	4,211,961	1,018,470
Group Incentive Scheme Options (a)	2,248,014	242,596	389,664	33,035	2,067,911	1,402,249
- weighted average exercise price - A\$	14.71	26.28	12.92	23.96	16.26	12.87
- weighted average share price - A\$			27.86			
- weighted average remaining contractual term for outstanding options - days					175	

Notes to Financial Statements continued

25 Employee share ownership plans continued

Employee share awards - current plans continued

2006	Number of awards on issue at the beginning of the financial year ^(b)	Number of awards issued during the year	Number of awards vested and exercised	Number of awards lapsed	Number of awards remaining at the end of the financial year	Number of awards vested and exercisable at the end of the financial year
BHP Billiton Plc						
Long Term Incentive Plan Performance Shares (a)	2,317,300	3,016,500	10,000	382,334	4,941,466	-
Group Incentive Scheme Performance Shares (a)	4,819,393	-	2,841,792	31,088	1,946,513	487,085
Group Incentive Scheme Deferred Shares (a)	2,493,101	1,013,048	1,203,750	27,483	2,274,916	228,633
Group Incentive Scheme Options (a)	1,184,506	312,211	620,494	-	876,223	235,645
- weighted average exercise price - £	4.94	8.82	4.51	-	6.62	4.43
- weighted average share price - £			8.75			
- weighted average remaining contractual term for outstanding options - days					231	
BHP Billiton Limited						
Long Term Incentive Plan Performance Shares (a)	4,764,108	7,158,350	1,250	442,124	11,479,084	-
Group Incentive Scheme Performance Shares (a)	9,860,582	-	4,487,242	168,321	5,205,019	1,964,029
Group Incentive Scheme Deferred Shares (a)	5,107,264	2,086,697	1,915,876	98,070	5,180,015	875,600
Group Incentive Scheme Options (a)	2,067,040	467,986	255,293	31,719	2,248,014	1,054,816
- weighted average exercise price - A\$	12.73	21.91	11.93	15.39	14.71	11.11
- weighted average share price - A\$			25.11			
- weighted average remaining contractual term for outstanding options - days					194	

Fair value and assumptions in the calculation of fair value

2008	Weighted average fair value of awards granted during the year ^(d) US\$	Risk-free interest rate ^(e)	Estimated life of awards	Share price at grant date	Estimated volatility of share price ^(f)	Dividend yield
BHP Billiton Plc						
Long Term Incentive Plan Performance Shares (a)	10.33	5.00%	5 years	£ 13.90	26.0%	1.70%
Group Incentive Scheme Deferred Shares (a)	29.20	4.83%	3 years	n/a	n/a	n/a
Group Incentive Scheme Options (a)	7.43	4.83%	3 years	£ 15.45	31.0%	1.49%
BHP Billiton Limited						
Long Term Incentive Plan Performance Shares (a)	11.04	5.00%	5 years	A\$35.03	26.0%	1.70%
Group Incentive Scheme Deferred Shares (a)	31.54	5.75%	3 years	n/a	n/a	n/a
Group Incentive Scheme Options (a)	8.74	5.75%	3 years	A\$42.05	27.0%	1.52%

2007	Weighted average fair value of awards granted during the year ^(d) US\$	Risk-free interest rate ^(e)	Estimated life of awards	Share price at grant date	Estimated volatility of share price ^(f)	Dividend yield
BHP Billiton Plc						
Long Term Incentive Plan Performance Shares (a)	4.90	5.16%	5 years	£ 10.49	25.0%	1.68%
Group Incentive Scheme Deferred Shares (a)	14.80	4.09%	3 years	n/a	n/a	n/a
Group Incentive Scheme Options (a)	4.16	4.09%	3 years	£ 9.72	30.0%	1.78%
BHP Billiton Limited						
Long Term Incentive Plan Performance Shares (a)	6.43	6.24%	5 years	A\$29.00	25.0%	1.51%
Group Incentive Scheme Deferred Shares (a)	16.26	5.08%	3 years	n/a	n/a	n/a
Group Incentive Scheme Options (a)	4.58	5.08%	3 years	A\$26.40	26.0%	1.61%

Notes to Financial Statements continued

25 Employee share ownership plans continued

Fair value and assumptions in the calculation of fair value continued

2006	Weighted average fair value of awards granted during the year (d) US\$	Risk-free interest rate (e)	Estimated life of awards	Share price at grant date	Estimated volatility of share price (f)	Dividend yield
BHP Billiton Plc						
Long Term Incentive Plan Performance Shares (a)	4.06	4.43%	5 years	£ 7.22	22.5%	1.78%
Group Incentive Scheme Deferred Shares (a)	13.17	4.95%	3 years	n/a	n/a	n/a
Group Incentive Scheme Options (a)	3.23	4.95%	3 years	£ 8.82	25.0%	1.71%
BHP Billiton Limited						
Long Term Incentive Plan Performance Shares (a)	3.88	5.62%	5 years	A\$18.09	22.5%	1.67%
Group Incentive Scheme Deferred Shares (a)	13.83	5.37%	3 years	n/a	n/a	n/a
Group Incentive Scheme Options (a)	3.67	5.37%	3 years	A\$21.91	25.0%	1.65%

Shareplus

Shareplus, an all-employee share purchase plan, commenced in April 2007. Employees may contribute up to US\$5,000 to acquire shares (Acquired Shares) in any Plan year. On the third anniversary of a Plan year, the Company will match the number of Acquired Shares held by the employee at that time. The employees have no beneficial entitlement to the Matched Shares until they are awarded. Acquired Shares are purchased on a quarterly basis. Employees can sell their Acquired Shares at any time.

Employee share awards - past plans ^(g)

2008	Number of awards at the beginning of the financial year	Number of awards issued	Number of awards exercised	Number of awards lapsed	Number of awards remaining at the end of the financial year	Number of awards exercisable at the end of the financial year
BHP Billiton Plc						
Restricted Share Scheme	76,633	-	-	-	76,633	76,633
Co-Investment Plan	32,746	-	4,970	-	27,776	27,776
BHP Billiton Limited						
Employee Share Plan Options	7,725,422	-	3,092,470	12,821	4,620,131	4,620,131
- weighted average exercise price - A\$	7.65	-	7.74	6.92	7.59	7.59
Employee Share Plan Shares	12,501,289	-	1,461,471	-	11,039,818	11,039,818
Executive Share Scheme Partly Paid Shares	274,918	-	-	-	274,918	274,918
Performance Share Plan Performance Rights	518,942	-	161,335	-	357,607	357,607
Bonus Equity Share Plan Shares	-	-	-	-	-	-
2007						
BHP Billiton Plc						
Restricted Share Scheme	105,777	-	29,144	-	76,633	76,633
Co-Investment Plan	50,416	-	17,670	-	32,746	32,746
BHP Billiton Limited						
Employee Share Plan Options	10,556,715	-	2,652,195	179,098	7,725,422	7,725,422
- weighted average exercise price - A\$	7.76	-	8.06	7.88	7.65	7.65
Employee Share Plan Shares	14,153,576	-	1,652,287	-	12,501,289	12,501,289
Executive Share Scheme Partly Paid Shares	274,918	-	-	-	274,918	274,918
Performance Share Plan Performance Rights	1,011,999	-	493,057	-	518,942	518,942
Bonus Equity Share Plan Shares	47,662	-	47,662	-	-	-

Notes to Financial Statements continued

25 Employee share ownership plans continued

Employee share awards - past plans ⁽⁹⁾ continued

2006	Number of awards at the beginning of the financial year	Number of awards issued	Number of awards exercised	Number of awards lapsed	Number of awards remaining at the end of the financial year	Number of awards exercisable at the end of the financial year
BHP Billiton Plc						
Restricted Share Scheme	132,978	-	27,201	-	105,777	105,777
Co-Investment Plan	522,306	-	414,582	57,308	50,416	50,416
BHP Billiton Limited						
Employee Share Plan Options	14,571,693	-	3,923,267	91,711	10,556,715	10,556,715
- weighted average exercise price - A\$	7.83	-	8.02	7.82	7.76	7.76
Employee Share Plan Shares	16,611,045	-	2,457,469	-	14,153,576	14,153,576
Executive Share Scheme Partly Paid Shares	274,918	-	-	-	274,918	274,918
Performance Share Plan Performance Rights	1,629,669	-	596,579	21,091	1,011,999	1,011,999
Bonus Equity Share Plan Shares	47,662	-	-	-	47,662	47,662

- (a) Awards are made to senior management under the Long Term Incentive Plan (LTIP) and Group Incentive Scheme (GIS) and take the form of Performance Shares, Deferred Shares and/or Options in either BHP Billiton Plc or BHP Billiton Limited. Awards made are subject to performance hurdles (LTIP) and service conditions (GIS). Subject to the performance conditions and service conditions being met and the extent to which they are met, the award will vest and the participant will become entitled to the appropriate number of ordinary shares or, if relevant, entitled to exercise options over the relevant number of ordinary shares.
- (b) The awards on issue at the beginning of the financial year include non-vested awards.
- (c) The performance period for the GIS 2004 Performance Shares ended on 30 June 2007. Of the original grant of awards 50 per cent vested in August 2007 and the remaining 50 per cent lapsed. The performance period for the GIS 2003 Performance Shares ended on 30 June 2006. Of the original grant of awards 80 per cent vested in August 2006 and the remaining 20 per cent lapsed.
- (d) The fair value of awards as presented in the tables above represents the fair value at grant date. The fair values of awards granted were estimated using a Monte Carlo simulation methodology, Black-Scholes option pricing technique and net present value technique.
- (e) The risk-free interest rate used for the LTIP is an annual compound rate. The risk-free interest rate used for the GIS options and deferred shares is a government bond rate.
- (f) Historical volatility has been used to estimate the volatility of the share price.
- (g) Awards issued under these plans occurred before 7 November 2002 and as such are exempt from the provisions of IFRS 2 'Share-based Payment'. Details of these plans have been provided here for information purposes only.

Notes to Financial Statements continued

25 Employee share ownership plans continued

Employee share awards - summary

	Awards outstanding at:			
Month of issue	30 June 2008	9 September 2008	Exercise price (a)	Exercise period / release date
BHP Billiton Plc				
Restricted Share Scheme (b) (d)				
October 2001 (Options)	76,633	76,633	-	Oct 2004 - Sept 2008
	76,633	76,633		
Co-Investment Plan (b) (d)				
October 2001	27,776	27,776	-	Oct 2003 - Sept 2011
	27,776	27,776		
Long Term Incentive Plan Performance				
Shares (c) (d)				
December 2007	2,272,035	2,272,035	-	Aug 2012 - Aug 2017
December 2006	2,182,333	2,182,333	-	Aug 2011 - Aug 2016
December 2005	2,192,750	2,192,750	-	Aug 2010 - Aug 2015
December 2004	1,546,961	1,546,961	-	Aug 2009 - Aug 2014
	8,194,079	8,194,079		
Group Incentive Scheme (b) (c) (d)				
Deferred Shares				
December 2007	492,655	492,655	-	Aug 2009 - Aug 2012
December 2006	559,402	474,072	-	Aug 2008 - Aug 2011
December 2005	277,785	262,022	-	Aug 2007 - Aug 2010
December 2004	84,731	72,914	-	Aug 2006 - Aug 2009
November 2003	41,910	-	-	Aug 2005 - Aug 2008
Options				
December 2007	177,158	177,158	£16.51	Aug 2009 - Aug 2012
December 2006	161,295	112,481	£9.72	Aug 2008 - Aug 2011
December 2005	181,478	176,124	£8.82	Aug 2007 - Aug 2010
December 2004	98,922	92,255	£6.11	Aug 2006 - Aug 2009
November 2003	22,271	-	£4.43	Aug 2005 - Aug 2008
Performance Shares				
December 2004	23,541	23,541	-	Aug 2007 - Aug 2010
November 2003	73,664	65,491	-	Aug 2006 - Aug 2009
November 2002	53,482	-	-	Aug 2005 - Aug 2008
	2,248,294	1,948,713		
BHP Billiton Limited				
Performance Share Plan Performance Rights				
(b) (d)				
November 2001 (LTI)	280,280	210,332	-	Oct 2004 - Sept 2011
December 2000 (LTI)	23,245	23,245	-	July 2003 - Dec 2010
November 2000 (LTI)	54,082	25,304	-	July 2003 - Oct 2010
	357,607	258,881		
Long Term Incentive Plan Performance				
Shares (b) (c) (d)				
December 2007	5,968,110	5,884,360	-	Aug 2012 - Aug 2017
December 2006	5,488,100	5,421,017	-	Aug 2011 - Aug 2016
December 2005	5,205,125	5,164,542	-	Aug 2010 - Aug 2015
December 2004	3,599,542	3,580,226	-	Aug 2009 - Aug 2014
	20,260,877	20,050,145		
Group Incentive Scheme (b) (c) (d)				
Deferred Shares				
December 2007	1,047,463	1,042,575	-	Aug 2009 - Aug 2012
December 2006	1,165,854	913,078	-	Aug 2008 - Aug 2011
December 2005	722,605	665,266	-	Aug 2007 - Aug 2010
December 2004	354,327	318,137	-	Aug 2006 - Aug 2009
November 2003	131,908	-	-	Aug 2005 - Aug 2008
Options				
December 2007	320,094	320,094	A\$43.61	Aug 2009 - Aug 2012
December 2006	224,848	207,546	A\$26.28	Aug 2008 - Aug 2011
December 2005	318,176	315,901	A\$21.91	Aug 2007 - Aug 2010
December 2004	304,402	297,401	A\$15.39	Aug 2006 - Aug 2009
November 2003	163,773	-	A\$11.11	Aug 2005 - Aug 2008
Performance Shares				
December 2004	43,278	39,413	-	Aug 2007 - Aug 2010
November 2003	313,848	267,018	-	Aug 2006 - Aug 2009

November 2002	282,161	-	-	Aug 2005 - Aug 2008
	5,392,737	4,386,429		

Notes to Financial Statements continued

25 Employee share ownership plans continued

Employee share awards - summary continued

Month of issue	Awards outstanding at:		Exercise price (a)	Exercise period /release date
	30 June 2008	9 September 2008		
Employee Share Plan Options				
November 2001	693,120	693,120	A\$8.30	Oct 2004 - Sept 2011
November 2001	452,333	452,333	A\$8.29	Oct 2004 - Sept 2011
December 2000	398,228	382,946	A\$8.72	July 2003 - Dec 2010
December 2000	129,637	129,224	A\$8.71	July 2003 - Dec 2010
November 2000	201,347	176,566	A\$8.28	July 2003 - Oct 2010
November 2000	217,094	206,768	A\$8.27	July 2003 - Oct 2010
April 2000	20,651	20,651	A\$7.60	April 2003 - April 2010
April 1999	2,067,855	1,970,795	A\$6.92	April 2002 - April 2009
April 1999	439,866	425,411	A\$6.92	April 2002 - April 2009
	4,620,131	4,457,814		
Employee Share Plan Shares				
October 1997	1,679,545	1,645,059	-	Oct 1997 - Oct 2017
May 1995	2,843,643	2,790,983	-	May 1995 - May 2015
May 1994	2,037,634	1,993,235	-	May 1994 - May 2014
May 1993	1,638,244	1,601,072	-	May 1993 - May 2013
May 1992	1,369,574	1,346,858	-	May 1992 - May 2012
April 1991	865,277	844,626	-	April 1991 - April 2011
April 1990	595,575	585,249	-	April 1990 - April 2010
April 1989	10,326	10,326	-	April 1989 - April 2009
	11,039,818	10,817,408		
Executive Share Scheme Partly Paid Shares				
October 1997	74,959	74,959	A\$14.63	Oct 1997 - Oct 2017
October 1996	74,959	74,959	A\$14.86	Oct 1996 - Oct 2016
October 1995	75,000	40,000	A\$16.87	Oct 1995 - Oct 2015
October 1994	50,000	50,000	A\$18.25	Oct 1994 - Oct 2014
	274,918	239,918		

- (a) Exercise price on awards issued is equal to the exercise price as per awards outstanding.
- (b) Shares issued on exercise of BHP Billiton's employee share ownership plans include shares purchased on-market.
- (c) There are two active Group employee ownership plans in BHP Billiton: a short-term incentive plan and a long-term incentive plan.
- Short-term incentives under the Group Incentive Scheme (GIS) are split equally between a cash award (being a percentage of base salary) and a grant of Deferred Shares and/or Options. Deferred Shares and/or Options are subject to a two-year vesting period before they can be exercised. If, during that period, an individual resigns without the Remuneration Committee's consent, or is dismissed for cause, their entitlement is forfeited.
- The GIS incentivises the executives to achieve annual goals linked to the business strategy, budget and personal objectives. Measures are set to reflect the critical KPIs of the Group in a combination of financial and non-financial areas. At the end of each year, the performance level achieved against each KPI is measured and awards are calculated and paid according to the level of performance.
- Long-term incentives, in the form of Performance Shares, are awarded annually under the Long Term Incentive Plan (LTIP). The Performance Hurdle applicable to the awards granted requires BHP Billiton's Total Shareholder Return (TSR) over a five-year performance period to be greater than the weighted average TSR of a peer group of companies. To the extent that the Performance Hurdle is not achieved, awards are forfeited. There is no retesting.
- For all Performance Shares to vest, BHP Billiton's TSR must exceed the weighted average TSR of the Index by a specified percentage, determined each year by the Committee. Since the establishment of the LTIP in 2004, this percentage has been set each year at 5.5 per cent. For performance between the weighted average TSR of the Index and 5.5 per cent per annum above the Index, vesting occurs on a sliding scale.
- Participants in the GIS and the LTIP are eligible to receive a payment equal to the dividend amount that would have been earned on the underlying shares represented by the Deferred Shares, Options and Performance Shares awarded to those participants (the Dividend Equivalent Payment). The Dividend Equivalent Payment is made to the participants once the underlying shares are issued or transferred to them. No Dividend Equivalent Payment is made in respect of Deferred Shares, Options and Performance Shares that lapse.
- (d) In respect of employee share awards, the Group utilises the following trusts:
- The Billiton Employee Share Ownership Plan Trust (the Trust) is a discretionary trust for the benefit of all employees of BHP Billiton Plc and its subsidiaries. The trustee is an independent company, resident in Jersey. The Trust uses funds provided by BHP Billiton Plc and/or its subsidiaries as appropriate to acquire ordinary shares to enable awards to be made or satisfied under the LTIP, GIS, RSS, CIP and other employee share schemes operated by BHP Billiton Plc from time to time. The ordinary shares may be acquired by purchase in the market or by subscription at not less than nominal value.
 - The BHP Performance Share Plan Trust (PSP Trust) is a discretionary trust established to distribute shares under selected BHP Billiton Limited employee share plan schemes. The trustee of the trust is BHP Billiton Employee Plan Pty Ltd, an Australian company. The trust uses funds provided by BHP Billiton Limited and/or its subsidiaries to acquire shares on market to satisfy exercises made under the LTIP, GIS, and PSP.
 - The BHP Billiton Limited Executive Incentive Schemes Trust (BEIS Trust) is a discretionary trust established for the purposes of holding shares in BHP Billiton Limited to satisfy exercises made under the LTIP, GIS and other employee share schemes operated by BHP Billiton Limited from time to time.

Notes to Financial Statements continued

26 Financial risk management

The Group financial risk management strategy

The financial risks arising from the Group's operations are market risk, including risks associated with movements in interest rates, foreign currencies and commodity prices, liquidity risk and credit risk. These risks arise in the normal course of business, and the Group manages its exposure to them in accordance with the Group's Portfolio Risk Management Strategy. The objective of the strategy is to support the delivery of the Group's financial targets while protecting its future financial security and flexibility by taking advantage of the natural diversification provided by the scale, diversity and flexibility of the Group's operations and activities.

A Cash Flow at Risk ('CFaR') framework is used to measure and control the aggregate and diversified impact of financial risks upon the Group's financial targets. The principal measurement of risk is the portfolio CFaR – which is defined as the worst expected loss relative to projected business plan cash flows over a one-year horizon under normal market conditions at a confidence level of 95 per cent. Controls over this risk include Board-approved limits on the quantum of the CFaR relative to the Group's financial targets.

Notes to Financial Statements continued

26 Financial risk management continued

Market risk

The Group's activities expose it to risks associated with movements in interest rates, foreign currencies and commodity prices. Under the strategy outlined above, the Group seeks to achieve financing costs, currency impacts, input costs and commodity prices on a floating or index basis. This strategy gives rise to a risk of variability in earnings which is managed under the CFaR.

In executing the strategy, financial instruments are potentially employed in four distinct but related activities. The following table summarises these activities and the key risk management processes.

Activity	Key risk management processes
1. Risk mitigation Hedging of revenues with financial instruments will be executed to mitigate risk at the portfolio level when CFaR exceeds the Board-approved limits. Similarly, and on an exception basis, hedging for the purposes of mitigating risk related to specific and significant expenditure on investments or capital projects will be executed if necessary to support the Group's strategic objectives.	- Assessment of portfolio CFaR against Board-approved limits - Execution of transactions within approved mandates
2. Economic hedging of commodity sales, operating costs and debt instruments Where group commodity production is sold to customers on pricing terms that deviate from the relevant index target, and where a relevant derivatives market exists, financial instruments are executed as an economic hedge to align the revenue price exposure with the index target. Where debt is issued with a currency or interest rate profile that deviates from the relevant index target, fair value hedges are executed to align the debt exposure with the index target. Similarly, where specific and significant operating costs are contracted in a currency that deviates from the relevant index target, financial instruments are executed as an economic hedge to align the currency exposure with the index target.	- Assessment of portfolio CFaR against Board-approved limits - Measuring and reporting the exposure in customer commodity contracts and issued debt instruments - Executing hedging derivatives to align the total group exposure to the index target
3. Strategic financial transactions Opportunistic transactions may be executed with financial instruments to capture value from perceived market over/under valuations.	- Exposures managed within Value at Risk and stop loss limits - Execution of transactions within approved mandates
4. Proprietary trading Certain of our business units are mandated to undertake trading activities in specifically approved commodity derivatives. These activities are in support of our underlying commodity businesses and provide market and commercial insight.	- Measuring and reporting the exposure in mandated activities - Exposures managed within approved mandates (including position limits, value at risk limits and stop loss limits)

Primary responsibility for identification and control of financial risks, including authorising and monitoring the use of financial instruments for the above activities and stipulating policy thereon, rests with the Financial Risk Management Committee under authority delegated by the Group Management Committee.

Notes to Financial Statements continued

26 Financial risk management continued

Interest rate risk

The Group is exposed to interest rate risk on its outstanding borrowings and investments from the possibility that changes in interest rates will affect future cash flows or the fair value of fixed rate financial instruments. Interest rate risk is managed as part of the Portfolio Risk Management Strategy and within the overall CFaR limit.

The majority of debt is raised under central borrowing programs. The Group has entered into interest rate swaps and cross currency interest rate swaps to convert most of the centrally raised debt into US dollar floating rate exposures. As at 30 June 2008, the Group holds US\$1.6 billion (2007: US\$1.6 billion) of fixed interest borrowings that have not been swapped to floating rates, arising principally from debt raised prior to the DLC merger. The Group's earnings are sensitive to changes in interest rates on the floating rate component of the Group's net borrowings.

The fair value of interest rate swaps and cross currency swaps in fair value hedge relationships used to hedge both interest rate and foreign currency risks are as follows:

	Fair value	
	2008 US\$M	2007 US\$M
Interest rate swaps		
US dollar swaps		
<i>Pay floating/receive fixed</i>		
Later than two years but not later than five years	59	(21)
Later than five years	69	(135)
Cross currency swaps		
Australian dollar to US dollar swaps		
<i>Pay floating/receive fixed</i>		
Not later than one year	344	-
Later than one year but not later than two years	-	249
Euro to US dollar swaps		
<i>Pay floating/receive fixed</i>		
Not later than one year	162	290
Later than one year but not later than two years	-	17
Later than two years but not later than five years	190	41
Later than five years	125	(14)
Total fair value of interest rate swaps	949	427

Based on the net debt position as at 30 June 2008, taking into account interest rate swaps and cross currency interest rate swaps, it is estimated that a one percentage point increase in the US LIBOR interest rate will decrease the Group's profit before taxation by US\$59 million (2007: US\$80 million). This assumes that the change in interest rates is effective from the beginning of the financial year and the fixed/floating mix and balances is constant over the year. However, interest rates and the debt profile of the Group are unlikely to remain constant in the coming financial year and therefore such sensitivity analysis should be used with care.

Notes to Financial Statements continued

26 Financial risk management continued

Currency risk

The US dollar is the functional currency of most operations within the Group and as a result currency exposures arise from transactions and balances in currencies other than the US dollar. The Group's potential currency exposures comprise:

- translational exposure in respect of non-functional currency monetary items
- transactional exposure in respect of non-functional currency expenditure and revenues

The potential currency exposures are discussed below.

Translational exposure in respect of non-functional currency monetary items

Monetary items, including financial assets and liabilities, denominated in currencies other than the functional currency of an operation are periodically restated to US dollar equivalents, and the associated gain or loss is taken to the income statement. The exception is foreign exchange gains or losses on foreign currency provisions for closure and rehabilitation at operating sites which are capitalised in property, plant and equipment. The foreign currency risk relating to monetary items is managed as part of the Portfolio Risk Management Strategy within the overall CFaR limit.

The following table shows the foreign currency risk on the financial assets and liabilities of the Group's operations denominated in currencies other than the functional currency of the operations.

2008	US\$ US\$M	Net financial assets/(liabilities) A\$ US\$M	SA rand US\$M	GBP US\$M	Other US\$M	Total US\$M
Functional currency of Group operation						
US dollars	-	(1,114)	186	(39)	1,318	351
Australian dollars	-	-	-	-	-	-
UK pounds sterling	12	-	-	-	-	12
	12	(1,114)	186	(39)	1,318	363

2007	US\$ US\$M	Net financial assets/(liabilities) A\$ US\$M	SA rand US\$M	GBP US\$M	Other US\$M	Total US\$M
Functional currency of Group operation						
US dollars	-	(1,107)	391	756	290	330
Australian dollars	2	-	-	-	(1)	1
UK pounds sterling	(2)	-	-	-	-	(2)
	-	(1,107)	391	756	289	329

The principal non-functional currencies to which the Group is exposed are the Australian dollar, South African rand and UK pound sterling. Based on the Group's net financial assets and liabilities as at 30 June 2008, a weakening of the US dollar against these currencies as illustrated in the table below, with all other variables held constant, would have affected post-tax profit and equity as follows:

Currency movement	2008 US\$M		2007 US\$M	
	Post-tax profit	Equity	Post-tax profit	Equity
1 cent movement in Australian dollar	(11)	(11)	(10)	(9)
0.2 rand movement in South African rand	2	5	5	11
1 pence movement in UK pound sterling	(1)	(1)	15	15

The Group's financial asset and liability profile will not remain constant however, and therefore these sensitivities should be used with care.

Notes to Financial Statements continued

26 Financial risk management continued

Transactional exposure in respect of non-functional currency expenditure and revenues

Certain operating and capital expenditure is incurred by some operations in currencies other than their functional currency. To a lesser extent, certain sales revenue is earned in currencies other than the functional currency of operations, and certain exchange control restrictions may require that funds be maintained in currencies other than the functional currency of the operation. These currency risks are managed as part of the Portfolio Risk Management Strategy and within the overall CFaR limit. When required under this strategy the Group enters into forward exchange contracts.

In September 2007 the Group chose to discontinue the capital hedging policy for projects over US\$100 million and as a result all existing hedges were closed out in the market by taking opposite positions. Gains and losses held in the cash flow hedge reserve at the time of discontinuing this hedge policy are recognised as part of the cost of property, plant and equipment acquired over the period of the original hedge. All such gains and losses will be recognised by 31 December 2008. The fair value of these hedges at 30 June 2008 is US\$2 million (2007: US\$156 million).

There are no significant forward exchange contracts outstanding to manage short-term foreign currency cash flows relating to operating activities.

Commodity price risk

Contracts for the sale and physical delivery of commodities are executed whenever possible on a pricing basis intended to achieve a relevant index target. Where pricing terms deviate from the index, derivative commodity contracts are used when available to return realised prices to the index. Contracts for the physical delivery of commodities are not typically financial instruments and are carried in the balance sheet at cost (typically at nil); they are therefore excluded from the fair value and sensitivity tables below. Accordingly, the financial instrument exposures set out in the tables below do not represent all of the commodity price risks managed according to the Group's objectives. Movements in the fair value of contracts included in the tables below are offset by movements in the fair value of the physical contracts, however only the former movement is recognised in the Group's income statement prior to settlement. The risk associated with commodity prices is managed as part of the Portfolio Risk Management Strategy and within the overall CFaR limit.

Financial instruments with commodity price risk included in the following tables are those entered into for the following activities:

- economic hedging of prices realised on commodity contracts as described above
- proprietary trading
- purchases and sales of physical contracts that can be cash-settled
- cash flow hedging of revenues
- derivatives embedded within other supply contracts

All such instruments are carried in the balance sheet at fair value.

Forward commodity contracts

	2008		2007	
	Fair value of asset US\$M	Fair value of liability US\$M	Fair value of asset US\$M	Fair value of liability US\$M
Aluminium	111	109	98	27
Copper	462	1,143	210	507
Zinc	54	65	27	32
Lead	70	73	59	61
Silver	32	29	6	10
Nickel	40	35	50	45
Iron ore	-	155	1	23
Energy coal	651	837	86	57
Metallurgical coal	-	21	-	3
Petroleum	54	61	18	49
Electricity	232	244	76	78
Gas	10	9	9	9
Freight	245	515	22	128
Other	1	5	-	-
Total	1,962	3,301	662	1,029
Comprising:				
Current	1,502	2,050	570	605
Non-current	460	1,251	92	424

Notes to Financial Statements continued

26 Financial risk management continued

Forward commodity contracts - designated as cash flow hedge of future sales revenue

The table above includes forward commodity contracts, which are designated as a cash flow hedge of future sales revenue. The fair value of the contracts has been recognised in equity as an unrealised loss in the hedging reserve.

	Contractual volumes		Average price		Fair value	
	2008 000 tonnes	2007 000 tonnes	2008 US\$/tonne	2007 US\$/tonne	2008 US\$M	2007 US\$M
Copper						
Not later than one year	59	3	4,919	5,184	(202)	(5)
Later than one year but no later than five years	166	222	4,070	4,282	(541)	(272)
Total fair value	225	225	4,293	4,293	(743)	(277)

The Group's exposure at 30 June 2008 to the impact of movements in commodity markets upon the financial instruments, other than those designated as a cash flow hedge or embedded derivatives, is set out in the following table.

	Units of exposure	2008		2007	
		Net exposure Receive/(Deliver)	Impact on equity and profit of 10% movement in market price (post-tax) US\$M	Net exposure Receive/(Deliver)	Impact on equity and profit of 10% movement in market price (post-tax) US\$M
Aluminium	'000 tonnes	(55)	(17)	(26)	(7)
Copper	'000 tonnes	73	55	11	4
Zinc	'000 tonnes	20	2	8	2
Lead	'000 tonnes	5	-	12	3
Silver	Million ounces	1	3	3	3
Nickel	'000 tonnes	(4)	(9)	-	-
Iron Ore	'000 tonnes	(1,095)	(18)	-	-
Energy coal	'000 tonnes	(185)	(11)	360	-
Petroleum	'000 barrels	934	10	106	7
Electricity	'000 MWh	22	-	(28)	-
Gas	'000 therms	(15,500)	(1)	(2,117)	-
Freight	Time charter days	(7,735)	(68)	(7,228)	(32)
	'000 voyage charter tonnes	600	5	(290)	(5)

The sensitivities in the above table have been determined as the absolute impact on fair value of a 10 per cent increase in the commodity prices that were applied to the fair value measurement at each reporting date.

The relationship between commodity prices and foreign currencies is complex and movements in foreign exchange can impact commodity prices. The sensitivities should therefore be used with care.

In addition, the Group is exposed to commodity prices on derivatives embedded in host contracts. A 10 per cent increase in the commodity price related to those contracts would decrease the Group's equity and profit after tax by US\$15 million (2007: US\$7 million). This relates primarily to a contract to purchase gas under a take or pay contract where the price is index-linked to inflation and the scrap metal price. As at 30 June 2008, the Group was contracted to purchase 171 million gigajoules of gas (2007: 202 million gigajoules) over the remaining term of the contract expiring in December 2013.

Liquidity risk

The Group's liquidity risk arises from the possibility that it may not be able to settle or meet its obligations as they fall due and is managed as part of the Portfolio Risk Management Strategy and within the overall CFaR limit. Operational, capital and regulatory requirements are considered in the management of liquidity risk, in conjunction with short and long-term forecast information.

Additional liquidity risk arises on debt related derivatives due to the possibility that a market for derivatives might not exist in some circumstances. To counter this risk the Group only uses derivatives in highly liquid markets.

Moody's Investors Service made no change to the Group's long-term credit rating of A1 (the short-term credit rating is P-1). Standard & Poor's made no change to the Group's long-term credit rating of A+ (the short-term credit rating is A-1), however the ratings were placed on negative outlook following an announcement of proposed offers for Rio Tinto Plc and Rio Tinto Limited. The Group's strong credit profile, diversified funding sources and committed credit facilities ensure that sufficient liquid funds are maintained to meet its daily cash requirements. The Group's policy on counterparty credit exposures ensures that only counterparties of a high credit standing are used for the investment of any excess cash.

Notes to Financial Statements continued

26 Financial risk management continued

The Group's US\$3.0 billion multi-currency revolving credit facility matures in October 2011. This facility was established in October 2006 and replaced a previous US\$3.0 billion multi-currency revolving credit facility with an original maturity date of September 2009. The multi-currency revolving credit facility is used for general corporate purposes and as backup for the commercial paper programs. As at 30 June 2008 US\$ nil (30 June 2007: US\$ nil) was drawn under this facility.

The remaining outstanding amount on the Group's US\$5.5 billion acquisition facility, established in March 2005 in order to assist with financing of the WMC acquisition (and which could only be used for the acquisition), was repaid in July 2006.

There were no defaults on loans payable during the period.

Refer to note 30 for details of the Group's unused credit facilities.

The maturity profile of the Group's financial liabilities based on the contractual amounts, taking into account the derivatives related to debt is as follows:

	Bank loans, debentures and other loans US\$M	Expected future interest payments US\$M	Derivatives related to net debt US\$M	Other derivatives US\$M	Obligations under finance leases US\$M	Other financial liabilities US\$M	Total US\$M
2008							
Due for payment:							
In one year or less or on demand	3,374	615	-	2,208	43	6,817	13,057
In more than one year but not more than two years	291	586	-	1,037	37	120	2,071
In more than two years but not more than three years	2,025	665	-	110	37	4	2,841
In more than three years but not more than four years	1,198	435	-	6	45	3	1,687
In more than four years but not more than five years	1,811	370	-	-	33	2	2,216
In more than five years	3,701	1,007	-	-	156	24	4,888
	12,400	3,678	-	3,361	351	6,970	26,670
Carrying amount	12,447	-	-	3,348	233	6,927	22,955

	Bank loans, debentures and other loans US\$M	Expected future interest payments US\$M	Derivatives related to net debt US\$M	Other derivatives US\$M	Obligations under finance leases US\$M	Other financial liabilities US\$M	Total US\$M
2007							
Due for payment:							
In one year or less or on demand	1,464	713	27	657	16	5,278	8,155
In more than one year but not more than two years	2,591	734	34	213	12	146	3,730
In more than two years but not more than three years	168	559	35	97	9	1	869
In more than three years but not more than four years	1,591	487	39	71	9	1	2,198
In more than four years but not more than five years	737	420	42	40	14	1	1,254
In more than five years	5,975	1,353	72	3	88	30	7,521
	12,526	4,266	249	1,081	148	5,457	23,727
Carrying amount	12,312	-	170	1,080	93	5,292	18,947

As the amounts disclosed in the table above are the contractual undiscounted cash flows, these balances will not agree with the amounts presented in the balance sheet. The Group also holds derivatives related to net debt, commodities and currencies that are expected to generate cash inflows, which are classified as other financial assets (refer to note 12). These contracts are excluded from the table above.

Credit risk

Credit risk arises from the non-performance by counterparties of their contractual financial obligations towards the Group.

To manage credit risk the Group maintains group-wide procedures covering the application for credit approvals, granting and renewal of counterparty limits and daily monitoring of exposures against these limits. As part of these processes the

financial viability of all counterparties is regularly monitored and assessed.

The maximum exposure to credit risk is limited to the total carrying value of financial assets on the balance sheet as at the reporting date.

The Group's credit risk exposures are categorised under the following headings:

Notes to Financial Statements continued

26 Financial risk management continued

Counterparties

The Group conducts transactions with the following major types of counterparties:

- *Receivables counterparties*
The majority of sales to the Group's customers are made on open terms.
- *Payment guarantee counterparties*
A proportion of sales to Group customers occur via secured payment mechanisms.
- *Derivative counterparties*
Counterparties to derivative contracts consist of a diverse number of financial institutions and industrial counterparties in the relevant markets.
- *Cash investment counterparties*
As part of managing cash flow and liquidity, the Group holds short-term cash investments with a range of financial institutions.

The Group has no significant concentration of credit risk with any single counterparty or group of counterparties.

Geographic

The Group trades in all major geographic regions. Countries in which the Group has a significant credit risk exposure include South Africa, Australia, the US, Japan and China. Where appropriate, secured payment mechanisms and other risk mitigation instruments are used to protect revenues from credit risk losses.

Industry

In line with our asset portfolio, the Group sells into a diverse range of industries and customer sectors. This diversity means that the Group is not materially exposed to any individual industry or customer.

The following table shows the Group's receivables at the reporting date that are exposed to credit risk and the ageing and impairment profile thereon.

2008	Gross amount US\$M	Receivables past due and impaired US\$M	Receivables neither past due nor impaired US\$M	Receivables past due but not impaired			
				Less than 30 days US\$M	31 to 60 days US\$M	61 to 90 days US\$M	Over 90 days US\$M
Trade accounts receivables	8,050	49	7,957	39	2	2	1
Other receivables	2,522	2	2,259	184	28	18	31
Total	10,572	51	10,216	223	30	20	32

2007	Gross amount US\$M	Receivables past due and impaired US\$M	Receivables neither past due nor impaired US\$M	Receivables past due but not impaired			
				Less than 30 days US\$M	31 to 60 days US\$M	61 to 90 days US\$M	Over 90 days US\$M
Trade accounts receivables	4,837	10	4,768	54	3	-	2
Other receivables	2,055	1	1,750	139	31	20	114
Total	6,892	11	6,518	193	34	20	116

Receivables are deemed to be beyond due or impaired with reference to the Group's normal terms and conditions of business. These terms and conditions are determined on a case by case basis with reference to the customer's credit quality and prevailing market conditions. Receivables that are classified as 'past due' in the above tables are those that have not been settled within the terms and conditions that have been agreed with that customer.

The credit quality of the Group's customers is monitored on an ongoing basis and assessed for impairment where indicators of such impairment exist. The solvency of the debtor and their ability to repay the receivable is considered in assessing receivables for impairment. The Group considers receivables that are neither past due nor impaired to be of high credit quality.

In circumstances where a receivable is no longer considered to be of high credit quality, the Group may seek collateral as security for the receivable.

There were no significant impairments of receivables as at 30 June 2008.

Notes to Financial Statements continued

26 Financial risk management continued

Fair values

All financial assets and financial liabilities, other than derivatives, are initially recognised at the fair value of consideration paid or received, net of transaction costs as appropriate, and subsequently carried at fair value or amortised cost, as indicated in the tables below.

Derivatives are initially recognised at fair value on the date the contract is entered into and are subsequently remeasured at their fair value. This measurement of fair value is based on quoted market prices. Where no price information is available from a quoted market source, alternative market mechanisms or recent comparable transactions, fair value is estimated based on the Group's views on relevant future prices, net of valuation allowances to accommodate liquidity, modelling and other risks implicit in such estimates.

The carrying values of financial assets and liabilities are presented by class in the tables below, and generally approximate to the fair values. In the case of US\$1.3 billion (2007: US\$1.3 billion) of centrally managed fixed rate debt not swapped to floating rate, the fair value at 30 June 2008 is US\$1.5 billion (2007: US\$1.4 billion).

Financial assets and liabilities

2008	Notes	Loans and receivables US\$M	Available for sale securities US\$M	Held at fair value through profit or loss US\$M	Cash flow hedges US\$M	Other financial assets and liabilities at amortised cost US\$M	Total US\$M
Financial assets							
Cash and cash equivalents	30	4,237	-	-	-	-	4,237
Trade and other receivables	11	10,521	-	-	-	-	10,521
Cross currency and interest rate swaps	12	-	-	949	-	-	949
Forward exchange contracts	12	-	-	-	49	-	49
Commodity contracts	12	-	-	1,914	-	-	1,914
Other derivative contracts	12	-	-	48	-	-	48
Bonds and debentures	12	-	-	-	-	7	7
Shares - fair value through profit	12	-	-	37	-	-	37
Shares - available for sale	12	-	332	-	-	-	332
Other investments - available for sale	12	-	166	-	-	-	166
Total financial assets		14,758	498	2,948	49	7	18,260
Non-financial assets							57,629
Total assets							75,889
Financial liabilities							
Trade and other payables	17	-	-	-	-	6,912	6,912
Forward exchange contracts	19	-	-	-	47	-	47
Commodity contracts	19	-	-	2,423	670	-	3,093
Other derivative contracts	19	-	-	208	-	-	208
Unsecured bank overdrafts	18	-	-	-	-	64	64
Unsecured bank loans	18	-	-	-	-	711	711
Commercial paper	18	-	-	200	-	-	200
Notes and debentures	18	-	-	8,612	-	1,303	9,915
Secured debt	18	-	-	-	-	679	679
Redeemable preference shares	18	-	-	-	-	15	15
Finance leases	18	-	-	-	-	233	233
Unsecured other	18	-	-	-	-	878	878
Total financial liabilities		-	-	11,443	717	10,795	22,955
Non-financial liabilities							13,891
Total liabilities							36,846

Notes to Financial Statements continued

26 Financial risk management continued

Financial assets and liabilities continued

2007	Notes	Loans and receivables US\$M	Available for sale securities US\$M	Held at fair value through profit or loss US\$M	Cash flow hedges US\$M	Other financial assets and liabilities at amortised cost US\$M	Total US\$M
Financial assets							
Cash and cash equivalents	30	2,449	-	-	-	-	2,449
Trade and other receivables	11	6,881	-	-	-	-	6,881
Cross currency and interest rate swaps	12	-	-	597	-	-	597
Forward exchange contracts	12	-	-	-	207	-	207
Commodity contracts	12	-	-	609	-	-	609
Other derivative contracts	12	-	-	53	-	-	53
Bonds and debentures	12	-	-	-	-	6	6
Shares - fair value through profit	12	-	-	50	-	-	50
Shares - available for sale	12	-	363	-	-	-	363
Other investments - available for sale	12	-	73	-	-	-	73
Total financial assets		9,330	436	1,309	207	6	11,288
Non-financial assets							50,116
Total assets							61,404
Financial liabilities							
Trade and other payables	17	-	-	-	-	5,277	5,277
Cross currency and interest rate swaps	19	-	-	170	-	-	170
Forward exchange contracts	19	-	-	-	51	-	51
Commodity contracts	19	-	-	621	282	-	903
Other derivative contracts	19	-	-	126	-	-	126
Unsecured bank overdrafts	18	-	-	-	-	51	51
Unsecured bank loans	18	-	-	-	-	432	432
Notes and debentures	18	-	-	8,839	-	1,303	10,142
Secured debt	18	-	-	-	-	735	735
Redeemable preference shares	18	-	-	-	-	15	15
Finance leases	18	-	-	-	-	93	93
Unsecured other	18	-	-	-	-	952	952
Total financial liabilities		-	-	9,756	333	8,858	18,947
Non-financial liabilities							12,539
Total liabilities							31,486

Capital management

The Group defines capital as the total equity of the Group. The Group manages capital with the goal of maintaining levels of gearing designed to optimise the cost of capital and return on capital employed, whilst also growing the business consistently through project developments and acquisitions. The Group's capital management program has three priorities:

- Reinvestment in projects that carry attractive rates of return regardless of the economic climate
- Commitment to a solid 'A' credit rating with a target net gearing of between 35 per cent and 40 per cent
- Returning excess capital to shareholders via dividend growth and share buy-backs

The Group's strategy is focused on upstream, large, long-life, low-cost, expandable, export-orientated assets and the Group continually reviews its portfolio to identify assets which do not fit this strategy. The Group will purchase interests in assets where they fit our strategy.

The Group's credit ratings are currently A1/P-1 and A+/A-1 with Moody's and Standard & Poor's respectively. There has been no change to these ratings during the year, however the ratings were placed on negative outlook following the announcement of proposed offers for Rio Tinto Plc and Rio Tinto Limited.

Details of share buy-backs can be found in note 21. On 14 December 2007 the buy-back program was suspended following the Group's decision to make formal offers to acquire Rio Tinto Plc and Rio Tinto Limited.

The Group monitors capital using a gearing ratio, being the ratio of net debt to net debt plus net assets.

	2008 US\$M	2007 US\$M
Cash and cash equivalents	4,237	2,449
Current debt	3,461	1,640
Non-current debt	9,234	10,780
Net debt	8,458	9,971
Net assets/Total equity	39,043	29,918
Gearing	17.8%	25.0%

Notes to Financial Statements continued

27 Contingent liabilities

Contingent liabilities at balance date, not otherwise provided for in the financial report, are categorised as arising from:

	2008 US\$M	2007 US\$M
Jointly controlled entities		
Bank guarantees (b)	-	1
Other (a)	535	416
	535	417
Subsidiaries and jointly controlled assets (including guarantees)		
Bank guarantees (b)	1	1
Performance guarantees (b)	-	25
Other (a)	327	296
	328	322
Total contingent liabilities	863	739

- (a) Other contingent liabilities relate predominantly to actual or potential litigation of the Group for which amounts are reasonably estimable but the liability is not probable and therefore the Group has not provided for such amounts in these financial statements. The amounts relate to a number of actions against the Group, none of which are individually significant. Additionally, there are a number of legal claims or potential claims against the Group, the outcome of which cannot be foreseen at present, and for which no amounts have been included in the table above.
- (b) The Group has entered into various counter-indemnities of bank and performance guarantees related to its own future performance in the normal course of business.

28 Commitments

	2008 US\$M	2007 US\$M
Capital expenditure commitments not provided for in the financial statements		
Due not later than one year	4,258	3,245
Due later than one year and not later than two years	450	771
Due later than two years and not later than three years	544	95
Due later than three years and not later than four years	89	23
Due later than four years and not later than five years	-	16
Due later than five years	-	2
Total capital expenditure commitments	5,341	4,152
Lease expenditure commitments		
Finance leases		
Due not later than one year	46	22
Due later than one year and not later than two years	36	17
Due later than two years and not later than three years	36	15
Due later than three years and not later than four years	43	14
Due later than four years and not later than five years	28	13
Due later than five years	164	62
Total commitments under finance leases	353	143
Future financing charges	(120)	(50)
Finance lease liability	233	93
Operating leases (a)		
Due not later than one year	675	256
Due later than one year and not later than two years	600	233
Due later than two years and not later than three years	556	544
Due later than three years and not later than four years	543	504
Due later than four years and not later than five years	146	483
Due later than five years	256	289
Total commitments under operating leases	2,776	2,309
Other expenditure commitments (b)		
Due not later than one year	2,853	1,801
Due later than one year and not later than two years	1,485	1,170
Due later than two years and not later than three years	965	812
Due later than three years and not later than four years	707	547
Due later than four years and not later than five years	469	925
Due later than five years	2,059	966
Total commitments for other expenditure	8,538	6,221

- (a) Operating leases are entered into as a means of acquiring property, plant and equipment. Rental payments are generally fixed, but with inflation escalation clauses on which contingent rentals are determined. Certain leases contain extension and renewal options.
- (b) Other expenditure commitments include the supply of goods and services, royalties, exploration expenditure and chartering costs.

Other commitments

On 6 February 2008, the Group announced the terms of two inter-conditional offers for the entire ordinary share capital of Rio Tinto plc and Rio Tinto Limited. Under the announced offers, the Group will offer 3.4 BHP Billiton shares for each Rio Tinto share tendered. The offers are subject to certain pre-conditions relating to merger control and regulatory approvals

in a number of jurisdictions, including the approval of anti-trust authorities in the European Union, the United States, Australia, Canada and South Africa, and foreign investment authorities in Australia. Provided the pre-conditions have been satisfied or waived, the Group will be obliged to make the offers on the terms we have announced (or terms no less favourable to Rio Tinto shareholders).

Notes to Financial Statements continued

29 Key Management Personnel

Key Management Personnel compensation comprises:

	2008 US\$	2007 US\$	2006 US\$
Short-term employee benefits	20,607,717	25,097,097	23,455,737
Post-employment benefits	2,958,123	3,326,413	2,895,619
Share-based payments	12,428,149	12,845,483	11,324,796
Total	35,993,989	41,268,993	37,676,152

Notes to Financial Statements continued

29 Key Management Personnel continued

Equity Instrument disclosures relating to Key Management Personnel

BHP Billiton Limited ordinary shares under option

	Scheme	At 30 June 2006	Vested and exercisable during the year (a)	Granted	Lapsed	Exercised	At 30 June 2007	Vested and exercisable during the year (a)	Granted	Lapsed	Exercised	At 30 June 2008
Charles Goodyear	GIS Options (b)	501,338	180,613	-	-	-	501,338	-	-	-	501,338	-
	ESP Options (b)	1,073,850	-	-	-	-	1,073,850	-	-	-	1,073,850	-
	Total	1,575,188	180,613	-	-	-	1,575,188	-	-	-	1,575,188	-

BHP Billiton Limited ordinary shares under award

	Scheme	At 30 June 2006	Vested and exercisable during the year (a)	Granted	Lapsed	Exercised	At 30 June 2007	Vested and exercisable during the year (a)	Granted	Lapsed	Exercised	At 30 June 2008
Charles Goodyear	LTIP Performance	1,100,000	-	592,558	-	-	1,692,558	-	-	864,791 ^(c)	-	827,767
	GIS Deferred	121,170	44,601	56,691	-	44,601	133,260	172,918 ^(d)	39,658	-	172,918	-
	GIS Performance	112,375	89,900	-	22,475	89,900	-	-	-	-	-	-
	PSP	15,716	-	-	-	-	15,716	-	-	-	15,716	-
Marius Kloppers	LTIP Performance	-	-	-	-	-	-	-	333,327	-	-	333,327
	GIS Deferred	-	-	-	-	-	-	-	27,582	-	-	27,582
Chris Lynch ^(f)	LTIP Performance	450,000	-	225,000	-	-	675,000	-	-	-	-	-
	GIS Deferred	160,588	55,908	32,399	-	116,918	76,069	-	-	-	-	-
	GIS Performance	178,127	48,808	-	12,202	165,925	-	-	-	-	-	-
	PSP	142,195	-	-	-	142,195	-	-	-	-	-	-
John Fast ^(f)	LTIP Performance	350,000	-	175,000	-	-	525,000	-	-	-	-	-
	GIS Deferred	148,265	53,908	25,825	-	-	174,090	-	-	-	-	-
	GIS Performance	170,703	43,826	-	10,956	-	159,747	-	-	-	-	-
	PSP	96,384	-	-	-	18,000	78,384	-	-	-	-	-
Robert Kirkby ^(f)	LTIP Performance	450,000	-	225,000	472,500 ^(c)	-	202,500 ^(e)	-	-	-	-	-
	GIS Deferred	104,898	135,475 ^(d)	30,577	-	57,450	78,025	-	-	-	-	-
	GIS Performance	58,031	46,425	-	11,606	46,425	-	-	-	-	-	-
Marcus Randolph	LTIP Performance	220,000	-	175,000	-	-	395,000	-	197,676	-	-	592,676
	GIS Deferred	76,433	44,234	29,455	-	44,234	61,654	32,199	23,648	-	-	85,302
	GIS Performance	34,261	27,409	-	6,852	27,409	-	-	-	-	-	-
Alex Vanselow	LTIP Performance	220,000	-	225,000	-	-	445,000	-	197,676	-	-	642,676
	GIS Deferred	52,980	27,347	23,030	-	27,347	48,663	25,633	24,847	-	-	73,510
	GIS Performance	13,859	11,087	-	2,772	11,087	-	-	-	-	-	-
Karen Wood	LTIP Performance	160,000	-	175,000	-	-	335,000	-	154,187	-	-	489,187
	GIS Deferred	67,777	26,631	18,267	-	20,684	65,360	20,462	19,643	-	-	85,003
	GIS Performance	62,903	16,457	-	4,137	42,219	16,547	-	-	-	-	16,547
	PSP	25,846	-	-	-	-	25,846	-	-	-	-	25,846
J. Michael Yeager	LTIP Performance	325,000	-	225,000	-	-	550,000	-	187,702	-	-	737,702
	GIS Deferred	-	-	6,614	-	-	6,614	-	26,460	-	-	33,074
	Total	4,917,511	672,016	2,240,416	543,500	854,394	5,760,033	251,212	1,232,406	846,791	188,634	3,970,199

Notes to Financial Statements continued

29 Key Management Personnel continued

BHP Billiton Limited partly paid shares

Name	Scheme	At 30 June 2006 (g)	Granted	Lapsed	Exercised	At 30 June 2007 (g)	Granted	Lapsed	Exercised	At 30 June 2008 (g)	Unpaid Amount (h)	First Exercise Date	Expiry date
Robert Kirkby	ESS 1995 (i)	72,279	-	-	-	72,279					A\$8.17	n/a	4 October 2015
	ESS 1994 (j)	108,255	-	-	-	108,255					A\$8.43	n/a	4 October 2014
	Total	180,534	-	-	-	180,534							

BHP Billiton Plc ordinary shares under award

Name	Scheme	At 30 June 2006	Vested and exercisable during the year (a)	Granted	Lapsed	Exercised	At 30 June 2007	Vested and exercisable during the year (a)	Granted	Lapsed	Exercised	At 30 June 2008
Marius Kloppers	LTIP Performance	450,000	-	225,000	-	-	675,000	-	-	-	-	675,000
	GIS Deferred	113,319	60,548	37,300	-	60,548	90,071	52,771	-	-	-	90,071
	GIS Performance	55,378	44,302	-	11,076	44,302	-	-	-	-	-	-
Alberto Calderon	LTIP Performance						120,000	-	211,993	-	-	331,993
	GIS Deferred						11,926	-	17,207	-	-	29,133
Miklos Salamon (f)	LTIP Performance	600,000	-	-	400,000(c)	-	200,000(e)					
	GIS Deferred	153,894	153,894 (d)	-	-	153,894	-					
	GIS Performance	89,056	71,245	-	17,811	71,245	-					
	Total	1,461,647	329,989	262,300	428,887	329,989	1,096,997	52,771	229,200	-	-	1,126,197

(a) All awards that are vested are exercisable.

(b) All of the options issued pursuant to these awards are exercisable.

(c) In accordance with the LTIP rules, a proportion of the original share award lapsed when Mr Goodyear (1 January 2008), Mr Salamon (26 October 2006) and Mr Kirkby (31 December 2006) retired from the Group. Lapses occurred at retirement for Mr Lynch (31 August 2007), and Mr Fast (14 September 2007) but after ceasing to be Key Management Personnel.

(d) As per the rules of the GIS, the awards of Deferred Shares vested when Mr Goodyear (Mr Salamon; 26 October 2006 and Mr Kirkby; 31 December 2006) retired.

(e) Awards have been pro-rated to reflect the period of service from the start of each performance period to the date of retirement.

(f) Mr Lynch, Mr Fast, Mr Kirkby and Mr Salamon are no longer part of the Key Management Personnel.

(g) Includes accrued bonus shares to be issued upon conversion of partly paid shares.

(h) Represents the final call payable upon conversion of partly paid shares held at 30 June 2007, adjusted for bonus issues.

(i) 35,000 Partly Paid Shares and 37,279 fully paid bonus shares (held under escrow).

(j) 50,000 Partly Paid Shares and 58,255 fully paid bonus shares (held under escrow).

No options have been granted to Key Management Personnel since the end of the financial year. Further information on options and rights, including grant dates and exercise dates regarding options granted to Key Management Personnel under the employee share ownership plan, is set out in note 25.

Notes to Financial Statements continued

29 Key Management Personnel continued

Equity holdings and transactions

The movement during the financial year in the number of ordinary shares of the Group held directly, indirectly or beneficially, by each specified Key Management Personnel, including their personally-related entities were as follows:

BHP Billiton Limited shares (a)	Held at 30 June 2006 or at date of appointment as Key Management Personnel	Purchases	Received on exercise of options or rights	Disposals	Held at 30 June 2007	Purchases	Received on exercise of options or rights	Disposals	Held at 30 June 2008 or at date of resigning as Key Management Personnel
Charles Goodyear ^{(b) (d) (e)}	954,254	-	134,501	90,000	998,755	-	-	-	998,755
Marius Kloppers ^(e)	-	-	-	-	-	160	-	-	160
Marcus Randolph ^(e)	153,794	-	71,643	50,000	175,437	157	-	-	175,594
Alex Vanselow ^(e)	11,466	3,000	38,434	-	52,900	157	-	-	53,057
Karen Wood ^(e)	11,753	-	62,903	29,000	45,656	157	-	-	45,813
Paul Anderson ^(g)	60,000	46,000	-	-	106,000	-	-	-	106,000
Don Argus ^(e)	278,195	43,695	-	-	321,890	-	-	-	321,890
Carlos Cordeiro ^(g)	6,550	-	-	-	6,550	-	-	-	6,550
David Crawford ^(e)	29,127	4,000	-	-	33,127	-	-	-	33,127
David Jenkins	2,066	-	-	-	2,066	-	-	-	2,066
David Morgan ^{(d) (e)}	-	-	-	-	146,550	-	-	-	146,550
Jacques Nasser ^(g)	5,600	-	-	-	5,600	-	-	-	5,600
E. Gail de Planque ^(g)	1,800	1,780	-	-	3,580	-	-	-	3,580
John Schubert	23,675	-	-	-	23,675	-	-	-	23,675
J. Michael Yeager ^{(e) (h)}	-	-	-	-	-	134	-	-	134
John Fast ^{(c) (d)}	3,595	-	18,000	18,000	3,595	-	-	-	-
Chris Lynch ^{(e) (k)}	80,679	-	425,038	212,519	293,198	-	-	-	-
Robert Kirkby ^{(e) (i) (j)}	666,227	-	103,875	-	770,102	-	-	-	-

BHP Billiton Plc shares (a)	Held at 30 June 2006 or at date of appointment of Key Management Personnel	Purchases	Received on exercise of options or rights	Disposals	Held at 30 June 2007	Purchases	Received on exercise of options or rights	Disposals	Held at 30 June 2008 or at date of resigning as Key Management Personnel
Charles Goodyear ^{(b) (e) (d)}	2,000	-	-	-	2,000	-	-	-	2,000
Marius Kloppers ^(e)	335,333	-	104,850	43,500	396,683	-	-	-	396,683
Alberto Calderon ^(e)	-	-	-	-	-	156	-	-	156
Paul Anderson ^(f)	-	4,000	-	-	4,000	-	-	-	4,000
David Brink ^(e)	50,000	20,000	-	-	70,000	-	-	-	70,000
John Buchanan	20,000	-	-	-	20,000	-	-	-	20,000
David Jenkins	10,000	-	-	-	10,000	-	-	-	10,000
Miklos Salamon ^{(e) (i)}	1,302,085	-	225,139	92,538	1,434,686	-	-	-	-

Notes to Financial Statements continued

29 Key Management Personnel continued

- (a) All interests are beneficial.
- (b) 82,604 BHP Billiton Limited shares are held in the form of 41,302 American Depositary Shares and 2,000 BHP Billiton Plc shares are held in the form of 1,000 American Depositary Shares.
- (c) At 30 June 2007 and 30 June 2006, 2,945 shares were held by nominees, including 929 in the form of endowment warrants.
- (d) Mr Goodyear retired as CEO and Director on 30 September 2007, he left the Company on 1 January 2008 (the closing balance reflects his holding as at 30 September 2007). Mr Fast's balance reflects his holding as at the announcement of his retirement on 19 June 2007, he left the Company on 14 September 2007. Mr Morgan's balance reflects his holding as at appointment date, 1 January 2008.
- (e) Includes shares held in the name of spouse, superannuation fund and/or nominee.
- (f) 66,000 BHP Billiton Limited shares are held in the form of 33,000 American Depositary Shares. 4,000 BHP Billiton Plc shares are held in the form of 2,000 American Depositary Shares.
- (g) All BHP Billiton Limited shares are held in the form of American Depositary Shares: Mr Cordeiro (3,275), Hon de Planque (1,790) and Mr Nasser (2,800).
- (h) 134 BHP Billiton Limited shares are held in the form of 67 American Depositary Shares.
- (i) At 31 December 2006, 85,000 partly paid shares were held.
- (j) Mr Salamon and Mr Kirkby left the Company prior to 30 June 2007. Their 30 June 2007 closing balance reflects their holdings as at departure date (Mr Salamon 26 October 2006 and Mr Kirkby 31 December 2006).
- (k) Mr Lynch is no longer a Key Management Personnel.

Directors and their personally-related entities receive the same dividends and bonus share entitlements as those available to other holders of the same class of shares. Partly paid shares did not participate in dividends.

Refer to note 25 for details of the employee share ownership plans referred to above.

Loans to Key Management Personnel and their related parties

Aggregates for Key Management Personnel

Year	Balance at start of the year (a) US\$	Balance at year end US\$	Interest paid and payable US\$	Interest not charged US\$	Number of persons included in Group aggregate
2008	-	-	-	-	-
2007	17,889	-	-	1,033	2

- (a) Balance at the start of year or at date of becoming Key Management Personnel.

All loans to Key Management Personnel are in relation to the BHP Billiton Limited Employee Share Plan and are for periods of up to 20 years repayable by application of dividends or an equivalent amount and are interest free.

The highest amount of indebtedness during the year is equal to the balance at the start of the year.

Interest not charged represents the amount of interest that would have been charged on an arm's length basis. No write-downs or allowances for doubtful debts have been recognised in relation to any loans made to Key Management Personnel. There are no loans outstanding with former Key Management Personnel.

Other transactions with Key Management Personnel

Transactions with Key Management Personnel

During the year, Alex Vanselow purchased products from the Group totalling US\$22,802 on normal commercial terms and conditions (2007: Charles Goodyear US\$241,265). There are no amounts payable at 30 June 2008.

Transactions with personally-related entities

A number of Directors or former Directors of the Group hold or have held positions in other companies, where it is considered they control or significantly influence the financial or operating policies of those entities. There were no transactions during the year with personally-related entities (2007: US\$nil).

Notes to Financial Statements continued

30 Notes to the consolidated cash flow statement

Cash and cash equivalents

For the purpose of the consolidated cash flow statement, cash equivalents include highly liquid investments that are readily convertible to cash and with a maturity of less than 90 days, bank overdrafts and interest bearing liabilities at call.

	2008 US\$M	2007 US\$M	2006 US\$M
Cash and cash equivalents comprise:			
Cash assets (a)			
Cash	1,734	846	707
Short-term deposits	2,503	1,603	660
Total cash and cash equivalents	4,237	2,449	1,367
Bank overdrafts and short term borrowings -refer to note 18	(64)	(51)	(16)
Total cash and cash equivalents, net of overdrafts	4,173	2,398	1,351

(a) Cash and cash equivalents include US\$591 million (2007: US\$325 million; 2006: US\$297 million) which is restricted by legal or contractual arrangements.

Exploration and evaluation expenditure

Exploration and evaluation expenditure (excluding impairments) is classified as an investing activity as described in IAS 7/AASB 107 'Cash Flow Statements' and is therefore a reconciling item between profit after taxation and net operating cash flows.

Exploration and evaluation expenditure classified as investing activities in the cash flow statement is reconciled as follows:

	2008 US\$M	2007 US\$M	2006 US\$M
Expensed in the income statement (excluding impairments)	859	539	566
Capitalised in property, plant and equipment	491	266	205
Cash outflow from investing activities	1,350	805	771

Significant non-cash transactions

Non-cash transactions of US\$211 million (2007: US\$6 million; 2006: US\$ nil) represent assets acquired under finance leases.

Standby arrangements and unused credit facilities

	Facility available 2008 US\$M	Used 2008 US\$M	Unused 2008 US\$M	Facility available 2007 US\$M	Used 2007 US\$M	Unused 2007 US\$M
Acquisition finance facility	55,000	-	55,000	-	-	-
Revolving credit facilities	3,000	-	3,000	3,000	-	3,000
Other facilities	60	-	60	58	-	58
Total financing facilities	58,060	-	58,060	3,058	-	3,058

Details of major standby and support arrangements are as follows:

Acquisition finance facility

On 5 February 2008, the Group entered into a multi-currency term and revolving facility and subscription agreement to, among other things, meet potential funding requirements in relation to our offer to acquire Rio Tinto. The facility agreement provides for four debt facilities in an aggregate amount of US\$55 billion as follows:

- a US\$20 billion term loan facility with a term of 364 days, which may be extended (at our election) for a further 12 months and thereafter up to US\$10 billion may be extended for a further six months (at our election) subject to payment of an extension fee;
- a US\$15 billion term loan facility with a term of three years;
- a US\$12.5 billion term loan facility with a term of five years; and
- a US\$7.5 billion revolving facility with a term of five years incorporating Euro and US dollar swing line facilities.

Revolving credit facility

The multi-currency revolving credit facility is available for general corporate purposes and matures in October 2011.

Other facilities

Other bank facilities are arranged with a number of banks with the general terms and conditions agreed on a periodic basis.

Notes to Financial Statements continued

30 Notes to the consolidated cash flow statement continued

Disposal of subsidiaries and operations

The Group disposed of the following subsidiaries and operations during the year ended:

30 June 2008

- Optimum Colliery operations
- Elouera coal mine

30 June 2007

- The Group's 45.5 per cent interest in the Valesul joint venture
- Interest in Cascade and Chinook oil and gas prospects
- Southern Cross Fertilisers
- The Group's interest in the Typhoon facility and associated oil fields in the Gulf of Mexico
- The Group's interest in Australian coal bed methane assets
- Koornfontein coal business

30 June 2006

- The Group's 50 per cent interest in the Wonderkop joint venture
- Zululand Anthracite Collieries operations
- The Group's interest in Green Canyon 10 and 60 oil fields in the Gulf of Mexico
- DMS Powders business
- Tintaya copper mine

The carrying value of assets and liabilities disposed are as follows:

	2008 US\$M	2007 US\$M	2006 US\$M
Carrying amount of assets and liabilities of entities disposed:			
Cash and cash equivalents	-	-	5
Trade and other receivables	14	54	7
Inventories	20	51	63
Other current assets	-	11	-
Property, plant and equipment	223	192	377
Intangible assets	-	24	-
Trade and other payables	(107)	(45)	(26)
Provisions	(304)	(94)	(110)
Net identifiable (liabilities)/assets	(154)	193	316
Net consideration - Cash	38	203	849
- Intangible received	-	12	-
- Deferred (payable)/consideration	(126)	40	37
- Deferred settlement of intercompany balance	-	-	(40)
Total net consideration (paid)/received	(88)	255	846

Notes to Financial Statements continued

31 Jointly controlled assets

Interests in jointly controlled assets

The principal jointly controlled assets in which the Group has an interest and which are proportionately included in the financial report are as follows:

Name	Country of operation	Principal activity	The Group's effective interest	
			2008 %	2007 %
Atlantis	US	Hydrocarbons exploration and production	44	44
Bass Strait	Australia	Hydrocarbons exploration and production	50	50
Bruce	UK	Hydrocarbons exploration and production	16	16
Griffin	Australia	Hydrocarbons exploration and production	45	45
Genesis	US	Hydrocarbons exploration and production	4.95	4.95
Keith	UK	Hydrocarbons exploration and production	31.83	31.83
Liverpool Bay	UK	Hydrocarbons exploration and production	46.1	46.1
Mad Dog	US	Hydrocarbons exploration and production	23.9	23.9
Minerva	Australia	Hydrocarbons exploration and production	90	90
Mustang	US	Hydrocarbons exploration	43.66	43.66
Neptune	US	Hydrocarbons exploration and development	35	35
North West Shelf	Australia	Hydrocarbons exploration and production	8-17	8-17
Ohanet	Algeria	Hydrocarbons exploration and production	45	45
Puma	US	Hydrocarbons exploration	29.8	29.8
Pyrenees	Australia	Hydrocarbons exploration and development	71.43	71.43
ROD Integrated Development	Algeria	Hydrocarbons exploration and production	45	45
Shenzi/Genghis Khan	US	Hydrocarbons exploration and development	44	44
Starlifter	US	Hydrocarbons exploration	30.95	30.95
Stybarrow	Australia	Hydrocarbons exploration and production	50	50
Trinidad 2c - Angostura	Trinidad and Tobago	Hydrocarbons production	45	45
West Cameron 76	US	Hydrocarbons exploration and production	33.76	33.76
Zamzama	Pakistan	Hydrocarbons exploration and production	38.5	38.5
Alumar	Brazil	- Alumina refining	36	36
		- Aluminium smelting	40	40
Billiton Suriname	Suriname	Bauxite mining and alumina refining	45	45
Worsley	Australia	Bauxite mining and alumina refining	86	86
Central Queensland Coal Associates	Australia	Coal mining	50	50
Gregory	Australia	Coal mining	50	50
Red Mountain	Australia	Coal handling preparation plant	50	-
Mt Goldsworthy Mining Associates	Australia	Iron ore mining	85	85
Mt Newman	Australia	Iron ore mining	85	85
Yandi	Australia	Iron ore mining	85	85
EKATI	Canada	Diamond mining	80	80
Douglas Colliery	South Africa	Coal mining	84	84
Middleburg Mine	South Africa	Coal mining	84	84
Richards Bay Coal Terminal	South Africa	Coal exporting	23.99	33.96

Elements of the financial report relating to jointly controlled assets comprise:

	2008 US\$M	2007 US\$M
Current assets		
Cash and cash equivalents	169	179
Trade and other receivables	1,816	722
Inventories	1,161	892
Other	84	90
Non-current assets		
Trade and other receivables	47	20
Other financial assets	178	221
Inventories	46	40
Property, plant and equipment	21,578	17,970
Other	151	35
Group share of assets employed in jointly controlled assets	25,230	20,169
Contingent liabilities – unsecured ^(a)	136	159
Contracts for capital expenditure commitments not completed ^(b)	4,386	2,810

(a) Included in contingent liabilities arising from jointly controlled assets. Refer to note 27.

(b) Included in capital expenditure commitments. Refer to note 28.

Notes to Financial Statements continued

32 Related party transactions

Subsidiaries

The percentage of ordinary shares in significant subsidiaries is disclosed in note 37 to the financial statements.

Jointly controlled entities

The percentage interest held in jointly controlled entities is disclosed in note 14 to the financial statements.

Jointly controlled assets

The percentage interest held in jointly controlled assets is disclosed in note 31 to the financial statements.

Key Management Personnel

Disclosures relating to Key Management Personnel are set out in note 29 to the financial statements.

Transactions with related parties

	Jointly controlled entities (b)		Transactions with other related parties (a)	
	2008 US\$M	2007 US\$M	2008 US\$M	2007 US\$M
Sales of goods/services	-	-	-	-
Purchase of goods/services	360.790	487.725	-	-
Interest income	-	-	-	-
Dividend income	-	-	0.157	0.130

(a) Excludes disclosures relating to post-employment benefit plans for the benefit of the Group employees. These are shown in note 34.

(b) Disclosures in respect of transactions with jointly controlled entities represent the amount of such transactions which do not eliminate on proportional consolidation.

Transactions between each parent company and its subsidiaries, which are related parties of that company, are eliminated on consolidation and are not disclosed in this note.

Outstanding balances arising from sales/purchases of goods and services with related parties

	Jointly controlled entities (a)		Transactions with other related parties	
	2008 US\$M	2007 US\$M	2008 US\$M	2007 US\$M
Amounts owing to related parties	55.828	50.896	-	-
Amounts owing from related parties	0.036	0.021	-	-

(a) Disclosures in respect of amounts owing to/from jointly controlled entities represent those balances which do not eliminate upon proportional consolidation.

Terms and conditions

Sales to and purchases from related parties for goods and services are made in arm's length transactions at normal market prices and on normal commercial terms.

Outstanding balances at year end are unsecured and settlement occurs in cash.

No guarantees are provided or received for any related party receivables or payables.

No provision for doubtful debts has been recognised in relation to any outstanding balances and no expense has been recognised in respect of bad or doubtful debts due from related parties.

Notes to Financial Statements continued

33 Auditor's remuneration

	2008 US\$M	2007 US\$M	2006 US\$M
Fees payable to the Group's auditor for audit services			
Audit of the Group's annual report	3.619	2.977	4.074
Audit of subsidiaries and associates pursuant to legislation ^(a)	8.774	8.167	7.974
Total audit services	12.393	11.144	12.048
Fees payable to the Group's auditor for other services			
Other services pursuant to legislation ^(b)	5.009	6.542	1.262
Other services relating to taxation ^(c)	0.063	0.198	0.296
Other services relating to corporate finance ^(d)	3.253	0.212	0.547
All other services ^(e)	1.085	0.374	0.478
Total other services	9.410	7.326	2.583
Total fees	21.803	18.470	14.631

All amounts were paid to KPMG or KPMG affiliated firms.

- (a) This amount includes audit fees of US\$0.100 million (2007: US\$0.158 million; 2006: US\$0.150 million) for pension funds and statutory audit of subsidiaries and other audit work performed in relation to the Group's Annual Report by KPMG non head-office teams. For UK purposes this would be classified as a separate component of "other services".
- (b) Mainly includes review of half-year reports and audit work in relation to compliance with Section 404 of the US Sarbanes-Oxley Act.
- (c) Mainly includes tax compliance services.
- (d) Mainly includes services in connection with acquisitions, divestments and debt raising transactions.
- (e) Mainly includes advice on accounting matters, health and safety audits, payroll advice and preparatory work in connection with Section 404 of the US Sarbanes-Oxley Act.

Notes to Financial Statements continued

34 Pension and other post-retirement obligations

Defined contribution pension plans and multi-employer pension plans

The Group contributed US\$218 million (2007: US\$167 million; 2006: US\$118 million) to defined contribution plans and multi-employer defined contribution plans. These contributions are expensed as incurred. Contributions to defined contribution plans for Key Management Personnel are disclosed in note 29.

Defined benefit pension schemes

The Group has closed all defined benefit schemes to new entrants. Defined benefit pension schemes remain operating in Australia, the US, Canada, South America, Europe and South Africa for existing members. Full actuarial valuations are prepared and updated annually to 30 June by local actuaries for all schemes. The Projected Unit Credit valuation method is used. The Group operates final salary schemes that provide final salary benefits only, non-salary related schemes that provide flat dollar benefits and mixed benefit schemes that consist of a final salary defined benefit portion and a defined contribution portion.

Defined benefit post-retirement medical schemes

The Group operates a number of post-retirement medical schemes in the US, Canada, Suriname and South Africa. Full actuarial valuations are prepared by local actuaries for all schemes. All of the post-retirement medical schemes in the Group are unfunded.

The following tables set out details in respect of the Group's defined benefit pension and post-retirement medical schemes.

Balance sheet disclosures

The amounts recognised in the balance sheet are as follows:

	Defined benefit pension schemes		Post-retirement medical schemes	
	2008 US\$M	2007 US\$M	2008 US\$M	2007 US\$M
Present value of funded defined benefit obligation	1,822	1,724	-	-
Present value of unfunded defined benefit obligation	67	63	328	380
Unrecognised past service credits	-	-	-	15
Fair value of defined benefit scheme assets	(1,768)	(1,756)	-	-
Scheme deficit	121	31	328	395
Unrecognised surplus	99	110	-	-
Adjustment for employer contributions tax	8	(1)	-	-
Net liability recognised in the balance sheet	228	140	328	395

The Group has no legal obligation to settle these liabilities with any immediate contributions or additional one-off contributions. The Group intends to continue to contribute to each defined benefit pension and post-retirement medical scheme in accordance with the latest recommendations of each scheme actuary.

Income statement disclosures

The amounts recognised in the income statement are as follows:

	Defined benefit pension schemes			Post-retirement medical schemes		
	2008 US\$M	2007 US\$M	2006 US\$M	2008 US\$M	2007 US\$M	2006 US\$M
Current service cost	75	64	67	7	8	8
Interest cost	113	103	88	25	24	20
Expected return on scheme assets	(125)	(109)	(103)	-	-	-
Past service costs	-	-	3	-	-	-
Losses/(gains) on settlements/curtailments	-	(3)	(5)	(41)	-	-
Increase in adjustment for employer contributions tax	-	-	(2)	-	-	-
Total expense	63	55	48	(9)	32	28
- Recognised in employee benefits expense	75	61	63	(34)	8	8
- Recognised in net finance costs	(12)	(6)	(15)	25	24	20

Notes to Financial Statements continued

34 Pension and other post-retirement obligations continued

Statement of recognised income and expenses (SORIE) disclosures:

The amounts recognised in the statement of recognised income and expense (SORIE) are as follows:

	Defined benefit pension schemes			Post-retirement medical schemes		
	2008 US\$M	2007 US\$M	2006 US\$M	2008 US\$M	2007 US\$M	2006 US\$M
Actuarial (gains)/losses	106	(143)	(64)	(17)	7	1
Limit on net assets and other adjustments	7	57	(48)	-	-	-
Total amount recognised in the SORIE	113	(86)	(112)	(17)	7	1
Total cumulative amount recognised in the SORIE ^(a)	28	(85)	1	27	44	37

(a) Cumulative amounts are calculated from the transition to IFRS on 1 July 2004.

The actual return on assets for the defined benefit pension schemes is as follows:

	Defined benefit pension schemes		
	2008 US\$M	2007 US\$M	2006 US\$M
The actual return on assets for the defined benefit pension schemes	(5)	210	147

The changes in the present value of defined benefit obligations are as follows:

	Defined benefit pension schemes		Post-retirement medical schemes	
	2008 US\$M	2007 US\$M	2008 US\$M	2007 US\$M
Defined benefit obligation at beginning of year	1,787	1,759	380	353
Current service cost	75	64	7	8
Interest cost	113	103	25	24
Contributions by scheme participants	5	5	-	-
Actuarial (gains)/losses on benefit obligation	(24)	(42)	(17)	7
Benefits paid to participants	(142)	(140)	(20)	(20)
Past service cost	-	-	14	1
Acquired in business combinations	-	-	-	2
Curtailment (gains)/losses	-	(3)	(1)	-
Reduction in defined benefit obligation due to settlement	-	(22)	(40)	-
Currency exchange (gains)/losses	65	107	(20)	5
Other adjustments	10	(44)	-	-
Defined benefit obligation at end of year	1,889	1,787	328	380

The changes in the fair value of scheme assets for defined benefit pension schemes are as follows:

	Defined benefit pension schemes	
	2008 US\$M	2007 US\$M
Fair value of scheme assets at beginning of year	1,756	1,585
Expected return on scheme assets	125	109
Actuarial gains/(losses) on scheme assets	(130)	101
Employer contributions	93	69
Contributions by scheme participants	5	5
Benefits paid	(142)	(140)
Acquired in business combinations	-	-
Reduction in scheme assets due to settlements during the year	-	(22)
Currency exchange gains/(losses)	58	90
Other adjustments	3	(41)
Fair value of scheme assets at end of year	1,768	1,756

Notes to Financial Statements continued

34 Pension and other post-retirement obligations continued

The fair values of defined benefit pension scheme assets segregated by major asset class are as follows:

	Amount for each category	
	2008 US\$M	2007 US\$M
Fair value of schemes segregated by major asset class		
Bonds	971	776
Equities	570	710
Property	33	29
Cash and net current assets	62	94
Insured annuities	117	143
Other	15	4
Total	1,768	1,756

Scheme assets classified as 'Other' as at 30 June 2008 primarily comprise of investments in private equity in Australia.

The fair value of scheme assets includes no amounts relating to any of the Group's own financial instruments or any of the property occupied by, or other assets used by the Group.

The investment strategy is determined by each plan's fiduciary body in consultation with the Group. In general, the investment strategy for each plan is set by reference to the duration and risk profile of the plan, as well as the plan's solvency level.

The overall expected rate of return on assets is the weighted average of the expected rate of return on each applicable asset class and reflects the long-term target asset allocation as at the reporting date. For bonds, the expected rate of return reflects the redemption yields available on corporate and government bonds, as applicable, as at the reporting date. For all other asset classes, the expected rate of return reflects the rate of return expected over the long term.

The principal actuarial assumptions at the reporting date (expressed as weighted averages) for defined benefit pension schemes are as follows:

	Australia		Americas		Europe		South Africa	
	2008 %	2007 %	2008 %	2007 %	2008 %	2007 %	2008 %	2007 %
Discount rate	6.5	6.3	6.6	6.2	6.4	5.6	10.8	8.5
Future salary increases	5.0	4.9	4.4	4.3	5.2	4.7	9.3	6.8
Future pension increases	-	-	3.0	2.8	3.0	2.6	8.2	5.5
Expected rate of return on pension scheme assets	6.5	6.2	7.2	6.9	6.7	6.8	11.7	8.4

The principal actuarial assumptions at the reporting date (expressed as weighted averages) for post-retirement medical schemes are as follows:

	Americas		South Africa	
	2008 %	2007 %	2008 %	2007 %
Discount rate	6.3	6.2	10.5	8.3
Medical cost trend rate (ultimate)	5.0	5.0	9.3	7.3

Assumptions regarding future mortality can be material depending upon the size and nature of the plan liabilities. Post-retirement mortality assumptions in the Americas, Europe and South Africa are based on post-retirement mortality tables that are standard in these regions.

For the main funds, these tables imply the following expected future lifetimes (in years) for employees aged 65 as at the balance sheet date: USA males 17.5, USA females 19.8; Canadian males 19.0, Canadian females 21.6; Netherlands males 18.8, Netherlands females 21.0; UK males 21.7, UK females 24.0; South African males 15.9, South African females 20.0.

Notes to Financial Statements continued

34 Pension and other post-retirement obligations continued

The present value of defined benefit obligations, fair value of scheme assets and associated experience adjustments for the defined benefit pension and post-retirement medical schemes are shown prospectively from the Group's IFRS transition date as follows:

	Defined benefit pension schemes			
	2008 US\$M	2007 US\$M	2006 US\$M	2005 US\$M
Present value of defined benefit obligation	1,889	1,787	1,759	1,746
Fair value of defined benefit scheme assets	(1,768)	(1,756)	(1,585)	(1,436)
Deficit in the scheme	121	31	174	310
Experience gain/(loss) adjustments to scheme liabilities	(8)	7	(58)	(18)
Experience gain/(loss) adjustments to scheme assets	(130)	101	45	106

	Post-retirement medical schemes			
	2008 US\$M	2007 US\$M	2006 US\$M	2005 US\$M
Present value of defined benefit obligation	328	380	353	355
Experience gain/(loss) adjustments to scheme liabilities	8	1	(17)	8

Under IAS 19/AASB 119 'Employee Benefits', experience adjustments to scheme liabilities do not include the effect of changes in actuarial assumptions.

Estimated contributions for the defined benefit pension and post-retirement medical schemes are as follows:

	Defined benefit pension schemes	Post-retirement medical schemes
	US\$M	US\$M
Estimated employer contributions for the year ending 30 June 2009	82	20
Estimated contributions by scheme participants for the year ending 30 June 2009	5	N/A

The impact of a one percentage point variation in the medical cost trend rate (for the post-retirement medical schemes) on the Group's results is as follows:

	2008 US\$M	2007 US\$M
Effect of an increase in the medical cost trend of 1% point on:		
Total of current service and interest cost	6	5
Defined benefit obligation	42	45
Effect of a decrease in the medical cost trend of 1% point on:		
Total of current service and interest cost	(3)	(4)
Defined benefit obligation	(21)	(37)

Notes to Financial Statements continued

35 Subsequent events

On 17 July 2008 we announced that BHP Billiton Mitsubishi Alliance (BMA) had entered into a conditional agreement to acquire 100 per cent of the New Saraji Coal Project for a cash consideration of approximately US\$2.4 billion (US\$1.2 billion, BHP Billiton share). This acquisition is consistent with the Group's strategy to accelerate growth in long life, low cost natural resources with a focus on delivering shareholder value. At reporting date, the status of acquisition accounting is incomplete and does not permit the disclosure of any pro-forma financial information. In addition, on 10 July 2008, the acquisition of Anglo Potash Limited was finalised. The total equity of the transaction is approximately US\$282 million on a fully diluted basis. These transactions had no impact on the Group's financial results or financial position presented in this financial report.

Other than the matters outlined above, no matters or circumstances have arisen since the end of the year that have significantly affected, or may significantly affect, the operations, results or operations or state of affairs of the Group in subsequent accounting periods.

36 Acquired operations

30 June 2008

There were no material acquisitions made by the Group.

30 June 2007

On 1 February 2007, the Group acquired a 44 per cent interest in the operation of the Genghis Khan oil and gas development ('Genghis Khan') for a total cash consideration of US\$583 million.

Genghis Khan includes Green Canyon Blocks (652 and 608) and was discovered in 2005 in the deepwater Gulf of Mexico. Genghis Khan is located in the same geological structure and allows the Group to benefit from development synergies with the Shenzi project, which was sanctioned for development in the 2006 financial year. Genghis Khan was acquired in the Petroleum segment.

The following table details the book values of the Genghis Khan assets and liabilities acquired and the fair values allocated to these assets and liabilities.

	Book values (a) US\$M	Fair value adjustments (b) US\$M	Fair values at acquisition US\$M
Inventories	1	-	1
Property, plant and equipment	68	517	585
Provisions	-	(3)	(3)
Net assets acquired	69	514	583
Cost of business combination paid			583

(a) Represent book values prepared in accordance with the accounting policies applicable to Genghis Khan for the period prior to acquisition by BHP Billiton.

(b) The material adjustments for acquisition accounting principally relate to:

- Property, plant and equipment reflects the fair value of leasehold mineral assets and the revaluation of plant and equipment to replacement cost.
- Decommissioning, site closure and environmental rehabilitation provisions are measured at the present value of estimated future costs of rehabilitation.
- Deferred tax asset and liability balances have been adjusted to reflect revised book and tax values because of fair value adjustments. The net effect of recognising the deferred tax balances at acquisition is US\$nil.

Pro-forma financial information

The pro-forma consolidated results of operations of the Group for the year ended 30 June 2007 and 30 June 2006 would remain unchanged assuming that the acquisition of Genghis Khan occurred as of 1 July of each year as the operation did not generate revenue or incur operating costs.

Notes to Financial Statements continued

37 Subsidiaries

Significant subsidiaries of BHP Billiton Limited and BHP Billiton Plc are as follows:

Name	Country of incorporation	Principal activity	The Group's effective interest	
			2008 %	2007 %
Advalloy (Pty) Ltd	South Africa	Manganese alloy producer	100	100
BHP Billiton Diamonds Inc	Canada	Diamond mining	100	100
BHP Billiton Direct Reduced Iron Pty Ltd	Australia	Hot Briquette Iron Plant (closed)	100	100
BHP Billiton Energy Coal Australia Pty Ltd	Australia	Coal mining	100	100
BHP Billiton Energy Coal South Africa Limited	South Africa	Coal Mining	100	100
BHP Billiton Finance BV	Netherlands	Finance	100	100
BHP Billiton Finance Ltd	Australia	Finance	100	100
BHP Billiton Finance (USA) Ltd (a)	Australia	Finance	100	100
BHP Billiton Group Operations Pty Ltd	Australia	Administrative services	100	100
BHP Billiton Marine and General Insurances Pty Ltd	Australia	Insurance company	100	100
BHP Billiton Marketing AG	Switzerland	Marketing and trading	100	100
BHP Billiton Marketing Inc	US	Marketing and trading	100	100
BHP Billiton Metais SA	Brazil	Alumina refining and aluminium smelting	100	100
BHP Billiton Minerals Pty Ltd	Australia	Iron ore, coal, silver, lead and zinc mining	100	100
BHP Billiton Nickel West Pty Ltd		Nickel mining, smelting, refining and administrative services		
	Australia		100	100
BHP Billiton Olympic Dam Corporation Pty Ltd	Australia	Copper and uranium mining	100	100
BHP Billiton Petroleum (Americas) Inc	US	Hydrocarbons exploration and production	100	100
BHP Billiton Petroleum (Australia) Pty Ltd	Australia	Hydrocarbons production	100	100
BHP Billiton Petroleum (Bass Strait) Pty Ltd	Australia	Hydrocarbons production	100	100
BHP Billiton Petroleum (Deepwater) Inc	US	Hydrocarbons exploration, development and production	100	100
BHP Billiton Petroleum (GOM) Inc	US	Hydrocarbons exploration	100	100
BHP Billiton Petroleum (North West Shelf) Pty Ltd	Australia	Hydrocarbons production	100	100
BHP Billiton Petroleum Great Britain Ltd	UK	Hydrocarbons production	100	100
BHP Billiton Petroleum (International Exploration) Pty Ltd	Australia	Hydrocarbons development and production	100	100
BHP Billiton Petroleum (Victoria) Pty Ltd	Australia	Hydrocarbons development	100	100
BHP Billiton SA Limited	South Africa	Service company	100	100
BHP Billiton SA Holdings Limited	South Africa	Holding company	100	100
BHP Billiton SSM Development Pty Ltd	Australia	Holding company	100	100
BHP Billiton (Trinidad - 2c) Limited	Canada	Hydrocarbons development	100	100
BHP Billiton World Exploration Inc	Canada	Exploration	100	100
BHP Canadian Diamonds Company	Canada	Diamond mining	100	100
BHP Coal Pty Limited	Australia	Holding company and coal mining	100	100
BHP Copper Inc	US	Holding company and copper mining	100	100
BHP Financial Services (UK) Limited	UK	Finance	100	100
BHP Iron Ore (Jimblebar) Pty Ltd	Australia	Iron ore mining	100	100
BHP Minerals Exploration Inc	US	Holding company	100	100
BHP Mitsui Coal Pty Limited	Australia	Holding company and coal mining	80	80
BHP Navajo Coal Company	US	Coal mining	100	100
BHP Petroleum (Pakistan) Pty Ltd	Australia	Hydrocarbons production	100	100
BHP Queensland Coal Investments Pty Ltd	Australia	Holding company and coal mining	100	100
BHPB Freight Pty Ltd	Australia	Transport services	100	100
Billiton Aluminium Australia Pty Ltd	Australia	Bauxite mining and alumina refining	100	100
Billiton Aluminium SA Limited	South Africa	Aluminium smelting	100	100
Billiton Marketing Holding BV	Netherlands	Marketing and trading	100	100
Billiton Nickel (Ravensthorpe) Pty Ltd	Australia	Holding company	100	100
Cerro Matoso SA	Colombia	Nickel mining and ferro-nickel smelting	99.9	99.9
Compania Minera Cerro Colorado Limitada	Chile	Copper mining	100	100

Notes to Financial Statements continued

37 Subsidiaries continued

Name	Country of incorporation	Principal activity	The Group's effective interest	
			2008 %	2007 %
Corridor Sands Limitada	Mozambique	Titanium mineral sands	90	90
Dendrobium Coal Pty Ltd	Australia	Coal mining	100	100
Endeavour Coal Pty Ltd	Australia	Coal mining	100	100
Groote Eylandt Mining Company Pty Ltd	Australia	Manganese mining	60	60
Hillside Aluminium Limited	South Africa	Aluminium Smelting	100	100
Illawarra Coal Holdings Pty Ltd	Australia	Coal mining	100	100
Minera Spence SA	Chile	Copper exploration	100	100
QNI Metals Pty Ltd	Australia	Nickel refining	100	100
QNI Pty Ltd	Australia	Holding company	100	100
QNI Resources Pty Ltd	Australia	Nickel refining	100	100
QNI Western Australia Pty Limited	Australia	Holding company	100	100
Ravensthorpe Nickel Operations Pty Ltd	Australia	Nickel mining	100	100
Rio Algom Limited	Canada	Holding company	100	100
Samancor AG	Switzerland	Marketing	60	60
Samancor Manganese Proprietary Limited	South Africa	Manganese mining and manganese alloys	60	60
San Juan Coal Company	US	Coal mining	100	100
Tasmanian Electro Metallurgical Company Pty Ltd	Australia	Manganese alloys	60	60
UMAL Consolidated Pty Ltd	Australia	Holding company and coal mining	100	100
WMC Finance Limited	Australia	Finance	100	100
WMC Finance (USA) Limited	Australia	Finance	100	100

- (a) BHP Billiton Finance (USA) Ltd is 100 per cent owned by BHP Billiton Limited. BHP Billiton Limited and BHP Billiton Plc have each fully and unconditionally guaranteed BHP Billiton Finance (USA) Ltd's debt securities.

Supplementary oil and gas information - unaudited

Reserves and production

Proved oil and gas reserves and net crude oil and condensate, natural gas, LNG and NGL production information is included in the 'Petroleum Reserves' and 'Production' sections of this Annual Report.

Capitalised costs incurred relating to oil and gas exploration and production activities

The following table shows the aggregate capitalised costs relating to oil and gas exploration and production activities and related accumulated depreciation, depletion, amortisation and impairments.

	Australia/Asia US\$M	Americas US\$M	UK/Middle East US\$M	Total US\$M
Capitalised cost 2008				
Unproved properties	193	568	-	761
Proved properties	7,291	5,576	3,804	16,671
Total costs (a)	7,484	6,144	3,804	17,432
Less: Accumulated depreciation, depletion, amortisation and impairments (a)	(3,503)	(1,047)	(3,031)	(7,581)
Net capitalised costs	3,981	5,097	773	9,851
2007				
Unproved properties	107	551	-	658
Proved properties	5,962	4,096	3,841	13,899
Total costs (a)	6,069	4,647	3,841	14,557
Less: Accumulated depreciation, depletion, amortisation and impairments (a)	(2,937)	(647)	(2,820)	(6,404)
Net capitalised costs	3,132	4,000	1,021	8,153
2006				
Unproved properties	69	346	6	421
Proved properties	5,050	3,092	2,550	10,692
Total costs (a)	5,119	3,438	2,556	11,113
Less: Accumulated depreciation, depletion, amortisation and impairments (a)	(2,681)	(910)	(1,667)	(5,258)
Net capitalised costs	2,438	2,528	889	5,855

(a) Includes US\$286 million (2007: US\$286 million, 2006: US\$286 million) attributable to prior year revaluations of fixed assets above historical costs and related accumulated amortisation thereof of US\$246 million (2007: US\$243 million, 2006: US\$240 million).

Costs incurred relating to oil and gas exploration and production activities

The following table shows costs incurred relating to oil and gas exploration and production activities (whether charged to expense or capitalised). Amounts shown include interest capitalised.

Property acquisition costs represent costs incurred to purchase or lease oil and gas properties. Exploration costs include costs of geological and geophysical activities and drilling of exploratory wells. Development costs were all incurred to develop booked proved undeveloped reserves.

	Australia/Asia US\$M	Americas US\$M	UK/Middle East US\$M	Total US\$M
2008				
Acquisitions of proved property	-	-	-	-
Acquisitions of unproved property	-	-	-	-
Exploration (a)	124	554	14	692
Development	1,017	1,178	8	2,203
Total costs (b)	1,141	1,732	22	2,895
2007				
Acquisitions of proved property	-	334	-	334
Acquisitions of unproved property	-	261	-	261
Exploration (a)	95	286	14	395
Development	848	962	117	1,927
Total costs (b)	943	1,843	131	2,917
2006				
Acquisitions of unproved property	-	9	-	9
Exploration (a)	53	316	68	437
Development	373	610	54	1,037
Total costs (b)	426	935	122	1,483

(a) Represents gross exploration expenditure.

(b) Total costs include US\$2,583 million (2007: US\$2,665 million; 2006: US\$1,166 million) capitalised during the year.

Supplementary oil and gas information – unaudited continued

Results of operations from oil and gas producing activities

The following information is similar to the disclosures in note 2 to the financial statements 'Business and geographical segments' but differs in several respects as to the level of detail and geographic presentation. Amounts shown in the following table exclude interest income and financial expenses, and general corporate administrative costs. Petroleum general and administrative costs relating to oil and gas activities are included.

Income taxes were determined by applying the applicable statutory rates to pre-tax income with adjustments for permanent differences and tax credits. Certain allocations of tax provisions among geographic areas were necessary and are based on management's assessment of the principal factors giving rise to the tax obligation.

Revenues are reflected net of royalties but before deduction of production taxes. Revenues include sales to affiliates but amounts are not significant.

	Australia/Asia US\$M	Americas US\$M	UK/Middle East US\$M	Total US\$M
2008				
Oil and gas revenue	5,013	1,723	1,364	8,100
Production costs	(354)	(142)	(208)	(704)
Exploration expenses	(88)	(271)	-	(359)
Depreciation, depletion and amortisation	(471)	(380)	(252)	(1,103)
Production taxes	(237)	-	(3)	(240)
	3,863	930	901	5,694
Income taxes	(1,710)	(387)	(542)	(2,639)
Royalty related taxes	(590)	-	(5)	(595)
Results of oil and gas producing activities ^(a)	1,563	543	354	2,460
2007				
Oil and gas revenue	3,309	457	1,189	4,955
Production costs	(346)	(86)	(218)	(650)
Exploration expenses	(57)	(263)	(14)	(334)
Depreciation, depletion and amortisation	(248)	(153)	(277)	(678)
Production taxes	(190)	-	(2)	(192)
	2,468	(45)	678	3,101
Income taxes	(506)	(48)	(388)	(942)
Royalty related taxes	(573)	-	(1)	(574)
Results of oil and gas producing activities ^(a)	1,389	(93)	289	1,585
2006				
Oil and gas revenue	3,011	587	1,259	4,857
Production costs	(314)	(111)	(157)	(582)
Exploration expenses	(52)	(269)	(72)	(393)
Depreciation, depletion and amortisation	(217)	(235)	(256)	(708)
Production taxes	(151)	(4)	(6)	(161)
	2,277	(32)	768	3,013
Income taxes	(554)	46	(361)	(869)
Royalty related taxes	(493)	-	(45)	(538)
Results of oil and gas producing activities ^(a)	1,230	14	362	1,606

(a) Amounts shown exclude general corporate overheads and, accordingly, do not represent all of the operations attributable to the Petroleum segment presented in note 2 to the financial statements. There are no equity minority interests.

Supplementary oil and gas information – unaudited continued

Standardised measure of discounted future net cash flows relating to proved oil and gas reserves ('Standardised measure')

The purpose of this disclosure is to provide data with respect to the estimated future net cash flows from future production of proved developed and undeveloped reserves of crude oil, condensate, natural gas liquids and natural gas.

The Standardised measure is based on the BHP Billiton Group's estimated proved reserves, (as presented in section 2.15.1 'Petroleum Reserves') and this data should be read in conjunction with that disclosure, which is hereby incorporated by reference into this section. The Standardised measure is prepared on a basis which presumes that year end economic and operating conditions will continue over the periods in which year end proved reserves would be produced. The effects of future inflation, future changes in exchange rates and expected future changes in technology, taxes and operating practices have not been included.

The Standardised measure is prepared by projecting the estimated future annual production of proved reserves owned at period end and pricing that future production at prices in effect at year end to derive future cash inflows. Future price increases may be considered only to the extent that they are provided by fixed contractual arrangements in effect at year end and are not dependent upon future inflation or exchange rate changes.

Future cash inflows are then reduced by future costs of producing and developing the year end proved reserves based on costs in effect at year end without regard to future inflation or changes in technology or operating practices. Future development costs include the costs of drilling and equipping development wells and construction of platforms and production facilities to gain access to proved reserves owned at year end. They also include future costs, net of residual salvage value, associated with the abandonment of wells, dismantling of production platforms and rehabilitation of drilling sites. Future cash inflows are further reduced by future income taxes based on tax rates in effect at year end and after considering the future deductions and credits applicable to proved properties owned at year end. The resultant annual future net cash flows (after deductions of operating costs including resource rent taxes, development costs and income taxes) are discounted at 10 per cent per annum to derive the Standardised measure.

There are many important variables, assumptions and imprecisions inherent in developing the Standardised measure, the most important of which are the level of proved reserves and the rate of production thereof. The Standardised measure is not an estimate of the fair market value of the BHP Billiton Group's oil and gas reserves. An estimate of fair value would also take into account, among other things, the expected recovery of reserves in excess of proved reserves, anticipated future changes in prices, costs and exchange rates, anticipated future changes in secondary tax and income tax rates and alternative discount factors representing the time value of money and adjustments for risks inherent in producing oil and gas.

	Australia/Asia US\$M	Americas US\$M	UK/Middle East US\$M	Total US\$M
Standardised measure				
2008				
Future cash inflows	64,675	30,513	5,550	100,738
Future production costs	(23,848)	(2,404)	(1,517)	(27,769)
Future development costs (a)(b)	(7,443)	(1,887)	(511)	(9,841)
Future income taxes	(10,219)	(8,744)	(2,044)	(21,007)
Future net cash flows	23,165	17,478	1,478	42,121
Discount at 10 per cent per annum	(8,686)	(6,580)	(239)	(15,505)
Standardised measure	14,479	10,898	1,239	26,616
2007				
Future cash inflows	37,470	13,702	4,047	55,219
Future production costs	(12,380)	(1,895)	(1,216)	(15,491)
Future development costs (a)(b)	(5,787)	(1,809)	(439)	(8,035)
Future income taxes	(5,997)	(2,727)	(1,470)	(10,194)
Future net cash flows	13,306	7,271	922	21,499
Discount at 10 per cent per annum	(5,436)	(2,388)	(130)	(7,954)
Standardised measure	7,870	4,883	792	13,545
2006				
Future cash inflows	35,666	13,351	4,758	53,775
Future production costs	(11,465)	(1,682)	(1,158)	(14,305)
Future development costs (a)(b)	(3,971)	(2,007)	(313)	(6,291)
Future income taxes	(5,945)	(2,761)	(1,215)	(9,921)
Future net cash flows	14,285	6,901	2,072	23,258
Discount at 10 per cent per annum	(6,430)	(2,531)	(465)	(9,426)
Standardised measure	7,855	4,370	1,607	13,832

(a) Total future dismantlement, abandonment and rehabilitation obligations at 30 June 2008 are estimated to be US\$2,405 million and this amount has been

included in the Standardised measure calculation.

- (b) Future costs to develop proved undeveloped reserves over the next three years are expected to be US\$2,177 million (2009), US\$1,713 million (2010) and US\$928 million (2011).

Supplementary oil and gas information - unaudited continued

Changes in the Standardised measure are presented in the following table. The beginning of year and end of year totals are shown after reduction for income taxes and these, together with the changes in income tax amounts, are shown as discounted amounts (at 10 per cent per annum). All other items of change represent discounted amounts before consideration of income tax effects.

	2008 US\$M	2007 US\$M	2006 US\$M
Changes in the Standardised measure			
Standardised measure at the beginning of the year	13,545	13,832	10,932
Revisions:			
Prices, net of production costs	20,778	500	5,700
Revisions of quantity estimates (a)	1,629	331	583
Accretion of discount	2,011	2,006	1,560
Changes in production timing and other (b)	(1,792)	(1,372)	(1,299)
	36,171	15,297	17,476
Sales of oil and gas, net of production costs	(7,156)	(4,124)	(4,114)
Acquisitions of reserves-in-place	-	52	-
Sales of reserves-in-place	-	(10)	21
Development costs incurred which reduced previously estimated development costs	2,203	1,927	1,037
Extensions and discoveries, net of future costs	2,199	737	971
Changes in future income taxes	(6,801)	(334)	(1,559)
Standardised measure at the end of the year	26,616	13,545	13,832

(a) Changes in reserves quantities are shown in the Petroleum Reserves tables in section 2.15.1.

(b) Includes the effect of foreign exchange and changes in future development costs.

Accounting for suspended exploratory well costs

Refer to Accounting Policies 'Exploration and evaluation expenditure' for a discussion of the accounting policy applied to the cost of exploratory wells. Suspended wells are also reviewed in this context.

The following table presents the changes to capitalised exploratory well costs that were pending the determination of proved reserves for the three years ended 30 June 2008, 30 June 2007 and 30 June 2006.

	2008 US\$M	2007 US\$M	2006 US\$M
Movement in capitalised exploratory well costs			
Balance at the beginning of the year	236.3	215.7	257.4
Additions to capitalised exploratory well costs pending the determination of proved reserves	111.2	100.3	79.1
Capitalised exploratory well costs charged to expense	(100.1)	(77.6)	(77.9)
Reclassifications to development	(1.5)	(2.1)	-
Reclassifications to assets held for sale	-	-	(45.0)
Other changes	-	-	2.1
Balance at the end of the year	245.9	236.3	215.7

The following table provides an ageing of capitalised exploratory well costs, based on the date the drilling was completed, and the number of projects for which exploratory well costs has been capitalised for a period greater than one year since the completion of drilling:

	2008 US\$M	2007 US\$M	2006 US\$M
Ageing of capitalised exploratory well costs			
Exploratory well costs capitalised for a period of one year or less	78.7	112.5	166.3
Exploratory well costs capitalised for a period greater than one year	167.2	123.8	49.4
Balance at the end of the year	245.9	236.3	215.7

	2008	2007	2006
Number of projects that have been capitalised for a period greater than one year	7	6	4

At 30 June 2008 there were no exploratory wells in areas where major capital expenditures will be required and no further exploratory drilling is planned.

There were no capitalised exploratory well costs at 30 June 2008 that related to exploratory wells that were associated with areas not requiring major capital expenditure before production could begin, where more than one year has elapsed since the completion of drilling.

Constitution of BHP Billiton Limited

ABN 49 004 028 077

Incorporating the amendments approved by shareholders at
the 2005 & 2007 Annual General Meetings

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Constitution of BHP Billiton Limited

Allens Arthur Robinson

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PRELIMINARY

The Company is a public company limited by shares.

1. Replaceable Rules not to apply

The replaceable rules in the Act do not apply to the Company.

2. Definitions and Interpretation

(1) In this Constitution unless the context requires otherwise:

Act means the Corporations Act 2001 (Cth) and includes a reference to the Corporations Regulations made under that Act;

Action means any distribution or any action affecting the amount or nature of issued share capital, including any dividend, distribution in specie, offer by way of rights, bonus issue, repayment of capital, sub-division or consolidation, buy-back or amendment of the rights of any shares or a series of one or more of such actions;

Applicable Regulation means:

- (a) applicable law and regulations (including the requirements of the UK Code on Takeovers and Mergers and the UK Panel on Takeovers and Mergers); and
- (b) directives, notices or requirements of any Governmental Agency having jurisdiction over the Company or Plc, as the case may be; and
- (c) the rules, regulations, and guidelines of:
 - (i) any stock exchange on which either the Limited Ordinary Shares or the Plc Ordinary Shares or the Limited American Depositary shares are listed or quoted;
 - (ii) any other body with which entities with securities listed or quoted on such exchanges customarily comply,

(but, if not having the force of law, only if compliance with such directives, notices, requirements, rules, regulations or guidelines is in accordance with the general practice of persons to whom they are intended to apply) in each case for the time being in force and taking account of all exemptions, waivers or variations from time to time applicable (in particular situations or generally) to the Company or, as the case may be, to Plc;

ASX means Australian Stock Exchange Limited (ABN 98 008 624 691);

Australian dollars means the lawful currency from time to time of Australia;

Board means all or some of the Directors from time to time acting as a board (or a duly appointed committee of the board);

Board of Plc means all or some of the directors of Plc from time to time acting as a board (or a duly appointed committee of the board);

business day means a day which is a business day for the purposes of the Listing Rules;

call includes any instalment of a call and any amount due on issue of any share;

Chairman means the Chairman of the Board under Rule 93 or other person occupying the position of Acting Chairman under Rule 48(4). References to the Chairman in this Constitution include (unless the context requires otherwise) a Deputy Chairman (or other person) acting as chairman of a meeting of members or a meeting of the Board.

Class Rights Action means any of the actions listed in Rule 59(1);

Class Rights Procedure means the approvals procedures referred to in Rules 59(2), (3) and (4);

Combined Group means the Limited Group and the Plc Group;

Committee means a Committee to which powers have been delegated by the Board under Rule 101;

Company means BHP Billiton Limited (ABN 49 004 028 077);

Companies Act means the Companies Act 1985 of the United Kingdom;

Completion means the date of Completion of the Implementation Agreement between the Company and Plc dated 19 March 2001.

Constitution means, in relation to:

- (a) the Company, this Constitution; and
- (b) Plc, the Plc Articles;

Deputy Chairman means any Director appointed as Deputy Chairman of the Board under Rule 92;

Director means a person appointed or elected to the office of Director of the Company in accordance with this Constitution;

Dividend Plan means any dividend plan as referred to in Rule 130 and includes the bonus share plan as regulated under Rule 128 of the Company's Constitution as at 1 January 1999, as amended in each case.

Equalisation Fraction means the Equalisation Ratio expressed as a fraction with the numerator being the number relating to the Limited Ordinary Shares and the denominator being the number relating to the Plc Ordinary Shares;

Equalisation Ratio means the ratio for the time being of (a) the dividend, capital and (in relation to Joint Electorate Actions) voting rights per Limited Ordinary Share to (b) the dividend, capital and (in relation to Joint Electorate Actions) voting rights per Plc Ordinary Share in the Combined Group (which shall initially be 1:1);

Equalisation Share means the equalisation share in the Company having the rights described in this Constitution;

Excluded Plc Holder means any shareholder of Plc whose voting rights in relation to Plc Ordinary Shares have, at the relevant time, been lost pursuant to Article 64.2 of the Plc Articles;

Governmental Agency means any government or representative of a government or any governmental, semi-governmental, supra-national, statutory, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency or entity or trade agency, and shall include competition authorities, the UK Panel on Takeovers and Mergers, the Corporations and Securities Panel of Australia, the ASX, the Australian Securities and Investments Commission, the London Stock Exchange and the UK Listing Authority;

Group means in relation to the Company, the Limited Group and, in relation to Plc, the Plc Group as the context requires;

Joint Electorate Action means any of the matters listed in Rule 60(1) (other than any matter which the Board and the Board of Plc have from time to time agreed will be treated as a Class Rights Action);

Joint Electorate Procedure means the approvals procedures for Joint Electorate Actions set out in Rule 60(2);

London Stock Exchange means the London Stock Exchange plc;

Limited Deed Poll Guarantee means the Deed Poll Guarantee whereby the Company guarantees certain obligations of the Plc Group;

Limited Entrenched Provision means:

- (a) the definitions in Rule 2(1) of "Applicable Regulation", "Australian dollars", "Board of Plc", "Class Rights Action", "Class Rights Procedure", "Equalisation Fraction", "Equalisation Ratio", "Equalisation Share", "Excluded Plc Holder", "Excess Shares", "Joint Electorate Action", "Joint Electorate Procedure", "Limited Deed Poll Guarantee", "Limited Entrenched Provision", "Limited Group", "Limited Ordinary Shares", "Limited Special Voting Share", "Limited SVC", "Plc", "Plc Articles", "Plc Deed Poll Guarantee", "Plc Excess Shares", "Plc Entrenched Provision", "Plc Group", "Plc Ordinary Shares", "Plc Special Voting Share", "Plc SVC", "Sharing Agreement", "Special Voting Share", "sterling", "Subsidiary", "Voting Agreement";

- (b) Rule 8 (Issue of securities);
- (c) Rule 31 (Variation of class rights);
- (d) Rule 3 (Equalisation Share);
- (e) Rule 4 (Limited Special Voting Share);
- (f) Rule 34(3) (Refusal to register transfer of Special Voting Share and Equalisation Share);
- (g) Rule 54 (Amendments to Substantive Resolutions);
- (h) Rule 55 (Voting);
- (i) Rule 56 (Taking a poll);
- (j) Rule 59 (Class Rights Actions);
- (m) Rule 60 (Joint Electorate Actions);
- (o) Rule 61 (Votes attaching to shares);
- (p) Rule 62 (Specified Number);
- (q) Rule 68(5) and (6) (Proxies);
- (r) Rule 75 (Election or appointment of additional Directors);
- (s) Rule 89 (Termination of office of a Director);
- (t) Rule 83 (Retirement and nomination of Directors);
- (u) Rule 104 (Powers and obligations in relation to the Sharing Agreement)
- (v) Rule 119 (Ranking of shares for dividends);
- (w) Rule 144 (Rights on winding-up);
- (x) Rule 141 (Plc insolvency);
- (y) Rule 142 (Insolvency Notice); and
- (z) Rule 148 (Share control limits).

Limited Group means the Company and its Subsidiaries from time to time and **a member of the Limited Group** means any one of them;

Limited Ordinary Shares means the ordinary shares in the capital of the Company from time to time;

Limited Special Voting Share means the special voting share in the capital of the Company issued to Limited SVC having the rights described in this Constitution;

Limited SVC means BHP SVC Pty Limited, a proprietary company limited by shares incorporated in Victoria or such other entity as replaces BHP SVC Pty Limited from time to time pursuant to the terms of the Voting Agreement;

Listing Rules means the ASX Listing Rules;

Month means a calendar month;

Ordinary Share means, in relation to:

- (a) the Company, a Limited Ordinary Share; and
- (b) Plc, a Plc Ordinary Share.

Office means the registered office of the Company;

Parallel General Meeting means in relation to the Company or Plc, the general meeting of the shareholders of that company which is most nearly, or is actually, contemporaneous with the general meeting of the shareholders of the other company and at which some or all of the same matters or some or all equivalent matters are to be considered;

person and words importing persons include partnerships, associations and corporations as well as individuals;

Plc means BHP Billiton plc (formerly Billiton plc), a public company limited by shares incorporated in the United Kingdom with registered number 3196209.

Plc Articles means the Memorandum and Articles of Association of Plc which will be in effect immediately following Completion;

Plc Deed Poll Guarantee means the deed poll guarantee whereby Plc guarantees certain obligations of the Limited Group;

Plc Entrenched Provision has the meaning given to it in the Plc Articles;

Plc Excess Shares has the meaning given to Excess Shares in the Plc Articles;

Plc Group means Plc and its Subsidiaries from time to time and **a member of the Plc Group** means any one of them;

Plc Ordinary Shares means the ordinary shares in the capital of Plc from time to time;

Plc Special Voting Share means the special voting share in the capital of Plc issued to Plc SVC, having the rights described in the Plc Articles;

Plc SVC means Billiton SVC Limited, a limited liability company incorporated in England and Wales with registered number 4074194 or such other entity as replaces Billiton SVC Limited from time to time pursuant to the terms of the Voting Agreement;

proper SCH transfer has the same meaning as in the SCH business rules;

Public Trustee means the Law Debenture Trust Corporation plc or such other public trust company as shall be agreed between the Company and Plc.

Register means the register of holders of securities issued by the Company;

registered address means the address of a shareholder specified on a transfer or any other address of which the shareholder notifies the Company as a place at which the shareholder will accept service of notices;

Required Majority means the percentage voting in favour that would be required to pass a Required Resolution;

Required Resolution has the meaning given in Rule 59(2);

retiring Director means a Director who retires under Rule 83(1) and a Director who ceases to hold office under Rule 75;

Secretary means a person appointed as, or to perform the duties of, secretary of the Company;

securities includes shares, rights to shares, options to acquire shares, instalment receipts and other securities with rights of conversion to equity;

shareholders present means shareholders present at a general meeting of the Company in person or by properly appointed representative, proxy or attorney;

Sharing Agreement means the DLC Structure Sharing Agreement made between the Company and Plc and dated the date of Completion;

Special Voting Share means:

(a) in relation to the Company - the Limited Special Voting Share; and

(b) in relation to Plc - the Plc Special Voting Share;

Specified Number has the meaning given to it in Rule 62.

Statutes means the Act and every other statute, statutory instrument, regulation or order for the time being in force concerning companies regulated under the Act and affecting the Company;

sterling means the lawful currency from time to time of the United Kingdom;

Subsidiary means a subsidiary undertaking as that term is defined in Section 258 of the Companies Act;

Substantive Resolutions means all resolutions (other than resolutions of a procedural nature);

Tax means any taxes, levies, imposts, deductions, charges, withholdings or duties levied by any authority (including stamp and transaction duties) (together with any related interest, penalties, fines and expenses in connection with them).

Tax Benefit means any credit, rebate, exemption or benefit in respect of Tax available to any person.

Voting Agreement means the SVC Special Voting Shares Deed entered into between the Company, Limited SVC, Plc, Plc SVC and the Public Trustee relating to the Limited Special Voting Share and the Plc Special Voting Share;

writing and **written** includes printing, typing, lithography and other modes of reproducing words in a visible form, whether electronic or otherwise;

words and phrases which are given a special meaning by the Act have the same meaning in this Constitution;

words in the singular include the plural and vice versa;

words importing a gender include each other gender.

- (2) A reference to the Act or any other statute or regulations is to be read as though the words “as modified or substituted” were added to the reference.
- (3) A reference to the Listing Rules is to the Listing Rules as are in force in relation to the Company after taking into account any waiver or exemption which is in force either generally or in relation to the Company.
- (4) The headings and sidenotes do not affect the construction of this Constitution.
- (5) A reference to *other company* shall mean either the Company or Plc as the context requires.
- (6) The expression *equivalent resolution* means a resolution of either the Company or Plc certified by the Board and the Board of Plc as equivalent in nature and effect to a resolution of the other company.
- (7) The expression *shareholders’ meeting* shall include both a general meeting and a meeting of the holders of any class of shares of the Company.
- (8) A special resolution shall be effective for any purpose for which an ordinary resolution is expressed to be required under any provision of this Constitution.
- (9) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time.
- (10) A reference to a body (including, an institute, association, authority or Governmental Agency), whether statutory or not:
 - (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

- (11) References to ***offers by way of rights*** are to any offers (whether renounceable or non-renounceable) to the existing ordinary shareholders of the Company or of Plc as nearly as may be in proportion to their holdings at the relevant time on a pre-emptive basis which may be subject to such exclusions or other arrangements as the Board or the Board of Plc, as the case may be, may deem necessary or expedient in relation to fractional entitlements or legal or practical difficulties with making the offer under the laws of, or the requirements of any Applicable Regulation in, any jurisdiction.

Unless the context otherwise permits, terms defined in the Act have the same meaning when used in this Constitution.

SHARE CAPITAL AND SECURITIES

3. Equalisation Share

By resolution of the Board, the Company may at any time issue an Equalisation Share which shall confer on the holder of such share the rights set out in Rules 119 and 144 but shall not confer any right to attend or vote at any general meeting.

4. Limited Special Voting Share

The Limited Special Voting Share shall confer on the holder of such share the rights set out in Rules 61, 62, 119 and 144, but shall cease to confer any right to attend or vote at any general meeting in the event of termination of the Sharing Agreement.

5. Fractional entitlements

If, as the result of a consolidation and division, a sub-division or a pro rata issue of shares, a member becomes entitled to a fraction of a share, the Board may on behalf of that member deal with that fractional entitlement as the Board thinks fit. In particular, the Board may:

- (a) issue a whole share in place of that fractional entitlement;
- (b) disregard that fractional entitlement;
- (c) issue a fractional share certificate;
- (d) make a cash payment in satisfaction of that fractional entitlement;
- (e) vest cash in trustees on trust for that member as the Board thinks fit; or
- (f) make (or authorise any person to make) an agreement for the issue to a third person of shares (credited as fully paid up) representing that fractional entitlement and any other fractional entitlements which the Board is empowered to deal with. Such agreement may provide for the sale of those shares by that third person and the payment of the proceeds of sale to the members concerned.

6. Not used

7. Preference shares

If the Company at any time proposes to create and issue any preference shares:

- (a) the preference shares may be issued, on the terms that they are to be redeemed or, at the option of either or both the Company and the holder, are liable to be redeemed, whether out of share capital, profits or otherwise;
- (b) the preference shares confer on the holders the right to convert the preference shares into ordinary shares if and on the basis the Board determines at the time of issue of the preference shares;
- (c)
 - (i) the preference shares confer on the holders a right to receive out of the profits of the Company available for dividend a preferential dividend at the rate (which may be subject to an index) and on the basis determined by the Board at the time of issue of the preference shares;
 - (ii) in addition to the preferential dividend, the preference shares may participate with the ordinary shares in dividends declared by the Board if and to the extent the Board determines at the time of issue of the preference shares; and
 - (iii) the preferential dividend may be cumulative if and to the extent the Board determines at the time of issue of the preference shares;
- (d) the preference shares are to confer on the holders:
 - (i) the right on redemption and in a winding up to payment in cash in priority to any other class of shares of:
 - (A) the amount paid or agreed to be considered as paid on each of the preference shares; and
 - (B) the amount (if any) equal to the aggregate of any dividends accrued (whether determined or not) but unpaid and of any arrears of dividends; and
 - (ii) the right, in priority to any payment of dividend on any other class of shares, to the preferential dividend;
- (e) the preference shares do not confer on the holders any further rights to participate in assets or profits of the Company;
- (f) the holders of the preference shares have the same rights as the holders of ordinary shares to receive notices, reports and accounts and to attend and be heard at all general meetings, but are not to have the right to vote at general meetings except as follows:

- (i) on any question considered at a general meeting if, at the date of the meeting, the dividend or part of the dividend on the preference shares is in arrears;
- (ii) at a general meeting on a proposal:
 - (A) to reduce the share capital of the Company;
 - (B) to approve the terms of a buy-back agreement;
 - (C) that affects rights attached to the preference shares;
 - (D) to wind up the Company;
 - (E) for the disposal of the whole of the property of the Company; and
- (iii) on any question considered at a general meeting held during the winding up of the Company; and
- (g) the Company may issue further preference shares ranking pari passu in all respects with (but not in priority to) other preference shares already issued and the rights attaching to the preference shares on issue are not to be taken to have been varied by the further issue.

8. Issue of securities

Without affecting any special rights conferred on the holders of any shares and subject to the provisions of Rules 59 to 60 (except in the case of the Equalisation Share or the Limited Special Voting Share), any shares or other securities may be issued by the Company with preferred, deferred or other special rights, obligations or restrictions, whether in regard to dividends, voting, return of share capital, payment of calls, rights of conversion, rights of redemption (whether at the option of the holder or of the Company) or otherwise, as and when the Board may determine and on any other terms the Board considers appropriate provided that the rights attaching to a class other than Ordinary Shares shall be expressed at the date of issue.

9. Not used

10. Commissions on issue of shares

The Company may exercise the powers of paying commissions conferred by the Act to the full extent thereby permitted. The Company may also on any issue of shares pay such brokerage as may be lawful.

11. Not used

12. Non-recognition of equitable or other interests

Except as required by law, the Company is entitled to treat the registered holder of any share as the absolute owner of the share and is not bound to recognise (even when having notice) any equitable or other claim to or interest in the share on the part of any other person.

FORM OF HOLDING OF SHARES

13. Certificates

The Board may determine to issue certificates for shares or other securities of the Company, to cancel any certificates in issue and to replace lost, destroyed or defaced certificates in issue on the basis and in the form it thinks fit.

14. Computerised share transfer system

Without limiting Rule 13, if the Company participates, or to enable the Company to participate, in any computerised or electronic share transfer system introduced by or acceptable to the ASX, the Board may:

- (a) provide that shares may be held in certificated or uncertificated form and make any provision it thinks fit, including for the issue or cancellation of certificates, to enable shareholders to hold shares in uncertificated form and to convert between certificated and uncertificated holdings;
- (b) provide that some or all shareholders are not to be entitled to receive a share certificate in respect of some or all of the shares which the shareholders hold in the Company;
- (c) accept any instrument of transfer, transfer document or other method of transfer in accordance with the requirements of the share transfer system; and
- (d) despite any other provision in this Constitution, do all things it considers necessary, required or authorised by the Act, the Listing Rules or the SCH business rules in connection with the share transfer system.

15. Not used

JOINT HOLDERS

16. Joint holders

Where two or more persons are registered as the holders of any share, they hold the share subject to the following provisions:

- (a) **(Number of holders)** the Company is not bound to register more than four persons as the holders of the share (except in the case of personal representatives);
- (b) **(Liability for payments)** the joint holders of the share are liable severally as well as jointly in respect of all payments which ought to be made in respect of the share;
- (c) **(Death of joint holder)** on the death of any one of the joint holders, the remaining joint holders are the only persons recognised by the Company as having any title to the share but the Board may require evidence of death and the estate of the deceased holder is not released from any liability in respect of the share;

- (d) **(Power to give receipt)** any one of the joint holders may (and, in any case where two or more persons are jointly entitled to a share in consequence of the death or bankruptcy of the holder or otherwise by operation of law, any one of those persons jointly entitled may) give a receipt for any dividend, bonus or return of capital payable to the joint holders;
- (e) **(Notices and certificates)** only the person whose name appears first in the Register as one of the joint holders of the share is entitled, if the Company determines to issue certificates for shares, to delivery of a certificate relating to the share or to receive notices from the Company and any notice given to that person is notice to all the joint holders;
- (f) **(Votes of joint holders)** any one of the joint holders may vote at any meeting of the Company either personally or by properly authorised representative, proxy or attorney, in respect of the share as if that joint holder was solely entitled to the share. If more than one of the joint holders are present at any meeting personally or by properly authorised representative, proxy or attorney, the joint holder who is present whose name appears first in the Register in respect of the share is entitled alone to vote in respect of the share.

CALLS ON SHARES

17. Power to make calls

- (1) Subject to the terms on which any shares may have been issued, the Board may make calls on the shareholders in respect of all moneys unpaid on their shares. Each shareholder (subject to receiving at least 14 days' notice specifying the time or times and place of payment) is liable to pay the amount of each call in the manner, at the time and at the place specified by the Board. Calls may be made payable by instalments.
- (2) A call is considered to have been made at the time when the resolution of the Board authorising the call was passed. The call may be revoked or postponed at the discretion of the Board at any time prior to the date on which payment in respect of the call is due. The non-receipt of a notice of any call by, or the accidental omission to give notice of any call to, any shareholder does not invalidate the call.

18. Voting restrictions - unpaid calls

No shareholder shall, unless the Directors otherwise determine, be entitled in respect of any share held by him to vote either personally or by proxy at a shareholders' meeting or to exercise any other right conferred by membership in relation to shareholders' meetings if any call or other sum presently payable by him to the Company in respect of that share remains unpaid.

19. Interest on overdue amounts

If any sum payable in respect of a call is not paid on or before the date for payment, the shareholder from whom the sum is due is to pay interest on the unpaid amount from the due date to the date of payment at the rate the Board determines. The Board may waive the whole or part of any interest paid or payable under this Rule.

20. Power to differentiate between holders

The Board may make arrangements on the allotment of shares for a difference between the holders of those shares in the amount of calls to be paid and the time of payment of the calls.

21. Instalments; Payment of calls in advance

- (1) Any sum which by the terms of issue of a share becomes payable upon issue or at any fixed date shall for all the purposes of this Constitution be deemed to be a call duly made and payable on the date on which by the terms of allotment the same becomes payable. In case of non-payment all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.
- (2) The Board may if it thinks fit receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon the shares held by him and such payment in advance of calls shall extinguish *pro tanto* the liability upon the shares in respect of which it is made and upon the money so received (until and to the extent that the same would but for such advance become payable) the Company may pay interest at such rate as the member paying such sum and the Board may agree.

FORFEITURE AND LIEN

22. Notice requiring payment of sums payable

- (1) If any shareholder fails to pay any sum payable on or in respect of any shares (including money payable on issue, calls or instalments) on or before the day for payment, the Board may serve a notice on the shareholder requiring that shareholder to pay the sum together with interest accrued and all expenses incurred by the Company by reason of the non-payment. The notice may be served at any time whilst any part of the sum remains unpaid.
- (2) The notice referred to in Rule 22(1) must state a day on or before which the sum, interest and expenses (if any) are to be paid and the place where payment is to be made. The notice is also to state that, if payment is not made by the time and at the place specified, the shares in respect of which the sum is payable are liable to be forfeited.

23. Forfeiture on non-compliance with notice

- (1) If there is non-compliance with the requirements of any notice given under Rule 22(1), any shares in respect of which the notice has been given may be forfeited by a resolution of the Board passed at any time after the time specified in the notice for payment. The forfeiture is to include all dividends, interest and other moneys payable by the Company in respect of the forfeited shares and not actually paid before the forfeiture.
- (2) When any share is forfeited, notice of the resolution of the Board is to be given to the shareholder in whose name it stood immediately prior to the forfeiture, and an entry of the forfeiture and the date of forfeiture is to be made in the Register. Failure to give notice or make the entry as required by this Rule does not invalidate the forfeiture.

24. Surrender of shares

Subject to the Act, the Board may, in its discretion, accept the surrender of any share. Any shares surrendered may be sold or re-issued in the same manner as forfeited shares.

25. Disposal of forfeited shares

Any forfeited share is considered to be the property of the Company and the Board may sell or otherwise dispose of or deal with the share in any manner it thinks fit and with or without any money paid on the share by any former holder being credited as paid up. At any time before any forfeited share is sold or otherwise disposed of, the Board may annul the forfeiture of the share on any condition it thinks fit.

26. Liability despite forfeiture

Any shareholder whose shares have been forfeited is, despite the forfeiture, liable to pay and must immediately pay to the Company all sums of money, interest and expenses owing on or in respect of the forfeited shares at the time of forfeiture, together with expenses and interest from that time until payment at the rate the Board determines. The Board may enforce the payment or waive the whole or part of any sum paid or payable under this Rule as it thinks fit.

27. Company's lien

The Company has a first and paramount lien on every share (not being a fully paid share) for unpaid calls, instalments, interest due in relation to any calls or instalments and any amounts the Company is required by law to pay on the share. The lien extends to the proceeds of sale of the share and to all dividends and bonuses declared in respect of the share but, if the Company registers a transfer of any share on which it has a lien without giving the transferee notice of any claim it may have at that time, the share is discharged from the lien of the

Company in respect of that claim. The Board may do all things it considers appropriate under the SCH business rules and the Listing Rules to protect or enforce any lien.

28. Sale of shares to enforce lien

For the purpose of enforcing a lien, the Board may sell the shares which are subject to the lien (and in respect of which an amount is due to the Company but unpaid) in any manner it thinks fit and with or without giving any notice to the shareholder in whose name the shares are registered.

29. Title of shares forfeited or sold to enforce lien

- (1) In a sale or a re-issue of forfeited shares or in the sale of shares to enforce a lien, an entry in the Board's minute book that the shares have been forfeited, sold or re-issued in accordance with this Constitution is sufficient evidence of that fact as against all persons entitled to the shares immediately before the forfeiture, sale or re-issue of the shares. The Company may receive the purchase money or consideration (if any) given for the shares on any sale or re-issue.
- (2) In a sale or re-issue, a certificate signed by a Director or the Secretary to the effect that the shares have been forfeited and the receipt of the Company for the price of the shares constitutes a good title to them.
- (3) In a sale, the Board may appoint a person to execute, or may otherwise effect, a transfer in favour of the person to whom the shares are sold.
- (4) On the issue of the receipt or the transfer being executed or otherwise effected the person to whom the shares have been re-issued or sold is to be registered as the holder of the shares, discharged from all calls or other money due in respect of the shares prior to the re-issue or purchase and that person is not bound to see to the regularity of the proceedings or to the application of the purchase money or consideration; nor is that person's title to the shares affected by any irregularity or invalidity in the proceedings relating to the forfeiture, sale or re-issue.
- (5) The net proceeds of any sale or re-issue are to be applied first in payment of all costs of or in relation to the enforcement of the lien or the forfeiture (as the case may be) and of the sale or re-issue, next in satisfaction of the amount in respect of which the lien exists as is then payable to the Company (including interest) and the residue (if any) paid to, or at the direction of, the person registered as the holder of the shares immediately prior to the sale or re-issue or to the person's executors, administrators or assigns on the production of any evidence as to title required by the Board.

30. Payments by the Company

- (1) Rule 30(2) applies if any law of any place imposes or purports to impose any immediate or future or possible liability on the Company to make any payment or empowers any government or authority to require the Company to make any payment in respect of any securities held either jointly or solely by any holder or in respect of any transfer of those securities or in respect of any interest, dividends, bonuses or other moneys due or payable or accruing due or which may become due or payable to the holder by the Company on or in respect of any securities or for or on account or in respect of any holder of securities, whether because of:
 - (a) the death of the holder;
 - (b) the non-payment of any income tax or other tax by the holder;
 - (c) the non-payment of any estate, probate, succession, death, stamp or other duty by the holder or the trustee, executor or administrator of that holder or by or out of the holder's estate;
 - (d) any assessment of income tax against the Company in respect of interest or dividends paid or payable to the holder; or
 - (e) any other act or thing.
- (2) In each case referred to in Rule 30(1):
 - (a) the Company is to be fully indemnified from all liability by the holder or the holder's personal representative and by any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate;
 - (b) the Company has a lien on the securities for all moneys paid by the Company in respect of the securities under or in consequence of any law;
 - (c) the Company has a lien on all dividends, bonuses and other moneys payable in respect of the securities registered in the Register as held either jointly or solely by the holder for all moneys paid or payable by the Company in respect of the securities under or in consequence of any law, together with interest at a rate the Board may determine from the date of payment to the date of repayment, and may deduct or set off against any dividend, bonus or other moneys payable any moneys paid or payable by the Company together with interest;
 - (d) the Company may recover as a debt due from the holder or the holder's personal representative or any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate, any moneys paid by the Company under or in consequence of any law which exceed any dividend, bonus or other money then due or payable by the Company to the holder together with interest at a rate the Board may determine from the date of payment to the date of repayment; and

- (e) if any money is paid or payable by the Company under any law, the Company may refuse to register a transfer of any securities by the holder or the holder's personal representative until the money and interest is set off or deducted or, where the money and interest exceeds the amount of any dividend, bonus or other money then due or payable by the Company to the holder, until the excess is paid to the Company. The power to refuse to register a transfer does not extend to a proper SCH transfer except a proper SCH transfer which is purported to be effected whilst a holding lock is in place as referred to in Rule 33(3).

Nothing in this Rule affects any right or remedy which any law confers on the Company and any right or remedy is enforceable by the Company against the holder or the holder's personal representative.

VARIATION OF RIGHTS

31. Variation of class rights

Subject to Rules 59 to 60, whenever the capital of the Company is divided into different classes of shares, the special rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied or abrogated by a special resolution approving the proposed variation or abrogation passed by the Company and:

- (a) at a special meeting of the holders of the issued shares of the class affected, by a resolution passed by a majority of not less than three-quarters of the holders present and voting either in person or by a representative proxy or attorney; or
- (b) by consent in writing signed by the holders of at least three-quarters of the issued shares of the class.

No approval or consent shall be required in respect of the redemption of any redeemable preference shares in accordance with the terms of issue. For the purpose of this Rule, any member who on a poll personally or by representative, proxy or attorney votes at a special meeting in favour of a resolution approving a proposed variation, abrogation or repayment shall be deemed to have consented in writing to the variation, abrogation or repayment.

32. Matters not constituting variation of rights

The special rights attached to any class of shares having preferential rights shall not unless otherwise expressly provided by the terms of issue thereof be deemed to be varied by (a) the issue of further shares ranking as regards participation in the profits or assets of the Company in some or all respects *pari passu* therewith but in no respect in priority thereto or (b) the purchase by the Company of any of its own shares.

TRANSFER OF SECURITIES

33. Transfers; proper SCH transfers

- (1) A transfer of any securities may be effected by:
 - (a) a written transfer in the usual or common form or in any form the Board may prescribe or in a particular case accept, properly stamped (if necessary) being delivered to the Company;
 - (b) a proper SCH transfer, which is to be in the form required or permitted by the Act or the SCH business rules; or
 - (c) any other electronic system established or recognised by the Listing Rules in which the Company participates in accordance with the rules of that system.
- (2) Except in the case of a proper SCH transfer, the transferor is deemed to remain the holder of the securities transferred until the name of the transferee is entered on the Register. A proper SCH transfer is taken to be recorded in the Register and the name of the transferee to be registered as the holder of the securities comprised in the proper SCH transfer, as provided in the SCH business rules.
- (3) The Board may take any action it thinks fit to comply with the SCH business rules and may request the SCH to apply a holding lock to prevent a transfer of securities the subject of the SCH business rules if the Board thinks fit.

34. Not used

35. Refusal of registration

- (1) The Board may refuse to register any transfer of securities:
 - (a) if the registration of the transfer would result in a contravention of or failure to observe the provisions of any applicable law or the Listing Rules;
 - (b) on which the Company has a lien or which are subject to forfeit; or
 - (c) if permitted to do so under the Listing Rules.
- (2) The decision of the Board relating to the registration of a transfer is absolute. Failure to give notice of refusal to register any transfer as may be required under the Act or the Listing Rules does not invalidate the decision of the Board.

- (3) The Board may also refuse to register an allotment or a transfer of shares (whether fully paid or not) in favour of more than four persons jointly.
- (4) The Board shall decline to register any transfer of the Limited Special Voting Share unless the transfer has been approved in accordance with Clause 5.1 of the Voting Agreement. The Board shall decline to register any transfer of the Equalisation Share unless the transfer is to a member of the Plc Group or a trustee for the benefit of a member or members of the Plc Group.

36. Transfer and certificate to be left at Office

- (1) Every transfer must be left for registration at the Office or any other place the Board determines. If the Board determines either generally or in a particular case, the transfer is to be accompanied by the certificate (if any) for the securities to be transferred. In addition, the transfer is to be accompanied by any other evidence which the Board may require to prove the title of the transferor, the transferor's right to transfer the securities, proper execution of the transfer or compliance with any law relating to stamp duty. The requirements of this Rule do not apply in respect of a proper SCH transfer.
- (2) Subject to Rule 36(1), on each application to register the transfer of any securities or to register any person as the holder of any securities transmitted to that person by operation of law or otherwise, the certificate (if any) specifying the securities in respect of which registration is required must be delivered to the Company for cancellation and on registration the certificate is considered to have been cancelled.
- (3) Each transfer which is registered may be retained by the Company for any period determined by the Board after which the Company may destroy it.

37. Not used

38. Not used

39. Not used

40. Not used

TRANSMISSION OF SECURITIES

41. Transmission on death

The personal representative of a deceased shareholder (who is not one of several joint holders) is the only person recognised by the Company as having any title to securities registered in the name of the deceased shareholder. Subject to compliance by the transferee with this Constitution, the Board may register any transfer effected by a shareholder prior to the shareholder's death despite the Company having notice of the shareholder's death.

42. Election of persons entitled by transmission

A person (a **transmittee**) who satisfies the Board that the right to any securities has devolved on the transmittee by will or by operation of law may be registered as a shareholder in respect of the securities or may (subject to the provisions in this Constitution relating to transfers) transfer the securities. The Board has the same right to refuse to register the transmittee as if the transmittee was the transferee named in an ordinary transfer presented for registration.

43. Rights of persons entitled by transmission

Save as otherwise provided by or in accordance with this Constitution, a person becoming entitled to a share in consequence of the death or bankruptcy of a member or otherwise by operation of law shall (upon supplying to the Company such evidence as the Directors may reasonably require to show his title to the share) be entitled to the same dividends and other advantages as those to which he would be entitled if he were the registered holder of the share.

UNTRACED SHAREHOLDERS

44. Not used

GENERAL MEETINGS

45. Calling of general meetings

- (1) The Board may, and shall on requisition in accordance with the Act, call a general meeting of the Company to be held at the time and place or places and in the manner determined by the Board. No shareholder may convene a general meeting of the Company except where entitled under the Act to do so. By resolution of the Board any general meeting may be cancelled or postponed prior to the date on which it is to be held, except where the cancellation or postponement would be contrary to the Act. The Board may give notice of a cancellation or postponement as it thinks fit but any failure to give notice of cancellation or postponement does not invalidate the cancellation or postponement or any resolution passed at a postponed meeting.
- (2) Any Director may convene a general meeting whenever the Director thinks fit. A Director may cancel by notice in writing to all members any meeting convened by that Director under this Rule 45(2).

46. Not used

47. Contents of notice of general meeting

- (1) Where the Company has called a general meeting, notice of the meeting may be given in the form and manner in which the Board thinks fit. The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to notice, does not invalidate any resolution passed at that meeting.
- (2) For the purposes of determining which persons are entitled to attend or vote at a meeting and how many votes such a person may cast, the Company may specify in the notice of meeting a time, not more than 48 hours before the time fixed for the meeting, by which a person must be entered on the Register in order to have the right to attend or vote at the meeting.

PROCEEDINGS OF MEETINGS

48. Chairman

- (1) The Chairman of the Board is entitled to chair every general meeting.
- (2) If at any general meeting:
 - (a) the Chairman of the Board is not present at the specified time for holding the meeting; or
 - (b) the Chairman of the Board is present but is unwilling to chair the meeting,
the Deputy Chairman of the Board is entitled to chair the meeting.
- (3) If at any general meeting:
 - (a) there is no Chairman of the Board or Deputy Chairman of the Board;
 - (b) the Chairman of the Board and Deputy Chairman of the Board are not present at the specified time for holding the meeting; or
 - (c) the Chairman of the Board and the Deputy Chairman of the Board are present but each is unwilling to chair the meeting,
the Directors present may choose another Director as Chairman of the meeting and if no Director is present or if each of the Directors present is unwilling to chair the meeting, a shareholder chosen by the shareholders present is entitled to chair the meeting.
- (4) If during any general meeting the Chairman acting under the preceding paragraphs of this Rule 48 is unwilling to chair any part of the proceedings, the Chairman may withdraw as Chairman during the relevant part of the proceedings and may nominate any person who immediately before the general meeting was a Director or who has been nominated for election as a Director at the meeting to be Acting Chairman of the

meeting during the relevant part of the proceedings. On the conclusion of the relevant part of the proceedings the Acting Chairman is to withdraw and the Chairman is to resume to chair the meeting.

49. Quorum

Five shareholders present in person or by proxy constitute a quorum for a general meeting. No business may be transacted at any meeting except the election of a Chairman and the adjournment of the meeting unless the requisite quorum is present at the commencement of the business.

50. Lack of quorum

If there is not a quorum at a general meeting within 15 minutes after the time specified in the notice of the meeting, the meeting is dissolved unless the Chairman adjourns the meeting to a date, time and place determined by the Chairman. If no quorum is present at any adjourned meeting within 15 minutes after the time for the meeting, the meeting is dissolved.

51. Adjournment

- (1) The Chairman may and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place.
- (2) In determining whether to adjourn the meeting under paragraph (1), the Chairman shall have regard to:
 - (a) any notice received of any adjournment of the Parallel General Meeting (if any); and
 - (b) the impact of any adjournment on the Parallel General Meeting (if any).
- (3) If the Chairman elects to adjourn the meeting under paragraph (1), the Chairman may decide whether to seek the approval of the meeting.
- (4) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (5) Subject to paragraph (6), it is not a requirement of this Constitution to give notice of an adjournment or of the business to be transacted at an adjourned meeting.
- (6) The company shall as soon as possible give notice to Plc of an adjournment and of the business to be transacted at an adjourned meeting.
- (7) Without prejudice to any other power which the chair may have under the provisions of this Constitution or at law, the Chairman may, without the consent of the meeting, interrupt or adjourn a meeting from time to time and from place to place or for an indefinite period if the Chairman decides that it has become necessary to do so in order to:

- (a) secure the proper and orderly conduct of the meeting;
- (b) give all persons entitled to do so a reasonable opportunity of speaking and voting at the meeting; or
- (c) ensure that the business of the meeting is properly disposed of.

52. Not used

53. Conduct of General Meetings

- (1) The conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined at, during or prior to the meeting by the Chairman.
- (2) The Chairman or a person acting with the Chairman's authority may require any person who wishes to attend the meeting to comply with searches, restrictions or other security arrangements the Chairman or a person acting with the Chairman's authority considers appropriate. The Chairman or a person acting with the Chairman's authority may refuse entry to any person who does not comply with the arrangements, any person who possesses a recording or broadcasting device without the consent of the Chairman or a person acting with the Chairman's authority, or any person who possesses an article which the Chairman or person acting with the Chairman's authority considers to be dangerous, offensive or liable to cause disruption. At any time the Chairman considers it necessary or desirable for the proper and orderly conduct of the meeting, the Chairman may demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and if the Chairman considers it appropriate require the business, question, motion or resolution to be put to a vote of the shareholders present.
- (3) The Chairman may require the adoption of any procedures which are in the Chairman's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll.
- (4) Any determination by the Chairman in relation to matters of procedure (including any procedural motions moved at or put to any meeting) is final.
- (5) If it appears to the Chairman that the place of the meeting specified in the notice convening a general meeting is inadequate to accommodate all persons entitled and wishing to attend, the meeting is duly constituted and its proceedings are valid if Chairman is satisfied that adequate facilities are available, whether at the place of the meeting or elsewhere, to ensure that each such person who is unable to be accommodated at the place of the meeting is able to participate in the business for which the meeting has been convened and to hear and see all persons present who speak (and be heard and be seen), whether by

use of microphones, loud-speakers, audio-visual communications equipment or otherwise (whether in use when this Constitution is adopted or developed subsequently).

- (6) A Director shall be entitled to attend and speak at any general meeting of the Company and at any separate meeting of the holders of any class of shares of the Company.

54. Amendments to Substantive Resolutions

- (1) The business of an annual general meeting is to consider the accounts and reports required by the Act to be laid before each annual general meeting, to elect Directors, when relevant to appoint an auditor and fix the auditor's remuneration, and to transact any other business which, under this Constitution, is required to be transacted at any annual general meeting. All other business transacted at an annual general meeting and all business transacted at other general meetings is deemed to be special. Except with the approval of the Board, with the permission of the Chairman or under the Act, no person may move at any meeting either any resolution or any amendment of any resolution of which notice has not been given under Rule 47 or this Rule 54 (as the case may be).
- (2) If an amendment is proposed to any resolution under consideration but is in good faith ruled out of order by the Chairman of the meeting, the proceedings on the Substantive Resolution shall not be invalidated by any error in such ruling.
- (3) In the case of a Substantive Resolution duly proposed as a special resolution, no amendment to that resolution (other than a mere clerical amendment to correct a patent error) may in any event be considered or voted upon.
- (4) Without prejudice to any other restriction on the right to move amendments to Substantive Resolutions, in the case of a Substantive Resolution duly proposed as an ordinary resolution to approve a Joint Electorate Action, no amendment to that resolution (other than a mere clerical amendment to correct a patent error or an amendment to conform such resolution to a resolution duly proposed or to be proposed at the Parallel General Meeting or an amendment to such resolution considered and approved at the Parallel General Meeting) shall be considered or voted upon unless written notice of the intention to move the amendment is received by the Company at least 48 hours prior to the time appointed for holding the relevant meeting or adjourned meeting or (in the absence of such notice) the Chairman of the meeting in the Chairman's absolute discretion rules that the amendment shall be considered, provided that no amendment shall be considered where the Parallel General Meeting has already been held.

GENERAL VOTING AND POLL PROCEDURES

55. Voting

- (1) The Chairman may determine that any question to be submitted to a general meeting be determined by a poll without first submitting the question to the meeting to be decided by a show of hands.
- (2) A poll may be demanded by:
 - (a) any shareholder under the Act (and not otherwise);
 - (b) the holder of the Limited Special Voting Share; or
 - (c) the Chairman.

No poll may be demanded on the election of a chairman of a meeting or, unless the Chairman otherwise determines, the adjournment of a meeting. A demand for a poll may be withdrawn. A demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
- (3) Subject to Rule 56, at any general meeting a resolution (other than a procedural resolution) put to the vote of the meeting on which the holder of the Limited Special Voting Share is entitled to vote shall be decided on a poll.
- (4) Unless the Chairman makes the determination referred to in Rule 55(1) or unless a poll is properly demanded or required pursuant to Rules 55(2) and (3), each question submitted to a general meeting is to be decided in the first instance by a show of hands. Unless a poll is demanded, a declaration by the Chairman that a resolution has been passed or lost is conclusive, without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (5) In the case of an equality of votes, the Chairman has, both on a show of hands and on a poll, a casting vote in addition to any votes to which the Chairman may be entitled as a shareholder, or as proxy, attorney or properly appointed representative of a shareholder.

56. Taking a poll

- (1) If a poll is determined, demanded or otherwise required as provided in Rules 55(1), (2) and (3), it is to be taken in the manner and at the time (not being more than thirty days from the date of the meeting) and place as the Chairman directs. Any poll may, as the Chairman shall direct, close at different times for different classes of shareholders or for different shareholders of the same class entitled to vote on the relevant resolution. In the case of a poll on a resolution on which the holder of the Limited Special Voting Share is entitled to vote, the poll may remain open for so long as the Chairman may determine and, in any event, shall be kept open for such time as is necessary to allow the Parallel General Meeting of Plc to be held and for the

votes attaching to the Limited Special Voting Share to be calculated and cast on such poll, although such poll may be closed earlier in respect of shares of other classes. The result of the poll is deemed to be the resolution of the meeting at which the poll was demanded. In the case of any dispute as to the admission or rejection of a vote, the Chairman's determination in respect of the dispute is final.

- (2) A demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on a question of adjournment is to be taken at the meeting and without adjournment.
- (3) The result of a poll may be announced in the manner the Chairman determines and at the time (whether during the relevant meeting or afterwards) as the Chairman considers appropriate.

57. Special meetings

All the provisions of this Constitution as to general meetings apply, with any necessary modifications, to any special meeting of any class of shareholders which may be held under the operation of this Constitution or the Act.

58. Not used

VOTING RIGHTS AND PROCEDURES UNDER SHARING AGREEMENT

59. Class Rights Actions

- (1) The following matters shall constitute Class Rights Actions if undertaken by either the Company or Plc:
 - (a) the voluntary liquidation of the Company or of Plc;
 - (b) amendment of the terms of, or termination of, the Sharing Agreement, the Voting Agreement, the Plc Deed Poll Guarantee or of the Limited Deed Poll Guarantee (other than, in the case of the Voting Agreement, an amendment to conform such agreement with the terms of the Sharing Agreement or, in the case of any of those agreements, any amendment which is formal or technical in nature and which would not be materially prejudicial to the interests of the shareholders of the Company or of Plc or is necessary to correct any inconsistency or manifest error as agreed between the Board and the Board of Plc);
 - (c) amendment, removal, or the alteration of the effect of (which for the avoidance of doubt shall be taken to include the ratification of any breach of) any Plc Entrenched Provision or Limited Entrenched Provision (as the case may be);
 - (d) any Action requiring approval as a Class Rights Action pursuant to Clause 3.1(b) of the Sharing Agreement;

- (e) a change in the corporate status of the Company from a public company limited by shares registered under the Corporations Act with its primary listing on ASX or Plc from a public listed company incorporated in England and Wales with its primary listing on the London Stock Exchange; and
 - (f) any other action or matter which the Board and the Board of Plc agree (either in a particular case or generally) should be treated as a Class Rights Action.
- (2) A Class Rights Action in respect of an action of a kind described in:
- (a) Rules 59(1)(a), (b) or (c) shall require approval by special resolution;
 - (b) Rule 59(1)(d) or (e) shall require approval by ordinary resolution or in relation to either the Company or Plc, if required by Applicable Regulation applying to the Company or Plc or by this Constitution or the Plc Articles, by special resolution of the Company or Plc, as so required; and
 - (c) Rule 59(1)(f) shall require approval by ordinary resolution or in relation to either the Company or Plc, if required by Applicable Regulation applying to the Company or Plc or by this Constitution or the Plc Articles or if considered appropriate by the Board and the Board of Plc, by special resolution of the Company or Plc, as so required,
- in each case in accordance with the Class Rights Procedure (and the type of resolution specified above shall be referred to in these Rules as the **Required Resolution**).
- (3) Subject to Rule 59(4):
- (a) a Class Rights Action shall require approval by a Required Resolution of the shareholders of both the Company and Plc, in each case at a meeting at which the holders of Ordinary Shares and the holder of the Special Voting Share are entitled to vote as a single class on a poll; and
 - (b) in relation to such resolution proposed at a shareholders' meeting of the Company, if the proposed Action has not, by the time of the closing of the poll, been approved by a Required Majority of the holders of Plc Ordinary Shares, the holder of the Limited Special Voting Share shall have sufficient votes to defeat such resolution as provided in Rule 62; and
 - (c) the holder of the Limited Special Voting Share shall otherwise not be entitled to vote in relation to that resolution.
- (4) Where an action requiring approval as a Class Rights Action would not otherwise require approval of the shareholders of the Benefited Party, the Benefited Party shall not be required to convene a meeting for the purposes of Rule 59(3) and the Class Rights Action shall be approved if the holder of the Special Voting Share in the Benefited Party has given its written consent to the action, which consent shall only be given following the passing of a resolution by the Required Majority of the holders of Ordinary Shares of the Affected Party.

In this Rule 59(4), the expression **Benefited Party** shall mean such one of the Company or Plc whose holders of Ordinary Shares would benefit from a proposed action relative to the holders of Ordinary Shares in the other company (**Affected Party**).

60. Joint Electorate Actions

- (1) Resolutions of the holders of Limited Ordinary Shares shall be subject to the Joint Electorate Procedure if they relate to the following matters:
 - (a) the appointment, removal or re-election of any Director or any director of Plc, or both of them;
 - (b) the receipt or adoption of the annual accounts of the Company or Plc, or both of them, or accounts prepared on a combined basis;
 - (c) a change of name by the Company or Plc, or both of them;
 - (d) the appointment or removal of the auditors of the Company or Plc, or both of them;
 - (e) any proposed acquisition, disposal or other transaction of the kinds referred to in Chapters 10 and 11 of the Listing Rules or Chapters 10 and 11 of the UKLA Listing Rules which (in any case) is required under such Applicable Regulation to be authorised by holders of Ordinary Shares;
 - (f) a matter referred to in Clause 7.2 or 7.3 of the Sharing Agreement;
 - (g) any matter considered by shareholders at an annual general meeting of the Company or Plc (or at a general meeting held on the same day as an annual general meeting);
 - (h) any other matter which the Board and the Board of Plc decide (either in a particular case or generally) should be approved under the Joint Electorate Procedure.

If a particular matter falls both within Rule 59(1) and this Rule 60(1), then it shall be treated as a Class Rights Action falling exclusively within Rule 59(1).

- (2) A Joint Electorate Action shall require approval by both:
 - (a) an ordinary resolution (or a special resolution if required by this Constitution or Applicable Regulation) of the votes cast by the holders of the Limited Ordinary Shares and the holder of the Limited Special Voting Share, voting as a single class; and

- (b) an ordinary resolution (or a special resolution if required by the Plc Articles or Applicable Regulation) of the votes cast by the holders of the Plc Ordinary Shares and the holder of the Plc Special Voting Share, voting as a single class.
- (3) For the purposes of Rule 59(2) and this Rule 60(3) only, the expression **special resolution** shall include any resolution of the shareholders of the Company or of Plc where Applicable Regulation or either Constitution so requires, so as to approve the relevant resolution, an affirmative vote with a majority greater than that required for an ordinary resolution and in any particular case shall mean such majority as is so required.

VOTES OF SHAREHOLDERS

61. Votes attaching to shares

Subject to restrictions on voting affecting any class of shares and to Rules 3, 4, 7, 16(f), 31 and 72:

- (a) on a show of hands:
 - (i) subject to paragraphs (iii) and (iv), each shareholder present in person or by proxy, representative or attorney (except the holder of the Limited Special Voting Share) has one vote;
 - (ii) the holder of the Limited Special Voting Share shall not be entitled to vote;
 - (iii) where a shareholder has appointed more than one person as representative, proxy or attorney for that shareholder, none of the representatives, proxies or attorneys is entitled to vote on a show of hands;
 - (iv) where a person is entitled to vote in more than one capacity, that person is entitled only to one vote; and
- (b) subject to Rule 61(c), on a poll:
 - (i) each holder of Limited Ordinary Shares:
 - (A) has one vote for each fully paid Limited Ordinary Share held; and
 - (B) for each other Limited Ordinary Share held, has a vote in respect of the share which carries the same proportionate value as the proportion of the amount paid up or agreed to be considered as paid up on the total issue price of that share at the time the poll is taken bears to the total issue price of the share; and
 - (ii) the holder of the Limited Special Voting Share shall have the Specified Number (as set out Rule 62) of votes; and

- (c) on a poll, votes may be given either personally or by proxy (unless, consistently with the Act, the Board has approved other means (including electronic) for the casting and recording of votes by shareholders) and a person entitled to more than one vote need not use all that person's votes or cast all the votes in the same way.

62. Specified Number

- (1) The holder of the Limited Special Voting Share shall be entitled to attend at any general meeting at which the holder of the Special Voting Share is entitled to vote and, subject to the provisions below, to cast on a poll the Specified Number of votes, some of which may be cast for, some of which may be cast against, and others of which may be abstaining on, any resolution.
- (2) **(Joint Electorate Actions)** The Specified Number of votes in relation to a resolution of the Company on a Joint Electorate Action shall be the total number of votes validly cast on the poll on the equivalent resolution at the Parallel General Meeting of Plc (other than those cast by an Excluded Plc Holder or cast in respect of Plc Excess Shares) divided by the Equalisation Fraction in effect at the time of such General Meeting rounded up to the nearest whole number.
- (3) **(Class Rights Actions)** The Specified Number of votes in relation to a resolution of the Company to approve a Class Rights Action shall be equal to 34 per cent. (in relation to an action to be approved by special resolution) and 67 per cent. (in relation to an action to be approved by ordinary resolution) in each case, of the aggregate number of votes attaching to all classes of issued shares in the Company which could be cast on such resolution (rounded up to the next whole number).
- (4) **(Procedural Resolutions)** On any procedural resolution in relation to or affecting a resolution relating to a Joint Electorate Action put to a general meeting at which a Joint Electorate Action is to be considered, the Specified Number of votes which may be cast shall be the number of votes cast on any equivalent resolution on a Joint Electorate Action at the Parallel General Meeting of Plc or, if there is no equivalent resolution, or if the general meeting of Plc has not been held and such votes counted by the beginning of the relevant general meeting, the number of such votes as are authorised to be so cast upon proxies lodged with Plc by such time as the Chairman may determine, in each case, divided by the Equalisation Fraction in effect at the time of such general meeting and rounded up to the nearest whole number.
- (5) **(Other decisions)** The Specified Number of votes that may be cast on all other decisions shall be zero.

63. Not used

64. Not used

65. Not used

66. Voting by guardian

Where a guardian, receiver or other person (by whatever name called) has been appointed by any court claiming jurisdiction in that behalf to exercise powers with respect to the property or affairs of any member on the ground (however formulated) of mental disorder, the Directors may in their absolute discretion, upon or subject to production of such evidence of the appointment as the Directors may require, permit such guardian, receiver or other person on behalf of such member to vote in person or by proxy at any shareholders' meeting or to exercise any other right conferred by membership in relation to shareholders' meetings.

67. Validity and result of vote

- (1) No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairman of the meeting whose decision shall be final and conclusive.
- (2) Unless a poll is taken, a declaration by the chairman of the meeting that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book, shall be conclusive evidence of that fact without proof of the number or proportion of the votes recorded for or against such resolution.

PROXIES

68. Proxies

- (1) A shareholder who is entitled to attend and cast a vote at a general meeting of the Company may appoint a person as a proxy to attend and vote for the shareholder in accordance with the Act but not otherwise. A proxy appointed to attend and vote in accordance with the Act may exercise the rights of the shareholder on the basis and subject to the restrictions provided in the Act but not otherwise.
- (2) A form of appointment of a proxy is valid if it is in accordance with the Act or in any form (including electronic) which the Board may prescribe or accept.
- (3) An instrument appointing a proxy shall, unless the contrary is stated thereon, be valid as well for any adjournment of the meeting as for the meeting to which it relates. An instrument of proxy relating to more

than one meeting (including any adjournment thereof) having once been so delivered for the purposes of any meeting shall not require again to be delivered for the purposes of any subsequent meeting to which it relates.

- (4) Any appointment of a proxy under Rule 68(2) which is incomplete may be completed by the Secretary on the authority of the Board and the Board may authorise completion of the proxy by the insertion of the name of any Director as the person in whose favour the proxy is given.
- (5) A proxy received from the holder of the Limited Special Voting Share will be valid if it is received before the closing of a poll to which it relates.
- (6) Voting instructions given by a shareholder to a Director or employee of the Company who is held out by the Company in material sent to shareholders as willing to act as proxy and who is appointed as proxy (**Company Proxy**) are valid only if contained in the form of appointment of the Company Proxy. If a shareholder wishes to give a Company Proxy appointed by the shareholder new instructions or variations to earlier instruction, the new instructions or variations are only valid, except in the case of a proxy received from the holder of the Limited Special Voting Share, if received at the Office at least 24 hours before the meeting or adjourned meeting by a notice in writing signed by the shareholder or validated by the shareholder in a form acceptable to the Board.

69. Validity, revocation

- (1) The validity of any resolution is not affected by the failure of any proxy or attorney to vote in accordance with instructions (if any) of the appointing shareholder.
- (2) A vote given in accordance with the terms of a proxy or power of attorney is valid despite the previous death or mental incapacity of the appointing shareholder, revocation of the proxy or power of attorney or transfer of the shares in respect of which the vote is given, unless notice in writing of the death, mental incapacity, revocation or transfer has been received at the Office at least 48 hours before the relevant meeting or adjourned meeting.
- (3) A proxy is not rendered ineffective by reason only of the adjournment of the meeting in respect of which the proxy is appointed.
- (4) A proxy is not revoked by the appointing shareholder attending and taking part in the meeting, unless the appointing shareholder votes at the meeting on the resolution for which the proxy is proposed to be used.

70. Not used

71. Board may issue forms of proxy

The Board may issue with any notice of general meeting of shareholders or any class of shareholders forms of proxy for use by the shareholders. Each form may include the names of any of the Directors or of any other persons as suggested proxies. The forms may be worded so that a proxy may be directed to vote either for or against each or any of the resolutions to be proposed.

72. Attorneys of shareholders

By properly executed power of attorney, any shareholder may appoint an attorney to act on the shareholder's behalf at all or certain specified meetings of the Company and such attorney shall be recognised as a person present at that meeting. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the power of attorney to the satisfaction of the Board must be produced for inspection at the Office or any other place the Board may determine together, in each case, with evidence of the due execution of the power of attorney as required by the Board. The attorney may be authorised to appoint a proxy for the shareholder granting the power of attorney.

73. Not used

DIRECTORS

74. Number of Directors

Unless and until otherwise decided by ordinary resolution, the number of Directors (not including alternate Directors) shall be not less than eight and not more than twenty. All Directors are required to be natural persons.

75. Not used

76. Remuneration of non-executive Directors

As remuneration for services each non-executive Director (other than an alternate Director) is to be paid out of the funds of the Company a sum determined by the Board payable at the time and in the manner determined by the Board but the aggregate remuneration paid to all the non-executive Directors in any year together with remuneration paid to those non-executive directors by Plc for their services may not exceed an amount fixed by the Company in general meeting. The expression **remuneration** in this Rule does not include any amount which may be paid by the Company under Rules 77, 78, 79, or 146 or by Plc under Articles 77, 78, 79 or 146.

77. Remuneration of Directors for extra services

Any Director who serves on any committee, or who devotes special attention to the business of the Company, or who otherwise performs services which in the opinion of the Board are outside the scope of the ordinary duties of a Director or who, at the request of the Board, engages in any journey on the business of the Company, may be paid extra remuneration as determined by the Board.

78. Travelling and other expenses

Every Director is, in addition to any other remuneration provided for in this Constitution, entitled to be paid from Company funds all reasonable travel, accommodation and other expenses incurred by the Director in attending meetings of the Company or of the Board or of any Committees or while engaged on the business of the Company.

79. Retirement benefits

The Directors shall have power to pay and agree to pay gratuities, pensions or other retirement, superannuation, death or disability benefits to (or to any person in respect of) any person who is or has been at any time a Director of the Company or in the employment or service of the Company or Plc or of any company which is or was a subsidiary of or associated with the Company or Plc, provided that such payment or agreement is made in accordance with the Act. For the purpose of providing such gratuities, pensions or other benefits, the Company may contribute to any scheme or fund or pay such premiums as the Directors think fit.

80. Appointment and remuneration of executive Directors

- (1) The Directors or any committee authorised by the Board may from time to time appoint any Director to be the holder of any executive office on such terms and for such period as they may determine and, without prejudice to any claim for damages for breach of any contract entered into in any particular case, may at any time revoke or vary the terms of any such appointment.
- (2) Subject to the Act and the Listing Rules, a Director appointed to hold employment or executive office with the Company or Plc shall be appointed on such terms as to remuneration (whether by salary, commission or participation in profits or otherwise) as may be determined by the Board or any committee authorised by the Board.

81. Powers of Directors

The Board may entrust to and confer upon any Director any of the powers exercisable under this Constitution by the Board as it thinks fit and upon such terms and conditions and with such restrictions as it thinks appropriate but the conferring of powers by the Board on a Director does not exclude the exercise of those powers by the Board, and the Board may from time to time revoke, withdraw, alter or vary all or any of such powers.

APPOINTMENT AND RETIREMENT OF DIRECTORS

82. Not used

83. Retirement by rotation

- (1) At every annual general meeting, one-third of the Directors or, if their number is not a multiple of three, then the number nearest to but not less than one-third must retire from office.
- (2) A Director who is required to retire under Rule 83(1) retains office until the later of the end of the meeting at which the Director retires and the end of the Parallel General Meeting.
- (3) Subject to Rules (4) and 88, the Directors to retire under Rule 83(1) are those longest in office since last being elected. As between Directors who were elected on the same day the Directors to retire are (in default of agreement between them) determined by lot. The length of time a Director has been in office is calculated from the Director's last election or appointment. A retiring Director is eligible for re-election.
- (4) Not used.
- (5) Without prejudice to the foregoing, a Director must retire from office at the conclusion of the third annual general meeting after which the Director was elected or re-elected.

84. Not used

85. Re-election of retiring Director

- (1) At the meeting at which a Director retires under any provision of this Constitution, the Company may by ordinary resolution approved in accordance with Rules 59 to 60 fill the office being vacated by electing to that office the retiring Director or some other person eligible for election.
- (2) Notwithstanding Rule 83(2), if a retiring Director is re-elected in accordance with Rule 85(1) the retiring Director will continue in office without a break.
- (3) If:
 - (a) prior to the commencement of any general meeting the office of a Director has become vacant;
 - (b) that office remains vacant at the commencement of that general meeting; and
 - (c) that Director would have been taken into account in determining the number of Directors who are to retire by rotation under Rule 83(1),then the Company may by ordinary resolution approved in accordance with Rules 59 to 60 fill that office by electing as a Director any person eligible for election.

86. Not used

87. Nomination of Directors

- (1) No person (other than a retiring Director) is eligible for election to the office of Director at any general meeting unless:
 - (a) a shareholder intending to nominate the person has given notice in writing signed by the shareholder; and
 - (b) the person nominated has given notice in writing signed by the person of his willingness to be elected as a Director of the Company and a Director of Plc and satisfies candidature for the office.
- (2) To be valid, the notice required under Rule 87(1) is to be delivered to the Office during the period specified by the Listing Rules as the minimum notice period for such nominations and in the absence of any such Listing Rule, not less than 40 business days before the earlier of the date appointed for the meeting and the date appointed for the Parallel General Meeting of Plc unless the nominee has been recommended by the Board for election, in which case the notice is required to be delivered to the Office at least 28 days before the meeting.

- (3) The Directors shall nominate for election as a Director at a General Meeting of the Company any person duly nominated for election at the Parallel General Meeting of Plc.

88. Election or appointment of additional Directors

The Company may by ordinary resolution approved in accordance with Rules 59 to 60 elect, and without prejudice thereto the Board shall have the power at any time to appoint, any person as a Director, either to fill a casual vacancy or as an addition to the Board but so that the number of Directors does not exceed the maximum number determined under Rule 74. Any Director appointed under this Rule:

- (a) holds office only until the dissolution or adjournment of the next general meeting at which the Board proposes or this Constitution requires that an election be held;
- (b) is eligible for election at that general meeting; and
- (c) where the general meeting is an annual general meeting, is not to be taken into account in determining the number of Directors who are to retire by rotation at the meeting.

89. Vacation of office

- (1) The office of a Director is vacated:
- (a) Not used;
 - (b) on the Director being absent from greater than two consecutive meetings of the Board without leave of absence from the Board;
 - (c) on the Director resigning office by notice in writing to the Company;
 - (d) if the circumstances in Rule (2) arise and such director has not been re-appointed in accordance with Rule (3);
 - (e) on the Director ceasing to be a director of Plc;
 - (f) on the Director being prohibited from being a Director by reason of the operation of Applicable Regulation;
 - (g) if the Director has been appointed for a fixed term – when the term expires;
 - (h) if, in Australia or elsewhere, an order is made by any court on the ground (however formulated) of mental disorder for the Director's detention or for the appointment of a guardian of the Director or for the appointment of a receiver or other person (by whatever name called) to exercise powers with respect to the Director's property or affairs ; or
 - (i) on the Director being removed from office under the Act.

- (2) The office of a Director who is an employee of any member of the Group is terminated on the Director ceasing to be employed within the Group but the person concerned is eligible for reappointment or re-election as a Director of the Company.

90. Removal of Directors

- (1) Subject to Rules 59 to 60, the Company may, in accordance with and subject to the provisions of the Act, by ordinary resolution remove any Director from office. The Company may do so notwithstanding any provision of this Constitution or of any agreement between the Company and such Director, but without prejudice to any claim he may have for damages for breach of any such agreement.
- (2) Subject to Rules 59 to 60, the Company may by ordinary resolution elect another person in place of a Director removed from office under Rule 90(1), provided that such person's election will not take effect unless and until such person is elected as a director of Plc. Any person so elected shall be treated for the purpose of determining the time at which he or any other Director is to retire by rotation as if he had become a Director on the day on which the Director in whose place he is elected was last elected a Director. In default of such election the vacancy arising upon the removal of a Director from office may be filled as a casual vacancy.

PROCEEDINGS OF DIRECTORS

91. Procedures relating to Directors' meetings

- (1) The Board may meet together, adjourn and otherwise regulate its meetings as it thinks fit.
- (2) The Board may at any time and the Secretary, on the request of the Chairman or any two Directors, must convene a meeting of the Board. Notice of meeting of the Board may be given by mail (electronic or otherwise), personal delivery or facsimile transmission to the usual place of business or residence of the Director or to any other address given to the Secretary by the Director or by any technology agreed by all the Directors.

92. Quorum

The quorum necessary for the transaction of business of the Directors shall be three unless otherwise determined by the Board. A meeting of the Directors at which a quorum is present shall be competent to exercise all powers and discretions for the time being exercisable by the Directors.

93. Chairman

The Board may elect a Chairman and one or more Deputy Chairman of its meetings and determine the period for which each is to hold office. If no Chairman or Deputy Chairman is elected or if at any meeting the Chairman and the Deputy Chairmen are not present at the time specified for holding the meeting, the Directors present may choose one of their number to be Chairman of the meeting.

94. Votes at meetings

Questions arising at any meeting of the Board are decided by a majority of votes and, in the case of an equality of votes, the Chairman (except when only two Directors are present or except when only two Directors are competent to vote on the question then at issue) has a second or casting vote.

95. Number of Directors below minimum

If the number of Directors is reduced below the minimum number fixed under this Constitution, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of calling a general meeting of the Company but for no other purpose.

96. Resolutions in writing / Meetings by technology

- (1) A resolution in writing signed by all the Directors or a resolution in writing of which notice has been given to all Directors and which is signed by a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the Board) is a valid resolution of the Board. The resolution may consist of several documents in the same form each signed by one or more of the Directors. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is considered to be a document in writing signed by the Director.
- (2) The Board may meet either in person or by telephone, audio visual link or by using any other technology:
 - (a) which allows each Director who participates:
 - (i) to hear each of the other participating Directors addressing the meeting; and
 - (ii) if he so wishes, to address all of the other participating Directors simultaneously; and
 - (b) which has been consented to by all Directors.

A consent may be a standing one. A meeting conducted by telephone or other means of communication is deemed to be held at the place from where the Chairman of the meeting participates.

97. Validity of actions

All actions at any meeting of the Board or by a Committee or by any person acting as a Director are, despite the fact that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the Committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been properly appointed and was qualified and continued to be a Director or a member of the Committee.

DIRECTORS' INTERESTS

98. Directors may have interests

Subject to the provisions of the Act, and provided that he has disclosed to the Directors the nature and extent of any interest of his, a Director notwithstanding his office:

- (a) may be a party to, or otherwise interested in, any contract, transaction or arrangement with the Company or Plc or in which the Company or Plc is otherwise interested;
- (b) may be a director or other officer of, or employed by, or a party to any contract, transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or Plc or in which the Company or Plc is otherwise interested;
- (c) may (or any firm of which he is a partner, employee or member may) act in a professional capacity for the Company or Plc (other than as Auditor) and be remunerated therefor; and
- (d) shall not, save as otherwise agreed by him, be accountable to the Company for any benefit which he derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate or for such remuneration and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit.

99. Restrictions on voting

- (1) Except as set out below, a Director shall not vote in respect of any contract or arrangement or any other proposal whatsoever in which the Director has a material personal interest. A Director shall not be counted in the quorum in relation to any resolution on which he is not entitled to vote.
- (2) Subject to the provisions of the Act, a Director shall (in the absence of some other material personal interest than is indicated below) be entitled to vote (and be counted in the quorum) in respect of any resolution concerning any of the following matters, namely, where the material personal interest:
 - (a) arises because the Director is a shareholder of the Company and is held in common with the other shareholders of the Company; or
 - (b) arises in relation to the Director's remuneration as a Director of the Company; or
 - (c) relates to a contract the Company is proposing to enter into that is subject to approval by the shareholders and will not impose any obligation on the Company if it is not approved by the shareholders; or

- (d) arises merely because the Director is a guarantor or has given an indemnity or security for all or part of a loan (or proposed loan) to the Company; or
 - (e) arises merely because the Director has a right of subrogation in relation to a guarantee or indemnity referred to in subparagraph (d); or
 - (f) relates to a contract that insures, or would insure, the Director against liabilities the Director incurs as an officer of the Company (but only if the contract does not make the Company or a related body corporate the insurer); or
 - (g) relates to:
 - (i) any payment by the Company or a related body corporate in respect of an indemnity permitted by law; or
 - (ii) any contract relating to or containing an indemnity permitted by law; or
 - (h) is in a contract, or proposed contract, with, or for the benefit of, or on behalf of, a related body corporate and arises merely because the Director is a director of the related body corporate.
- (3) Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employments with the Company or any body corporate in which the Company is interested, the proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not debarred from voting under this Rule) shall be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning his own appointment.
- (4) If a question arises at any time as to the materiality of a Director's interest or as to his entitlement to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question shall be referred to the Chairman of the meeting and his ruling in relation to any Director other than himself shall be final and conclusive except in a case where the nature or extent of the interest of such Director has not been fairly disclosed. If any question shall arise in respect of the Chairman of the meeting and is not resolved by his voluntarily agreeing to abstain from voting, the question shall be decided by a resolution of the Directors (for which purpose the Chairman shall be counted in the quorum but shall not vote on the matter) and the resolution shall be final and conclusive except in a case where the nature or extent of the interest of the Chairman, so far as known to him, has not been fairly disclosed.

- (5) Despite having an interest in any contract or arrangement a Director may participate in the execution of any document evidencing or connected with the contract or arrangement, whether by signing, sealing or otherwise.
- (6) A Director or any person who is an associate of a Director under the Listing Rules may participate in any issue by the Company of securities unless the Director is precluded from participating by Applicable Regulation.

100. Directors' interests - general

- (1) For the purposes of the two preceding Rules:
 - (a) a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any contract, transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such contract, transaction or arrangement of the nature and extent so specified;
 - (b) an interest (whether of his or of such a connected person) of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his;
 - (c) in the case of an alternate director, an interest of his appointor shall be treated as an interest of the alternate in addition to any interest which the alternate otherwise has; and
 - (d) references to a contract include reference to any proposed contract and to any transaction or arrangement whether or not constituting a contract.
- (2) The Board may exercise the voting power conferred by the shares in any corporation held or owned by the Company as the Board thinks fit (including the exercise of the voting power in favour of any resolution appointing the Directors or any of them directors of that corporation or voting or providing for the payment of remuneration to the directors of that corporation) and a Director of the Company may vote in favour of the exercise of those voting rights despite the fact that the Director is, or may be about to be appointed, a director of that other corporation and may be interested in the exercise of those voting rights.
- (3) Any Director may lend money to the Company at interest with or without security or may, for a commission or profit, guarantee the repayment of any money borrowed by the Company and underwrite or guarantee the subscription of shares or securities of the Company or of any corporation in which the Company may be interested without being disqualified in respect of the office of Director and without being liable to account to the Company for the commission or profit.

COMMITTEES

101. Committees

The Board may delegate any of its powers or discretions (including without prejudice to the generality of the foregoing all powers and discretions whose exercise involves or may involve the payment of remuneration to or the conferring of any other benefit on all or any of the Directors) to Committees consisting of Directors or any other person or persons as the Board thinks fit. In the exercise of the powers or discretions delegated, any Committee formed or person or persons appointed to the Committee must conform to any regulations that may be imposed by the Board. A Committee or other delegate of the Board may be authorised to sub-delegate any of the powers or discretions for the time being vested in it.

102. Proceedings of Committee meetings

The meetings and proceedings of any Committee are to be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Board so far as they are applicable and are not inconsistent with any regulations made by the Board under Rule 101.

POWERS OF THE BOARD

103. General powers of the Board

The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred on them by this Constitution) may exercise all powers and do everything which is within the power of the Company and not by this Constitution or by law required to be exercised or done by the Company in general meeting.

104. Powers and obligations in relation to the Sharing Agreement

- (1) The Company having entered into the Sharing Agreement, the Voting Agreement and the Deed Poll Guarantee, the Directors are authorised and directed subject to Applicable Regulation to carry into effect the Sharing Agreement, the Voting Agreement and the Limited Deed Poll Guarantee with full power to:
 - (i) agree any amendment or termination of all or any of the terms of the Sharing Agreement, the Voting Agreement or the Limited Deed Poll Guarantee;
 - (ii) enter into, carry into effect any further or other agreements or arrangements with or in connection with Plc; and

- (iii) do all such things as in the opinion of the Directors are necessary or desirable for the furtherance, maintenance or development of the relationship with Plc constituted by or arising out of any agreement or arrangement,

and nothing done by any Director in good faith pursuant to such authority and obligations shall constitute a breach of the fiduciary duties of such Director to the Company or to the members of the Company.

- (2) Without limitation to the generality of the foregoing, the Directors may in addition to their duties to the Company have regard to the interests of Plc and both the holders of Plc Ordinary Shares and Limited Ordinary Shares as if the Company and Plc were a single unified economic entity and for that purpose the Directors may take into account in the exercise of their powers the interests of the holders of Plc Ordinary Shares.

105. Not used

106. Appointment of attorney

The Directors may from time to time and at any time by power of attorney or otherwise appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period and subject to such conditions as they may think fit, and any such appointment may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit, and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him.

107. Not used

108. Not used

109. Not used

110. Borrowing powers

Subject to the provisions of the Act, the Directors may exercise all the powers of the Company to borrow money, and to mortgage or charge its undertaking, property, assets (both present and future) and uncalled capital or any part or parts thereof and to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

111. Not used

112. Not used

113. Not used

AUTHENTICATION OF DOCUMENTS

114. Authentication of Documents

Any Director, Secretary, Assistant Secretary or Deputy Secretary or any person appointed by the Directors for the purpose shall have power to authenticate:

- (a) any document affecting the constitution of the Company;
- (b) any resolution passed at a shareholders' meeting or at a meeting of the Directors or of any committee;
- (c) any book, record, document or account relating to the business of the Company,

and to certify copies thereof or extracts therefrom as true copies or extracts; and where any book, record, document or account is elsewhere than at the Office the local manager or other officer of the Company having the custody thereof shall be deemed to be a person appointed by the Directors as aforesaid. A document purporting to be a copy of any such resolution, or an extract from the minutes of any such meeting, which is certified as aforesaid shall be conclusive evidence in favour of all persons dealing with the Company upon the faith thereof that such resolution has been duly passed or, as the case may be, that any minute so extracted is a true and accurate record of proceedings at a duly constituted meeting.

115. Not used

116. Not used

DIVIDENDS

117. Not used

118. Power of Board to pay dividends

- (1) Subject to Rules 59 to 60, the Board may determine that a dividend (including an interim dividend on account of the next forthcoming dividend) is payable and fix the amount, time for payment and method of payment. Where permitted by the Statutes, the methods of payment may include the payment of cash, the issue of shares, the grant of options and the transfer of assets.

- (2) Without limiting Rule 8, where the terms of any new issue of shares provide for the new shares to have different dividend rights to other shares then in issue, the new shares have those different dividend rights.
- (3) Provided the Directors act in good faith they shall not incur any liability to the holders of any shares for any loss they may suffer by the lawful payment, on any other class of shares having rights ranking after or *pari passu* with those shares, of any such fixed or interim dividend as aforesaid.

119. Distribution otherwise than in cash

- (1) Subject to Rules 59 to 60, when determining to pay a dividend under Rule 118, the Board may determine that payment of the dividend be effected wholly or in part by the distribution of specific assets or documents of title and in particular of paid up shares, debentures, debenture stock or grant of options or other securities of the Company or any other corporation or entity.
- (2) The Board may appoint any officer of the Company to sign on behalf of each shareholder entitled to participate in the dividend any document in the Board's opinion desirable or necessary:
 - (a) to vest in the shareholder title to assets; and
 - (b) in the case of a distribution of shares in any corporation, to constitute the shareholder's agreement to become a member of the corporation,and, in executing the document, the officer acts as agent and attorney for the shareholder.
- (3) Where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient and in particular may issue fractional certificates, may fix the value for distribution of such specific assets or any part thereof, may determine that cash shall be paid to any member upon the footing of the value so fixed in order to adjust the rights of members and may vest any assets in trustees.

120. Not used

121. Ranking of shares for dividends

- (1) Any dividend or interim dividend is (subject to the rights of, or any restrictions on, the holders of shares created or raised under any special arrangement as to dividend) payable on each share on the basis of the proportion which the amount paid (or agreed to be considered to be paid) bears to the total issue price of the share. The dividend may be fixed at a rate per annum in respect of a specified period but no amount paid on a share in advance of calls is to be treated as paid on the share.

- (2) The rights attached to the shares of the Company, as regards the participation in the profits available for distribution and resolved to be distributed, are as follows:
 - (a) the holders of the preference shares shall be entitled, in priority to any payment of dividend to the holders of any other class of shares, to a preferred right to participate as regards dividends up to but not beyond a specified amount in distribution;
 - (b) subject to the special rights attaching to any preference shares but in priority to any payment of dividends on all other classes of shares, the holder of the Equalisation Share shall be entitled to be paid such dividends as are declared or paid thereon in accordance with clause 3.4 of the Sharing Agreement; and
 - (c) any surplus remaining after payment of the distributions under Rule 121(a) or (b) shall be payable to the holders of the Limited Ordinary Shares and the Limited Special Voting Share in equal amounts per share.

122. Manner of payment of dividends

- (1) Payment of any dividend may be made in any manner, by any means and in any currency determined by the Board.
- (2) Without limitation of Rule 122(1), Directors may also determine the foreign currency equivalent of any sums payable as a dividend by reference to such market rate or rates or the mean of such market rates prevailing at such time or times or on such date or dates, in each case falling on or before the record date for the dividend, as the Directors may in their discretion select.
- (3) Without affecting any other method of payment which the Board may adopt, payment of any dividend may be made to the shareholder entitled to the dividend or, in the case of joint holders, to the shareholder whose name appears first in the Register in respect of the joint holding.

123. Not used

124. Not used

125. No interest on dividends

No dividend or other moneys payable on or in respect of a share shall bear interest as against the Company.

126. Retention of dividends

- (1) The Directors may retain any dividend or other moneys payable on or in respect of a share on which the Company has a lien and may apply the same in or towards satisfaction of the moneys payable to the Company in respect of that share.

- (2) The Directors may retain the dividends payable upon shares to which any person is entitled under Rule 41 or 42 until that person becomes a member in respect of those shares or transfers those shares.

127. Unclaimed dividend

All unclaimed dividends may be invested or otherwise made use of by the Board for the benefit of the Company until claimed or otherwise disposed of according to law.

128. Waiver of dividend

The waiver in whole or in part of any dividend on any share by any document (whether or not executed as a deed) shall be effective only if such document is signed by the shareholder (or the person entitled to the share in consequence of the death or bankruptcy of the holder or otherwise by operation of law) and delivered to the Company and if or to the extent that the same is accepted as such or acted upon by the Company.

CAPITALISATION OF PROFITS AND RESERVES

129. Capitalisation of profits and reserves

- (1) Subject to Rules 59 to 60, the Board may capitalise any sum forming part of the undivided profits, any reserve or other account of the Company and which is available for distribution.
- (2) Such capitalisation shall be effected by:
- (a) appropriating such sum to shareholders on the Register at the close of business on the date of the resolution (or such other date as may be specified therein or determined as therein provided) in the same proportions in those holders would be entitled to receive such sum if distributed by way of dividend or in accordance with either the terms of issue of any shares or the terms of any employee share plan; and
 - (b) applying such sum, in the proportions specified above, on behalf of those holders either in paying up the amounts for the time being unpaid on any issued shares held by them, or in paying up in full unissued shares or other securities of the Company to be issued to them accordingly, or partly in one way and partly in the other.
- (3) The Board may specify the manner in which any fractional entitlements and any difficulties relating to distribution are to be dealt with and, without limiting the generality of the foregoing, may specify that fractions are to be disregarded or that any fractional entitlements are to be increased to the next whole number or that payments in cash instead of fractional entitlements be made.

- (4) The Board may make all necessary appropriations and applications of the amount to be capitalised under Rule 129(1) and all necessary issues of fully paid shares or debentures.
- (5) Where required, the Board may appoint a person to sign a contract on behalf of the shareholders entitled on a capitalisation to any shares or debentures, which provides for the issue to them, credited as fully paid, of any further shares or debentures or for the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised.

DIVIDEND PLANS

130. Dividend Plans

Subject to Rules 59 to 60, the Board may establish, maintain, suspend, reinstate and amend one or more Dividend Plans (including the establishment of rules) including without limitation any Dividend Plan under which shareholders may elect with respect to some or all of their shares (subject to the rules of the relevant plan):

- (a) to reinvest in whole or in part dividends paid or payable or which may become payable by the Company to the shareholder in cash by subscribing for shares in the capital of the Company;
- (b) to be issued with shares instead of being paid a dividend;
- (c) that dividends from the Company not be declared or paid and that instead a payment or distribution other than a dividend (including without limitation an issue of bonus shares, with no amount credited to the share capital account in connection with the issue of those shares) be made by the Company; and
- (d) that cash dividends from the Company not be paid and that instead a cash dividend or payment or other distribution (including without limitation an issue or transfer of securities) be received from the Company, or a Related Corporation of the Company, or any other entity determined by the Board.

ACCOUNTS AND RECORDS

131. Accounts and records

- (1) Accounting records sufficient to show and explain the Company's transactions and otherwise complying with the Statutes shall be kept at the Office, or at such other place as the Directors think fit, and shall always be open to inspection by the Directors and other officers of the Company.
- (2) Without limitation to paragraph (1) of this Rule, where the Board considers it appropriate, the Company may:

- (a) give a Director or former Director access to certain papers, including documents provided or available to the Board and other papers referred to in those documents; and
- (b) bind itself in any contract with a Director or former Director to give the access.
- (3) Subject to paragraphs (1) and (2) of this Rule, no member of the Company or other person shall have any right of inspecting any account or book or document of the Company except as conferred by statute or ordered by a court of competent jurisdiction or authorised by the Directors.

132. Not used

133. Not used

134. Not used

NOTICES

135. Service of notices

- (1) A notice may be given by the Company to any shareholder, or in the case of joint holders to the shareholder whose name appears first in the Register, personally, by leaving it at the shareholder's registered address or by sending it by prepaid post or facsimile transmission addressed to the shareholder's registered address or, in any case, by other electronic means determined by the Board and previously notified to shareholders as otherwise provided in this Rule. If the notice is signed, the signature may be original or printed.
- (2) Any notice sent by post is taken to have been served at the end of 24 hours after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted. Any notice served on a shareholder personally or left at the shareholder's registered address is taken to have been served when delivered. Any notice served on a shareholder by facsimile or other electronic transmission is taken to have been served when the transmission is sent.
- (3) The accidental failure to send, or the non-receipt by any person entitled to, any notice of or other document relating to any meeting or other proceeding shall not invalidate the relevant meeting or other proceeding.
- (4) Where a shareholder does not have a registered address or where the Company has reason to believe that a shareholder is not known at the shareholder's registered address, all future notices are taken to be given to the shareholder if the notice is exhibited in the Office for a period of 48 hours (and is taken to be served at the commencement of that period) unless and until the shareholder informs the Company of a registered place of address.

136. Notice to transferor binds transferee

Every person who, by operation of law, transfer or any other means becomes entitled to be registered as the holder of any shares is bound by every notice which, prior to the person's name and address being entered in the Register in respect of those shares, was properly given to the person from whom the person derives title to those shares.

137. Deceased and bankrupt members

A notice served in accordance with this Constitution is (despite the fact that the shareholder is then dead, bankrupt or in liquidation and whether or not the Company has notice of the shareholder's death, bankruptcy or liquidation) taken to have been properly served in respect of any registered shares, whether held solely or jointly with other persons by the shareholder, until another person is registered in the shareholder's place as the holder or joint holder. The service is sufficient service of the notice or document on the shareholder's personal representative, trustee in bankruptcy or liquidator and any person jointly interested with the shareholder in the shares.

138. Not used

139. Not used

140. Not used

WINDING UP OF PLC OR THE COMPANY

141. Plc insolvency

- (1) Subject to Rule 141(2):
 - (a) Upon receipt of a Plc Insolvency Notice, the Company shall seek to ensure that the economic returns made or otherwise available to a holder of a Limited Ordinary Share relative to the economic returns available to a holder of a Plc Ordinary Share (or vice versa) are in due proportion having regard to the Equalisation Ratio (***Economic Equivalence***) by taking the steps set out in paragraphs 101(1)(b) or (c).
 - (b) The Company shall have the right at any time within 12 months from the Notice Date to either:
 - (i) irrevocably offer to the holders of Plc Ordinary Shares on the Notice Date, in consideration for their Plc Ordinary Shares, such number of Limited Ordinary Shares pro rata to their holdings of Plc Ordinary Shares as is required to ensure that, after such issue, Economic Equivalence is achieved; or

- (ii) pay to holders of Plc Ordinary Shares on the Notice Date an amount equal to that proportion of the Company's Market Capitalisation as at the Notice Date such that the amount paid and the balance remaining ensure that Economic Equivalence is achieved.
 - (c) Unless the Company has exercised its rights under paragraph 101(1)(b), then, subject to paragraph 101(1)(d), the Company must:
 - (i) within 3 months from the date the liquidator of Plc has finally established the identity of and amounts owed to the Proven Creditors (but in any event not earlier than the expiration of the period set out in paragraph (b) above), pay in full all Proven Creditors of Plc and all other costs and expenses of the liquidation (including those of the liquidator); and
 - (ii) within 1 month thereafter pay to Plc an amount equal to that proportion of the Company's total Market Capitalisation on the date all payments have been made pursuant to paragraph 101(1)(c)(i) such that the amount paid and the balance remaining ensure that Economic Equivalence is achieved.
 - (d) Payments under this Rule 141(1) shall only be made by the Company to the extent that after making such payment there will remain available to the Company sufficient assets to pay all its debts as and when they become due and payable.
- (2) If the Company has provided to Plc a Limited Insolvency Notice and has received a Plc Insolvency Notice and if:
- (a) the Company has surplus assets available for distribution to the holders of its Ordinary Shares after payment of all debts due; and
 - (b) the ratio of the surplus attributable to each Limited Ordinary Share to the surplus attributable to each Plc Ordinary Share would otherwise not equal the Equalisation Ratio,
- then the Company must as soon as practicable pay to Plc (where possible) an amount which results in that ratio equalling the Equalisation Ratio.
- (3) In this Rule 141:
- (a) **Economic Equivalence** shall be determined before deduction of any amount in respect of Tax which may be deducted or withheld in respect of any payment to a holder of Ordinary Shares and disregarding any Tax payable by or on behalf of, or any Tax Benefit arising to, a holder of Ordinary Shares.

- (b) **Market Capitalisation**, in relation to the Company, means the total value of all its issued Ordinary Shares (determined by reference to the trading price of those shares on the close of trading on the relevant day on the stock exchange on which it has its primary listing).
- (c) **Notice Date** means the date Plc gives to the Company the Plc Insolvency Notice in accordance with Article 142 of the Plc Articles.
- (d) **Plc Insolvency Notice** means a notice from Plc under Article 142 of the Plc Articles stating that, in the reasonable opinion of the Plc directors, Plc is, or is or likely to become, insolvent (whether or not a receiver, receiver and manager, provisional liquidator or liquidator has been appointed or mortgagee has taken possession of the property of Plc).
- (e) **Proven Creditors** means all persons that the liquidator of Plc has established as ranking in priority to the holders of Plc Ordinary Shares and who would be entitled to a payment as a result of the liquidation of Plc.
- (f) The surplus assets of the Company available for distribution to holders of Limited Ordinary Shares shall, for the purposes of Rule 141(2), be calculated:
 - (i) before deduction of any amount in respect of Tax which may be deducted or withheld from the distribution by or on behalf of the Company; but
 - (ii) net of any Tax payable by the Company on the distribution to holders of Limited Ordinary Shares excluding, for the avoidance of doubt, any Tax within paragraph (i) above.
- (g) Where the Company is to pay an amount to Plc, the calculation of the amount of the payment shall take account of any Tax payable on the making or receipt of, or any withholding or deduction in respect of Tax arising on, any payment, after allowing for any offsetting Tax Benefits.

142. Insolvency Notice

If, in the reasonable opinion of the Directors, the Company is, or is likely to become, insolvent (whether or not a receiver, receiver and manager, provisional liquidator or liquidator has been appointed or mortgagee has taken possession of the property of Limited) the Directors must immediately give notice (**Limited Insolvency Notice**) to Plc of such fact.

143. Not used

144. Rights on winding-up

- (1) Subject to Rules 141 and 144(4), if the Company is wound up, whether voluntarily or otherwise, the liquidator may divide among all or any of the contributories as the liquidator thinks fit in specie or kind any part of the assets of the Company, and may vest any part of the assets of the Company in trustees on any trusts for the benefit of all or any of the contributories as the liquidator thinks fit.
- (2) If thought expedient, any division may be otherwise than in accordance with the legal rights of the contributories and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part, but in case any division otherwise than in accordance with the legal rights of the contributories is determined, any contributory who would be prejudiced by the division has a right to dissent and ancillary rights as if the determination were a special resolution passed under the Act relating to the sale or transfer of the Company's assets by a liquidator in a voluntary winding up.
- (3) If any shares to be divided in accordance with Rule 144(1) involve a liability to calls or otherwise, any person entitled under the division to any of the shares may by notice in writing within ten business days after the passing of the special resolution, direct the liquidator to sell the person's proportion and pay the person the net proceeds and the liquidator is required, if practicable, to act accordingly.
- (4) On a return of assets on liquidation, the assets of the Company remaining available for distribution among members, after giving effect to the payment of all prior ranking amounts owed to the creditors of the Company and prior ranking statutory entitlements and after giving effect to preferential rights attached to any preference shares issued by the Company and to the rights of other shares having a preferred right to participate as regards capital up to but not beyond a specified amount in a distribution and to any provision of the Act shall, subject to Rule 141, be applied in paying to the holders of the Limited Special Voting Share and the Equalisation Share (if issued) an amount of up to \$2.00 on each such share, *pari passu* with any amount paid to the holders of Limited Ordinary Shares, and any surplus remaining shall be applied in making payments solely to the holders of Limited Ordinary Shares in accordance with their entitlements.

DESTRUCTION OF DOCUMENTS

145. Not used

INDEMNITY AND INSURANCE

146. Indemnity and insurance

- (1) To the relevant extent:
 - (a) the Company is to indemnify each officer of the Company out of the assets of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer;
 - (b) where the Board considers it appropriate, the Company may execute a documentary indemnity in any form in favour of any officer of the Company; and
 - (c) where the Board considers it appropriate, the Company may:
 - (i) make payments of amounts by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer; and
 - (ii) bind itself in any contract or deed with any officer of the Company to make the payments.
- (2) In this Rule:
 - (a) **officer** means a director, secretary or executive officer of the Company or a person who formerly held one of those positions.
 - (b) **duties of the officer** includes, in any particular case where the Board considers it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the Company or, where applicable, a subsidiary of the Company to any other corporation.
 - (c) **to the relevant extent** means:
 - (i) to the extent the Company is not precluded by Applicable Regulation from doing so;
 - (ii) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, in particular, an insurer under any insurance policy); and

- (iii) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.
- (d) **liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or otherwise.

CHANGE OF CONTROL

147. Partial Takeover Plebiscites

- (1) Where offers have been made under a proportional takeover bid in respect of shares included in a class of shares in the Company:
 - (a) the registration of a transfer giving effect to a contract resulting from the acceptance of an offer made under the bid is prohibited unless and until a resolution (in this Rule 147(1) referred to as a **prescribed resolution**) to approve the bid is passed in accordance with the provisions of this Constitution;
 - (b)
 - (i) a person (other than the offeror or a person associated with the offeror) who, as at the end of the day on which the first offer under the proportional takeover bid was made, held shares included in that class is entitled to vote on a prescribed resolution and, for the purposes of so voting, is entitled to one vote for each of the last mentioned shares; and
 - (ii) the offeror or a person associated with the offeror is not entitled to vote on a prescribed resolution;
 - (c) a prescribed resolution is to be voted on at a meeting, convened and conducted by the Company, of the persons entitled to vote on the resolution; and
 - (d) a prescribed resolution, being a resolution that has been voted on, is to be taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than one-half, and otherwise is taken to have been rejected.
- (2) The provisions of this Constitution that apply in relation to a general meeting of the Company apply, with modifications as the circumstances require, in relation to a meeting that is convened under this Rule 147 as if the last mentioned meeting was a general meeting of the Company.

- (3) Where takeover offers have been made under a proportional takeover bid then the Board is to ensure that a resolution to approve the proportional takeover bid is voted on in accordance with this Rule 147 before the approving resolution deadline.
- (4) This Rule 147 ceases to have effect on the third anniversary of the date of the adoption or last renewal of this Rule 147.

148. Share Control Limits

(1) The Limits

- (a) A person must not breach any of the following limits (called the **Limits**):
 - (i) section 606 (1) or 606(2) of the Act as each applies to Limited Ordinary Shares without regard to the Limited Special Voting Share; or
 - (ii) section 606 (1) or 606(2) of the Act as each applies to Limited Ordinary Shares and the Limited Special Voting Share; or
 - (iii) Rule 9 of the City Code on Takeovers and Mergers setting a 30% limit in relation to voting rights of Plc; or
 - (iv) the 30% limit in relation to Plc Ordinary Shares without regard to the Plc Special Voting Share set out in Article 148(4) (called the **UK 30% Stand Alone Limit**),
(even if the acquisition is excepted under the provisions relating to the relevant Limit), except as a result of a Permitted Acquisition.
- (b) Where any person breaches any such Limit (even if the acquisition is excepted under the provisions of the relevant Limit), except as a result of a Permitted Acquisition, that person is in breach of this Constitution.
- (c) Where any person breaches any such Limit (even if the acquisition is excepted under the provisions of the relevant Limit), except as a result of a Permitted Acquisition:
 - (i) all voting rights attaching to Limited Ordinary Shares; and
 - (ii) all votes attaching to the Limited Special Voting Share;
(including shares or rights held by associates, concert parties or any other person holding shares in which that person is deemed to be interested or which are to be taken together for the purposes of the relevant Limit) taken into account in calculating that person's relevant interest or voting power or voting control level or voting rights (however expressed under the relevant Limit) are called **Votes in Breach**.

- (d) Any member determined by the Board to be holding Limited Ordinary Shares which carry Votes in Breach is a member in breach of this Constitution. Any such determination by the Board shall be final and binding.

(2) Action by the Board

- (a) The Board must do the following in order to enforce Rule 148(1) where the Board has reason to believe that any Limit is or may be breached except as a result of a Permitted Acquisition:
 - (i) require any member to provide such information as the Board considers appropriate to determine any of the matters under this Rule 148;
 - (ii) have regard to such public filings as it considers appropriate to determine any of the matters under this Rule 148;
 - (iii) make any determinations required under this Rule 148, either after calling for submissions from affected members or other persons or without calling for such submissions;
 - (iv) determine that the voting rights (or some voting rights):
 - (A) attached to such number of Limited Ordinary Shares held by a person or persons whom the Board has resolved should not be capable of exercising their votes in accordance with this paragraph (iv) (called **Excess Shares**); and/or
 - (B) attached to the Special Voting Share (in relation to Joint Electorate Actions), being votes otherwise required to be cast by the holder of the Special Voting Share to mirror the votes cast by certain holders of Plc Ordinary Shares,
are from a particular time incapable of being exercised for a definite or indefinite period but only to the extent necessary so that, as far as the Board can judge the matter, the person otherwise in breach of one or more of the Limits would not thereafter breach any of the relevant Limits except as a result of a Permitted Acquisition;
 - (v) determine that any Excess Shares must be sold but only to the extent necessary so that, as far as the Board can judge the matter, the person otherwise in breach of one or more of the Limits would not thereafter breach any of the relevant Limits except as a result of a Permitted Acquisition;

- (vi) determine that any Excess Shares will not carry any right to any distributions from a particular time for a definite or indefinite period but only in respect of such number of shares as breaches any of the relevant Limits except as a result of a Permitted Acquisition;
- (vii) take such other action for the purposes of enforcing this Rule 148 in a timely and efficient manner including:
 - (A) prescribing rules (not inconsistent with this Rule 148);
 - (B) setting deadlines for the provision of information;
 - (C) drawing adverse inferences where information requested is not provided;
 - (D) making determinations or interim determinations;
 - (E) executing documents on behalf of a member;
 - (F) paying costs and expenses out of proceeds of sale of Excess Shares; and
 - (G) changing any decision or determination or rule previously made.

- (b) No Director is liable for any such act or omission where the Director acts in good faith.

(3) Permitted Acquisitions

An acquisition is a Permitted Acquisition if the Board consents to the acquisition or if each of (a), (b) and (c) below is satisfied:

- (a) the acquisition is under or pursuant to a procedure:
 - (i) which applies to both the Limited Ordinary Shares and the Plc Ordinary Shares; or
 - (ii) which is undertaken for both the Limited Ordinary Shares and the Plc Ordinary Shares at or about the same time; and
- (b) each such procedure complies with all Applicable Regulation and provisions of the Constitutions; and
- (c) the holders of Limited Ordinary Shares on the one hand and the holders of Plc Ordinary Shares on the other hand are afforded equivalent treatment in terms of:

- (i) the consideration offered for their shares (having regard to the Equalisation Ratio)
- (ii) the information provided to them;
- (iii) the time to consider the offer or procedure;
- (iv) the conditions to which the procedure is subject; and
- (v) the other terms of the procedure.

(4) UK 30% Stand Alone Limit

For the purposes of this Article 148, the '**UK 30% Stand-Alone Limit**' means that a person shall not acquire shares which taken together with shares held or acquired by persons determined by the Board to be acting in concert with him carry more than 30 per cent. of the voting rights attributable to Plc Ordinary Shares. For this purpose, '**acting in concert**' has the same meaning as in the City Code on Takeovers and Mergers.

(5) Mutual recognition

The Board may for the purposes of enforcing Rule 148(1):

- (a) make a determination that the holding by a person of shares in Plc contributes to a breach by a person of a Limit and may communicate that determination to Plc; or
- (b) accept a determination by the Board of Plc that the holding by a person of shares in Limited contributes to a breach by a person of a relevant limit under the Plc Articles;

and in the case of (b) above the Board must take any action under Rule 148(2) above as if the holder of the relevant Limited shares were in breach of this Constitution.

(6) Validity

Any resolution or determination of, or decision or exercise of any discretion or power by, the Directors or any Director or by the Chairman of any meeting acting in good faith under or pursuant to the provisions of this Rule shall be final and conclusive; and anything done, by or on behalf of, or on the authority of, the Directors or any Director acting in good faith pursuant to the foregoing provisions of this Rule shall be conclusive and binding on all persons concerned and shall not be open to challenge, whether as to its validity or otherwise on any ground whatsoever. The Directors shall not be required to give any reasons for any decision, determination or declaration taken or made in accordance with this Rule.

Articles of Association of BHP Billiton Plc Company No. 3196209

Incorporating the amendments approved by shareholders at
the 2005 & 2007 Annual General Meetings

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Articles of Association of BHP Billiton Plc

Allens Arthur Robinson

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PRELIMINARY

The Company is a public company limited by shares.

1. Table A not to apply

The regulations in Table A in The Companies (Tables A to F) Regulations 1985 shall not apply to the Company.

2. Definitions and Interpretation

- (1) In these Articles (if not inconsistent with the subject or context) the words and expressions set out in the first column below shall bear the meanings set opposite to them respectively:

“Act”	The Companies Act 1985 of the United Kingdom.
“Action”	Any distribution or any action affecting the amount or nature of issued share capital, including any dividend, distribution in specie, offer by way of rights, bonus issue, repayment of capital, sub-division or consolidation, buy-back or amendment of the rights of any shares or a series of one or more of such actions.
“Applicable Regulation”	(a) applicable law and regulations (including the requirements of the UK Code on Takeovers and Mergers and the UK Panel on Takeovers and Mergers); and (b) directives, notices or requirements of any Governmental Agency having jurisdiction over the Company or Limited, as the case may be; and

- (c) the rules, regulations, and guidelines of:
 - (i) any stock exchange on which either the Plc Ordinary Shares or the Limited Ordinary Shares or the Limited American Depositary shares are listed or quoted;
 - (ii) any other body with which entities with securities listed or quoted on such exchanges customarily comply,

(but, if not having the force of law, only if compliance with such directives, notices, requirements, rules, regulations or guidelines is in accordance with the general practice of persons to whom they are intended to apply) in each case for the time being in force and taking account of all exemptions, waivers or variations from time to time applicable (in particular situations or generally) to the Company or, as the case may be, to Limited.

“Articles”	These Articles of Association as from time to time altered.
“ASX”	The Australian Stock Exchange Limited (ABN 98 008 624 691)”
“ASX Listing Rules”	The Listing Rules of the ASX.
“Australian dollars” or “A\$”	The lawful currency from time to time of Australia.
“Board”	All or some of the Directors from time to time acting as a board (or a duly appointed committee of the board).
“Board of Limited”	All or some of the directors of Limited from time to time acting as a board (or a duly appointed committee of the board).
“Chairman”	The Chairman of the Board under Article 93 or other person occupying the position of Acting Chairman under Rule 48(4). References to the Chairman in these Articles include (unless the context requires otherwise) a Deputy Chairman (or other person) acting as chairman of a meeting of members or a meeting of the Board.
“Class Rights Action”	Any of the actions listed in Article 59(1).
“Class Rights Procedure”	The approval procedures for Class Rights Actions set out in Articles 59(2) to 59(4).
“Combined Group”	The Limited Group and the Plc Group.
“Completion”	The date of completion of the Implementation Agreement between the Company and Limited dated 19 March 2001.

“Constitution”	In relation to: (a) the Company, its Memorandum of Association and these Articles; and (b) Limited, the Limited Constitution.
“Corporations Act”	The Corporations Act 2001 of Australia. A reference to the Corporations Act includes a reference to the Corporations Regulations made under that Act.
“Directors”	The persons appointed or elected to the office of Director of the Company in accordance with these Articles from time to time.
“Equalisation Fraction”	The Equalisation Ratio expressed as a fraction with the numerator being the number relating to the Limited Ordinary Shares and the denominator being the number relating to the Plc Ordinary Shares.
“Equalisation Ratio”	The ratio for the time being of (a) the dividend, capital and (in relation to Joint Electorate Actions) voting rights per Limited Ordinary Share to (b) the dividend, capital and (in relation to Joint Electorate Actions) voting rights per Plc Ordinary Share in the Combined Group (which shall initially be 1:1).
“Equalisation Share”	The equalisation share of US\$0.50 in the Company.
“Excess Shares”	Has the meaning given to it in Article 148(2)(a)(iv).
“Excluded Plc Holder”	Any shareholder of the Company whose voting rights in relation to Plc Ordinary Shares have, at the relevant time, been lost pursuant to Article 64(2).
“Governmental Agency”	Any government or representative of a government or any governmental, semi-governmental, supra-national, statutory, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency or entity or trade agency, and shall include competition authorities, the UK Panel on Takeovers and Mergers, the Corporations and Securities Panel of Australia, the ASX, the Australian Securities and Investments Commission, the London Stock Exchange and the UK Listing Authority.
“Group”	In relation to Limited, the Limited Group and, in relation to the Company, the Plc Group as the context requires.
“Joint Electorate Action”	Any of the matters listed in Article 60(1) (other than any matter which the Board and the Board of Limited have from time to time agreed will be treated as a Class Rights Action).
“Joint Electorate Procedure”	The approvals procedures for Joint Electorate Actions set out in Article 60(2).

“Limited”	BHP Billiton Limited (ABN 49 004 028 077).
“Limited Constitution”	The constitution of Limited which will be in effect immediately following Completion.
“Limited Deed Poll Guarantee”	The deed poll guarantee whereby Limited guarantees certain obligations of the Plc Group.
“Limited Entrenched Provision”	Has the meaning given to it in the Limited Constitution.
“Limited Excess Shares”	Has the meaning given to Excess Shares in the Limited Constitution.
“Limited Group”	Limited and its Subsidiaries from time to time and “a member of the Limited Group” means any one of them.
“Limited Ordinary Shares”	The ordinary shares in the capital of Limited from time to time.
“Limited Special Voting Share”	The special voting share in the capital of Limited issued to Limited SVC having the rights described in the Limited Constitution.
“Limited SVC”	BHP SVC Pty Limited, a proprietary company incorporated in Victoria, Australia or such other entity as replaces BHP SVC Pty Limited from time to time pursuant to the terms of the Voting Agreement.
“London Stock Exchange”	The London Stock Exchange plc.
“Month”	Calendar month.
“Office”	The registered office of the Company for the time being.
“Official List”	The official list maintained by the UKLA.
“Operator”	CRESTCo Limited or such other person as may for the time being be approved by HM Treasury as Operator under the Regulations.
“Operator-instruction”	A properly authenticated dematerialised instruction attributable to the Operator.
“Ordinary Shares”	In relation to: (a) the Company, Plc Ordinary Shares; and (b) Limited, the Limited Ordinary Shares.
“Paid”	Paid or credited as paid.

“Parallel General Meeting”	In relation to the Company or Limited, the general meeting of the shareholders of that company which is most nearly, or is actually, contemporaneous with the general meeting of the shareholders of the other company and at which some or all of the same matters or some or all equivalent matters are to be considered.
“participating security”	A security title to units of which is permitted by the Operator to be transferred by means of a relevant system.
“Plc Deed Poll Guarantee”	The deed poll guarantee whereby the Company guarantees certain obligations of the Limited Group.
“Plc Entrenched Provision”	(a) The definitions in this Article 2(1) of “Applicable Regulation”, “Australian dollars”, “Board of Limited”, “Class Rights Action”, “Class Rights Procedure”, “Equalisation Fraction”, “Equalisation Ratio”, “Equalisation Share”, “Excess Shares”, “Excluded Plc Holder”, “Joint Electorate Action”, “Joint Electorate Procedure”, “Limited”, “Limited Constitution”, “Limited Deed Poll Guarantee”, “Limited Entrenched Provision”, “Limited Excess Shares”, “Limited Group”, “Limited Ordinary Shares”, “Limited Special Voting Share”, “Limited SVC”, “Plc Deed Poll Guarantee”, “Plc Entrenched Provision”, “Plc Group”, “Plc Ordinary Shares”, “Plc Special Voting Share”, “Plc SVC”, “Sharing Agreement”, “Special Voting Share”, “sterling”, “Subsidiary”, “Voting Agreement”; (b) Article 8 (Rights attaching to shares on issue); (c) Article 9(4)(b)(ii) (Definition of “Rights Issue”) (d) Article 31 (Manner of variation of rights); (e) Article 35(5) (Right to refuse to register transfer of Special Voting Share and Equalisation Share); (f) Articles 54(1) and 54(4) (Substantive Resolutions); (g) Article 55 (Requirement for a poll); (h) Article 58 (Timing of poll); (i) Article 59 (Class Rights Actions) (j) Article 60 (Joint Electorate Actions); (k) Article 61 (Votes attaching to shares); (l) Article 148 (Shareholding limits); (m) Article 70 (Deposit of form of proxy);

- (n) Articles 83 and 84 (Retirement by rotation and selection of Directors to retire by rotation);
- (o) Article 87 (Nomination of Director for election);
- (p) Article 88 (Election or appointment of additional Director,);
- (q) Article 89 (Vacation of office);
- (r) Article 90 (Removal of Director);
- (s) Article 104 (Powers and obligations in relation to the Sharing Agreement);
- (t) Article 121 (Ranking of shares for dividend);
- (u) Article 141 (Liquidation of Limited);
- (v) Article 142 (Insolvency Notice); and
- (w) Article 144 (Rights on winding up).

“Plc Group”	The Company and its Subsidiaries from time to time and “a member of the Plc Group” means any one of them.
“Plc Ordinary Shares”	The ordinary shares in the capital of the Company from time to time.
“Plc Special Voting Share”	The special voting share in the capital of the Company issued to Plc SVC, having the rights set out in these Articles.
“Plc SVC”	Billiton SVC Limited, a company incorporated in England and Wales with registered number 4074194 or such other entity as replaces Billiton SVC Limited from time to time pursuant to the terms of the Voting Agreement.
“Public Trustee”	Law Debenture Trust Corporation plc or such other public trust company as shall be agreed between the Company and Limited.
“Register”	The register of members of the Company.
“Regulations”	The Uncertificated Securities Regulations 1995.
“relevant system”	A computer-based system, and procedures, which enable title to units of security to be evidenced and transferred without a written instrument pursuant to the Regulations.
“Required Majority”	The percentage voting in favour that would be required to pass a Required Resolution.
“Required Resolution”	Has the meaning given to it in Article 59(2).
“Seal”	The Common Seal of the Company.
“Securities Seal”	An official seal kept by the Company by virtue of Section 40 of the Act.

“Sharing Agreement”	The DLC Structure Sharing Agreement made between the Company and Limited and dated the date of Completion.
“Special Voting Share”	in relation to: (a) the Company, the Plc Special Voting Share; and (b) Limited, the Limited Special Voting Share.
“Statutes”	The Act, the Regulations, and every other statute, statutory instrument, regulation or order for the time being in force concerning companies registered under the Act and affecting the Company.
“sterling”	the lawful currency from time to time of the United Kingdom.
“Subsidiary”	A subsidiary undertaking as that term is defined in Section 258 of the Act.
“Substantive Resolutions”	All resolutions (other than resolutions of a procedural nature).
“Tax”	Any taxes, levies, imposts, deductions, charges, withholdings or duties levied by any authority (including stamp and transaction duties) (together with any related interest, penalties, fines and expenses in connection with them).
“Tax Benefit”	Any credit, rebate, exemption or benefit in respect of Tax available to any person.
“Transfer Office”	The place where the Register is situate for the time being.
“UKLA”	The Financial Services Authority in its capacity as competent authority for the purposes of Part IV of the UK Financial Services Act 1986.
“United Kingdom”	Great Britain and Northern Ireland.
“Voting Agreement”	The SVC Special Voting Shares Deed entered into between Limited, Limited SVC, the Company, Plc SVC and the Public Trustee relating to the Limited Special Voting Share and the Plc Special Voting Share.
“Year”	Calendar year.

- (2) (Interpretation) The following rules of interpretation apply unless the context requires otherwise.
- (a) The singular includes the plural and conversely.
 - (b) A gender includes all genders.
 - (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

- (d) A reference to a person includes a body corporate, an unincorporated body or other entity and conversely.
- (e) A reference to an Article or paragraph is to an article or paragraph of these Articles.
- (f) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by this Agreement.
- (g) A reference to any legislation or Applicable Regulation or to any provision of any legislation or Applicable Regulation includes any modification or re-enactment of it, any legislative or regulatory provision substituted for it and all regulations and statutory instruments issued under it.
- (h) A reference to **"writing"** includes printing, typing, lithography and other modes of reproducing words in a visible form, whether electronic or otherwise.
- (i) Mentioning anything after **"include"**, **"includes"** or **"including"** does not limit what else might be included. Where particular words are followed by general words, the general words are not limited by the particular.
- (j) A reference to a body, other than a party to this Agreement (including, an institute, association, authority or Governmental Agency), whether statutory or not:
 - (A) which ceases to exist; or
 - (B) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions.
- (k) The expression **"debenture"** shall include debenture stock, bonds and any other securities of a Company whether constituting a charge on the assets of the Company or not and **"debenture stockholder"** shall mean any person who is entered in the register of holders of the debentures of the Company as holder of a debenture.
- (l) The expressions **"recognised clearing house"** and **"recognised investment exchange"** shall mean any clearing house or investment exchange (as the case may be) granted recognition under the Financial Services Act 1986.
- (m) The expression **"Secretary"** shall include any person appointed by the Directors to perform any of the duties of the Secretary including, but not limited to, a joint assistant or deputy Secretary.

- (n) The expression “**shareholders’ meeting**” shall include both a General Meeting and a meeting of the holders of any class of shares of the Company.
- (o) All such provisions of these Articles as are applicable to paid-up shares shall apply to stock, and the words “**share**” and “**shareholder**” shall be construed accordingly.
- (p) The expressions “**communication**” and “**electronic communication**” shall have the same respective meanings as in the Electronic Communications Act 2000, the latter including, without limitation, e-mail, facsimile, CD-Rom, audio tape and telephone transmission and (in the case of electronic communication by the Company in accordance with Article 135(5)) publication on a web site.
- (q) The expression “**address**” shall include, in relation to electronic communication, any number or address used for the purposes of such communication.
- (r) Subject as aforesaid any words or expressions defined in the Act or the Regulations shall (if not inconsistent with the subject or context) bear the same meanings in these Articles.
- (s) A special or extraordinary resolution shall be effective for any purpose for which an ordinary resolution is expressed to be required under any provision of these Articles.
- (t) References to a share (or to a holding of shares) being in certificated or uncertificated form are references, respectively, to that share being a certificated or an uncertificated unit of a security for the purposes of the Regulations.
- (u) References to “**other company**” shall mean either the Company or Limited as the context requires.
- (v) The expression “**equivalent resolution**” means a resolution of either the Company or Limited certified by the Board and the Board of Limited as equivalent in nature and effect to a resolution of the other company.
- (w) References to “**offers by way of rights**” are to any offers (whether renounceable or non-renounceable) to the existing ordinary shareholders of the Company or Limited as nearly as may be in proportion to their holdings at the relevant time on a pre-emptive basis which may be subject to such exclusions or other arrangements as the Board or the Board of Limited, as the case may be, may deem necessary or expedient in relation to fractional entitlements or legal or practical difficulties with making the offer under the laws of, or the requirements of any Applicable Regulation in, any jurisdiction.
- (x) The headings shall not affect the construction of these Articles.

SHARE CAPITAL AND SECURITIES

3. Amount of share capital

- (1) The share capital of the Company at the date of the adoption of these Articles consists of 50,000 5.5 per cent cumulative Preference Shares of £1 each, 3,000,000,000 Ordinary Shares of US\$0.50 cents each, a Special Voting Share of US\$0.50 and an Equalisation Share of US\$0.50.
- (2) Subject to Articles 59 and 60, the Company may from time to time by ordinary resolution increase its capital by such sum to be divided into shares of such amounts as the resolution shall prescribe. All new shares shall be subject to the provisions of the Statutes and of these Articles with reference to allotment, payment of calls, lien, transfer, transmission, forfeiture and otherwise.

4. Plc Special Voting Share

The Plc Special Voting Share shall confer on the holder of such share the rights set out in Articles 61, 62, 119 and 144, but shall cease to confer any right to attend or vote at any general meeting in the event of termination of the Sharing Agreement.

5. Consolidation, sub-division and cancellation

- (1) Subject to Articles 59 and 60, the Company may by ordinary resolution:
 - (a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
 - (b) cancel any shares which, at the date of the passing of the resolution, have not been taken, or agreed to be taken, by any person and diminish the amount of its share capital by the amount of the shares so cancelled;
 - (c) subdivide its shares, or any of them, into shares of smaller amount than is fixed by the Memorandum of Association (subject, nevertheless, to the provisions of the Statutes), and so that the resolution whereby any share is subdivided may determine that, as between the holders of the shares resulting from such subdivision, one or more of the shares may, as compared with the others, have any such preferred, deferred or other special rights, or be subject to any such restrictions, as the Company has power to attach to unissued or new shares.
- (2) If, as the result of a consolidation and division, a sub-division or a pro rata issue of shares, a member becomes entitled to a fraction of a share, the Board may on behalf of that member deal with that fractional entitlement as the Board thinks fit. In particular, the Board may:

- (a) issue a whole share in place of that fractional entitlement;
 - (b) disregard that fractional entitlement;
 - (c) issue a fractional share certificate;
 - (d) make a cash payment in satisfaction of that fractional entitlement;
 - (e) vest cash in trustees on trust for that member as the Board thinks fit; or
 - (f) make (or authorise any person to make) an agreement for the issue to a third person of shares (credited as fully paid up) representing that fractional entitlement and any other fractional entitlements which the Board is empowered to deal with. Such agreement may provide for the sale of those shares by that third person and the payment of the proceeds of sale to the members concerned.
- (3) So far as the Statutes allow, the Directors may treat shares of a member in certificated form and in uncertificated form as separate holdings in giving effect to subdivisions and/or consolidations and may cause any shares arising on consolidation and representing fractional entitlements to be entered in the Register as shares in certificated form where this is desirable to facilitate the sale thereof.

6. Purchase of own shares

Subject to the provisions of the Statutes and Articles 59 and 60, the Company may purchase, or may enter into a contract under which it will or may purchase, any of its own shares of any class (including any redeemable shares) but so that if there shall be in issue any shares which are admitted to the Official List and which are convertible into equity share capital of the Company of the class proposed to be purchased, then the Company shall not purchase, or enter into a contract under which it will or may purchase, such equity shares unless either:

- (a) the terms of issue of such convertible shares include provisions permitting the Company to purchase its own equity shares or providing for adjustment to the conversion terms upon such a purchase; or
- (b) the purchase, or the contract, has first been approved by an extraordinary resolution passed at a separate meeting of the holders of such convertible shares.

7. Reduction of capital

Subject to the provisions of the Act, the provisions of Articles 59 and 60 and to any rights conferred on the holders of any class of shares, the Company may by special resolution reduce its share capital or any capital redemption reserve, share premium account or other undistributable reserve in any way.

8. Issue of securities

Without affecting any special rights conferred on the holders of any shares and subject to the provisions of Articles 59 to 60 (except in the case of the Equalisation Share or the Plc Special Voting Share), any shares or other securities may be issued by the Company with preferred, deferred or other special rights, obligations or restrictions, whether in regard to dividends, voting, return of share capital, payment of calls, rights of conversion, rights of redemption (whether at the option of the holder or the Company) or otherwise, as and when the Board may determine and on any other terms the Board considers appropriate provided that the rights attaching to a class other than Ordinary Shares shall be expressed at the date of issue.

9. Directors' statutory authorisation

Subject to the provisions of the Statutes relating to authority, pre-emption rights (to the extent not disapplied in accordance with the Statutes) and otherwise and of any resolution of the Company in general meeting passed pursuant thereto, all unissued shares shall be at the disposal of the Directors and they may allot (with or without conferring a right of renunciation), grant options over or otherwise dispose of them to such persons, at such times and on such terms as they think proper.

10. Commissions on issue of shares

The Company may exercise the powers of paying commissions conferred by the Statutes to the full extent thereby permitted. The Company may also on any issue of shares pay such brokerage as may be lawful.

11. Renunciation of allotment

The Directors may at any time after the allotment of any share but before any person has been entered in the Register in respect of shares in certificated form as the holder:

- (a) recognise a renunciation thereof by the allottee in favour of some other person and may accord to any allottee of a share a right to effect such renunciation; and/or
- (b) allow the rights represented thereby to be one or more participating securities,

in each case upon and subject to such terms and conditions as the Directors may think fit to impose.

12. Non-recognition of equitable or other interests

Except as required by law or these Articles, no person shall be recognised by the Company as holding any share upon any trust, and the Company shall not be bound by or compelled in any way to recognise any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share, or (except only as by these Articles or by law otherwise provided) any other right in respect of any share, except an absolute right to the entirety thereof in the holder.

FORM OF HOLDING OF SHARES

13. Certificates

The Board may determine to issue certificates for shares or other securities of the Company, to cancel any certificates in issue and to replace lost, destroyed or defaced certificates in issue on the basis and in the form it thinks fit.

14. Not used

15. Not used

JOINT HOLDERS

16. Joint holders

Where two or more persons are registered as the holders of any share, they hold the share subject to the following provisions:

- (a) **(Number of holders)** the Company is not bound to register more than four persons as the holders of the share (except in the case of personal representatives);
- (b) **(Liability for payments)** the joint holders of the share are liable severally as well as jointly in respect of all payments which ought to be made in respect of the share;
- (c) **(Death of joint holder)** on the death of any one of the joint holders, the remaining joint holders are the only persons recognised by the Company as having any title to the share but the Board may require evidence of death and the estate of the deceased holder is not released from any liability in respect of the share;
- (d) **(Power to give receipt)** any one of the joint holders may (and, in any case where two or more persons are jointly entitled to a share in consequence of the death or bankruptcy of the holder or otherwise by operation of law, any one of those persons jointly entitled may) give a receipt for any dividend, bonus or return of capital payable to the joint holders;
- (e) **(Notices and certificates)** only the person whose name appears first in the Register as one of the joint holders of the share is entitled, if the Company determines to issue certificates for shares, to delivery of a certificate relating to the share or to receive notices from the Company and any notice given to that person is notice to all the joint holders;
- (f) **(Votes of joint holders)** any one of the joint holders may vote at any meeting of the Company either personally or by properly authorised representative, proxy or attorney, in respect of the share as if that joint holder was solely entitled to the share. If more than one of the joint holders are present at any meeting personally or by properly authorised representative, proxy or attorney, the joint holder who is present whose name appears first in the Register in respect of the share is entitled alone to vote in respect of the share.

CALLS ON SHARES

17. Power to make calls

- (1) Subject to the terms on which any shares may have been issued, the Board may make calls on the shareholders in respect of all moneys unpaid on their shares. Each shareholder (subject to receiving at least 14 days' notice specifying the time or times and place of payment) is liable to pay the amount of each call in the manner, at the time and at the place specified by the Board. Calls may be made payable by instalments.
- (2) A call is considered to have been made at the time when the resolution of the Board authorising the call was passed. The call may be revoked or postponed at the discretion of the Board at any time prior to the date on which payment in respect of the call is due. The non-receipt of a notice of any call by, or the accidental omission to give notice of any call to, any shareholder does not invalidate the call.

18. Voting restrictions - unpaid calls

No shareholder shall, unless the Directors otherwise determine, be entitled in respect of any share held by him to vote either personally or by proxy at a shareholders' meeting or to exercise any other right conferred by membership in relation to shareholders' meetings if any call or other sum presently payable by him to the Company in respect of that share remains unpaid.

19. Interest on overdue amounts

If any sum payable in respect of a call is not paid on or before the date for payment, the shareholder from whom the sum is due is to pay interest on the unpaid amount from the due date to the date of payment at the rate the Board determines. The Board may waive the whole or part of any interest paid or payable under this Article.

20. Power to differentiate between holders

The Board may make arrangements on the allotment of shares for a difference between the holders of those shares in the amount of calls to be paid and the time of payment of the calls.

21. Instalments; Payment of calls in advance

- (1) Any sum which by the terms of issue of a share becomes payable upon issue or at any fixed date shall for all the purposes of these Articles be deemed to be a call duly made and payable on the date on which by the terms of allotment the same becomes payable. In case of non-payment all the relevant provisions of these Articles as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.

- (2) The Board may if it thinks fit receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon the shares held by him and such payment in advance of calls shall extinguish *pro tanto* the liability upon the shares in respect of which it is made and upon the money so received (until and to the extent that the same would but for such advance become payable) the Company may pay interest at such rate as the member paying such sum and the Board may agree.

FORFEITURE AND LIEN

22. Notice requiring payment of sums payable

- (1) If any shareholder fails to pay any sum payable on or in respect of any shares (including money payable on issue, calls or instalments) on or before the day for payment, the Board may serve a notice on the shareholder requiring that shareholder to pay the sum together with interest accrued and all expenses incurred by the Company by reason of the non-payment. The notice may be served at any time whilst any part of the sum remains unpaid.
- (2) The notice referred to in Article 22(1) must state a day on or before which the sum, interest and expenses (if any) are to be paid and the place where payment is to be made. The notice is also to state that, if payment is not made by the time and at the place specified, the shares in respect of which the sum is payable are liable to be forfeited.

23. Forfeiture on non-compliance with notice

- (1) If there is non-compliance with the requirements of any notice given under Article 22(1), any shares in respect of which the notice has been given may be forfeited by a resolution of the Board passed at any time after the time specified in the notice for payment. The forfeiture is to include all dividends, interest and other moneys payable by the Company in respect of the forfeited shares and not actually paid before the forfeiture.
- (2) When any share is forfeited, notice of the resolution of the Board is to be given to the shareholder in whose name it stood immediately prior to the forfeiture, and an entry of the forfeiture and the date of forfeiture is to be made in the Register. Failure to give notice or make the entry as required by this Article does not invalidate the forfeiture.

24. Surrender of shares

Subject to the Statutes, the Board may, in its discretion, accept the surrender of any share. Any shares surrendered may be sold or re-issued in the same manner as forfeited shares.

25. Disposal of forfeited shares

Any forfeited share is considered to be the property of the Company and the Board may sell or otherwise dispose of or deal with the share in any manner it thinks fit and with or without any money paid on the share by any former holder being credited as paid up. At any time before any forfeited share is sold or otherwise disposed of, the Board may annul the forfeiture of the share on any condition it thinks fit.

26. Liability despite forfeiture

Any shareholder whose shares have been forfeited is, despite the forfeiture, liable to pay and must immediately pay to the Company all sums of money, interest and expenses owing on or in respect of the forfeited shares at the time of forfeiture, together with expenses and interest from that time until payment at the rate the Board determines. The Board may enforce the payment or waive the whole or part of any sum paid or payable under this Article as it thinks fit.

27. Company's lien

The Company has a first and paramount lien on every share (not being a fully paid share) for unpaid calls, instalments, interest due in relation to any calls or instalments and any amounts the Company is required by law to pay on the share. The lien extends to the proceeds of sale of the share and to all dividends and bonuses declared in respect of the share but, if the Company registers a transfer of any share on which it has a lien without giving the transferee notice of any claim it may have at that time, the share is discharged from the lien of the Company in respect of that claim. Subject to the provisions of the Statutes, the Board may do all things it considers appropriate to protect or enforce any lien.

28. Sale of shares to enforce lien

For the purpose of enforcing a lien, the Board may sell the shares which are subject to the lien (and in respect of which an amount is due to the Company but unpaid) in any manner it thinks fit and with or without giving any notice to the shareholder in whose name the shares are registered.

29. Title of shares forfeited or sold to enforce lien

- (1) In a sale or a re-issue of forfeited shares or in the sale of shares to enforce a lien, an entry in the Board's minute book that the shares have been forfeited, sold or re-issued in accordance with these Articles is sufficient evidence of that fact as against all persons entitled to the shares immediately before the forfeiture, sale or re-issue of the shares. The Company may receive the purchase money or consideration (if any) given for the shares on any sale or re-issue.

- (2) In a sale or re-issue, a certificate signed by a Director or the Secretary to the effect that the shares have been forfeited and the receipt of the Company for the price of the shares constitutes a good title to them.
- (3) In a sale, the Board may appoint a person to execute, or may otherwise effect, a transfer in favour of the person to whom the shares are sold.
- (4) On the issue of the receipt or the transfer being executed or otherwise effected the person to whom the shares have been re-issued or sold is to be registered as the holder of the shares, discharged from all calls or other money due in respect of the shares prior to the re-issue or purchase and that person is not bound to see to the regularity of the proceedings or to the application of the purchase money or consideration; nor is that person's title to the shares affected by any irregularity or invalidity in the proceedings relating to the forfeiture, sale or re-issue.
- (5) The net proceeds of any sale or re-issue are to be applied first in payment of all costs of or in relation to the enforcement of the lien or the forfeiture (as the case may be) and of the sale or re-issue, next in satisfaction of the amount in respect of which the lien exists as is then payable to the Company (including interest) and the residue (if any) paid to, or at the direction of, the person registered as the holder of the shares immediately prior to the sale or re-issue or to the person's executors, administrators or assigns on the production of any evidence as to title required by the Board.

30. Payments by the Company

- (1) Article 30(2) applies if any law of any place imposes or purports to impose any immediate or future or possible liability on the Company to make any payment or empowers any government or authority to require the Company to make any payment in respect of any securities held either jointly or solely by any holder or in respect of any transfer of those securities or in respect of any interest, dividends, bonuses or other moneys due or payable or accruing due or which may become due or payable to the holder by the Company on or in respect of any securities or for or on account or in respect of any holder of securities, whether because of:
 - (a) the death of the holder;
 - (b) the non-payment of any income tax or other tax by the holder;
 - (c) the non-payment of any estate, probate, succession, death, stamp or other duty by the holder or the trustee, executor or administrator of that holder or by or out of the holder's estate;

- (d) any assessment of income tax against the Company in respect of interest or dividends paid or payable to the holder; or
 - (e) any other act or thing.
- (2) In each case referred to in Article 30(1):
- (a) the Company is to be fully indemnified from all liability by the holder or the holder's personal representative and by any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate;
 - (b) the Company has a lien on the securities for all moneys paid by the Company in respect of the securities under or in consequence of any law;
 - (c) the Company has a lien on all dividends, bonuses and other moneys payable in respect of the securities registered in the Register as held either jointly or solely by the holder for all moneys paid or payable by the Company in respect of the securities under or in consequence of any law, together with interest at a rate the Board may determine from the date of payment to the date of repayment, and may deduct or set off against any dividend, bonus or other moneys payable any moneys paid or payable by the Company together with interest;
 - (d) the Company may recover as a debt due from the holder or the holder's personal representative or any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate, any moneys paid by the Company under or in consequence of any law which exceed any dividend, bonus or other money then due or payable by the Company to the holder together with interest at a rate the Board may determine from the date of payment to the date of repayment; and
 - (e) if any money is paid or payable by the Company under any law, the Company may refuse to register a transfer of any securities by the holder or the holder's personal representative until the money and interest is set off or deducted or, where the money and interest exceeds the amount of any dividend, bonus or other money then due or payable by the Company to the holder, until the excess is paid to the Company.

Nothing in this Article affects any right or remedy which any law confers on the Company and any right or remedy is enforceable by the Company against the holder or the holder's personal representative.

VARIATION OF RIGHTS

31. Variation of class rights

Subject to Articles 59 to 60, whenever the capital of the Company is divided into different classes of shares, the special rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied or abrogated by a special resolution approving the proposed variation or abrogation passed by the Company and:

- (a) at a special meeting of the holders of the issued shares of the class affected, by an extraordinary resolution passed by a majority of not less than three-quarters of the holders present and voting either in person or by a representative proxy or attorney; or
- (b) by consent in writing signed by the holders of at least three-quarters in nominal value of the issued shares of the class affected.

No approval or consent shall be required in respect of the redemption of any redeemable preference shares in accordance with the terms of issue. For the purpose of this Article, any member who on a poll personally or by representative, proxy or attorney votes at a special meeting in favour of a resolution approving a proposed variation, abrogation or repayment shall be deemed to have consented in writing to the variation, abrogation or repayment.

32. Matters not constituting variation of rights

The special rights attached to any class of shares having preferential rights shall not unless otherwise expressly provided by the terms of issue thereof be deemed to be varied by (a) the creation or issue of further shares ranking as regards participation in the profits or assets of the Company in some or all respects *pari passu* therewith but in no respect in priority thereto or (b) the purchase by the Company of any of its own shares.

TRANSFER OF SECURITIES

33. Form of transfer

- (1) All transfers of shares which are in certificated form may be effected by transfer in writing in any usual or common form or in any other form acceptable to the Directors and may be under hand only. The instrument of transfer shall be signed by or on behalf of the transferor and (except in the case of fully-paid shares) by or on behalf of the transferee. The transferor shall remain the holder of the shares concerned until the name of the transferee is entered in the Register in respect thereof.
- (2) All transfers of shares which are in uncertificated form may be effected by means of a relevant system.

34. Balance certificate

Where some only of the shares comprised in a share certificate are transferred the old certificate shall be cancelled and, to the extent that the balance is to be held in certificated form, a new certificate for the balance of such shares issued in lieu without charge.

35. Right to refuse registration

- (1) The Directors may decline to recognise any instrument of transfer relating to shares in certificated form unless it is in respect of only one class of share and is lodged (duly stamped if required) at the Transfer Office accompanied by the relevant share certificate(s) and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer (and, if the instrument of transfer is executed by some other person on his behalf, the authority of that person so to do). In the case of a transfer of shares in certificated form by a recognised clearing house or a nominee of a recognised clearing house or of a recognised investment exchange the lodgement of share certificates will only be necessary if and to the extent that certificates have been issued in respect of the shares in question.
- (2) The Directors may, in the case of shares in certificated form, in their absolute discretion and without assigning any reason therefore refuse to register any transfer of shares (not being fully-paid shares) provided that, where any such shares are admitted to the Official List, such discretion may not be exercised in such a way as to prevent dealings in the shares of that class from taking place on an open and proper basis.
- (3) The Directors may also refuse to register an allotment or a transfer of shares (whether fully paid or not) in favour of more than 4 persons jointly.
- (4) If the Directors refuse to register an allotment or transfer they shall within two months after the date on which:
 - (a) the letter of allotment or transfer was lodged with the Company (in the case of shares held in certificated form); or
 - (b) the Operator-instruction was received by the Company (in the case of shares held in uncertificated form),send to the allottee or transferee notice of the refusal.
- (5) The Directors shall decline to register any transfer of the Special Voting Share unless the transfer has been approved in accordance with Clause 5.1 of the Voting Agreement. The Directors shall decline to register any transfer of the Equalisation Share unless the transfer is to a member of the Limited Group or a trustee for the benefit of a member or members of the Limited Group.

36. Retention of transfers

All instruments of transfer which are registered may be retained by the Company.

37. No fee on registration

No fee will be charged by the Company in respect of the registration of any transfer or other document relating to or affecting the title to any shares or otherwise for making any entry in the Register affecting the title to any shares.

38. Closure of Register

The registration of transfers may be suspended at such times and for such periods (not exceeding 30 days in any year) as the Directors may from time to time determine and either generally or in respect of any class of shares, except that, in respect of any shares which are participating securities, the Register shall not be closed without the consent of the Operator.

39. Branch Register

Subject to and to the extent permitted by the Statutes, the Company, or the Directors on behalf of the Company, may cause to be kept in any territory a branch register of members resident in such territory, and the Directors may make and vary such regulations as they may think fit respecting the keeping of any such register.

40. Further Provisions on Shares in Uncertificated Form

- (1) Subject to the Statutes and the rules (as defined in the Regulations), the Directors may determine that any class of shares may be held in uncertificated form and that title to such shares may be transferred by means of a relevant system or that shares of any class should cease to be held and transferred as aforesaid.
- (2) The provisions of these Articles shall not apply to shares of any class which are in uncertificated form to the extent that such Articles are inconsistent with:
 - (a) the holding of shares of that class in uncertificated form;
 - (b) the transfer of title to shares of that class by means of a relevant system; or
 - (c) any provision of the Regulations.

For the purpose of effecting any actions by the Company, the Directors may determine that holdings of the same member in uncertificated form and in certificated form shall be treated as separate holdings.

TRANSMISSION OF SECURITIES

41. Transmission on death

The personal representative of a deceased shareholder (who is not one of several joint holders) is the only person recognised by the Company as having any title to securities registered in the name of the deceased shareholder. Subject to compliance by the transferee with these Articles, the Board may register any transfer effected by a shareholder prior to the shareholder's death despite the Company having notice of the shareholder's death.

42. Election of persons entitled by transmission

A person (a *transmittee*) who satisfies the Board that the right to any securities has devolved on the transmittee by will or by operation of law may be registered as a shareholder in respect of the securities or may (subject to the provisions in these Articles relating to transfers) transfer the securities. The Board has the same right to refuse to register the transmittee as if the transmittee was the transferee named in an ordinary transfer presented for registration.

43. Rights of persons entitled by transmission

Save as otherwise provided by or in accordance with these Articles, a person becoming entitled to a share in consequence of the death or bankruptcy of a member or otherwise by operation of law shall (upon supplying to the Company such evidence as the Directors may reasonably require to show his title to the share) be entitled to the same dividends and other advantages as those to which he would be entitled if he were the registered holder of the share.

UNTRACED SHAREHOLDERS

44. Untraced Shareholders

- (1) The Company shall be entitled to sell at the best price reasonably obtainable at the time of sale the shares of a member or the shares to which a person is entitled by virtue of transmission on death or bankruptcy or otherwise by operation of law if and provided that:
 - (a) during the period of 12 years prior to the date of the publication of the advertisements referred to in paragraph (b) below (or, if published on different dates, the first thereof) at least three dividends in respect of the shares have become payable and no dividend in respect of those shares has been claimed; and
 - (b) the Company shall on expiry of such period of 12 years have inserted advertisements in both a national newspaper and in a newspaper circulating in the area in which the last known address of the member or the address at which service of notices may be effected under these Articles is located giving notice of its intention to sell the said shares; and

- (c) during the period of three months following the publication of such advertisements the Company shall have received no communication from such member or person; and
 - (d) notice shall have been given to the London Stock Exchange of its intention to make such sale.
- (2) To give effect to any such sale the Company may appoint any person to transfer, as transferor, the said shares and such transfer shall be as effective as if it had been carried out by the registered holder of or person entitled by transmission to such shares and the title of the transferee shall not be affected by any irregularity or invalidity in the proceedings relating thereto. The net proceeds of sale shall belong to the Company which shall be obliged to account to the former member or other person previously entitled as aforesaid for an amount equal to such proceeds and shall enter the name of such former member or other person in the books of the Company as a creditor for such amount which shall be a permanent debt of the Company. No trust shall be created in respect of the debt, no interest shall be payable in respect of the same and the Company shall not be required to account for any money earned on the net proceeds, which may be employed in the business of the Company or invested in such investments (other than shares of the Company or its holding company if any) as the Directors may from time to time think fit.

GENERAL MEETINGS

45. Calling of general meetings

- (1) The Board may, and shall on requisition in accordance with the Statutes, call a general meeting of the Company to be held at the time and place or places and in the manner determined by the Board. No shareholder may convene a general meeting of the Company except where entitled under the Statutes to do so. By resolution of the Board any general meeting may be cancelled or postponed prior to the date on which it is to be held, except where the cancellation or postponement would be contrary to the Statutes. The Board may give notice of a cancellation or postponement as it thinks fit but any failure to give notice of cancellation or postponement does not invalidate the cancellation or postponement or any resolution passed at a postponed meeting.
- (2) Any Director may convene a general meeting whenever the Director thinks fit. A Director may cancel by notice in writing to all members any meeting convened by that Director under this Article 45(2).

46. Length of notice for General Meetings

An annual general meeting and any general meeting at which it is proposed to pass a special resolution or (save as provided by the Statutes) a resolution of which special notice has been given to the Company, shall be called by 21 days' notice in writing at the least and any other general meeting by 14 days' notice in writing at the least. The period of notice shall in each case be exclusive of the day on which it is served or deemed to be served and of the day on which the meeting is to be held and shall be given in manner hereinafter mentioned to all members other than such as are not under the provisions of these Articles entitled to receive such notices from the Company. Provided that the Company may determine that only those persons entered on the Register at the close of business on a day determined by the Company, such day being no more than 21 days before the day that notice of the meeting is sent, shall be entitled to receive such a notice and provided also that a general meeting notwithstanding that it has been called by a shorter notice than that specified above shall be deemed to have been duly called if it is so agreed:

- (a) in the case of an annual general meeting by all the members entitled to attend and vote thereat; and
- (b) in the case of any other general meeting by a majority in number of the members having a right to attend and vote thereat, being a majority together holding not less than 95 per cent in nominal value of the shares giving that right.

47. Contents of notice of general meetings

- (1) Where the Company has called a general meeting, notice of the meeting may be given in the form and manner in which the Board thinks fit. The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to notice, does not invalidate any resolution passed at that meeting.
- (2) For the purposes of determining which persons are entitled to attend or vote at a meeting and how many votes such a person may cast, the Company may specify in the notice of the meeting a time, not more than 48 hours before the time fixed for the meeting, by which a person must be entered on the Register in order to have the right to attend or vote at the meeting.

PROCEEDINGS AT GENERAL MEETINGS

48. Chairman

- (1) The Chairman of the Board is entitled to chair every general meeting.
- (2) If at any general meeting:
 - (a) the Chairman of the Board is not present at the specified time for holding the meeting; or

- (b) the Chairman of the Board is present but is unwilling to chair the meeting,
the Deputy Chairman of the Board is entitled to chair the meeting.
- (3) If at any general meeting:
 - (a) there is no Chairman of the Board or Deputy Chairman of the Board;
 - (b) the Chairman of the Board and Deputy Chairman of the Board are not present at the specified time for holding the meeting; or
 - (c) the Chairman of the Board and the Deputy Chairman of the Board are present but each is unwilling to chair the meeting,
the Directors present may choose another Director as Chairman of the meeting and if no Director is present or if each of the Directors present is unwilling to chair the meeting, a shareholder chosen by the shareholders present is entitled to chair the meeting.
- (4) If during any general meeting the Chairman acting under the preceding paragraphs of this Article 48 is unwilling to chair any part of the proceedings, the Chairman may withdraw as Chairman during the relevant part of the proceedings and may nominate any person who immediately before the general meeting was a Director or who has been nominated for election as a Director at the meeting to be Acting Chairman of the meeting during the relevant part of the proceedings. On the conclusion of the relevant part of the proceedings the Acting Chairman is to withdraw and the Chairman is to resume to chair the meeting.

49. Quorum

Five shareholders present in person or by proxy constitute a quorum for a general meeting. No business may be transacted at any meeting except the election of a Chairman and the adjournment of the meeting unless the requisite quorum is present at the commencement of the business.

50. Lack of quorum

If there is not a quorum at a general meeting within 15 minutes after the time specified in the notice of the meeting, the meeting is dissolved unless the Chairman adjourns the meeting to a date, time and place determined by the Chairman. If no quorum is present at any adjourned meeting within 15 minutes after the time for the meeting, the meeting is dissolved.

51. Adjournment

- (1) The Chairman may and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place.
- (2) In determining whether to adjourn the meeting under paragraph (1), the Chairman shall have regard to:
 - (a) any notice received of any adjournment of the Parallel General Meeting (if any); and

- (b) the impact of any adjournment on the Parallel General Meeting (if any).
- (3) If the Chairman elects to adjourn the meeting under paragraph (1), the Chairman may decide whether to seek the approval of the meeting.
- (4) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (5) Subject to paragraph (6), it is not a requirement of these Articles to give notice of an adjournment or of the business to be transacted at an adjourned meeting.
- (6) The company shall as soon as possible give notice to Limited of an adjournment and of the business to be transacted at an adjourned meeting.
- (7) Without prejudice to any other power which the chair may have under the provisions of these Articles or at law, the Chairman may, without the consent of the meeting, interrupt or adjourn a meeting from time to time and from place to place or for an indefinite period if the Chairman decides that it has become necessary to do so in order to:
 - (a) secure the proper and orderly conduct of the meeting;
 - (b) give all persons entitled to do so a reasonable opportunity of speaking and voting at the meeting; or
 - (c) ensure that the business of the meeting is properly disposed of.

52. Not used

53. Conduct of General Meetings

- (1) The conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined at, during or prior to the meeting by the Chairman.
- (2) The Chairman or a person acting with the Chairman's authority may require any person who wishes to attend the meeting to comply with searches, restrictions or other security arrangements the Chairman or a person acting with the Chairman's authority considers appropriate. The Chairman or a person acting with the Chairman's authority may refuse entry to any person who does not comply with the arrangements, any person who possesses a recording or broadcasting device without the consent of the Chairman or a person acting with the Chairman's authority, or any person who possesses an article which the Chairman or person acting with the Chairman's authority considers to be dangerous, offensive or liable to cause disruption. At any

time the Chairman considers it necessary or desirable for the proper and orderly conduct of the meeting, the Chairman may demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and if the Chairman considers it appropriate require the business, question, motion or resolution to be put to a vote of the shareholders present.

- (3) The Chairman may require the adoption of any procedures which are in the Chairman's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll.
- (4) Any determination by the Chairman in relation to matters of procedure (including any procedural motions moved at or put to any meeting) is final.
- (5) If it appears to the Chairman that the place of the meeting specified in the notice convening a general meeting is inadequate to accommodate all persons entitled and wishing to attend, the meeting is duly constituted and its proceedings are valid if the Chairman is satisfied that adequate facilities are available, whether at the place of the meeting or elsewhere, to ensure that each such person who is unable to be accommodated at the place of the meeting is able to participate in the business for which the meeting has been convened and to hear and see all persons present who speak (and be heard and be seen), whether by use of microphones, loud-speakers, audio-visual communications equipment or otherwise (whether in use when these Articles are adopted or developed subsequently).
- (6) A Director shall be entitled to attend and speak at any general meeting of the Company and at any separate meeting of the holders of any class of shares of the Company.

54. Substantive Resolutions

- (1) The business of an annual general meeting is to consider the accounts and reports required by the Act to be laid before each annual general meeting, to elect Directors, when relevant to appoint an auditor and fix the auditor's remuneration, and to transact any other business which, under these Articles, is required to be transacted at any annual general meeting. All other business transacted at an annual general meeting and all business transacted at other general meetings is deemed to be special. Except with the approval of the Board, with the permission of the Chairman or under the Statutes, no person may move at any meeting either any resolution or any amendment of any resolution of which notice has not been given under Article 47 or this Article 54 (as the case may be).
- (2) If an amendment shall be proposed to any resolution under consideration but shall in good faith be ruled out of order by the chairman of the meeting the proceedings on the Substantive Resolution shall not be invalidated by any error in such ruling.

- (3) In the case of a Substantive Resolution duly proposed as a special or extraordinary resolution, no amendment thereto (other than a mere clerical amendment to correct a patent error) may in any event be considered or voted upon.
- (4) Without prejudice to any other restriction on the right to move amendments to Substantive Resolutions, in the case of a Substantive Resolution duly proposed as an ordinary resolution to approve a Joint Electorate Action, no amendment to that resolution (other than a mere clerical amendment to correct a patent error or an amendment to conform such resolution to a resolution duly proposed or to be proposed at the Parallel General Meeting or an amendment to such resolution considered and approved at the Parallel General Meeting) shall be considered or voted upon unless written notice of the intention to move the amendment is received by the Company at least 48 hours prior to the time appointed for holding the relevant meeting or adjourned meeting or (in the absence of such notice) the Chairman of the meeting in the Chairman's absolute discretion rules that the amendment shall be considered, provided that no amendment shall be considered where the Parallel General Meeting has already been held.

GENERAL VOTING AND POLL PROCEDURES

55. Voting

- (1) The Chairman may determine that any question to be submitted to a general meeting be determined by a poll without first submitting the question to the meeting to be decided by a show of hands.
- (2) A poll may be demanded by:
 - (a) not less than 5 members present in person or by proxy and entitled to vote;
 - (b) a member or members present in person or by proxy and representing not less than 5 per cent of the total voting rights of all the members having the right to vote at the meeting;
 - (c) the holder of the Plc Special Voting Share; or
 - (d) the Chairman.

No poll may be demanded on the election of a chairman of a meeting or, unless the Chairman otherwise determines, the adjournment of a meeting. A demand for a poll may be withdrawn. A demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
- (3) Subject to Article 56, at any general meeting a resolution (other than a procedural resolution) put to the vote of the meeting on which the holder of the Plc Special Voting Share is entitled to vote shall be decided on a poll.

- (4) Unless the Chairman makes the determination referred to in Article 55(1) or unless a poll is properly demanded or required pursuant to Articles 55(2) and (3), each question submitted to a general meeting is to be decided in the first instance by a show of hands. Unless a poll is demanded, a declaration by the Chairman that a resolution has been passed or lost is conclusive, without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (5) In the case of an equality of votes, the Chairman has, both on a show of hands and on a poll, a casting vote in addition to any votes to which the Chairman may be entitled as a shareholder, or as proxy, attorney or properly appointed representative of a shareholder.

56. Taking a poll

- (1) If a poll is determined, demanded or otherwise required as provided in Articles 55(1), (2) and (3), it is to be taken in the manner and at the time (not being more than thirty days from the date of the meeting) and place as the Chairman directs. Any poll may, as the Chairman shall direct, close at different times for different classes of shareholders or for different shareholders of the same class entitled to vote on the relevant resolution. In the case of a poll on a resolution on which the holder of the Plc Special Voting Share is entitled to vote, the poll may remain open for so long as the Chairman may determine and, in any event, shall be kept open for such time as is necessary to allow the Parallel General Meeting of Limited to be held and for the votes attaching to the Plc Special Voting Share to be calculated and cast on such poll, although such poll may be closed earlier in respect of shares of other classes. The result of the poll is deemed to be the resolution of the meeting at which the poll was demanded. In the case of any dispute as to the admission or rejection of a vote, the Chairman's determination in respect of the dispute is final.
- (2) A demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on a question of adjournment is to be taken at the meeting and without adjournment.
- (3) The result of a poll may be announced in the manner the Chairman determines and at the time (whether during the relevant meeting or afterwards) as the Chairman considers appropriate.

57. Special meetings

All the provisions of these Articles as to general meetings apply, with any necessary modifications, to any special meeting of any class of shareholders which may be held under the operation of these Articles or the Statutes.

58. Not used

VOTING RIGHTS AND PROCEDURES UNDER SHARING AGREEMENT

59. Class Rights Actions

- (1) The following matters shall constitute Class Rights Actions if undertaken by either the Company or Limited:
 - (a) the voluntary liquidation of the Company or of Limited;
 - (b) amendment of the terms of, or termination of the Sharing Agreement or the Voting Agreement, the Plc Deed Poll Guarantee or the Limited Deed Poll Guarantee (other than, in the case of the Voting Agreement, any amendment to conform such agreement with the terms of the Sharing Agreement or, in the case of any of those agreements, any amendment which is formal or technical in nature and which would not be materially prejudicial to the interests of the shareholders of the Company or of Limited or is necessary to correct any inconsistency or manifest error as agreed between the Board and the Board of Limited);
 - (c) any amendment to, or removal of, or the alteration of the effect of (which for the avoidance of doubt shall be taken to include the ratification of any breach of), any Plc Entrenched Provision or Limited Entrenched Provision as the case may be;
 - (d) any Action requiring approval as a Class Rights Action pursuant to Clause 3.1(b) of the Sharing Agreement;
 - (e) a change of the corporate status of the Company from a public limited company incorporated in England and Wales with its primary listing on the London Stock Exchange or Limited from a public company limited by shares registered under the Corporations Act with its primary listing on ASX; and
 - (f) any other action or matter which the Board and the Board of Limited agree (either in a particular case or generally) should be treated as a Class Rights Action.
- (2) A Class Rights Action in respect of an action of a kind described in:
 - (a) paragraphs 59(1)(a) to (c) shall require approval by special resolution;
 - (b) paragraphs 59(1)(d) or (e) shall require approval by ordinary resolution or in relation to either the Company or Limited, if required by Applicable Regulation applying to the Company or Limited or by these Articles or the Limited Constitution, by special resolution of the Company or Limited, as so required; and

- (c) paragraph 59(1)(f) shall require approval by ordinary resolution or in relation to either the Company or Limited, if required by Applicable Regulation applying to the Company or Limited or by these Articles or the Limited Constitution or if considered appropriate by the Board and the Board of Limited, by special resolution of the Company or Limited, as so required,

in each case in accordance with the Class Rights Procedure (and the type of resolution specified above shall be referred to in these Articles as the “**Required Resolution**”).

- (3) Subject to Article 59(4), a Class Rights Action shall require the approval by a Required Resolution of the shareholders of both the Company and Limited, in each case, at a meeting at which the holders of Ordinary Shares and the holder of the Special Voting Share are entitled to vote as a single class on a poll. In relation to such a resolution proposed at a shareholders meeting of the Company, if the proposed action has not, by the time of the closing of the poll, been approved by a Required Majority of the holders of the Limited Ordinary Shares, the holder of the Plc Special Voting Share shall have sufficient votes to defeat such resolution, as provided in Article 61(2). The holder of the Plc Special Voting Share shall otherwise not be entitled to vote in relation to that resolution.
- (4) Where an action requiring approval as a Class Rights Action would not otherwise require approval of the shareholders of the Benefited Party, the Benefited Party shall not be required to convene a meeting for the purposes of Article 59(3) and the Class Rights Action shall be approved if the holder of the Special Voting Share in the Benefited Party has given its written consent to the action, which consent shall only be given following the passing of a resolution by the Required Majority of the holders of Ordinary Shares of the Affected Party.

In this Article 59(4), “**Benefited Party**” means such one of Limited or the Company whose holders of Ordinary Shares would benefit from a proposed action relative to the holders of Ordinary Shares in the other company (“**Affected Party**”).

60. Joint Electorate Actions

- (1) Resolutions of the holders of Plc Ordinary Shares shall be subject to the Joint Electorate Procedure if they relate to the following matters:
- (a) the appointment, removal or re-election of any Director or any director of Limited or both of them;
 - (b) the receipt or adoption of the annual accounts of the Company or Limited, or both of them, or accounts prepared on a combined basis;
 - (c) a change of name by the Company or Limited or both of them;

- (d) the appointment or removal of the auditors of the Company or Limited or both of them;
- (e) any proposed acquisition or disposal or other transaction of the kinds referred to in Chapters 10 and 11 of the UKLA Listing Rules or Chapters 10 and 11 of the ASX Listing Rules which (in any case) is required under such Applicable Regulation to be authorised by holders of Ordinary Shares;
- (f) a matter referred to in clause 7.2 or 7.3 of the Sharing Agreement;
- (g) any matter considered by shareholders at an annual general meeting (or at a general meeting held on the same day as an annual general meeting); and
- (h) any other matter which the Board and the Board of Limited decide (either in a particular case or generally) should be approved under the Joint Electorate Procedure.

If a particular matter falls both within Article 59(1) and this Article 60(1), then it shall be treated as a Class Rights Action falling exclusively within Article 59(1).

- (2) A Joint Electorate Action shall require approval by both:
 - (a) an ordinary resolution (or a special resolution if required by the Limited Constitution or Applicable Regulation) of the votes cast by the holders of the Limited Ordinary Shares and the holder of the Limited Special Voting Share, voting as a single class; and
 - (b) an ordinary resolution (or a special resolution if required by these Articles or Applicable Regulation) of the votes cast by the holders of the Plc Ordinary Shares and the holder of the Plc Special Voting Share, voting as a single class.
- (3) For the purposes of Article 59 and this Article 60 only, the expression “**special resolution**” shall include any resolution of the shareholders of the Company or of Limited where Applicable Regulation or either Constitution so requires, so as to approve the relevant resolution, an affirmative vote with a majority greater than that required for an ordinary resolution and in any particular case shall mean such majority as is so required.

VOTES OF MEMBERS

61. Votes attaching to shares

- (1) Subject to Article 47 and to any special rights or restrictions as to voting attached by or in accordance with these Articles to any class of shares:
 - (a) on a show of hands:

- (i) subject to paragraphs (iii) and (iv), each shareholder present in person or by proxy, representative or attorney (except the holder of the Plc Special Voting Share) has one vote;
 - (ii) the holder of the Plc Special Voting Share shall not be entitled to vote;
 - (iii) where a shareholder has appointed more than one person as representative, proxy or attorney for that shareholder, none of the representatives, proxies or attorneys is entitled to vote on a show of hands;
 - (iv) where a person is entitled to vote in more than one capacity, that person is entitled only to one vote; and
 - (b) subject to Article 61(1)(c), on a poll:
 - (i) every member who is present in person or by proxy (except the holder of the Plc Special Voting Share) shall have:
 - (A) one vote for each fully paid share of which he is the holder; and
 - (B) for each partly-paid share, such proportion (the “**Relevant Proportion**”) of the votes attached to a fully-paid share as would mean that the Relevant Proportion is the same as the proportion that the amount paid up or agreed to be considered as paid up on the total issue price of that share at the time the poll is taken bears to the total issue price of the share;
 - (ii) and the holder of the Plc Special Voting Share shall have the Specified Number (as defined in Article 62) of votes.
 - (c) on a poll, votes may be given either personally or by proxy (unless the Board has approved other means (including electronic) for the casting and recording of votes by shareholders) and a person entitled to more than one vote need not use all that person’s votes or cast all the votes in the same way.
- (2) The holders of the cumulative Preference Shares shall, by virtue of and in respect of their holdings of cumulative Preference Shares, have the right to receive notice of any general meeting of the Company and to attend, speak and vote at a general meeting of the Company only:
- (a) if and when, at the date of the notice convening such meeting, the Preferential Dividend on such shares is six months or more in arrears; or

- (b) if a resolution is to be proposed abrogating, varying or modifying any of the rights or privileges of the holders of the cumulative Preference Shares or for the winding up of the Company, in which case they shall only be entitled to vote on such resolution.

62. Specified Number

- (1) The holder of the Plc Special Voting Share shall be entitled to attend at any General Meeting and, subject to the provisions below, to cast on a poll the Specified Number (as set out below) of votes some of which may be cast for and others against any resolution in such numbers as the holder may determine.
- (2) **(Joint Electorate Actions)** The Specified Number of votes in relation to a resolution of the Company on a Joint Electorate Action shall be the total number of votes validly cast on the poll on the equivalent resolution at the Parallel General Meeting of Limited (other than those cast in respect of Limited Excess Shares) multiplied by the Equalisation Fraction in effect at the time of such General Meeting rounded up to the nearest whole number.
- (3) **(Class Rights Actions)** On any resolution to approve a Class Rights Action the Specified Number of votes shall be equal to 34 per cent. (in relation to an action to be approved by special resolution) and 67 per cent. (in relation to an action to be approved by ordinary resolution) in each case, of the aggregate number of votes attaching to all classes of issued shares in the Company which could be cast on such resolution (rounded up to the next whole number).
- (4) **(Procedural Resolutions)** On any procedural resolution in relation to or affecting a resolution relating to a Joint Electorate Action put to a General Meeting at which a Joint Electorate Action is to be considered, the Specified Number of votes which may be cast shall be the greatest number of votes cast on any equivalent resolution on a Joint Electorate Action at the Parallel General Meeting of Limited or, if the General Meeting of Limited has not been held and such votes counted by the beginning of the relevant General Meeting, the greatest number of such votes as are authorised to be so cast upon proxies lodged with Limited by such time as the Chairman may determine, in each case, multiplied by the Equalisation Fraction in effect at the time of such General Meeting and rounded up to the nearest whole number .
- (5) **(Other decisions)** The Specified Number of votes that may be cast on all other decisions shall be zero.

The Plc Special Voting Share shall not entitle its holder to vote on any show of hands.

63. Not used

64. Restriction on voting in particular circumstances

- (1) Not used.
- (2) If any member, or any other person appearing to be interested in shares held by such member, has been duly served with a notice under Section 212 of the Act and is in default for a period of 14 days in supplying to the Company the information thereby required, then (unless the Directors otherwise determine) in respect of:
 - (a) the shares comprising the shareholding account in the Register which comprises or includes the shares in relation to which the default occurred (all or the relevant number as appropriate of such shares being the “**default shares**”, which expression shall include any further shares which are issued in respect of such shares); and
 - (b) any other shares held by the member,the member shall not (for so long as the default continues) nor shall any transferee to whom any of such shares are transferred other than pursuant to an approved transfer or pursuant to Article 64(3)(b) below be entitled to attend or vote either personally or by proxy at a shareholders’ meeting or to exercise any other right conferred by membership in relation to shareholders’ meetings.
- (3) Where the default shares represent 0.25 per cent or more of the issued shares of the class in question, the Directors may in their absolute discretion by notice (a “**direction notice**”) to such member direct that:
 - (a) any dividend or part thereof or other money which would otherwise be payable in respect of the default shares shall be retained by the Company without any liability to pay interest thereon when such money is finally paid to the member and the member shall not be entitled to elect to receive shares in lieu of dividend; and/or
 - (b) no transfer of any of the shares held by such member shall be registered unless the transfer is an approved transfer, or:
 - (i) the member is not himself in default as regards supplying the information required; and
 - (ii) the transfer is of part only of the member’s holding and, when presented for registration, is accompanied by a certificate by the member in a form satisfactory to the Directors to the effect that after due and careful enquiry the member is satisfied that none of the shares the subject of the transfer are default shares,

provided that, in the case of shares in uncertificated form, the Directors may only exercise their discretion not to register a transfer if permitted to do so by the Regulations.

Any direction notice may treat shares of a member in certificated and uncertificated form as separate holdings and either apply only to the former or to the latter or make different provision for the former and the latter. Upon the giving of a direction notice its terms shall apply accordingly.

- (4) The Company shall send to each other person appearing to be interested in the shares the subject of any direction notice a copy of the notice, but the failure or omission by the Company to do so shall not invalidate such notice.
 - (a) Save as herein provided any direction notice shall have effect in accordance with its terms for so long as the default in respect of which the direction notice was issued continues and shall cease to have effect thereafter upon the Directors so determining (such determination to be made within a period of one week of the default being duly remedied with written notice thereof being given forthwith to the member).
 - (b) Any direction notice shall cease to have effect in relation to any shares which are transferred by such member by means of an approved transfer or in accordance with Article 64(3)(b) above.
- (5) For the purposes of this Article:
 - (a) a person shall be treated as appearing to be interested in any shares if the member holding such shares has been served with a notice under the said Section 212 and either (i) the member has named such person as being so interested or (ii) (after taking into account the response of the member to the said notice and any other relevant information) the Company knows or has reasonable cause to believe that the person in question is or may be interested in the shares; and
 - (b) a transfer of shares is an approved transfer if:
 - (i) it is a transfer of shares to an offeror by way or in pursuance of acceptance of a takeover offer (as defined in Section 428 of the Act); or
 - (ii) the Directors are satisfied that the transfer is made pursuant to a bona fide sale of the whole of the beneficial ownership of the shares to a party unconnected with the member or with any person appearing to be interested in such shares including any such sale made through the London Stock Exchange or any other stock exchange outside the United Kingdom on which the Company's shares are normally traded. For the purposes of this sub-paragraph any associate

(as that term is defined in Section 435 of the Insolvency Act 1986) shall be included amongst the persons who are connected with the member or any person appearing to be interested in such shares.

(6) The provisions of this Article are in addition and without prejudice to the provisions of the Act.

65. Not used

66. Voting by guardian

Where a guardian, receiver or other person (by whatever name called) has been appointed by any court claiming jurisdiction in that behalf to exercise powers with respect to the property or affairs of any member on the ground (however formulated) of mental disorder, the Directors may in their absolute discretion, upon or subject to production of such evidence of the appointment as the Directors may require, permit such guardian, receiver or other person on behalf of such member to vote in person or by proxy at any shareholders' meeting or to exercise any other right conferred by membership in relation to shareholders' meetings.

67. Validity and result of vote

- (1) No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairman of the meeting whose decision shall be final and conclusive.
- (2) Unless a poll is taken, a declaration by the chairman of the meeting that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book, shall be conclusive evidence of that fact without proof of the number or proportion of the votes recorded for or against such resolution.

PROXIES AND CORPORATE REPRESENTATIVES

68. Proxies

- (1) An instrument appointing a proxy shall be in writing in any usual or common form or in any other form which the Directors may approve and:
 - (a) in the case of an individual shall be signed by the appointor or his attorney; and

- (b) in the case of a corporation shall be either given under its common seal or signed on its behalf by an attorney or a duly authorised officer of the corporation.

The signature on such instrument need not be witnessed.

- (2) An instrument appointing a proxy must be left at such place or one of such places (if any) as may be specified for that purpose in or by way of note to or in any document accompanying the notice convening the meeting (or, if no place is so specified, at the Transfer Office) not less than 48 hours before the time appointed for the holding of the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) for the taking of the poll at which it is to be used, and in default shall not be treated as valid.
- (3) The instrument shall, unless the contrary is stated thereon, be valid as well for any adjournment of the meeting as for the meeting to which it relates. An instrument of proxy relating to more than one meeting (including any adjournment thereof) having once been so delivered for the purposes of any meeting shall not require again to be delivered for the purposes of any subsequent meeting to which it relates.
- (4) A proxy received from the holder of the Plc Special Voting Share will be valid if it is received before the closing of a poll to which it relates.

69. Validity, revocation

- (1) The validity of any resolution is not affected by the failure of any proxy or attorney to vote in accordance with instructions (if any) of the appointing shareholder.
- (2) A vote given in accordance with the terms of a proxy or power of attorney is valid despite the previous death or mental incapacity of the appointing shareholder, revocation of the proxy or power of attorney or transfer of the shares in respect of which the vote is given, unless notice in writing of the death, mental incapacity, revocation or transfer has been received at the Office at least 48 hours before the relevant meeting or adjourned meeting.
- (3) A proxy is not rendered ineffective by reason only of the adjournment of the meeting in respect of which the proxy is appointed.
- (4) A proxy is not revoked by the appointing shareholder attending and taking part in the meeting, unless the appointing shareholder votes at the meeting on the resolution for which the proxy is proposed to be used.

70. Not used

71. Rights of proxy

A proxy appointed to attend and vote for a member has the same rights as the member:

- (a) to speak at the meeting;
- (b) to vote (but only to the extent allowed by the appointment); and
- (c) to join in a demand for a poll.

72. Attorneys of shareholders

By properly executed power of attorney, any shareholder may appoint an attorney to act on the shareholder's behalf at all or certain specified meetings of the Company and such attorney shall be recognised as a person present at that meeting. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the power of attorney to the satisfaction of the Board must be produced for inspection at the Office or any other place the Board may determine together, in each case, with evidence of the due execution of the power of attorney as required by the Board. The attorney may be authorised to appoint a proxy for the shareholder granting the power of attorney.

73. Not used

DIRECTORS

74. Number of Directors

Unless and until otherwise decided by ordinary resolution, the number of Directors (not including alternate Directors) shall be not less than eight and not more than twenty. All Directors are required to be natural persons.

75. Not used

76. Remuneration of non-executive Directors

As remuneration for services each non-executive Director (other than an alternate Director) is to be paid out of the funds of the Company a sum determined by the Board payable at the time and in the manner determined by the Board but the aggregate remuneration paid to all the non-executive Directors in any year together with remuneration paid to those non-executive directors by Limited for their services may not exceed A\$3 million or such higher amount fixed by the Company in general meeting. The expression **remuneration** in this Article does not include any amount which may be paid by the Company under Articles 77, 78, 79 or 146 or by Limited under Rules 77, 78, 79 or 146 of its Constitution.

77. Remuneration of Directors for extra services

Any Director who serves on any committee, or who devotes special attention to the business of the Company, or who otherwise performs services which in the opinion of the Board are outside the scope of the ordinary duties of a Director or who, at the request of the Board, engages in any journey on the business of the Company, may be paid extra remuneration as determined by the Board.

78. Travelling and other expenses

Every Director is, in addition to any other remuneration provided for in these Articles, entitled to be paid from Company funds all reasonable travel, accommodation and other expenses incurred by the Director in attending meetings of the Company or of the Board or of any Committees or while engaged on the business of the Company.

79. Retirement benefits

The Directors shall have power to pay and agree to pay gratuities, pensions or other retirement, superannuation, death or disability benefits to (or to any person in respect of) any person who is or has been at any time a Director of the Company or in the employment or service of the Company or Limited or of any company which is or was a subsidiary of or associated with the Company or Limited. For the purpose of providing such gratuities, pensions or other benefits, the Company may contribute to any scheme or fund or pay such premiums as the Directors think fit.

80. Appointment and remuneration of executive Directors

- (1) The Directors or any committee authorised by the Board may from time to time appoint any Director to be the holder of any executive office on such terms and for such period as they may determine and, without prejudice to any claim for damages for breach of any contract entered into in any particular case, may at any time revoke or vary the terms of any such appointment.
- (2) Subject to the Statutes, a Director appointed to hold employment or executive office with the Company or Limited shall be appointed on such terms as to remuneration (whether by salary, commission, participation in profits or otherwise) as may be determined by the Board or any committee authorised by the Board.

81. Powers of Directors

The Board may entrust to and confer upon any Director any of the powers exercisable under these Articles by the Board as it thinks fit and upon such terms and conditions and with such restrictions as it thinks appropriate but the conferring of powers by the Board on a Director does not exclude the exercise of those powers by the Board, and the Board may from time to time revoke, withdraw, alter or vary all or any of such powers.

APPOINTMENT AND RETIREMENT OF DIRECTORS

82. Not used

83. Retirement by rotation

- (1) At every annual general meeting, one-third of the Directors or, if their number is not a multiple of three, then the number nearest to but not less than one-third must retire from office.
- (2) A Director who is required to retire under Article 83(1) retains office until the later of the end of the meeting at which the Director retires and the end of the Parallel General Meeting.
- (3) Subject to Articles 82(4) and 88, the Directors to retire under Article 83(1) are those longest in office since last being elected. As between Directors who were elected on the same day the Directors to retire are (in default of agreement between them) determined by lot. The length of time a Director has been in office is calculated from the Director's last election or appointment. A retiring Director is eligible for re-election.
- (4) Not used.
- (5) Without prejudice to the foregoing, a Director must retire from office at the conclusion of the third annual general meeting after which the Director was elected or re-elected.

84. Not used

85. Re-election of retiring Director

- (1) At the meeting at which a Director retires under any provision of these Articles, the Company may by ordinary resolution approved in accordance with Articles 59 to 60 fill the office being vacated by electing to that office the retiring Director or some other person eligible for election.
- (2) Notwithstanding Article 83(2), if a retiring Director is re-elected in accordance with Article 85(1) the retiring Director will continue in office without a break.
- (3) If:
 - (a) prior to the commencement of any general meeting the office of a Director has become vacant;
 - (b) that office remains vacant at the commencement of that general meeting; and
 - (c) that Director would have been taken into account in determining the number of Directors who are to retire by rotation under Article 83(1),then the Company may by ordinary resolution approved in accordance with Articles 59 to 60 fill that office by electing as a Director any person eligible for election.

86. Not used

87. Nomination of Directors

- (1) No person (other than a retiring Director) is eligible for election to the office of Director at any general meeting unless:
 - (a) a shareholder intending to nominate the person has given notice in writing signed by the shareholder; and
 - (b) the person nominated has given notice in writing signed by the person of his willingness to be elected as a Director of the Company and a Director of Limited and satisfies candidature for the office.
- (2) To be valid, the notice required under Article 87(1) is to be delivered to the Office during the period specified by the ASX Listing Rules as the minimum notice period for such nominations and in the absence of any such ASX Listing Rule, not less than 40 Business Days before the earlier of the date appointed for the meeting and the date appointed for the Parallel General Meeting of Limited unless the nominee has been recommended by the Board for election, in which case the notice is required to be delivered to the Office at least 28 days before the meeting.

In this Article 83(5), “**Business Day**” has the same meaning as in the ASX Listing Rules.

- (3) The Directors shall nominate for election as a Director at a General Meeting of the Company any person duly nominated for election at the Parallel General Meeting of Limited.

88. Election or appointment of additional Directors

The Company may by ordinary resolution approved in accordance with Articles 59 to 60 elect, and without prejudice thereto the Board shall have the power at any time to appoint, any person as a Director, either to fill a casual vacancy or as an addition to the Board but so that the number of Directors does not exceed the maximum number determined under Article 74. Any Director appointed under this Article:

- (a) holds office only until the dissolution or adjournment of the next general meeting at which the Board proposes or these Articles require that an election be held;
- (b) is eligible for election at that general meeting; and
- (c) where the general meeting is an annual general meeting, is not to be taken into account in determining the number of Directors who are to retire by rotation at the meeting.

89. Vacation of office

- (1) The office of a Director is vacated:
- (a) Not used;
 - (b) on the Director being absent from greater than two consecutive meetings of the Board without leave of absence from the Board;
 - (c) on the Director resigning office by notice in writing to the Company;
 - (d) if the circumstances in Article 82(2) arise and such director has not been re-appointed in accordance with Article 82(3);
 - (e) on the Director ceasing to be a director of Limited;
 - (f) on the Director being prohibited from being a Director by reason of the operation of Applicable Regulation;
 - (g) if the Director has been appointed for a fixed term – when the term expires;
 - (h) if, in England or elsewhere, an order is made by any court on the ground (however formulated) of mental disorder for the Director's detention or for the appointment of a guardian of the Director or for the appointment of a receiver or other person (by whatever name called) to exercise powers with respect to the Director's property or affairs; or

- (i) if the Director shall have a bankruptcy order made against him or shall compound with his creditors generally or shall apply to the court for an interim order under Section 253 of the Insolvency Act 1986 in connection with a voluntary arrangement under that Act.
- (2) The office of a Director who is an employee of any member of the Group is terminated on the Director ceasing to be employed within the Group but the person concerned is eligible for reappointment or re-election as a Director of the Company.

90. Removal of Directors

- (1) Subject to Articles 59 to 60, the Company may, in accordance with and subject to the provisions of the Statutes, by ordinary resolution of which special notice has been given remove any Director from office. The Company may do so notwithstanding any provision of these Articles or of any agreement between the Company and such Director, but without prejudice to any claim he may have for damages for breach of any such agreement.
- (2) Subject to Articles 59 to 60, the Company may by ordinary resolution of which special notice has been given elect another person in place of a Director removed from office under Article 90(1), provided that such person's election will not take effect unless and until such person is elected as a director of Limited. Any person so elected shall be treated for the purpose of determining the time at which he or any other Director is to retire by rotation as if he had become a Director on the day on which the Director in whose place he is elected was last elected a Director. In default of such election the vacancy arising upon the removal of a Director from office may be filled as a casual vacancy.

PROCEEDINGS OF DIRECTORS

91. Convening of meetings of Directors

- (1) The Board may meet together, adjourn and otherwise regulate its meetings as it thinks fit.
- (2) The Board may at any time and the Secretary, on the request of the Chairman or any two Directors, must convene a meeting of the Board. Notice of meeting of the Board may be given by mail (electronic or otherwise), personal delivery or facsimile transmission to the usual place of business or residence of the Director or to any other address given to the Secretary by the Director or by any technology agreed by all the Directors.

92. Quorum

The quorum necessary for the transaction of business of the Directors shall be three unless otherwise determined by the Board. A meeting of the Directors at which a quorum is present shall be competent to exercise all powers and discretions for the time being exercisable by the Directors.

93. Chairman

The Board may elect a Chairman and one or more Deputy Chairmen of its meetings and determine the period for which each is to hold office. If no Chairman or Deputy Chairman is elected or if at any meeting the Chairman and the Deputy Chairmen are not present at the time specified for holding the meeting, the Directors present may choose one of their number to be Chairman of the meeting.

94. Votes at meetings

Questions arising at any meeting of the Board are decided by a majority of votes and, in the case of an equality of votes, the Chairman (except when only two Directors are present or except when only two Directors are competent to vote on the question then at issue) has a second or casting vote.

95. Number of Directors below minimum

If the number of Directors is reduced below the minimum number fixed under these Articles, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of calling a general meeting of the Company but for no other purpose.

96. Resolutions in writing / Meetings by technology

- (1) A resolution in writing signed by all the Directors or a resolution in writing of which notice has been given to all Directors and which is signed by a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the Board) is a valid resolution of the Board. The resolution may consist of several documents in the same form each signed by one or more of the Directors. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is considered to be a document in writing signed by the Director.
- (2) The Board may meet either in person or by telephone, audio visual link or by using any other technology:
 - (a) which allows each Director who participates:
 - (i) to hear each of the other participating Directors addressing the meeting; and
 - (ii) if he so wishes, to address all of the other participating Directors simultaneously; and
 - (b) which has been consented to by all Directors.

A consent may be a standing one. A meeting conducted by telephone or other means of communication is deemed to be held at the place from where the Chairman of the meeting participates.

97. Validity of actions

All actions at any meeting of the Board or by a Committee or by any person acting as a Director are, despite the fact that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the Committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been properly appointed and was qualified and continued to be a Director or a member of the Committee.

DIRECTORS' INTERESTS

98. Directors may have interests

Subject to the provisions of the Statutes, and provided that he has disclosed to the Directors the nature and extent of any interest of his, a Director notwithstanding his office:

- (a) may be a party to, or otherwise interested in, any contract, transaction or arrangement with the Company or Limited or in which the Company or Limited is otherwise interested;
- (b) may be a director or other officer of, or employed by, or a party to any contract, transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or Limited or in which the Company or Limited is otherwise interested;
- (c) may (or any firm of which he is a partner, employee or member may) act in a professional capacity for the Company or Limited (other than as Auditor) and be remunerated therefore; and
- (d) shall not, save as otherwise agreed by him, be accountable to the Company for any benefit which he derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate or for such remuneration and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit.

99. Restrictions on voting

- (1) Save as herein provided, a Director shall not vote in respect of any contract or arrangement or any other proposal whatsoever in which the Director has a material personal interest. A Director shall not be counted in the quorum in relation to any resolution on which he is not entitled to vote.
- (2) Subject to the provisions of the Statutes, a Director shall (in the absence of some other material personal interest than is indicated below) be entitled to vote (and be counted in the quorum) in respect of any resolution concerning any of the following matters, namely where the interest:

- (a) arises because the Director is a shareholder of the Company and is held in common with the other shareholder of the Company; or
 - (b) arises in relation to the Director's remuneration as a Director of the Company; or
 - (c) relates to a contract the Company is proposing to enter into that is subject to approval by the shareholders and will not impose any obligation on the Company if it is not approved by the shareholders; or
 - (d) arises merely because the Director is a guarantor or has given an indemnity or security for all or part of a loan (or proposed loan) to the Company; or
 - (e) arises merely because the Director has a right of subrogation in relation to a guarantee or indemnity referred to in sub-paragraph (d); or
 - (f) relates to a contract that insures, or would insure, the Director against liabilities the Director incurs as an officer of the Company (but only if the contract does not make the Company or a related body corporate the insurer); or
 - (g) relates to:
 - (i) any payment by the Company or a related body corporate in respect of an indemnity permitted by law; or
 - (ii) any contract relating to or containing an indemnity permitted by law; or
 - (h) is in a contract, or proposed contract, with, or for the benefit of, or on behalf of, a related body corporate and arises merely because the Director is a director of the related body corporate.
- (3) Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employments with the Company or any body corporate in which the Company is interested, the proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not debarred from voting under this Article) shall be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning his own appointment.
- (4) If a question arises at any time as to the materiality of a Director's interest or as to his entitlement to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question shall be referred to the Chairman of the meeting and his ruling in relation to any Director other than himself shall be final and conclusive except in a case where the nature or extent of the interest of such Director has not been

fairly disclosed. If any question shall arise in respect of the Chairman of the meeting and is not resolved by his voluntarily agreeing to abstain from voting, the question shall be decided by a resolution of the Directors (for which purpose the Chairman shall be counted in the quorum but shall not vote on the matter) and the resolution shall be final and conclusive except in a case where the nature or extent of the interest of the Chairman, so far as known to him, has not been fairly disclosed.

- (5) Despite having an interest in any contract or arrangement a Director may participate in the execution of any document evidencing or connected with the contract or arrangement, whether by signing, sealing or otherwise.
- (6) A Director or any person who is an associate of a Director under the ASX Listing Rules may participate in any issue by the Company of securities unless the Director is precluded from participating by Applicable Regulation.

100. Directors' interests - general

- (1) For the purposes of the two preceding Articles:
 - (a) a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any contract, transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such contract, transaction or arrangement of the nature and extent so specified;
 - (b) an interest (whether of his or of such a connected person) of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his;
 - (c) in the case of an alternate director, an interest of his appointor shall be treated as an interest of the alternate in addition to any interest which the alternate otherwise has; and
 - (d) references to a contract include reference to any proposed contract and to any transaction or arrangement whether or not constituting a contract.
- (2) The Board may exercise the voting power conferred by the shares in any corporation held or owned by the Company as the Board thinks fit (including the exercise of the voting power in favour of any resolution appointing the Directors or any of them directors of that corporation or voting or providing for the payment of remuneration to the directors of that corporation) and a Director of the Company may vote in favour of the exercise of those voting rights despite the fact that the Director is, or may be about to be appointed, a director of that other corporation and may be interested in the exercise of those voting rights.

- (3) Any Director may lend money to the Company at interest with or without security or may, for a commission or profit, guarantee the repayment of any money borrowed by the Company and underwrite or guarantee the subscription of shares or securities of the Company or of any corporation in which the Company may be interested without being disqualified in respect of the office of Director and without being liable to account to the Company for the commission or profit.

COMMITTEES

101. Committees

The Board may delegate any of its powers or discretions (including without prejudice to the generality of the foregoing all powers and discretions whose exercise involves or may involve the payment of remuneration to or the conferring of any other benefit on all or any of the Directors) to committees consisting of Directors or any other person or persons as the Board thinks fit. In the exercise of the powers or discretions delegated, any committee formed or person or persons appointed to the committee must conform to any regulations that may be imposed by the Board. A committee or other delegate of the Board may be authorised to sub-delegate any of the powers or discretions for the time being vested in it.

102. Proceedings of Committee meetings

The meetings and proceedings of any committee are to be governed by the provisions of these Articles for regulating the meetings and proceedings of the Board so far as they are applicable and are not inconsistent with any regulations made by the Board under Article 101.

POWERS OF THE BOARD

103. General powers

The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred on them by these Articles) may exercise all powers and do everything which is within the power of the Company and not by these Articles, the Memorandum, or by law required to be exercised or done by the Company in general meeting.

104. Powers and obligations in relation to the Sharing Agreement

- (1) The Company having entered into the Sharing Agreement and the Deed Poll Guarantee, the Directors are authorised and directed, subject to Applicable Regulation, to carry into effect the provisions of the Sharing Agreement and the Deed Poll Guarantee and any further or other agreements or arrangements contemplated by such agreement and guarantee and nothing done by any Director in good faith pursuant to such authority

and obligations shall constitute a breach of the fiduciary duties of such Director to the Company or to the members of the Company.

- (2) Without limitation to the generality of the foregoing:
- (a) the Directors may in addition to their duties to the Company have regard to the interests of Limited and both the holders of Plc Ordinary Shares and Limited Ordinary Shares as if the Company and Limited were managed as a single unified entity and for that purpose the Directors shall in exercising their powers take into account the interests of the holders of Limited Ordinary Shares;
 - (b) subject to the terms of the Sharing Agreement, the Directors are authorised to do all or any of the matters referred to in paragraph 4.1 of the Memorandum of Association.

105. Not used

106. Appointment of attorney

The Directors may from time to time and at any time by power of attorney or otherwise appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit, and any such appointment may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit, and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him.

107. Not used

108. Not used

109. Not used

110. Borrowing powers

Subject to the provisions of the Statutes, the Directors may exercise all the powers of the Company to borrow money, and to mortgage or charge its undertaking, property, assets (both present and future) and uncalled capital or any part or parts thereof and to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

111. Not used

112. Not used

113. Not used

AUTHENTICATION OF DOCUMENTS

114. Authentication of Documents

Any Director, Secretary, Assistant Secretary or Deputy Secretary or any person appointed by the Directors for the purpose shall have power to authenticate:

- (a) any document affecting the constitution of the Company;
- (b) any resolution passed at a shareholders' meeting or at a meeting of the Directors or of any committee;
- (c) any book, record, document or account relating to the business of the Company,

and to certify copies thereof or extracts thereof as true copies or extracts; and where any book, record, document or account is elsewhere than at the Office the local manager or other officer of the Company having the custody thereof shall be deemed to be a person appointed by the Directors as aforesaid. A document purporting to be a copy of any such resolution, or an extract from the minutes of any such meeting, which is certified as aforesaid shall be conclusive evidence in favour of all persons dealing with the Company upon the faith thereof that such resolution has been duly passed or, as the case may be, that any minute so extracted is a true and accurate record of proceedings at a duly constituted meeting.

115. Not used

116. Not used

DIVIDENDS

117. Not used

118. Power of Board to pay dividends

- (1) Subject to Articles 59 to 60, the Board may determine that a dividend (including an interim dividend on account of the next forthcoming dividend) is payable and fix the amount, time for payment and method of payment. Where permitted by the Statutes, the methods of payment may include the payment of cash, the issue of shares, the grant of options and the transfer of assets.

- (2) Without limiting Article 8, where the terms of any new issue of shares provide for the new shares to have different dividend rights to other shares then in issue, the new shares have those different dividend rights.
- (3) Provided the Directors act in good faith they shall not incur any liability to the holders of any shares for any loss they may suffer by the lawful payment, on any other class of shares having rights ranking after or *pari passu* with those shares, of any such fixed or interim dividend as aforesaid.

119. Distribution otherwise than in cash

- (1) Subject to Articles 59 to 60, when determining to pay a dividend under Article 118, the Board may determine that payment of the dividend be effected wholly or in part by the distribution of specific assets or documents of title and in particular of paid up shares, debentures, debenture stock or grant of options or other securities of the Company or any other corporation or entity.
- (2) The Board may appoint any officer of the Company to sign on behalf of each shareholder entitled to participate in the dividend any document in the Board's opinion desirable or necessary:
 - (a) to vest in the shareholder title to assets; and
 - (b) in the case of a distribution of shares in any corporation, to constitute the shareholder's agreement to become a member of the corporation,and, in executing the document, the officer acts as agent and attorney for the shareholder.
- (3) Where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient and in particular may issue fractional certificates, may fix the value for distribution of such specific assets or any part thereof, may determine that cash shall be paid to any member upon the footing of the value so fixed in order to adjust the rights of members and may vest any assets in trustees.

120. Not used

121. Ranking of shares for dividend

- (1) Any dividend or interim dividend is (subject to the rights of, or any restrictions on, the holders of shares created or raised under any special arrangement as to dividend) payable on each share on the basis of the proportion which the amount paid (or agreed to be considered to be paid) bears to the total issue price of the share. The dividend may be fixed at a rate per annum in respect of a specified period but no amount paid on a share in advance of calls is to be treated as paid on the share.

- (2) The rights attached to the shares of the Company, as regards the participation in the profits available for distribution and resolved to be distributed, are as follows:
- (a) the holders of the cumulative Preference Shares shall be entitled, in priority to any payment of dividend to the holders of any other class of shares, to be paid a fixed cumulative preferential dividend ("**Preferential Dividend**") at a rate of 5.5 per cent per annum, such dividend to be paid annually in arrears on 31 July in each year or if any such date shall be a Saturday, Sunday or public holiday in England, on the first business day following such date in each year. Payments of Preferential Dividend shall be made to holders on the register at any date selected by the Directors up to 42 days prior to the relevant fixed dividend date;
 - (b) subject to the rights attaching to the cumulative Preference Shares, but in priority to any payment of dividends on all other classes of Shares, the holder of the Plc Special Voting Share shall be entitled to be paid a fixed dividend of US\$0.01 per annum payable annually in arrears on 31 July;
 - (c) subject to the rights attaching to the cumulative Preference Shares and the Special Voting Share, but in priority to any payment of dividends on all other classes of Shares, the holder of the Equalisation Share shall be entitled to be paid such dividends as the Board may decide to pay thereon;
 - (d) any surplus remaining after payment of the distributions under paragraphs 121(2)(a) to (c) shall be payable to the holders of the Plc Ordinary Shares in equal amounts per Plc Ordinary Share.

122. Manner of payment of dividends

- (1) Payment of any dividend may be made in any manner, by any means and in any currency determined by the Board.
- (2) Without limitation of Article 122(1), Directors may also determine the foreign currency equivalent of any sums payable as a dividend by reference to such market rate or rates or the mean of such market rates prevailing at such time or times or on such date or dates, in each case falling on or before the record date for the dividend, as the Directors may in their discretion select.
- (3) Without affecting any other method of payment which the Board may adopt, payment of any dividend may be made to the shareholder entitled to the dividend or, in the case of joint holders, to the shareholder whose name appears first in the Register in respect of the joint holding.

123. Not used

124. Record date for dividends

Any resolution for the declaration or payment of a dividend on shares of any class, whether a resolution of the Company in general meeting or a resolution of the Board, may specify that the same shall be payable to the persons registered as the holders of such shares at the close of business on a particular date, notwithstanding that it may be a date prior to that on which the resolution is passed, and thereupon the dividend shall be payable to them in accordance with their respective holdings so registered, but without prejudice to the rights *inter se* in respect of such dividend of transferors and transferees of any such shares.

125. No interest on dividends

No dividend or other moneys payable on or in respect of a share shall bear interest as against the Company.

126. Retention of dividends

- (1) The Directors may retain any dividend or other moneys payable on or in respect of a share on which the Company has a lien and may apply the same in or towards satisfaction of the moneys payable to the Company in respect of that share.
- (2) The Directors may retain the dividends payable upon shares to which any person is entitled under Article 41 until that person becomes a member in respect of those shares or transfers those shares.

127. Unclaimed dividend

All unclaimed dividends, interest or other sums payable may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed. The payment by the Directors of any unclaimed dividend or other moneys payable on or in respect of a share into a separate account shall not constitute the Company a trustee in respect thereof and any dividend unclaimed after a period of 12 years from the date on which such dividend was declared or became due for payment shall be forfeited and shall revert to the Company.

128. Waiver of dividend

The waiver in whole or in part of any dividend on any share by any document (whether or not executed as a deed) shall be effective only if such document is signed by the shareholder (or the person entitled to the share in consequence of the death or bankruptcy of the holder or otherwise by operation of law) and delivered to the Company and if or to the extent that the same is accepted as such or acted upon by the Company.

CAPITALISATION OF PROFITS AND RESERVES

129. Capitalisation of profits and reserves

- (1) Subject to Articles 59 to 60, the Board may capitalise any sum standing to the credit of any of the Company's reserve accounts (including any share premium account, capital redemption reserve or other undistributable reserve) or any sum standing to the credit of profit and loss account.
- (2) Such capitalisation shall be effected by:
 - (a) appropriating such sum to shareholders on the Register at the close of business on the date of the resolution (or such other date as may be specified therein or determined as therein provided) in the same proportions in those holders would be entitled to receive such sum if distributed by way of dividend or in accordance with either the terms of issue of any shares or the terms of any employee share plan; and
 - (b) applying such sum, in the proportions specified above, on behalf of those holders either in paying up the amounts for the time being unpaid on any issued shares held by them, or in paying up in full unissued shares or other securities of the Company to be issued to them accordingly, or partly in one way and partly in the other.
- (3) The Board may specify the manner in which any fractional entitlements and any difficulties relating to distribution are to be dealt with and, without limiting the generality of the foregoing, may specify that fractions are to be disregarded or that any fractional entitlements are to be increased to the next whole number or that payments in cash instead of fractional entitlements be made.
- (4) The Board may make all necessary appropriations and applications of the amount to be capitalised under Article 129(1) and all necessary issues of fully paid shares or debentures.
- (5) Where required, the Board may appoint a person to sign a contract on behalf of the shareholders entitled on a capitalisation to any shares or debentures, which provides for the issue to them, credited as fully paid, of any further shares or debentures or for the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised.

SCRIP DIVIDENDS

130. Scrip Dividends

- (1) Subject to the provisions of Articles 59 and 60 and as hereinafter provided, the Directors may offer to ordinary shareholders the right to receive, in lieu of dividend (or part thereof), an allotment of new Plc Ordinary Shares credited as fully paid.

- (2) The Directors shall not make such an offer unless so authorised by an ordinary resolution passed at any General Meeting, which authority may extend to dividends declared or paid prior to the fifth annual general meeting of the Company occurring thereafter, but no further. Provided that this Article shall, without the need for any further ordinary resolution, authorise the Directors to offer rights of election in respect of any dividend declared or proposed after the date of the adoption of these Articles and at or prior to the annual general meeting in the year 2005.
- (3) The Directors may either offer such rights of election in respect of the next dividend (or part thereof) proposed to be paid; or may offer such rights of election in respect of that dividend and all subsequent dividends, until such time as the election is revoked; or may allow shareholders to make an election in either form.
- (4) The basis of allotment on each occasion shall be determined by the Directors so that, as nearly as may be considered convenient, the value of the Plc Ordinary Shares to be allotted in lieu of any amount of dividend shall equal such amount. For such purpose the value of a Plc Ordinary Share shall be equal to the average of the middle market quotation for a fully paid Plc Ordinary Share adjusted if necessary for the proposed dividend on the London Stock Exchange, as derived from the Official List, on each of the first five business days on which the Plc Ordinary Shares are quoted "ex" the relevant dividend or calculated in such other manner as may be determined by, and in accordance with an ordinary resolution.
- (5) If the Directors determine to offer such right of election on any occasion they shall give notice in writing to the ordinary shareholders of such right and shall issue forms of election and shall specify the procedures to be followed in order to exercise such right Provided that they need not give such notice to a shareholder who has previously made, and has not revoked, an earlier election to receive Plc Ordinary Shares in lieu of all future dividends, but instead shall send him a reminder that he has made such an election, indicating how that election may be revoked in time for the next dividend proposed to be paid.
- (6) On each occasion the dividend (or that part of the dividend in respect of which a right of election has been accorded) shall not be payable on Plc Ordinary Shares in respect whereof the share election has been duly exercised and has not been revoked (the "**elected Plc Ordinary Shares**"), and in lieu thereof additional shares (but not any fraction of a share) shall be allotted to the holders of the elected Plc Ordinary Shares on the basis of allotment determined as aforesaid. For such purpose the Directors shall capitalise, out of such of the sums standing to the credit of reserves (including any share premium account or capital redemption reserve) or profit and loss account as the Directors may determine, a sum equal to the aggregate nominal

amount of additional Plc Ordinary Shares to be allotted on that occasion on such basis and shall apply the same in paying up in full the appropriate number of unissued Plc Ordinary Shares for allotment and distribution to and amongst the holders of the elected Plc Ordinary Shares on such basis.

- (7) The additional Plc Ordinary Shares so allotted on any occasion shall rank *pari passu* in all respects with the fully-paid Plc Ordinary Shares in issue on the record date for the relevant dividend save only as regards participation in the relevant dividend.
- (8) Article 129 shall apply *mutatis mutandis* to any capitalisation made pursuant to this Article.
- (9) No fraction of a Plc Ordinary Share shall be allotted. The Directors may make such provision as they think fit for any fractional entitlements including, without limitation, provision whereby, in whole or in part, the benefit thereof accrues to the Company and/or fractional entitlements are accrued and/or retained and in either case accumulated on behalf of any ordinary shareholder.
- (10) The Directors may on any occasion determine that rights of election shall not be made available to any ordinary shareholders with registered addresses in any territory where in the absence of a registration statement or other special formalities the circulation of an offer of rights of election would or might be unlawful, and in such event the provisions aforesaid shall be read and construed subject to such determination.
- (11) In relation to any particular proposed dividend the Directors may in their absolute discretion decide (i) that shareholders shall not be entitled to make any election in respect thereof and that any election previously made shall not extend to such dividend or (ii) at any time prior to the allotment of the Plc Ordinary Shares which would otherwise be allotted in lieu thereof, that all elections to take shares in lieu of such dividend shall be treated as not applying to that dividend, and if so the dividend shall be paid in cash as if no elections had been made in respect of it.
- (12) The Directors shall not make a scrip dividend available unless the Company has sufficient unissued shares and undistributed profits or reserves to give effect to elections which could be made to receive that scrip dividend.

ACCOUNTS AND RECORDS

131. Accounts and records

- (1) Accounting records sufficient to show and explain the Company's transactions and otherwise complying with the Statutes shall be kept at the Office, or at such other place as the Directors think fit, and shall always be open to inspection by the Directors and other officers of the Company.

- (2) Without limitation to paragraph (1) of this Article, where the Board considers it appropriate, the Company may:
 - (a) give a Director or former Director access to certain papers, including documents provided or available to the Board and other papers referred to in those documents; and
 - (b) bind itself in any contract with a Director or former Director to give the access.
- (3) Subject to paragraphs (1) and (2) of this Article, no member of the Company or other person shall have any right of inspecting any account or book or document of the Company except as conferred by statute or ordered by a court of competent jurisdiction or authorised by the Directors.

132. Not used

133. Not used

134. Not used

NOTICES

135. Service of notices

- (1) Any notice or document (including a share certificate) may be served on or delivered to any member by the Company either personally or by sending it by post in a pre-paid cover addressed to such member at his registered address, or (if he has no registered address within the United Kingdom) to the address, if any, within the United Kingdom supplied by him to the Company as his address for the service of notices, or by delivering it to such address addressed as aforesaid. In the case of a member registered on a branch register any such notice or document may be posted either in the United Kingdom or in the territory in which such branch register is maintained.
- (2) Where a notice or other document is served or sent by post, service or delivery shall be deemed to be effected at the expiration of 24 hours (or, where second-class mail is employed, 48 hours) after the time when the cover containing the same is posted and in proving such service or delivery it shall be sufficient to prove that such cover was properly addressed, stamped and posted.
- (3) The accidental failure to send, or the non-receipt by any person entitled to, any notice of or other document relating to any meeting or other proceeding shall not invalidate the relevant meeting or other proceeding.

- (4) Subject to the Statutes but notwithstanding anything else in these presents, a member or other person who would otherwise be entitled to receive any notice or other document, shall not be entitled to receive the relevant document if, on each of the three most recent occasions on which the relevant person shall have been sent any documents by the Company, the document shall have been returned undelivered to the Company unless, since the earliest of those three occasions, the relevant person shall have written to the Company at the Transfer Office either confirming the correctness of the relevant address shown in the Company's records or supplying a new address to which, in accordance with these presents, the documents are to be sent to him.
- (5) Any member resident in the United Kingdom may notify the Company of an address for the purpose of his receiving electronic communications from the Company, and having done so shall be deemed to have agreed to receive by electronic communication notices and other documents from the Company of the kind to which the address relates. In addition, if a member notifies the Company of his e-mail address, the Company may satisfy its obligation to send him any notice or other document by:
 - (a) publishing such notice or other document on a web site; and
 - (b) notifying him by e-mail to that e-mail address that such notice or document has been so published, specifying the address of the web site on which it has been published, the place on the web site where the notice may be accessed, how it may be accessed and (if the notice relates to a shareholders' meeting) stating:
 - (i) that the notice concerns a notice of a General Meeting served in accordance with the Act;
 - (ii) the place, date and time of the meeting; and
 - (iii) such other information as the Statutes may prescribe.
- (6) Any amendment or revocation of a notification given to the Company under this Article shall only take effect if in writing, signed by the member and on actual receipt by the Company.
- (7) An electronic communication shall not be treated as received by the Company if it is rejected by computer virus protection arrangements.
- (8) If the Company receives actual notice that a failure of delivery of an electronic communications to a shareholder has occurred, and then receives actual notice that subsequent attempts to resend the original communication have also failed, the Company will send a hard copy of the communication by first class post to the shareholder's last known postal address within 48 hours of the Company receiving the notice of the original failure of delivery.
- (9) A document is treated as having been sent to a shareholder where the Company and the shareholder have agreed to the shareholder having access to documents on a website, the documents are subject to that

agreement and the shareholder has been notified of the publication of the documents on a website, the address of that website and the place on the website where the documents may be accessed.

- (10) A document is treated as having been sent to a shareholder not less than 21 days before the date of a meeting if the documents have been published on the website throughout the period commencing 21 days before the meeting and ending with the conclusion of the meeting and notification of that publication on the website has been sent to the shareholder not less than 21 days before the date of the meeting.
- (11) Proceedings at a meeting will not be invalidated if documents have not been published for the entire period stated in paragraph 135(10) and where failure to publish the documents throughout the entire period is attributable to circumstances which it would have been unreasonable to have expected the Company to avoid.
- (12) A shareholder may give notice to the Company of the appointment of a proxy by electronic communication sent to such address as notified by the Company for that purpose.

136. Notice to transferor binds transferee

Every person who, by operation of law, transfer or any other means becomes entitled to be registered as the holder of any shares is bound by every notice which, prior to the person's name and address being entered in the Register in respect of those shares, was properly given to the person from whom the person derives title to those shares.

137. Deceased and bankrupt members

A notice served in accordance with these Articles is (despite the fact that the shareholder is then dead, bankrupt or in liquidation and whether or not the Company has notice of the shareholder's death, bankruptcy or liquidation) taken to have been properly served in respect of any registered shares, whether held solely or jointly with other persons by the shareholder, until another person is registered in the shareholder's place as the holder or joint holder. The service is sufficient service of the notice or document on the shareholder's personal representative, trustee in bankruptcy or liquidator and any person jointly interested with the shareholder in the shares.

138. Overseas members

A member who (having no registered address within the United Kingdom or the Republic of South Africa) has not supplied to the Company an address within the United Kingdom, Australia or the Republic of South Africa for the service of notices shall not be entitled to receive notices from the Company.

139. Suspension of postal services

If at any time by reason of the suspension or curtailment of postal services within the United Kingdom, or the Republic of South Africa the Company is unable effectively to convene a shareholders' meeting by notices sent

through the post, such meeting may be convened by a notice advertised on the same date in at least one national newspaper in the United Kingdom, and the Republic of South Africa and such notice shall be deemed to have been duly served on all members entitled thereto on the day when the advertisement appears. In any such case the Company shall send confirmatory copies of the notice by post if at least seven days prior to the meeting the posting of notices to addresses throughout the United Kingdom or the Republic of South Africa as the case may be again becomes practicable.

140. Not used

WINDING-UP OF LIMITED OR THE COMPANY

141. Liquidation of Limited

- (1) Subject to Article 141(2):
 - (a) upon receipt of an Insolvency Notice from Limited, the Company shall seek to ensure that the economic returns made or otherwise available to a holder of an Ordinary Share in Limited relative to the economic returns available to a holder of an Ordinary Share in the Company (or vice versa) are in due proportion having regard to the Equalisation Ratio ("**Economic Equivalence**") by taking the steps set out in paragraphs (b) or (c) below.
 - (b) the Company shall have the right at any time within 12 months from the Notice Date either:
 - (i) irrevocably to offer to the holders of Limited Ordinary Shares on the Notice Date in consideration for their Limited Ordinary Shares such number of Plc Ordinary Shares pro rata to their holdings of Limited Ordinary Shares as is required to ensure that, after such issue, Economic Equivalence is achieved; or
 - (ii) to pay to holders of Limited Ordinary Shares on the Notice Date an amount equal to that proportion of the Company's Market Capitalisation as at the Notice Date such that the amount paid and the balance remaining ensures that Economic Equivalence is achieved.
 - (c) unless the Company has exercised its rights under paragraph (b) above, then, subject to paragraph (d) below, the Company must:
 - (i) within three months from the date the liquidator of Limited has finally established the identity of and amounts owed to the Proven Creditors (but in any event not earlier than the expiration of the period set out in paragraph (b) above), pay in full all Proven Creditors of Limited and all other costs and expenses of the liquidation (including those of the liquidator); and

- (ii) within one month thereafter pay to Limited an amount equal to that proportion of the Company's total Market Capitalisation on the date all payments have been made pursuant to paragraph (c) (i) above such that the amount paid and the balance remaining ensures that Economic Equivalence is achieved.
 - (d) Payments under this Article 141(1) shall only be made by the Company to the extent that after making such payment there will remain available to the Company sufficient assets to pay all debts as and when they become due and payable.
- (2) If both the Company and Limited have provided each other with an Insolvency Notice and if:
- (a) the Company has surplus assets available for distribution to the holders of its Ordinary Shares after payment of all debts due; and
 - (b) the ratio of the surplus attributable to each Limited Ordinary Share to the surplus attributable to each Plc Ordinary Share would otherwise not equal the Equalisation Ratio,
- then (where possible) the Company shall as soon as possible pay to Limited an amount which results in that ratio equalling the Equalisation Ratio.
- (3) In this Article 141:
- (a) **"Economic Equivalence"** shall be determined before deduction of any amount in respect of Tax which may be deducted or withheld in respect of any payment to a holder of Ordinary Shares and disregarding any Tax payable by or on behalf of, or any Tax Benefit arising to, a holder of Ordinary Shares;
 - (b) **"Insolvency Notice"** has the meaning given to it in Clause 8.1(a) of the Sharing Agreement;
 - (c) **"Market Capitalisation"** means the total value of the Company's issued Ordinary Shares (determined by reference to the trading price of those shares on the close of trading on the relevant day on the stock exchange on which it has its primary listing);
 - (d) **"Notice Date"** means the date the Company receives or is deemed to receive an Insolvency Notice from Limited under the Sharing Agreement;
 - (e) **"Proven Creditors"** means all persons that the liquidator of Limited has established as ranking in priority to the holders of Limited Ordinary Shares and who would be entitled to a payment as a result of the liquidation of Limited;

- (f) The surplus assets of a party available for distribution to holders of Ordinary Shares shall, for the purposes of Article 141(2), be calculated:
 - (i) before deduction of any amount in respect of Tax which may be deducted or withheld from the distribution by or on behalf of the Company; but
 - (ii) net of any Tax payable by the Company on the distribution to holders of Ordinary Shares excluding, for the avoidance of doubt, any Tax within (i) above; and
- (g) Where the Company is to pay an amount to Limited, the calculation of the amount of the payment shall take account of any Tax payable on the making or receipt of, or any withholding or deduction in respect of Tax arising on, any payment, after allowing for any offsetting Tax Benefits.

142. Insolvency Notice

If, in the reasonable opinion of the Directors, the Company is, or is likely to become, insolvent (whether or not a receiver, receiver and manager, provisional liquidator or liquidator has been appointed or mortgagee has taken possession of the property of the Company) the Directors must immediately give an Insolvency Notice (as defined in Article 141(3)) to Limited of such fact.

143. Directors' power to petition

The Directors shall have power in the name and on behalf of the Company to present a petition to the Court for the Company to be wound up.

144. Rights on winding-up

- (1) Subject to Articles 141 and 144(3), if the Company shall be wound up (whether the liquidation is voluntary, under supervision, or by the Court) the Liquidator may, with the authority of an extraordinary resolution, divide among the members in specie or in kind the whole or any part of the assets of the Company and whether or not the assets shall consist of property of one kind or shall consist of properties of different kinds, and may for such purpose set such value as he deems fair upon any one or more class or classes of property and may determine how such division shall be carried out as between the members or different classes of members. The Liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of members as the Liquidator with the like authority shall think fit, and the liquidation of the Company may be closed and the Company dissolved.

- (2) If any shares to be divided in accordance with Article 144(1) involve a liability to calls or otherwise, any person entitled under the division to any of the shares may by notice in writing within ten business days after the passing of the special resolution, direct the liquidator to sell the person's proportion and pay the person the net proceeds and the liquidator is required, if practicable, to act accordingly.
- (3) Subject to the payment of all amounts payable under Article 141, prior ranking amounts owed to the creditors of the Company and prior ranking statutory entitlements, the assets of the Company to be distributed on a winding-up shall be distributed to the holders of shares in the following order of priority:
 - (a) to the holders of the cumulative Preference Shares, the repayment of a sum equal to the nominal capital paid up or credited as paid up on the cumulative Preference Shares held by them and accrual (if any) of the Preferential Dividend whether such dividend has been earned or declared or not, calculated up to the date of commencement of the winding up; and
 - (b) to the holders of Plc Ordinary Shares and to the holders of the Plc Special Voting Share and the Equalisation Share, the payment out of the surplus (if any) remaining after the distribution under paragraph (a) above of an equal amount for each Plc Ordinary Share, the Plc Special Voting Share and the Equalisation Share (if issued) subject to a maximum in the case of the Plc Special Voting Share and the Equalisation Share of the nominal capital paid up on such shares.

DESTRUCTION OF DOCUMENTS

145. Destruction of Documents

Subject to compliance with the rules (as defined in the Regulations) applicable to shares of the company in uncertificated form, the Company shall be entitled to destroy all instruments of transfer or other documents which have been registered or on the basis of which registration was made at any time after the expiration of six years from the date of registration thereof and all dividend mandates and notifications of change of address at any time after the expiration of two years from the date of recording thereof and all share certificates which have been cancelled at any time after the expiration of one year from the date of the cancellation thereof and it shall conclusively be presumed in favour of the Company that every entry in the Register purporting to have been made on the basis of an instrument of transfer or other document so destroyed was duly and properly made and every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered and every share certificate so destroyed was a valid and effective certificate duly and properly cancelled and every other document hereinbefore mentioned so destroyed was a valid and effective document in accordance with the recorded particulars thereof in the books or records of the Company. Provided always that:

- (a) the provisions aforesaid shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;

- (b) nothing herein contained shall be construed as imposing upon the Company any liability in respect of the destruction of any such document earlier than as aforesaid or in any other circumstances which would not attach to the Company in the absence of this Article;
- (c) references herein to the destruction of any document include references to the disposal thereof in any manner.

INDEMNITY AND INSURANCE

146. Indemnity and insurance

- (1) To the relevant extent:
 - (a) the Company is to indemnify each officer of the Company out of the assets of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer;
 - (b) where the Board considers it appropriate, the Company may execute a documentary indemnity in any form in favour of any officer of the Company; and
 - (c) where the Board considers it appropriate, the Company may:
 - (i) make payments of amounts by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer; and
 - (ii) bind itself in any contract or deed with any officer of the Company to make the payments.
- (2) In this Article:
 - (a) **officer** means a director, secretary or executive officer of the Company or a person who formerly held one of those positions.
 - (b) **duties of the officer** includes, in any particular case where the Board considers it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the Company or, where applicable, a subsidiary of the Company to any other corporation.

- (c) *to the relevant extent means:*
 - (i) to the extent the Company is not precluded by Applicable Regulation from doing so;
 - (ii) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, in particular, an insurer under any insurance policy); and
 - (iii) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.
- (d) **liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or otherwise.

CHANGE OF CONTROL

147. Not used

148. Share Control Limits

(1) The Limits

- (a) A person must not breach any of the following limits (the “**Limits**”):
 - (i) section 606(1) or 606(2) of the Corporations Act as each applies to Limited Ordinary Shares without regard to the Limited Special Voting Share; or
 - (ii) section 606(1) or 606(2) of the Corporations Act as each applies to Limited Ordinary Shares and the Limited Special Voting Share; or
 - (iii) Rule 9 of the City Code on Takeovers and Mergers setting a 30 per cent. limit in relation to voting rights of Plc; or
 - (iv) the 30 per cent. limit in relation to Plc Ordinary Shares without regard to the Plc Special Voting Share set out in Article 148(4) (called the “**UK 30% Stand Alone Limit**”); or

- (v) the 20 per cent. limit in relation to Plc Ordinary Shares and the Plc Special Voting Share referred to in Article 148(5),

(even if the acquisition is excepted under the provisions relating to the relevant Limit), except as a result of a Permitted Acquisition.

- (b) Where any person breaches any such Limit (even if the acquisition is excepted under the provisions of the relevant Limit) except as a result of a Permitted Acquisition that person is in breach of these Articles.
- (c) Where any person breaches any such Limit (even if the acquisition is excepted under the provisions of the relevant Limit), except as a result of a Permitted Acquisition:
 - (i) all voting rights attaching to Plc Ordinary Shares; and
 - (ii) all votes attaching to the Plc Special Voting Share,
(including shares or rights held by associates, concert parties or any other person holding shares in which that person is deemed to be interested or which are to be taken together for the purposes of the relevant Limit) taken into account in calculating that person's relevant interest or voting power or voting control level or voting rights (however expressed under the relevant Limit) are **Votes in Breach**.
- (d) Any member determined by the Board to be holding Plc Ordinary Shares which carry Votes in Breach is a member in breach of these Articles. Any such determination by the Board shall be final and binding.

(2) Action by the Board

- (a) The Board must do the following in order to enforce Article 148(1) where the Board has reason to believe that any Limit is or may be breached except as a result of a Permitted Acquisition:
 - (i) require any member to provide such information as the Board considers appropriate to determine any of the matters under this Article 148;
 - (ii) have regard to such public filings as it considers appropriate to determine any of the matters under this Article 148;
 - (iii) make any determinations required under this Article 148, either after calling for submissions from affected members or other persons or without calling for such submissions;
 - (iv) determine that the voting rights (or some voting rights):

- (A) attached to such number of Plc Ordinary Shares held by a person or persons whom the Board has resolved should not be capable of exercising their votes in accordance with this paragraph (iv) (called **Excess Shares**); and/or
- (B) attached to the Special Voting Share (in relation to Joint Electorate Actions), being votes otherwise required to be cast by the holder of the Special Voting Share to mirror the votes cast by certain holders of Limited Ordinary Shares,
are from a particular time incapable of being exercised for a definite or indefinite period but only to the extent necessary so that, as far as the Board can judge the matter, the person otherwise in breach of one or more of the Limits would not thereafter breach any of the relevant Limits except as a result of a Permitted Acquisition;
- (v) determine that any Excess Shares must be sold but only to the extent necessary so that, as far as the Board can judge the matter, the person otherwise in breach of one or more of the Limits would not thereafter breach any of the relevant Limits except as a result of a Permitted Acquisition;
- (vi) determine that any Excess Shares will not carry any right to any distributions from a particular time for a definite or indefinite period but only in respect of such number of shares as breaches any of the relevant Limits except as a result of a Permitted Acquisition;
- (vii) take such other action for the purposes of enforcing this Article 148 in a timely and efficient manner including:
 - (A) prescribing rules (not inconsistent with this Article 148);
 - (B) setting deadlines for the provision of information;
 - (C) drawing adverse inferences where information requested is not provided;
 - (D) making determinations or interim determinations;
 - (E) executing documents on behalf of a member;
 - (F) paying costs and expenses out of proceeds of sale of Excess Shares; and

(G) changing any decision or determination or rule previously made.

(b) No Director is liable for any such act or omission where the Director acts in good faith.

(3) Permitted Acquisitions

An acquisition is a Permitted Acquisition if the Board consents to the acquisition or if each of (a), (b) and (c) below is satisfied:

- (a) the acquisition is under or pursuant to a procedure:
 - (i) which applies to both the Limited Ordinary Shares and the Plc Ordinary Shares; or
 - (ii) which is undertaken for both the Limited Ordinary Shares and the Plc Ordinary Shares at or about the same time; and
- (b) each such procedure complies with all Applicable Regulation and provisions of the Constitutions; and
- (c) the holders of Limited Ordinary Shares on the one hand and the holders of Plc Ordinary Shares on the other hand are afforded equivalent treatment in terms of:
 - (i) the consideration offered for their shares (having regard to the Equalisation Ratio);
 - (ii) the information provided to them;
 - (iii) the time to consider the offer or procedure;
 - (iv) the conditions to which the procedure is subject; and
 - (v) the other terms of the procedure.

(4) UK 30% Stand Alone Limit

For the purposes of this Article 148, the “**UK 30% Stand-Alone Limit**” means that a person shall not acquire shares which taken together with shares held or acquired by persons determined by the Board to be acting in concert with him carry more than 30 per cent. of the voting rights attributable to Plc Ordinary Shares. For this purpose, “**acting in concert**” has the same meaning as in the City Code on Takeovers and Mergers.

(5) Section 606 Limit

The Limit referred to in Article 148(1)(a)(v) is the Limit imposed by section 606(1) or 606(2) of the Corporations Act.

(6) Mutual recognition

The Board may for the purposes of enforcing Article 148(1):

- (a) make a determination that the holding by a person of shares in Limited contributes to a breach by a person of a Limit and may communicate that determination to Limited; or

- (b) accept a determination by the Board of Limited that the holding by a person of shares in Plc contributes to a breach by a person of a relevant limit under the Limited Constitution;

and in the case of (b) above the Board must take any action under Article 148(2) as if the holder of the relevant Plc shares were in breach of these Articles.

(7) Validity

Any resolution or determination of, or decision or exercise of any discretion or power by, the Directors or any Director or by the chairman of any meeting acting in good faith under or pursuant to the provisions of this Article shall be final and conclusive; and anything done, by or on behalf of, or on the authority of, the Directors or any Director acting in good faith pursuant to the foregoing provisions of this Article shall be conclusive and binding on all persons concerned and shall not be open to challenge, whether as to its validity or otherwise on any ground whatsoever. The Directors shall not be required to give any reasons for any decision, determination or declaration taken or made in accordance with this Article.

THE COMPANIES ACT 1985
COMPANY LIMITED BY SHARES
MEMORANDUM OF ASSOCIATION
(Amended by Special Resolution passed on 26 June 1997)
(Amended by Ordinary Resolution passed on 15 October 1999)
(Amended by Special Resolution passed on 15 May 2001)
OF
BHP Billiton Plc¹

- 1** The Company's name is "**BHP Billiton Plc**".
- 2** The Company is to be a public company.
- 3** The Company's registered office is to be situate in England and Wales.
- 4** The Company's objects are:-
 - 4.1** ²To enter into, operate and carry into effect the DLC Structure Sharing Agreement between the Company and BHP Limited (ABN 49 004 028 077) ("**BHP**"), the SVC Special Voting Shares Deed between the Company, BHP, BHP SVC Pty Limited, Billiton SVC Limited (Company No 4074194) and Law Debenture Trust Corporation plc (Company No. 1675231) and the Deed Poll Guarantee in favour of certain creditors of BHP Limited each as described in the circular to the shareholders of the Company dated 18 April 2001 with full power to:
 - 4.1.1** agree any amendment or termination of all or any of the terms of the said Agreement or the said Deeds in accordance with the terms thereof;
 - 4.1.2** enter into, operate and carry into effect any further or other agreements or arrangements with or in connection with BHP; and
 - 4.1.3** do all such things as in the opinion of the Directors are necessary or desirable for the furtherance of this object or for the furtherance, maintenance or development of the relationship with BHP constituted by or arising out of any agreement or arrangement mentioned in or made in accordance with this sub-clause.
 - 4.2**
 - 4.2.1** To carry on the business of a holding company in all its branches and for that purpose to acquire and hold either in the name of the Company, or in that of any nominee or trustee, shares, stocks, debentures, debenture stock, bonds, notes, obligations and securities issued or guaranteed by any company, corporation or undertaking wherever incorporated or carrying on business and to co-ordinate the policy management and administration of any companies, corporations or undertakings in which the Company is a member or participant or which are controlled by or associated with the Company in any manner;
- 1** Name changed from Hackplimco (No. Thirty-Three) Public Limited Company to Billiton Plc by Certificate of Incorporation on Change of Name dated 30 May 1997 and from Billiton Plc by Certificate of Incorporation on Change of Name dated 29 June 2001.
- 2** Clause 4.1 inserted and the subsequent clauses renumbered accordingly by Special Resolution passed 15 May 2001.

- 4.2.2** To carry on all or any of the businesses of general merchants and traders, cash and credit traders, manufacturers' agents and representatives, insurance brokers and consultants, estate and advertising agents, mortgage brokers, financial agents, advisers, managers and administrators, hire purchase and general financiers, brokers and agents, commission agents, importers and exporters, manufacturers, retailers, wholesalers, buyers, sellers, distributors and shippers of, and dealers in, all products, goods, wares, merchandise and produce of every description and to participate in, undertake, perform and carry on all kinds of commercial, industrial, trading and financial operations and enterprises.
- 4.3** To carry on any other business or activity of any nature whatsoever which may seem to the Directors to be capable of being conveniently or advantageously carried on in connection or conjunction with any business of the Company hereinbefore or hereinafter authorised or to be expedient with a view directly or indirectly to enhancing the value of or to rendering profitable or more profitable any of the Company's assets or utilising its skills, know-how or expertise.
- 4.4** To subscribe, underwrite, purchase, or otherwise acquire, and to hold, dispose of, and deal with, any shares or other securities or investments of any nature whatsoever, and any options or rights in respect thereof or interests therein, and to buy and sell foreign exchange.
- 4.5** To draw, make, accept, endorse, discount, negotiate, execute, and issue, and to buy, sell and deal with bills of exchange, promissory notes, and other negotiable or transferable instruments or securities.
- 4.6** To purchase, or otherwise acquire for any estate or interest, any property (real or personal) or assets or any concessions, licences, grants, patents, trade marks, copyrights or other exclusive or non-exclusive rights of any kind and to hold, develop and turn to account and deal with the same in such manner as may be thought fit and to make experiments and tests and to carry on all kinds of research work.
- 4.7** To build, construct, alter, remove, replace, equip, execute, carry out, improve, work, develop, administer, maintain, manage or control buildings, structures or facilities of all kinds, whether for the purposes of the Company or for sale, letting or hire to or in return for any consideration from any company, firm or person, and to contribute to or assist in or carry out any part of any such operation.
- 4.8** To amalgamate or enter into partnership or any joint venture or profit/loss-sharing arrangement or other association with any company, firm, person or body.
- 4.9** To purchase or otherwise acquire and undertake all or any part of the business, property and liabilities of any company, firm, person or body carrying on any business which the Company is authorised to carry on or possessed of any property suitable for the purposes of the Company.
- 4.10** To promote, or join in the promotion of, any company, whether or not having objects similar to those of the Company.
-

- 4.11** To borrow and raise money and to secure or discharge any debt or obligation of or binding on the Company in such manner as may be thought fit and in particular by mortgage and charges upon all or any part of the undertaking, property and assets (present and future) and the uncalled capital of the Company, or by the creation and issue of debentures, debenture stock or other securities of any description.
- 4.12** To advance, lend or deposit money or give credit to or with any company, firm or person on such terms as may be thought fit and with or without security.
- 4.13** To guarantee or give indemnities or provide security, whether by personal covenant or by mortgage or charge upon all or any part of the undertaking, property and assets (present and future) and the uncalled capital of the Company, or by all or any such methods, for the performance of any contracts or obligations, and the payment of capital or principal (together with any premium) and dividends or interest on any shares, debentures or other securities, of any person, firm or company including (without limiting the generality of the foregoing) any company which is for the time being a holding company of the Company or another subsidiary of any such holding company or is associated with the Company in business.
- 4.14** To issue any securities which the Company has power to issue for any other purpose by way of security or indemnity or in satisfaction of any liability undertaken or agreed to be undertaken by the Company.
- 4.15** To sell, lease, grant licences, easements and other rights over, and in any other manner deal with or dispose of, the undertaking, property, assets, rights and effects of the Company or any part thereof for such consideration as may be thought fit, and in particular for shares or other securities, whether fully or partly paid up.
- 4.16** To procure the registration, recognition or incorporation of the Company in or under the laws of any territory outside England.
- 4.17** To subscribe or guarantee money for any national, charitable, benevolent, public, general or useful object or for any purpose which may be considered likely directly or indirectly to further the interests of the Company or of its members.
- 4.18** To establish and maintain or contribute to any pension or superannuation funds for the benefit of, and to give or procure the giving of donations, gratuities, pensions, allowances or emoluments to, any individuals who are or were at any time in the employment or service of the Company or of any company which is its holding company or is a subsidiary of the Company or any such holding company or otherwise is allied to or associated with the Company or any of the predecessors of the Company or any other such company as aforesaid, or who are or were at any time directors or officers of the Company or of any such other company, and the wives, widows, families and dependants of any such individuals; to establish and subsidise or subscribe to any institutions, associations, clubs or funds which may be considered likely to benefit any such persons or to further the interests of the Company or of any such other company; and to make payments for or towards the insurance of any such persons.
- 4.19** To establish and maintain, and to contribute to, any scheme for encouraging or facilitating the holding of shares or debentures in the Company by or for the benefit of its employees or former employees, or those of its subsidiary or holding company or subsidiary of its holding company, or by or for the benefit of such other persons as may for the time being be permitted by law, or any scheme for sharing profits with its employees or those of its subsidiary and/or

associated companies, and (so far as for the time being permitted by law) to lend money to employees of the Company or of any company which is its holding company or is a subsidiary of the Company or any such holding company or otherwise is allied to or associated with the Company with a view to enabling them to acquire shares in the Company or its holding company.

4.20

4.20.1 To purchase and maintain insurance for or for the benefit of any persons who are or were at any time directors, officers or employees or auditors of the Company, or of any other company which is its holding company or in which the Company or such holding company or any of the predecessors of the Company or of such holding company has any interest whether direct or indirect or which is in any way allied to or associated with the Company, or of any subsidiary undertaking of the Company or of any such other company, or who are or were at any time trustees of any pension fund in which any employees of the Company or of any such other company or subsidiary undertaking are interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or in the exercise or purported exercise of their powers and/or otherwise in relation to the Company or any such other company, subsidiary undertaking or pension fund and

4.20.2 to such extent as may be permitted by law otherwise to indemnify or to exempt any such person against or from any such liability; for the purposes of this clause “holding company” and “subsidiary undertaking” shall have the same meanings as in the Companies Act 1985 as amended by the Companies Act 1989.

4.21 ³To prospect for, explore, quarry, develop, excavate, dredge for, open, work, win, purchase or otherwise obtain, bauxite, alumina, aluminium, chrome ore, manganese ore, ores, heavy mineral sands, zircon, rutile, ilmenite, coal, lead, zinc, copper, sulphur, tin, silver, monazite, iron, gold, platinum, precious stones, atomic minerals or deposits, oil, pyrites, wolfram and all other minerals, metals and substances and minerals, and other rights, properties and works.

4.22 To carry on business as proprietors of and to purchase, take on lease, or in exchange, or otherwise acquire, for any estate term or interest therein and to manage supervise or control mineral and other properties, lands and hereditaments of any tenure, mines, mining and other rights or options thereon, and grant, concessions, leases, claims, charters, privileges, licences or authorities of and over lands and mines and mineral, oil-bearing, natural gas-bearing, agricultural and other properties and also mining, dredging, water and other rights.

4.23 To raise, win, get, quarry, crush, smelt, calcine, refine, dress, amalgamate, manipulate and otherwise treat, prepare for market, sell, dispose of and deal in ores, metals, fluxes, tailings, concentrates, slimes, mineral substances and other product of mines either in a manufactured state or otherwise, and any materials or substances resulting from or to be obtained in the process of crushing, smelting, calcining, dressing or amalgamating the same and either free form or in combination with other substances.

3 Clauses 4.21 to 4.24 inserted and the subsequent clauses re-numbered accordingly by Special Resolution passed on 26 June 1997.

- 4.24** To apply for, purchase, or otherwise acquire, concessions, grants or rights of any kind from any person, firm or corporation or any supreme, municipal, local or other authority, and to comply with the conditions of any concession or grant obtained, and to sell, lease or otherwise deal with the same or any interest therein and to work, exploit and otherwise turn to account the same of any part thereof.
- 4.25** To distribute among members of the Company in specie or otherwise, by way of dividend or bonus or by way of reduction of capital, all or any of the property or assets of the Company, or any proceeds of sale or other disposal of any property or assets of the Company, with and subject to any incident authorised, and consent required, by law.
- 4.26** To do all or any of the things and matters aforesaid in any part of the world, and either as principals, agents, contractors, trustees or otherwise, and by or through trustees, agents, subsidiary companies or otherwise, and either alone or in conjunction with others.
- 4.27** To do all such other things as may, in the opinion of the Directors, be considered to be incidental or conducive to any of the above objects and to do all such other things as the Directors consider desirable for the benefit of the Company.

And it is hereby declared that the objects of the Company as specified in each of the foregoing paragraphs of this Clause (except only if and so far as otherwise expressly provided in any paragraph) shall be separate, distinct and independent objects of the Company and not a power ancillary or incidental to the objects set out in any other paragraph and shall not be in any way limited by reference to any other paragraph or the order in which the same occur or the name of the Company.

5 The liability of the members is limited.

6 The Company's share capital is £50,000 divided into 50,000 shares of £1 each⁴

4 Notes

(i) Share capital increased by US\$ 1,250,000,000 divided into 2,500,000,000 ordinary shares of US\$0.50 each by Special Resolution passed on 26 June 1997.

(ii) Share capital increased by US\$ 250,000,000 divided into 500,000,000 additional ordinary shares of US\$0.50 each to US\$1,500,000,000 by Ordinary Resolution passed on 15 October 1999.

(iii) Share capital increased by US\$ 1 by the creation of one equalisation share of US\$0.50 and one special voting share of US\$0.50 by Ordinary Resolution passed on 15 May 2001.

We, the Subscribers to this Memorandum of Association wish to be formed into a Company pursuant to this Memorandum; and we agree to take the number of Shares shown opposite our respective names.

Names and Addresses of Subscribers	Number of Shares taken by each Subscriber
1 Hackwood Directors Limited Barrington House 59-67 Gresham Street London EC2V 7JA R J Ashmore For and on behalf of Hackwood Directors Limited	One
2 Hackwood Secretaries Limited Barrington House 59-67 Gresham Street London EC2V 7JA R J Ashmore For and on behalf of Hackwood Secretaries Limited	One
Total Shares Taken: Two	

DATED 29 April 1996

Witness to the above Signatures:-

C E Doe

Barrington House,
59-67 Gresham Street,
London EC2V 7JA.

AMENDMENT AGREEMENT

DATED 31ST MARCH, 2008

BETWEEN

BHP BILLITON PLC

BHP BILLITON LIMITED

BHP BILLITON FINANCE B.V.

BHP BILLITON FINANCE LIMITED

and

BARCLAYS BANK PLC

as Facility Agent

relating to the

**US\$55,000,000,000 Multicurrency Term and Revolving Facility and Subscription Agreement
dated 5th February, 2008**

Allen & Overy LLP

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THIS AGREEMENT is dated 31st March, 2008

BETWEEN:

- (1) **BHP BILLITON PLC** (registered No. 3196209) and **BHP BILLITON LIMITED** (ABN 49 004 028 077) (the **Companies**);
- (2) **THE OBLIGORS** under and as defined in the Facility and Subscription Agreement (defined below); and
- (3) **BARCLAYS BANK PLC** as facility agent for the Finance Parties (in this capacity the **Facility Agent**).

BACKGROUND

- (A) This Agreement is supplemental to and amends the US\$55,000,000,000 multicurrency term and revolving facility and subscription agreement dated 5th February, 2008, between, among others, the Companies and the Facility Agent (the **Facility and Subscription Agreement**).
- (B) In accordance with clause 44.1 of the Facility and Subscription Agreement, the Majority Lenders (as defined in the Facility and Subscription Agreement) have consented to the amendments to the Facility and Subscription Agreement contemplated by this Agreement. Accordingly, the Facility Agent is authorised to execute this Agreement on behalf of the Finance Parties.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

Capitalised terms defined in the Facility and Subscription Agreement have, unless expressly defined in this Agreement, the same meaning in this Agreement.

1.2 Construction

The principles of construction set out in clause 1.2 (Construction) of the Facility and Subscription Agreement will have effect as if set out in this Agreement.

2. AMENDMENTS

The Facility and Subscription Agreement will be amended from the date of this Agreement so that it reads as set out in Schedule 1 (Form of Amended Facility and Subscription Agreement).

3. REPRESENTATIONS

- 3.1 Each Obligor confirms to each Finance Party that, on the date of this Agreement, the Repeating Representations:
 - (a) are true in all material respects; and

- (b) would also be true in all material respects if references to the Facility and Subscription Agreement are construed as references to the Facility and Subscription Agreement as amended by this Agreement.

In each case, each Repeating Representation is made by reference to the facts and circumstances existing on the date of this Agreement.

4. CONSENTS

Each Obligor:

- (a) agrees to the amendment of the Facility and Subscription Agreement as contemplated by this Agreement; and
- (b) with effect from the date of this Agreement, confirms that any guarantee created or given by it under a Finance Document will:
 - (i) continue in full force and effect; and
 - (ii) extend to the liabilities and obligations of the Obligors to the Finance Parties under the Finance Documents as amended by this Agreement.

5. MISCELLANEOUS

- (a) This Agreement and the Facility and Subscription Agreement, as amended by this Agreement, is a Finance Document.
- (b) Subject to the terms of this Agreement, the Facility and Subscription Agreement will remain in full force and effect and, from the date of this Agreement, the Facility and Subscription Agreement and this Agreement will be read and construed as one document.

6. GOVERNING LAW

This Agreement is governed by English law.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

FACILITY AND SUBSCRIPTION AGREEMENT

**5TH FEBRUARY, 2008
(AS AMENDED ON 31ST MARCH, 2008)**

**US\$55,000,000,000
MULTICURRENCY TERM AND REVOLVING FACILITY
AND SUBSCRIPTION AGREEMENT**

for

**BHP BILLITON PLC AND BHP BILLITON LIMITED
as the Companies**

with

**THE FINANCIAL INSTITUTIONS
listed in Part 2 and Part 3 of Schedule 1
as Lenders**

**BARCLAYS BANK PLC
acting as Facility Agent**

**BARCLAYS BANK PLC
acting as Dollar Swingline Agent**

**BARCLAYS BANK PLC
acting as Euro Swingline Agent**

and

**THE FINANCIAL INSTITUTIONS
listed in Part 4 of Schedule 1
as Mandated Lead Arrangers**

ALLEN & OVERY

Allen & Overy LLP

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THIS AGREEMENT is dated 5th February, 2008 (as amended on 31st March, 2008) and made

BETWEEN:

- (1) **BHP BILLITON PLC** and **BHP BILLITON LIMITED** (ABN 49 004 028 077) as the parent companies (the **Companies** and each a **Company**);
- (2) **THE COMPANIES** listed in Part 1 of Schedule 1 as original borrowers (the **Original Borrowers**);
- (3) **BHP BILLITON PLC** and **BHP BILLITON LIMITED** (ABN 49 004 028 077) as original guarantors (the **Original Guarantors**);
- (4) **THE FINANCIAL INSTITUTIONS** listed in Part 2 and Part 3 of Schedule 1 as lenders (the **Original Lenders**);
- (5) **BARCLAYS BANK PLC** as facility agent for the other Finance Parties (the **Facility Agent**);
- (6) **BARCLAYS BANK PLC** as US Dollar swingline agent for the other Finance Parties (the **Dollar Swingline Agent**);
- (7) **BARCLAYS BANK PLC** as euro swingline agent for the other Finance Parties (the **Euro Swingline Agent**);
- (8) **BARCLAYS CAPITAL, BNP PARIBAS, CITIGROUP GLOBAL MARKETS LIMITED, GOLDMAN SACHS INTERNATIONAL, HSBC BANK PLC, BANCO SANTANDER, S.A. and UBS LIMITED** as bookrunners (the **Bookrunners**); and
- (9) **THE FINANCIAL INSTITUTIONS** listed in Part 4 of Schedule 1 as mandated lead arrangers (the **Mandated Lead Arrangers**).

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

Accession Letter means a document substantially in the form set out in Schedule 6 (Form of Accession Letter).

Acquisition means the acquisition of all of the shares of the Targets (or such other amount of the shares of the Targets subject to the minimum acceptance level specified in Clause 29.1(a)(i) (Acquisition Undertakings)) pursuant to the Offers or the Schemes.

Acquisition Cash Consideration means any cash consideration offered to or for the benefit of shareholders of the Targets as part of the Acquisition (whether directly or indirectly), but excluding any amount payable to shareholders of the Targets pursuant to any Buyback.

Acquisition Costs means all fees, costs and expenses, stamp, registration and other Taxes incurred by the Companies or any other member of the Group in connection with the Acquisition and the Finance Documents.

Additional Borrower means a company which becomes an Additional Borrower in accordance with Clause 34.2 (Additional Borrowers).

Additional Guarantor means a company which becomes a Guarantor in accordance with Clause 34.3 (Additional Guarantors).

Additional Obligor means an Additional Borrower or an Additional Guarantor.

Affiliate means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

Agent means the Facility Agent, the Dollar Swingline Agent or the Euro Swingline Agent.

Alcan Bond Debt means any Alcan Non Change of Control Debt:

- (a) which is incurred solely under a bond or note issue by any member of the Target Group;
- (b) the incurrence of which has not resulted in a breach of any of the terms set out in the clause entitled "Clear Market" of the Commitment Letter; and
- (c) the terms of which do not include any requirement to repay, prepay or redeem any amount of that debt from the proceeds of any disposal by a member of the Target Group or from the proceeds of any other debt incurred by or any equity or quasi-equity issued by a member of the Target Group.

Alcan Change of Control Debt means:

- (a) the Alcan Facilities; and
- (b) any bond, loan or other debt financing which was used by a member of the Target Group prior to the Unconditional Date to refinance any part of the Alcan Facilities and has become due and payable as a result of the Acquisition.

Alcan Facilities means the US\$40,000,000,000 credit facilities of the Target Group provided under a facility agreement dated 12th July, 2007.

Alcan Non Change of Control Debt means any bond, loan or other debt financing which was used by a member of the Target Group prior to the Unconditional Date to refinance any part of the Alcan Facilities and which has not become due and payable as a result of the Acquisition.

Alcan Related Debt means the Alcan Change of Control Debt and the Alcan Non Change of Control Debt.

Associate has the meaning given to it in Section 128F(9) of the Australian Tax Act.

Australian Borrower means each of Limited and BHP Billiton Finance Limited and any Additional Borrower that is a resident of Australia under the Australian Tax Act or that carries on a business in Australia through a permanent establishment with which its obligations under this Agreement would be connected.

Australian Loan means a Loan to an Australian Borrower made in accordance with Clause 8 (Subscription and Issue of Notes).

Australian Obligor means an Obligor that is a resident of Australia under the Australian Tax Act or that carries on a business in Australia through a permanent establishment with which its obligations under this Agreement would be connected.

Australian Tax Act means the Income Tax Assessment Acts of 1936 and 1997 of the Commonwealth of Australia, jointly, as applicable.

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing or registration.

Authorised Signatory means, in respect of a Company, any of its group treasurer, company secretary, chief financial officer, group financial controller or directors (or, in each case, any position which replaces any of the foregoing).

Availability Period means, in relation to a Facility, the period from and including the date of this Agreement to and including:

- (a) in relation to a Term Facility, the date falling 24 Months after the date of this Agreement or, in relation to Facility A only and if the Final Maturity Date of Facility A is not extended in accordance with Clause 12 (Extension of Facility A), the original Final Maturity Date of Facility A; and
- (b) in relation to the Revolving Facility (including the Swingline Facility), the Final Maturity Date in respect of the Revolving Facility.

Available Commitment means, in relation to a Facility, a Lender's Commitment under that Facility minus:

- (a) the Base Currency Amount of its participation in any outstanding Loans under that Facility; and
- (b) in relation to calculating the Available Commitment for the purpose of a proposed Utilisation, the Base Currency Amount of its participation in any Loans that are due to be made under that Facility on or before the proposed Utilisation Date, other than, in the case of the Revolving Facility only, that Lender's participation in any Revolving Facility Loans under that Facility that are due to be repaid or prepaid on or before the proposed Utilisation Date.

Available Facility means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility.

Base Currency means US Dollars.

Base Currency Amount means, in relation to a Loan, the amount specified in the Utilisation Request delivered by a Borrower for that Loan (or, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Facility Agent's Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date or, if later, on the date the Facility Agent receives the Utilisation Request) adjusted to reflect any repayment, prepayment, consolidation or division of the Loan.

BHP Billiton Group means the Group other than any member of the Target Group.

Bidco means a wholly-owned Subsidiary of a Company incorporated in England and Wales or Australia which is incorporated for the sole purpose of conducting an Offer.

Borrower means an Original Borrower or an Additional Borrower, unless it has ceased to be a Borrower in accordance with Clause 34 (Changes to the Obligors).

Break Costs means the amount (if any) by which:

- (a) the interest (excluding the Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;
exceeds:
- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in Toronto (for matters relating to Canadian Borrowers only), Melbourne, Sydney and London and:

- (a) (in relation to any date for payment or purchase of a currency other than euro) the principal financial centre of the country of that currency; or
- (b) (in relation to any date for payment or purchase of euro) which is a TARGET Day.

Buyback means any return of cash by one or both of the Companies (or a Buyback SPV) to the shareholders of PLC and/or Limited after the completion of the Acquisition, whether by way of dividend, share buyback or otherwise, as contemplated by and which is consistent with the Press Release or which is otherwise permitted by Clause 29.1(a)(iii) (The Offers or the Schemes).

Buyback Cash Consideration means the amount of any cash required to be returned (directly or indirectly) to shareholders of PLC or Limited by members of the Group pursuant to any Buyback.

Buyback Certain Funds Period means the period commencing on the last day of the Offer/Refinancing Certain Funds Period and ending on the earlier of:

- (a) the date falling 24 Months after the date of this Agreement; and
- (b) the date falling 4 Months after the Unconditional Date.

Buyback Loan means a Loan to the extent made for the purpose of financing any Buyback.

Buyback SPV means a wholly-owned Subsidiary of a Company incorporated in England and Wales or Australia which is incorporated for the sole purpose of conducting a Buyback.

Canadian Borrower means any Additional Borrower that is incorporated or formed under the laws of Canada or of a province or territory thereof.

Cash Confirmation means a confirmation given by the Financial Adviser (for the purposes of Rules 2.5(c) and 24.7 of the Code) that resources are available to the Companies and/or a Bidco and/or a Buyback SPV in order to finance the Acquisition or a Buyback (as the case may be).

Certain Funds Buyback Loan means, if, at any time prior to or after the date of the Press Release, the Financial Adviser is required by the Panel (for the purposes of Rules 2.5(c) and 24.7 of the Code) to give a Cash Confirmation in respect of any Buyback, a Buyback Loan.

Certain Funds Loan means:

- (a) an Offer Loan;
- (b) a Refinancing Loan; or
- (c) a Certain Funds Buyback Loan.

Code means The City Code on Takeovers and Mergers.

Commitment means a Facility A Commitment, a Facility B Commitment, a Facility C Commitment, a Revolving Facility Commitment or a Swingline Commitment.

Commitment Letter means the commitment letter dated 20th December, 2007 between, among others, the Companies and the Bookrunners.

Committed Currencies means US Dollars, Sterling, Canadian Dollars and Australian Dollars.

Company Parent Guarantees means the deed poll guarantees of the Companies, each dated 29th June, 2001 and any deed poll guarantee entered into by the New Holding Company or Limited as contemplated by Clause 44.4 (New Holding Company).

Compliance Certificate means a certificate substantially in the form set out in Schedule 8 (Form of Compliance Certificate).

Confidential Information means any information relating to an Obligor, the Companies, the Group, the Acquisition, the Finance Documents or the Facilities (including, without limitation, the Information Memorandum) provided to a Finance Party by (i) any member of the Group or any of their advisers, or (ii) another Finance Party or any of its Affiliates or advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (a) is or becomes public knowledge other than as a direct or indirect result of any breach by that Finance Party of Clause 33 (Confidentiality and disclosure of information); or
- (b) either:
 - (i) is known by that Finance Party before the date the information is disclosed to it by any member of the Group or any of their advisers or by another Finance Party or any of its Affiliates or advisers; or
 - (ii) is lawfully obtained by that Finance Party after that date, other than from (A) any member of the Group or any of its advisers, or (B) another Finance Party or any of its Affiliates or advisers;

and which, in either case, as far as that Finance Party is aware, has not been obtained in violation of, and is not otherwise subject to, any obligation of confidentiality.

Confidentiality Undertaking means a confidentiality undertaking substantially in the form set out in Schedule 12 (Form of Confidentiality Undertaking) or in any other form agreed between the Obligors' Agent and the Facility Agent.

Continuing Target Indebtedness has the meaning given to it in Clause 30.4(a) (Refinancing of Target Indebtedness).

Corporations Act means the Corporations Act 2001 (Cth) of Australia.

Credit Rating means the corporate long term credit rating of the unsecured and unsubordinated debt obligations of the Companies given by S&P or Moody's.

Dangerous Substance means any radioactive emissions and any natural or artificial substance (whether in the form of a solid, liquid, gas or vapour, capable of being recycled or recovered or of any value or not) the generation, transportation, storage, treatment, use or disposal of which (whether alone or in combination with any other substance) gives rise to a risk of causing harm to man or other living organism or causing damage to the Environment or public health or welfare, including (without limitation) any controlled, special, hazardous, toxic, radioactive or dangerous waste.

Deed Poll Guarantees means:

- (a) the Company Parent Guarantees; and
- (b) to the extent that any member of the Target Group becomes a Borrower, the Target Parent Guarantees.

Default means an Event of Default or any event or circumstance specified in Clause 31 (Events of Default) which would (with the passage of time or the giving of notice or any combination of any of the foregoing) be an Event of Default.

Dollar Swingline Facility means the US Dollar swingline loan facility made available under this Agreement as described in Clause 7 (Swingline Loans).

Dollar Swingline Lender means:

- (a) an Original Lender or an Affiliate of an Original Lender listed in Part 3 of Schedule 1 (The Original Parties) as a swingline lender; or
- (b) any other person that becomes a Dollar Swingline Lender after the date of this Agreement in accordance with Clause 32 (Changes to the Lenders).

Dollar Swingline Loan means a loan made or to be made under the Dollar Swingline Facility or the principal amount outstanding for the time being of that loan.

Environment means the media of land, air and water and includes human beings and other living organisms and natural systems supported by those media.

Environmental Law means any law or regulation in force for the time being in any jurisdiction in which a member of the Group carries on business and which is binding and enforceable against that member of the Group concerning the generation, transportation, storage, treatment, use, processing or disposal of Dangerous Substances or otherwise concerning the protection of the Environment.

EURIBOR means, in relation to any Loan or Unpaid Sum in euro:

- (a) the applicable Screen Rate; or
- (b) (if no Screen Rate is available for the Interest Period of that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request quoted by the Reference Banks to leading banks in the European interbank market,

as of the Specified Time on the Quotation Day for the offering of deposits in euro for a period comparable to the Interest Period of the relevant Loan.

Euro Swingline Facility means the Euro swingline loan facility made available under this Agreement as described in Clause 7 (Swingline Loans).

Euro Swingline Lender means:

- (a) an Original Lender or an Affiliate of an Original Lender listed in Part 3 of Schedule 1 (The Original Parties) as a Euro swingline lender; or
- (b) any other person that becomes a Euro Swingline Lender after the date of this Agreement in accordance with Clause 32 (Changes to the Lenders).

Euro Swingline Loan means a loan made or to be made under the Euro Swingline Facility or the principal amount outstanding for the time being of that loan.

Event of Default means any event or circumstance specified as such in Clause 31 (Events of Default).

Excluded Subsidiary means:

- (a) any Non Recourse Project Company;
- (b) any member of the Target Group (other than a Target) any of the shares of which are listed on a stock exchange if any person who is not a member of the Group owns any of those listed shares;
- (c) for so long as such companies' Financial Indebtedness do not retain the benefit in any material manner from any guarantee, bond, security, indemnity or other commitment from another member of the Group (other than a Joint Venture or Non-Recourse Project Company) to assure the repayment of, or indemnify against loss in respect of non-payment of, that Financial Indebtedness:
 - (i) Richards Bay Minerals (comprising Tisand (Pty) Limited and Richards Bay Iron and Titanium (Pty) Limited); and
 - (ii) the partnership named Newcastle Coal Infrastructure Group; and
- (d) Rossing Uranium Limited and each of its Subsidiaries.

Facility means a Term Facility, the Revolving Facility, the Dollar Swingline Facility or the Euro Swingline Facility.

Facility A means the term loan facility made available under this Agreement as described in Clause 2.1(a) (The Term Facilities).

Facility A Commitment means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading “Facility A Commitment” in Part 2 of Schedule 1 (The Original Parties) and the amount of any other Facility A Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in the Base Currency of any Facility A Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

Facility A Loan means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

Facility B means the term loan facility made available under this Agreement as described in Clause 2.1(b) (The Term Facilities).

Facility B Commitment means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading “Facility B Commitment” in Part 2 of Schedule 1 (The Original Parties) and the amount of any other Facility B Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in the Base Currency of any Facility B Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

Facility B Loan means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

Facility C means the term loan facility made available under this Agreement as described in Clause 2.1(c) (The Term Facilities).

Facility C Commitment means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading “Facility C Commitment” in Part 2 of Schedule 1 (The Original Parties) and the amount of any other Facility C Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in the Base Currency of any Facility C Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

Facility C Loan means a loan made or to be made under Facility C or the principal amount outstanding for the time being of that loan.

Facility Agent's Spot Rate of Exchange means the Facility Agent's spot rate of exchange for the purchase of the relevant currency with the Base Currency in the London foreign exchange market at or about 11.00 a.m. on a particular day.

Facility Office means the office or offices notified by a Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

Fee Letters means the letters dated the same date as this Agreement between the Facility Agent and the Companies and any other letters dated on or about the date of this Agreement between any of the Agents and the Obligors setting out any of the fees referred to in Clause 18 (Fees).

Final Maturity Date means:

- (a) in relation to Facility A (and subject to Clause 12 (Extension of Facility A)), the date falling 364 days after the date of this Agreement;
- (b) in relation to Facility B, the date falling three years after the date of this Agreement;
- (c) in relation to Facility C, the date falling five years after the date of this Agreement; and
- (d) in relation to the Revolving Facility, the date falling five years after the date of this Agreement.

Finance Company means:

- (a) BHP Billiton Finance B.V., BHP Billiton Finance Limited, BHP Billiton Finance USA Limited and BHP Billiton Finance USA B.V., provided that no such company shall incorporate or acquire any Subsidiaries (other than a Finance Company satisfying the conditions set out in paragraph (b) below) or operating businesses or assets (other than assets referred to in paragraph (b)(iii) below) after the date of this Agreement; and
- (b) any other member of the Group the creditors of whose Financial Indebtedness do not benefit from a guarantee from any other member of the Group (other than the Companies):
 - (i) the only material activity of which is raising finance and associated activities (including, without limitation, derivative and hedging transactions, hedging interest rate and foreign exchange exposures of the Group (including arising from commodity trading)) for use in the Group;
 - (ii) which is not an operating company; and
 - (iii) does not have any assets other than:
 - (A) receivables from loans made by it to any member of the Group;
 - (B) shares in other Finance Companies;
 - (C) receivables from any derivative and hedging transactions entered into by it;
 - (D) cash and bank deposits; or
 - (E) any other immaterial assets (excluding shares) associated with acting as a finance raising company for the Group.

Finance Document means this Agreement, any Fee Letter, any Accession Letter, any Resignation Letter, any Note Deed Poll, any Note, the Commitment Letter and any other document designated as such by the Facility Agent and the Obligors' Agent.

Finance Party means a Mandated Lead Arranger, the Facility Agent, the Dollar Swingline Agent, the Euro Swingline Agent or a Lender.

Financial Adviser means the financial adviser appointed by the Companies for the purposes of Rules 2.5(c) and 24.7 of the Code to confirm that resources are available to the Companies in order to finance the Offer or the Scheme (as the case may be).

Financial Indebtedness of any person means:

- (a) all indebtedness of that person for borrowed money;
- (b) all indebtedness under any acceptance credit opened on behalf of that person;
- (c) all indebtedness of that person under any debenture, note, bond or other debt security;
- (d) all indebtedness of that person for money owing in respect of any interest rate or currency swap or forward currency sale or purchase or contract for differences or other form of interest or currency hedging transaction or option as to any of these (including without limit caps, collars and floors);
- (e) any indebtedness for or in respect of the amount of any liability of that person under any finance lease;
- (f) any indebtedness of that person for or in respect of receivables sold or discounted on a recourse basis;
- (g) any indebtedness for or in respect of any amount raised under any other transaction having the commercial effect of a borrowing and effected primarily as a method of raising finance; and
- (h) all liabilities of that person (actual or contingent) under any guarantee, bond, security, indemnity or other commitment for any of the items referred to in paragraphs (a) to (g) above.

Government Agency means any government, or any governmental, semi-governmental or judicial entity or authority, including any self-regulatory authority established under statute.

Gross Assets means, at any time, the sum of total fixed assets and total current assets of the Group as shown in the then most recent financial statements of PLC which are the consolidated accounts of the Group provided that, during the period from the Unconditional Date until the date of the next financial statements of PLC which are consolidated accounts of the Group (including the Target Group), (i) the sum of total fixed assets and total current assets shall include the total fixed assets and total current assets of the Target Group as shown in the most recent financial statements of Target PLC which are the consolidated accounts of the Target Group, adjusted to exclude any such assets which shall cease to exist on the consolidation of the Target Group into the Group; and (ii) the sum of total fixed assets and total current assets of the Group (including as adjusted in accordance with (i) above) shall be further adjusted (after discussions with the auditors of PLC in respect of such matters, in a manner which is consistent with the outcome of those discussions) to reflect the revaluation of the assets of the Group which will be made in the consolidated accounts of the Group (including the Target Group) as a result of the Acquisition.

Group means each of the Companies and each of their respective Subsidiaries for the time being.

Guarantor means an Original Guarantor or an Additional Guarantor.

Holding Company means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

IFRS means international financial reporting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

Information Memorandum means the document which is to be prepared in relation to the Acquisition and the Facilities and (after approval by the Obligors' Agent) to be distributed in connection with the initial and main sub-underwriting phases of syndication, and general syndication, of the Facilities as updated and/or supplemented from time to time.

Intercompany Loan Agreement means a loan agreement to be entered into between one or more of the Permitted Refinancing Borrowers as lender(s) and one or more members of the Target Group as borrower(s) in accordance with, and for the purpose specified in, Clause 30.2 (Refinancing using Refinancing Loans).

Interest Period means, in relation to a Loan, each period determined in accordance with Clause 16 (Interest Periods) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 15.4 (Default interest).

ITA means the Income Tax Act 2007.

Joint Venture means:

- (a) Richards Bay Minerals (comprising Tisand (Pty) Limited and Richards Bay Iron and Titanium (Pty) Limited);
- (b) the partnership named Newcastle Coal Infrastructure Group; and
- (c) any partnership, corporation, joint venture or unincorporated organisation or association (other than a Project Company) which is a non-wholly owned Subsidiary of a Company whose business or activities substantially consist of or are related to the exploration, development, mining and/or exploitation (including processing and marketing) of base and precious metals, other minerals, petroleum or any other materials whatsoever,

if, in each case, none of its creditors benefit in any material manner from any guarantee, bond, security, indemnity or other commitment from another member of the Group (other than another Joint Venture or Non-Recourse Project Company) to assure the repayment of, or indemnify against loss in respect of non-payment of its Financial Indebtedness.

Lender means:

- (a) any Original Lender;
- (b) any bank, financial institution or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets which has become a Party in accordance with Clause 32 (Changes to the Lenders) and, if that person has made a Loan to an Australian Borrower, which is specified for the time being in an entry in a Register as the holder of the Notes representing that Loan, which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

LIBOR means, in relation to any Loan or Unpaid Sum:

- (a) the applicable Screen Rate; or
- (b) (if no Screen Rate is available for the currency or Interest Period of that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request quoted by the Reference Banks to leading banks in the London interbank market,

as of the Specified Time on the Quotation Day for the offering of deposits in the currency of that Loan and for a period comparable to the Interest Period for that Loan.

Limited means BHP Billiton Limited, a company incorporated in Australia with registered number ABN 49 004 028 077.

Loan means a Term Loan, a Revolving Facility Loan or a Swingline Loan.

LMA means the Loan Market Association.

London Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in London.

Major Event of Default means any circumstances constituting an Event of Default under any of Clauses 31.1 (Non-payment), 31.3 (Breach of other obligations) (but only insofar as it relates to a breach of a Major Undertaking), 31.6 (Insolvency), 31.8 (Ownership of the Obligors) or 31.10 (Guarantees).

Major Representation means a representation or warranty contained in any of Clauses 25.1 (Status) to 25.5 (Validity and admissibility in evidence) (inclusive) or 25.9 (Pari passu ranking).

Major Undertaking means the undertakings and covenants contained in any of Clauses 28.2 (Negative pledge), 28.3 (Disposals), 28.7 (Subsidiary Indebtedness) or 29 (Acquisition Undertakings).

Majority Bookrunners means Bookrunners comprising a majority by number of the Bookrunners.

Majority Lenders means, at any time, a Lender or Lenders:

- (a) whose share in the outstanding Loans and whose undrawn Commitments then aggregate 66 ²/₃% or more of the aggregate of all the outstanding Loans and the undrawn Commitments of all the Lenders;
- (b) if there is no Loan then outstanding, whose undrawn Commitments then aggregate 66 ²/₃% or more of the Total Commitments; or
- (c) if there is no Loan then outstanding and the Total Commitments have been reduced to zero, whose Commitments aggregated 66 ²/₃% or more of the Total Commitments immediately before the reduction.

For this purpose, where a reference to a Commitment includes a Revolving Facility Commitment it shall be a reference to that Revolving Facility Commitment but without double counting in respect of any Swingline Commitments.

Mandatory Cost means the percentage rate per annum calculated by the Facility Agent in accordance with Schedule 4 (Mandatory Cost Formulae).

Margin means, subject to Clause 15.3 (Margin adjustment):

- (a) in relation to any Facility A Loan, 0.50% per annum;
- (b) in relation to any Facility B Loan, 0.55% per annum;
- (c) in relation to any Facility C Loan, 0.60% per annum; and
- (d) in relation to any Revolving Facility Loan, 0.60% per annum.

Material Adverse Effect means a material adverse effect on:

- (a) the ability of the Obligors, taken as a whole, to comply with their payment obligations under any Finance Document as and when they fall due for performance; or
- (b) the ability of the Companies to comply with their obligations under Clause 27.2 (Leverage ratio).

Material Company means a member of the Group (other than a Non Recourse Project Company) which as at the date of the most recent audited consolidated financial statements of PLC had fixed assets and current assets (calculated on the same basis as Gross Assets on a consolidated basis but excluding any intra-Group items) which represent 2.5% or more of the Gross Assets of the Group, provided that, after the Unconditional Date and until such time as the audited consolidated financial statements of PLC (including the Target Group) are published, a Material Company shall comprise a member of the Target Group and any member of the Group (excluding the Target Group) (in each case other than a Non Recourse Project Company) which as at the date of the most recent audited financial statements of Target plc or, as the case may be, the date of the most recent audited consolidated financial statements of PLC, had fixed assets and current assets (calculated on the same basis as Gross Assets on a consolidated basis but excluding any intra-Group items) which represent 2.5 per cent. or more of the Gross Assets of the Group (including the Target Group).

Maximum Refinancing Amount means the lower of (a) US\$40,000,000,000 and (b) the aggregate drawn and undrawn lending commitments under all of the Alcan Related Debt on the Unconditional Date.

Month means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month.

The above rules will only apply to the last Month of any period.

Moody's means Moody's Investors Service Limited or any successor to its ratings business.

New Holding Company has the meaning given in Clause 44.4 (New Holding Company).

Non-Base Currency means any Optional Currency or Committed Currency which is not the Base Currency.

Non Recourse Project Company means any Project Company other than:

- (a) for as long as it satisfies the provisions of Clause 28.9(a)(ii)(B) (Project Companies), Cerro Matoso SA; or
- (b) any other Project Company which satisfies the provisions of Clause 28.9(a)(ii)(B) (Project Companies).

Note means the rights of a Lender under the Note Deed Poll, title to which is recorded in and evidenced by an inscription in the Register.

Note Deed Poll means each deed poll executed by an Australian Borrower substantially in the form of Schedule 10 (Form of Note Deed Poll).

Obligor means a Borrower or a Guarantor.

Obligors' Agent means BHP Billiton Finance B.V. or any other member of the Group nominated by the Companies and approved by the Facility Agent (such approval not to be unreasonably withheld or delayed).

OECD means the Organisation for Economic Co-operation and Development.

Offer means a public offer for all of the shares of the Targets by the Companies (or any one of them) or one or more of their wholly-owned Subsidiaries, as contemplated by, and (other than as permitted by Clause 29.1(a)(iii) (The Offers or the Schemes)) consistent with, the Press Release.

Offer Document means an offer document issued or to be issued to shareholders of the Targets in respect of an Offer (including without limitation any bidder's statement, replacement bidder's statement, or supplementary bidder's statement issued to the shareholders of Target Limited), in a form which (other than as permitted by Clause 29.1(a)(iii) (The Offers or the Schemes)) is consistent with the Press Release.

Offer Loan means a Loan to the extent made for the purpose referred to in Clause 3.1(a)(i) (Purpose).

Offer/Refinancing Certain Funds Period means the period commencing on the date of this Agreement and ending on the earliest of:

- (a) the date on which the Offers or Schemes lapse, are withdrawn or otherwise terminate (in circumstances where the Offer has not become unconditional) (or, if there is a switch from an Offer to a Scheme or vice versa, the date on which that lapses, is withdrawn or otherwise terminates (in circumstances where the Offer has not become unconditional));
- (b) the date falling 18 Months after the date of this Agreement; and
- (c) the later of:
 - (i) the date falling 8 weeks after the date on which the Companies are entitled to give a notice under section 979 of the Companies Act 2006 or, if any application is made to court under section 986 of the Companies Act 2006, the date falling five days after the court declares that the relevant Company is entitled to acquire the relevant Target Shares pursuant to section 981 of the Companies Act 2006; and

- (ii) the date falling eight weeks after the date on which the Companies are entitled to give notice under section 661B of the Corporations Act or, if any application is made to court under section 661E of the Corporation Act, the date that is five days after that application is finally determined in a manner which enables the relevant Company to acquire the relevant Target Shares pursuant to section 661B of the Corporations Act.

Offshore Associate means an Associate:

- (a) which is a non-resident of Australia and does not acquire, or would not acquire, the relevant Notes and corresponding participations in carrying on a business in Australia at or through a permanent establishment of the Associate in Australia; or
- (b) which is a resident of Australia and which acquires, or would acquire, the relevant Notes and corresponding participations in carrying on a business in a country outside Australia at or through a permanent establishment of the Associate in that country; and
- (c) which is not acquiring the Notes or receiving payment in the capacity of a clearing house, custodian, funds manager or responsible entity of a registered scheme.

For the purpose of this definition, “clearing house” has the meaning given to it in section 128F(9) of the Australian Tax Act and “responsible entity” and “registered scheme” each has the meaning given to it in section 9 of the Corporations Act.

Optional Currency means a currency (other than a Committed Currency or euro) which complies with the conditions set out in Clause 4.4 (Conditions relating to Optional Currencies).

Original Financial Statements means the audited consolidated financial statements of PLC for its financial year ended 30 June, 2007 (which are the consolidated accounts of the Group).

Original Obligor means an Original Borrower or an Original Guarantor.

Panel means The Panel on Takeovers and Mergers.

Participating Member State means any member state of the European Communities that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to European Monetary Union.

Party means a party to this Agreement.

Permitted Refinancing Borrower means:

- (a) one or more of the Original Borrowers; or
- (b) to the extent that any of the Alcan Related Debt has been borrowed or issued by a member of the Target Group that is incorporated or formed under the laws of Canada or of a province or territory thereof, a member of the BHP Billiton Group that is a wholly-owned Subsidiary of either Company and that is or becomes a Canadian Borrower; or
- (c) on its accession as an Additional Borrower, a Finance Company that is a wholly-owned Subsidiary of either Company and is incorporated in the UK or the Netherlands.

Permitted Security Interests means:

- (a) any Security created with the prior written consent of the Majority Lenders;
- (b) any lien arising by operation of law (including where evidenced by an agreement) or imposed by a court or tribunal;
- (c) any Security over or affecting any asset acquired after the date of this Agreement (other than pursuant to the Acquisition) if:
 - (i) the Security was not created in contemplation of the acquisition of that asset; and
 - (ii) the principal amount secured has not been increased in contemplation of, or since the acquisition of that asset;
- (d) any Security over or affecting any asset of any company which becomes a member of the Group after the date of this Agreement (other than pursuant to the Acquisition), where the Security is created prior to the date on which that company becomes a member of the Group, if:
 - (i) the Security was not created in contemplation of the acquisition of that company; and
 - (ii) the principal amount secured has not increased in contemplation of or since the acquisition of that company;
- (e) any Security over or affecting any asset or project established, acquired, developed or expanded after the date of this Agreement where the Security was created to secure the purchase price, or the financing of the establishment, acquisition, development, expansion or operation of that asset or project and the principal amount secured by that Security does not exceed the purchase price or financing (and any costs of establishment, acquisition, development, expansion or operation), other than any such Security created to secure any Financial Indebtedness incurred to finance the Acquisition;
- (f) any Security in substitution for any Security permitted under paragraphs (c), (d) or (e) above where the Financial Indebtedness secured is refinancing the Financial Indebtedness secured by the Security being substituted and the principal amount of the Financial Indebtedness secured is not increased as a result of such refinancing;
- (g) any Security to secure loans provided, supported or subsidised by a governmental agency, export credit agency or a lending organisation established by the United Nations, the European Union, the International Monetary Fund or other international treaty organisation or created to secure pre-export financing or future flow finance arrangement provided that the financing is entered into to mitigate against political risk (including, without limitation, remittance risk);
- (h) any Security created in connection with convertible or exchangeable bonds or notes where the Security is created over the assets into which the convertible or exchangeable bonds or notes may be converted or exchanged and secures only the obligation of the issuer to effect the conversion or exchange of the bonds or notes into such assets;
- (i) any Security over or affecting any goods or documents of title to goods arising in the ordinary course of trade finance incurred in the ordinary course of business;

- (j) any Security of the following description or arising in the following transactions:
 - (i) collateral posted against obligations under exchange-traded forward sale contracts entered into in the ordinary course of business;
 - (ii) the discounting of receivables to the extent that the value of the assets over which Security exists does not exceed US\$500,000,000 (or its equivalent in any other currency) in total;
 - (iii) netting or credit support arrangements arising for the purposes of any International Swaps and Derivatives Association Master Agreement or International Foreign Exchange Master Agreement where the relevant transaction or transactions are entered into in connection with the ordinary business activities or financing arrangements of any member of the Group;
 - (iv) cash management arrangements and any netting or set-off arrangement entered into in the ordinary course of banking arrangements; and
 - (v) Security in the form of cross charges over joint venture related assets granted to other joint venturers and/or the manager of the joint venture to secure obligations owed to any one or more of the other joint venturers and/or the manager under the joint venture or related agreement;
- (k) any Security created by an Obligor in favour of another Obligor;
- (l) any Security constituted by arrangements for the retention by a vendor, lessor or consignor of title to goods in accordance with its standard terms of business pending payment in full of the purchase price or rent therefor, provided that, in relation to sales such purchase price is paid and title passes within six months of the date of supply by the vendor of such goods;
- (m) any Security created by a Project Company or over any shares in or debts or other obligations of that Project Company to secure Financial Indebtedness of that Project Company;
- (n) any Security created by a member of the Group (other than an Obligor) to another member of the Group; and
- (o) any Security in addition to that permitted under paragraphs (a) to (n) above securing Financial Indebtedness to the extent that the lower of (i) the value of assets and (ii) the Financial Indebtedness secured by such Security does not when aggregated with any other Security permitted solely under this paragraph (o) and the aggregate amount of all Project Investments in all designated companies (as defined in Clause 28.9 (Project Companies)) exceed 10% of the Gross Assets of the Group.

PLC means BHP Billiton Plc, a company incorporated in England and Wales with registered number 3196209.

Pre-Conditions means the conditions specified in the Press Release as being pre-conditions to the posting of the Offer Documents or the Scheme Documents.

Press Release means the press release referred to in Part 1 of Schedule 2 (Conditions Precedent) made or to be made by or on behalf of the Companies announcing a firm intention to make the Offers or to propose the Schemes.

Project Company means each of the following:

- (a) for as long as they meet the requirements of either sub-paragraph (a)(ii)(A) or sub-paragraph (a) (ii) (B) of Clause 28.9 (Project Companies), the following members of the Group:
 - (i) Cerro Matoso SA; and
 - (ii) Minera Escondida Limitada;
- (b) any member of the Group (which is not an Obligor) designated as a Project Company in accordance with Clause 28.9 (Project Companies); or
- (c) other member of the Group otherwise accepted by the Majority Lenders as a Project Company.

Project Investment means, with respect to a Project Company, the aggregate amount of:

- (a) any debt (whether subordinated or otherwise) owing by that Project Company to another member of the Group (not being a Project Company); and
- (b) any equity investment valued at cost by any other member of the Group (not being a Project Company) in that Project Company.

Publicly-held Shares means, at any time, in relation to a Company, any ordinary shares of that Company which are not held by any member of the Group at that time.

Quotation Day means, in relation to any period for which an interest rate is to be determined: (a) (if the currency is sterling) the first day of that period; (b) (if the currency is euro) two TARGET Days before the first day of that period; or (c) (for any other currency) two London Business Days before the first day of that period,

unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Day for that currency will be determined by the Facility Agent in accordance with market practice in the Relevant Interbank Market (and if quotations for that currency and period would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

Reference Banks means the principal London offices of Barclays Bank PLC, BNP Paribas and Citibank N.A. or such other banks as may be appointed by the Facility Agent in consultation with the Obligors' Agent.

Refinancing Loan means a Loan to the extent made for a purpose referred to in Clause 3.1(a)(iii) (Purpose).

Register means a register of Notes to be maintained by the Facility Agent for each Australian Borrower in accordance with Clause 10 (Register of Notes).

Relevant Interbank Market means, in relation to euro, the European interbank market and, in relation to any other currency, the London interbank market.

Repeating Representations means each of the representations set out in Clauses 25.1 (Status) to 25.6(a) (No default) and 25.9 (Pari passu ranking).

Reserved Proceeds has the meaning given to it in Clause 14.10(a) (Exceptions to prepayment of Net Disposal Proceeds and Net Capital Markets Proceeds).

Resignation Letter means a letter substantially in the form set out in Schedule 7 (Form of Resignation Letter).

Revolving Facility means the revolving loan facility made available under this Agreement as described in Clause 2.2 (The Revolving Facility).

Revolving Facility Commitment means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading **Revolving Facility Commitment** in Part 2 of Schedule 1 (The Original Parties) and the amount of any other Revolving Facility Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in the Base Currency of any Revolving Facility Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

Revolving Facility Loan means a loan made or to be made under the Revolving Facility or the principal amount outstanding for the time being of that loan.

Rollover Loan means one or more Revolving Facility Loans:

- (a) made or to be made on the same date that one or more maturing Revolving Facility Loans is or are due to be repaid;
- (b) the aggregate amount of which is equal to or less than the maturing Revolving Facility Loans;
- (c) in the same currency as the maturing Revolving Facility Loans (unless it arose as a result of the operation of Clause 11.2 (Unavailability of a currency)); and
- (d) made or to be made to the same Borrower for the purpose of refinancing the maturing Revolving Facility Loans.

S&P means Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc. or any successor to its rating business.

Scheme means:

- (a) a scheme of arrangement under section 425 of the Companies Act 1985 between Target plc and Target plc's shareholders; and/or
- (b) a scheme of arrangement under Part 5.1 of the Corporations Act between Target Limited and Target Limited's shareholders.

Scheme Document means a scheme document issued, or to be issued, by or on behalf of Target plc and/or Target Limited to its shareholders in respect of a Scheme (including without limitation in respect of Target Limited any explanatory memorandum or supplementary explanatory memorandum), in a form which (other than as permitted by Clause 29.1(a)(iii) (The Offers or the Schemes)) is consistent with the Press Release.

Screen Rate means:

- (a) in relation to LIBOR, the British Bankers Association Interest Settlement Rate for the relevant currency and period; and
- (b) in relation to EURIBOR, the percentage rate per annum determined by the Banking Federation of the European Union for the relevant period,

displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or service ceases to be available, the Facility Agent may specify another page or service displaying the appropriate rate after consultation with the Obligors' Agent and the Lenders.

Security means a mortgage, charge, pledge, lien or other security interest.

Selection Notice means a notice substantially in the form set out in Part 2 of Schedule 3 (Form of Requests) given in accordance with Clause 16 (Interest Periods).

Settlement Date means the date on which the first payment (including by way of allocation of shares of the Companies) is made to shareholders in respect of the Offer or the Scheme (as the case may be).

Short-term Alcan Bond Debt means any Alcan Bond Debt which will mature within six months after the Unconditional Date.

Specified Time means a time determined in accordance with Schedule 9 (Timetables).

Subsidiary means:

- (a) a subsidiary within the meaning of section 736 of the Companies Act 1985;
- (b) a subsidiary within the meaning of section 9 of the Corporations Act;
- (c) any other entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership; or
- (d) for the purpose of determining whether a person is a Subsidiary of a Company or a Target (as the case may be):
 - (i) any other entity of which PLC and Limited together have direct or indirect control or together own directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership;
 - (ii) any other entity of which Target plc and Target Limited together have direct or indirect control or together own directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership; or
 - (iii) any other entity which is treated in the audited consolidated financial statements of the Group or the Target Group as being a subsidiary of PLC and/or Limited or Target plc and/or Target Limited (as the case may be).

Super-Majority Lenders has the same meaning as Majority Lenders except that, for the purposes of calculating the relevant percentage, each reference in the definition of Majority Lenders to 66 ²/₃% shall be construed as a reference to 85%.

Swingline Commitment means:

- (a) in relation to a Dollar Swingline Lender on the date of this Agreement, the amount in US Dollars set opposite its name under the heading **Dollar Swingline Commitment** in Part 3 of Schedule 1 (The Original Parties) and the amount of any other Dollar Swingline Commitment transferred to it under this Agreement;
- (b) in relation to a Euro Swingline Lender on the date of this Agreement, the amount in euro equivalent to the amount in US Dollars (the **Euro Equivalent**) set opposite its name under the heading **Euro Swingline Commitment** in Part 3 of Schedule 1 (The Original Parties) and the amount of any other Euro Swingline Commitment transferred to it under this Agreement. For the purposes of calculating the amount of the Euro Equivalent, the amount in US Dollars specified in Part 3 of Schedule 1 (shall be converted into euro at the Facility Agent's Spot Rate of Exchange on the date the Facility Agent receives the Utilisation Request; and
- (c) in relation to any other Swingline Lender, the amount of any Swingline Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

Swingline Facilities means the Dollar Swingline Facility and the Euro Swingline Facility.

Swingline Lender means a Dollar Swingline Lender or a Euro Swingline Lender.

Swingline Loan means a Dollar Swingline Loan or a Euro Swingline Loan.

Syndication Date means the day on which the Bookrunners confirm in writing to the Companies that general syndication of the Facilities has been completed.

TARGET means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises interlinked national real time gross settlement systems and the European Central Bank's payment mechanism and which began operations on 4 January 1999.

TARGET2 means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

Target Borrower means any member of the Target Group which is a Borrower.

TARGET Day means:

- (a) until such time as TARGET is permanently closed down and ceases operations, any day on which both TARGET and TARGET2 are; and
- (b) following such time as TARGET is permanently closed down and ceases operations, any day on which TARGET2 is,

open for the settlement of payments in euro.

Target Group means each of the Targets and each of their Subsidiaries for the time being.

Target Limited means Rio Tinto Limited, a company incorporated in Australia with registered number ACN 004 458 404.

Target Parent Guarantees means the deed poll guarantees of the Targets, each dated 21st December, 1995.

Target plc means Rio Tinto plc, a company incorporated in England and Wales with registered number 719885.

Target Shares means, in respect of a Target, all of the ordinary shares of that Target other than any such shares which are held by a member of the Target Group at that time.

Target Standalone Agreement means a facilities agreement entered into in accordance with Clause 30.3 (Refinancing using a Target Standalone Agreement) in the form agreed by the Obligors' Agent and the Lenders.

Targets means Target plc and Target Limited.

Tax means any tax, levy, impost, deduction, duty or other charge or withholding of a similar nature and including any related penalty or interest arising out of an Obligor's failure to pay or any delay on the part of an Obligor in paying any of the same, provided that, in the case of a Canadian Borrower, such penalty or interest shall, for purposes of Clause 19.5 (Tax indemnity), include any such penalty or interest arising in connection with a Finance Party's failure to pay or any delay on the part of a Finance Party in paying any of the same in respect of withholding taxes for which a Finance Party and an Obligor are jointly, solidarily or jointly and severally liable.

Taxes Act means the Income and Corporation Taxes Act 1988.

Term Facility means Facility A, Facility B or Facility C.

Term Loan means a Facility A Loan, a Facility B Loan or a Facility C Loan.

Third Party Refinancing Agreement has the meaning given to it in Clause 30.4(b) (Most Favoured Lender).

Total Commitments means the aggregate of the Total Facility A Commitments, the Total Facility B Commitments, the Total Facility C Commitments and the Revolving Facility Commitments, being US\$55,000,000,000 at the date of this Agreement.

Total Facility A Commitments means the aggregate of the Facility A Commitments, being US\$20,000,000,000 at the date of this Agreement.

Total Facility B Commitments means the aggregate of the Facility B Commitments, being US\$15,000,000,000 at the date of this Agreement.

Total Facility C Commitments means the aggregate of the Facility C Commitments, being US\$12,500,000,000 at the date of this Agreement.

Total Revolving Facility Commitments means the aggregate of the Revolving Facility Commitments, being US\$7,500,000,000 at the date of this Agreement.

Transfer Certificate means a certificate substantially in the form set out in Schedule 5 (Form of Transfer Certificate) or (other than in respect of a Loan to an Australian Borrower) in a form recommended by the LMA or in any other form agreed between the Facility Agent and the Obligors' Agent.

Transfer Date means, in relation to a transfer, the later of:

- (a) the proposed Transfer Date specified in the Transfer Certificate; and
- (b) the date on which the Facility Agent executes the Transfer Certificate.

Trigger Time has the meaning given to it in Clause 4.6(d) (Certain Funds).

UK GAAP means generally accepted accounting principles, standards and practices in the UK, including IFRS.

UK Lender has the meaning given to it in Clause 19 (Tax Gross up and Indemnities).

Unconditional Date means:

- (a) if the Acquisition is effected by means of one or more Schemes, the date on which each of the Schemes has become effective; or
- (b) if the Acquisition is effected by means of one or more Offers, the date on which each of the Offers has become or has been declared unconditional in all respects.

Unpaid Sum means any sum due and payable but unpaid by an Obligor under the Finance Documents.

Utilisation means a utilisation of a Facility.

Utilisation Date means the date of a Utilisation, being the date on which the relevant Loan is to be made.

Utilisation Request means a notice substantially in the form set out in Part 1 of Schedule 3 (Form of Request).

VAT means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature in any relevant jurisdiction.

1.2 Construction

(a) Unless a contrary indication appears, any reference in this Agreement to:

- (i) the **Facility Agent**, the **Dollar Swingline Agent**, the **Euro Swingline Agent**, any **Mandated Lead Arranger**, any **Finance Party**, any **Lender**, any **Obligor** or any **Party** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (ii) **acting in concert** means, a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition (directly or indirectly) of shares in either of the Companies by any of them, either directly or indirectly, to obtain or consolidate control of either of the Companies;

- (iii) **assets** includes present and future properties, revenues and rights of every description;
 - (iv) **Barclays Capital** is a reference to the investment banking division of Barclays Bank PLC;
 - (v) **control** means the power to direct the management and the policies of the entity whether through the ownership of voting capital, by contract or otherwise;
 - (vi) the **European interbank market** means the interbank market for euro operating in Participating Member States;
 - (vii) a **Finance Document** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended or novated;
 - (viii) a **guarantee** means (other than in Clause 24 (Guarantee and Indemnity by the Companies)) any guarantee, letter of credit, bond, indemnity or other commitment to assure the repayment of, or indemnify against loss, in respect of non-payment of indebtedness;
 - (ix) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (x) a **person** includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing;
 - (xi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
 - (xii) a provision of law is a reference to that provision as amended or re-enacted (and, without limitation, if any provision of the Companies Act 1985 referred to in this Agreement is replaced following the implementation of the corresponding provision of the Companies Act 2006, the reference to that provision of the Companies Act 1985 shall be construed as a reference to the corresponding provision of the Companies Act 2006);
 - (xiii) a time of day is a reference to London time; and
 - (xiv) all references in this Agreement to **Australian Dollars** or **AUS\$** are to the lawful currency for the time being of Australia, **Canadian Dollars** or **CAD** are to the lawful currency for the time being of Canada, **US Dollars** and **US\$** are to United States dollars, those to **Sterling** and **£** are to pounds sterling and those to **euro**, **€** and **EUR** are to the single currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty establishing the European Communities, as amended.
- (b) Section, Clause and Schedule headings are for ease of reference only.
 - (c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
 - (d) A Default is **continuing** if it has not been remedied or waived.

1.3 Third Party Rights

- (a) Unless expressly stated to the contrary in this Agreement or a Note Deed Poll, a person who is not a party to a Finance Document has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of that Finance Document.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

1.4 Aggregate Commitment of Lenders

Each of UBS AG, London Branch, UBS AG, Australia Branch and UBS Loan Finance LLC have executed this Agreement as Lenders. UBS Loan Finance LLC has the Dollar Swingline Commitment set out in Part 3 of Schedule 1. Notwithstanding any other provision to the contrary in this Agreement, a reference to the Commitment of UBS AG, London Branch in relation to the Facilities shall be construed as a reference to the aggregate Commitment of UBS AG, London Branch and UBS AG, Australia Branch in such proportions as UBS AG, London Branch may notify to the Facility Agent prior to the Unconditional Date (by way of delivery of a Transfer Certificate). If no such notice has been given, a reference to the Commitment of UBS AG, London Branch in relation to the Facilities shall be construed as a reference to the Commitment of UBS AG, London Branch only and only UBS AG, London Branch shall be required to perform the obligations under this Agreement with respect to that Commitment (except that UBS Loan Finance LLC shall the perform the relevant obligations in respect of Dollar Swingline Loans).

2. THE FACILITIES

2.1 The Term Facilities

Subject to the terms of this Agreement, the Lenders make available to the Borrowers:

- (a) an extendible 364 day multicurrency term loan facility in an aggregate amount equal to the Total Facility A Commitments;
- (b) a three year multicurrency term loan facility in an aggregate amount equal to the Total Facility B Commitments; and
- (c) a five year multicurrency term loan facility in an aggregate amount equal to the Total Facility C Commitments.

2.2 The Revolving Facility

Subject to the terms of this Agreement, the Lenders make available to the Borrowers a five year multicurrency revolving loan facility incorporating a US Dollar swingline facility and a euro swingline facility in an aggregate amount equal to the Total Revolving Facility Commitments.

2.3 Finance Parties' rights and obligations

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt.
- (c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

2.4 Appointment of Obligors' Agent

Each Obligor by its execution of this Agreement hereby irrevocably authorises the Obligors' Agent to give all notices (including without limitation Utilisation Requests, Selection Notices, notices of prepayment and cancellation) and instructions and make such agreements (including, without limitation, in relation to an alternative basis (as described in Clause 17.4 (Alternative basis of interest or funding) and in relation to Clause 44 (Amendments and Waivers)) expressed to be capable of being given or made by the Obligors' Agent, notwithstanding that they may affect that Obligor, without further reference to or the consent of that Obligor and that Obligor shall, as regards the Agents and each Lender, be bound thereby as though that Obligor had agreed that change, given that notice or made that agreement.

3. PURPOSE

3.1 Purpose

- (a) Subject to the terms of this Agreement, amounts borrowed under the Facilities may be applied towards:
 - (i) to the extent any cash consideration is offered to the shareholders of the Targets pursuant to the terms of an Offer or Scheme, financing such cash consideration (including any payments to any optionholders which are on terms comparable to the terms of the Offers or Schemes) and any payments to be made under the squeeze-out provisions of Chapter 3 of Part 28 of the Companies Act 2006 (in respect of Target plc) and under the compulsory acquisition procedures in Chapter 6A of the Corporations Act (in respect of Target Limited);
 - (ii) financing any Buyback in accordance with the terms of this Agreement;
 - (iii) refinancing the Alcan Related Debt in accordance with the terms of this Agreement; and
 - (iv) the payment of Acquisition Costs.
- (b) Amounts borrowed under the Revolving Facility may also be applied towards the general corporate purposes of the Group including, without limitation, as a backstop to commercial paper issued by members of the Group.

3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

No Utilisation Request may be delivered unless the Facility Agent has received all of the documents and other evidence listed in Parts 1 and 2 of Schedule 2 (Conditions Precedent) (unless waived, on the instructions of the Majority Lenders) in form and substance reasonably satisfactory to the Facility Agent. The Facility Agent shall notify the Obligors' Agent and the Lenders promptly upon being so satisfied.

4.2 Additional condition precedent to Refinancing Loans

No Utilisation Request may be delivered for a Refinancing Loan unless the Facility Agent has received, in form and substance reasonably satisfactory to it:

- (a) a copy of the prepayment and cancellation notice to the agent or lender under the relevant Alcan Related Debt which is to be refinanced using that Refinancing Loan showing that the outstanding amount of that Alcan Related Debt will be repaid (and any undrawn lending commitments thereunder will be cancelled) in full immediately following the disbursement of that Refinancing Loan;
- (b) if any other Alcan Related Debt (other than any Alcan Bond Debt) will remain outstanding after that Refinancing Loan is advanced, a certificate confirming that the Target Group will discharge that other Alcan Related Debt in full (and not only in part) on or before the date falling 12 weeks after the Unconditional Date, signed by two Authorised Signatories of each of the Companies; and
- (c) if the Refinancing Loan is to be utilised by one or more of the Permitted Refinancing Borrowers as contemplated in Clause 30.2(b)(ii)(A) or 30.2(b)(iii) (Completion of a Utilisation Request), a copy of each Intercompany Loan Agreement duly executed by the parties to that Intercompany Loan Agreement.

The Facility Agent shall notify the Obligors' Agent and the Lenders promptly upon being so satisfied.

4.3 Further conditions precedent

Subject to Clause 4.6 (Certain Funds), the Lenders will only be obliged to comply with Clause 5.4 (Lenders' participation) if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) in the case of a Rollover Loan, no Event of Default is continuing or would result from the proposed Loan and, in the case of any other Loan, no Default is continuing or would result from the proposed Loan; and
- (b) the Repeating Representations to be made by each Obligor are true in all material respects.

4.4 Conditions relating to Optional Currencies

- (a) A currency (other than a Committed Currency or euro) will constitute an Optional Currency in relation to a Loan if:
 - (i) it is readily available in the amount required and freely convertible into the Base Currency in the Relevant Interbank Market on the Quotation Day and the Utilisation Date for that Loan; and
 - (ii) it is approved by the Facility Agent (acting on the instructions of all the Lenders) on or prior to receipt by the Facility Agent of the relevant Utilisation Request for that Loan.

- (b) If, by the Specified Time, the Facility Agent has received a written request from the Obligors' Agent for a currency to be approved under paragraph (a)(ii) above, the Facility Agent will notify the Lenders of that request by the Specified Time. Based on any responses received by the Facility Agent by the Specified Time, the Facility Agent will confirm to the Obligors' Agent by the Specified Time:
- (i) whether or not the Lenders have granted their approval; and
 - (ii) if approval has been granted, the minimum amount (and, if required, integral multiples) for any subsequent Utilisation in that currency.

4.5 Maximum number of Loans

- (a) Unless the Facility Agent agrees otherwise, a Utilisation Request may not be delivered if as a result of the proposed Utilisation more than 15 Term Loans under each Term Facility and 15 Revolving Facility Loans (including Swingline Loans) would be outstanding.
- (b) Any Loan made by a single Lender under Clause 11.2 (Unavailability of a currency) shall not be taken into account in this Clause 4.5 (Maximum number of Loans).

4.6 Certain Funds

- (a) Notwithstanding any other term of this Agreement but except as provided in paragraph (c) below, during the Offer/Refinancing Certain Funds Period, no Finance Party is entitled to:
- (i) cancel any of its Commitments to the extent to do so would prevent or limit the making of a Certain Funds Loan;
 - (ii) rescind, terminate or cancel this Agreement or any of the Facilities or exercise any similar right or remedy or make or enforce any claim under the Finance Documents it may have to the extent to do so would prevent or limit the making of a Certain Funds Loan;
 - (iii) refuse to participate in the making of a Certain Funds Loan;
 - (iv) exercise any right of set-off or counterclaim in respect of a Utilisation to the extent to do so would prevent or limit the making of a Certain Funds Loan; or
 - (v) cancel, accelerate or cause repayment or prepayment of any amounts owing hereunder or under any other Finance Document to the extent to do so would prevent or limit the making of a Certain Funds Loan,
- provided that immediately upon the expiry of the Offer/Refinancing Certain Funds Period (but subject to paragraph (b) below with respect to any Certain Funds Buyback Loan) all such rights, remedies and entitlements in respect of a continuing breach shall be available to the Finance Parties notwithstanding that they may not have been used or been available for use during the Offer/Refinancing Certain Funds Period.
- (b) Notwithstanding any other term of this Agreement but except as provided in paragraph (c) below, during the Buyback Certain Funds Period, no Finance Party is entitled to:
- (i) cancel any of its Commitments to the extent to do so would prevent or limit the making of a Certain Funds Buyback Loan;

- (ii) rescind, terminate or cancel this Agreement or any of the Facilities or exercise any similar right or remedy or make or enforce any claim under the Finance Documents it may have to the extent to do so would prevent or limit the making of a Certain Funds Buyback Loan;
- (iii) refuse to participate in the making of a Certain Funds Buyback Loan;
- (iv) exercise any right of set-off or counterclaim in respect of a Utilisation to the extent to do so would prevent or limit the making of a Certain Funds Buyback Loan; or
- (v) cancel, accelerate or cause repayment or prepayment of any amounts owing hereunder or under any other Finance Document to the extent to do so would prevent or limit the making of a Certain Funds Buyback Loan,

provided that immediately upon the expiry of the Buyback Certain Funds Period all such rights, remedies and entitlements in respect of a continuing breach shall be available to the Finance Parties notwithstanding that they may not have been used or been available for use during the Buyback Certain Funds Period.

(c) A Finance Party shall be entitled to take any of the actions referred to in paragraphs (a) or (b) above if:

- (i) in the case of paragraphs (a)(iii) or (b)(iii) above, Clause 4.1 (Initial conditions precedent) has not been complied with;
- (ii) in the case of paragraphs (a)(iii) or (b)(iii) above, Clauses 5.1 (Delivery of a Utilisation Request) to 5.3 (Currency and amount) have not been, or will not be, complied with;
- (iii) in relation to an Offer Loan, a Major Event of Default (other than arising under Clause 31.1 (Non-payment) only as a result of a failure to make a prepayment due under Clause 14.2 (Change of control) before the Trigger Time) is continuing or would result from the proposed Utilisation, provided that, for the purposes of paragraph (a) above only and without prejudice to the rights of the Finance Parties under paragraph (d) below, a Major Event of Default will not be continuing or would not result from the proposed Utilisation to the extent that:
 - (A) it arises under Clause 31.3 (Breach of other obligations) solely with respect to a member of the Target Group prior to the Settlement Date or as a result of any event or circumstance solely in respect of the Target Group or its assets which exists on the Settlement Date; or
 - (B) any event or circumstance referred to in Clause 31.6 (Insolvency) occurs solely with respect to a member of the Target Group;
- (iv) in relation to a Certain Funds Buyback Loan, a Major Event of Default is continuing or would result from the proposed Utilisation, provided that, for the purposes of paragraph (a) above only, (other than a Major Event of Default which arises as a result of a breach of Clause 28.7 (Subsidiary Indebtedness)) a Major Event of Default will not be continuing or would not result from the proposed Utilisation to the extent that:
 - (A) it arises under Clause 31.3 (Breach of other obligations) solely with respect to a member of the Target Group prior to the Settlement Date or as a result of any event or circumstance solely in respect of the Target Group or its assets which exists on the Settlement Date; or

- (B) any event or circumstance referred to in Clause 31.6 (Insolvency) occurs solely with respect to a member of the Target Group;
 - (v) in relation to a Refinancing Loan, a Major Event of Default is continuing;
 - (vi) a Major Representation is not correct in all material respects;
 - (vii) it is unlawful for a Lender to fund its participation in any Utilisation or make available its Commitments;
 - (viii) such action is constituted by or arises from the acceptance of a Prepayment Offer (or the failure of the Borrowers to make a Prepayment Offer) in accordance with Clause 14.2 (Change of control) after a person (or group of persons acting in concert) gains control (as defined in that Clause) of either of the Companies, provided that no such action may be taken which would prevent the advance of an Offer Loan or Offer Loans before the Trigger Time; or
 - (ix) any of the terms set out in the clauses entitled “Exclusivity”, “Market Flex” and “Clear Market” of the Commitment Letter has not been complied with by a Company, other than any breach of the “Clear Market” provisions of the Commitment Letter caused solely by an amendment or waiver of any provision of any Alcan Change of Control Debt which breach would not constitute a breach of Clause 30.1(c) (Procedure).
- (d) Notwithstanding the proviso to sub-paragraph (c)(iii) above, a Finance Party shall be entitled to take any of the actions referred to in paragraph (a) above in respect of an Offer Loan if a Major Event of Default is continuing under Clause 31.3 (Breach of other obligations) as a result of a breach of the undertaking set out in Clause 28.7 (Subsidiary Indebtedness) even if it occurs solely with respect to a member of the Target Group prior to the Settlement Date or arises as a result of any event or circumstance solely in respect of the Target Group or its assets which exists on the Settlement Date, on and from the earlier of:
- (i) the date immediately following the advance of Offer Loans which, when aggregated with all other Offer Loans then advanced, equals or exceeds the amount agreed by the Obligors’ Agent and the Bookrunners from time to time;
 - (ii) the date on which all Acquisition Cash Consideration payable under the Offer has been paid in full; and
 - (iii) the date immediately following the end of the Offer/Refinancing Certain Funds Period,
- (the earlier of (i), (ii) and (iii) being the **Trigger Time**).

5. UTILISATION – LOANS

5.1 Delivery of a Utilisation Request

A Borrower may utilise a Facility provided that the Obligors’ Agent delivers to the Facility Agent a duly completed Utilisation Request not later than the Specified Time.

5.2 Completion of a Utilisation Request

Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

- (a) it identifies the Borrower;
- (b) it identifies the purpose of the Utilisation and each Utilisation specified in the Utilisation Request must be made for a single purpose;
- (c) in the case of an Offer Loan or a Buyback Loan:
 - (i) the Borrower is one or more of the Original Borrowers or (on its accession as an Additional Borrower) any Finance Company which is incorporated in the UK or the Netherlands, a Bidco or a Buyback SPV;
 - (ii) unless the Alcan Related Debt (other than any Alcan Bond Debt which is permitted by the Finance Documents to remain in place) has been repaid in full in accordance with this Agreement or the relevant amount of the Available Facilities has been cancelled under Clause 14.6 (Cancellation relating to the Alcan Related Debt), following the utilisation of that Offer Loan or Buyback Loan, the aggregate Available Facilities will be in an amount at least equal to the Maximum Refinancing Amount (or such lower amount agreed by the Obligor's Agent and all of the Bookrunners from time to time); and
 - (iii) the aggregate of the principal amount of that Offer Loan or Buyback Loan and the principal amount (at the time they were advanced) of all other Offer Loans and Buyback Loans which have already been advanced or which will be advanced on or before the Utilisation Date for that Offer Loan or Buyback Loan will not exceed the amount agreed by the Obligor's Agent and all of the Bookrunners from time to time;
- (d) in the case of a Refinancing Loan, Clause 30.2 (Refinancing using Refinancing Loans) has been complied with;
- (e) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;
- (f) the currency and amount of the Utilisation comply with Clause 5.3 (Currency and amount); (g) the proposed Interest Period complies with Clause 16 (Interest Periods); (h) it specifies the account and bank to which the proceeds of the Utilisation are to be credited;
- (i) other than any Utilisation Request for a Utilisation under the Revolving Facility for general corporate purposes, the amount requested is to be drawn pro rata across each of the Facilities (other than the Swingline Facilities) provided that in respect of the aggregate pro rata amount to be drawn under Facility C and the Revolving Facility, the Utilisation Request may request that such amount be divided between Facility C and the Revolving Facility in any proportion and the relevant Utilisation Request sets out the amount required to be utilised under each Facility;
- (j) in relation to a Utilisation Request for a Utilisation under the Revolving Facility for general corporate purposes (including any use of a Swingline Facility), (A) the Unconditional Date has occurred, (B) the Alcan Related Debt (other than any Alcan Bond Debt) has been repaid or prepaid and cancelled in full using Refinancing Loans or loans under a Target Standalone Agreement or Clause 30.4 (Most Favoured Lender) has been complied with, (C) to the extent that the Financial Adviser is required by the Panel (for the purposes of Rules 2.5(c) and 24.7 of the Code) to give a Cash Confirmation in respect of any Buyback, the Buyback has been completed and (D) if any Short-term Alcan Bond Debt is to remain outstanding after that Utilisation is made, immediately following that Utilisation, the aggregate Available Facilities will be in an amount at least equal to outstanding amount of that Short-term Alcan Bond Debt; and

- (k) if the Borrower is a Canadian Borrower:
 - (i) that Canadian Borrower may only utilise a Loan to refinance directly any Alcan Related Debt borrowed or issued by that Canadian Borrower or to refinance indirectly (by means of a loan made under an Intercompany Loan Agreement) any Alcan Related Debt borrowed or issued by a member of the Target Group that is incorporated or formed under the laws of Canada or of a province or territory thereof; and
 - (ii) the amount of the Loan to be borrowed by that Canadian Borrower may not exceed the amount of the Alcan Related Debt referred to in sub-paragraph (i) above which is to be refinanced.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be:
 - (i) in relation to a Term Loan, a Committed Currency; or
 - (ii) in relation to a Revolving Facility Loan, a Committed Currency, euro or an Optional Currency.
- (b) The amount of the proposed Loan must be:
 - (i) if it is an Offer Loan, a Refinancing Loan or a Buyback Loan, a minimum aggregate amount (when taken together with each other Loan required to be made for the same purpose as a result of Clause 5.2(i) (Completion of a Utilisation Request)) of US\$50,000,000 (or its equivalent in any other currency) or, if less, the amount of the Available Facility (or its equivalent in any other currency);
 - (ii) if it is a Revolving Facility Loan (other than an Offer Loan, a Refinancing Loan or a Buyback Loan) and:
 - (A) the currency selected is a Committed Currency, a minimum of US\$10,000,000 (or its equivalent in any other currency) or if less, the amount of the Available Facility (or its equivalent in any other currency); or
 - (B) the currency selected is an Optional Currency, the minimum amount (and, if required, integral multiple) specified by the Facility Agent pursuant to Clause 4.4(b)(ii) (Conditions relating to Optional Currencies) or, if less, the amount of the Available Facility (or its equivalent in any other currency); and
 - (iii) in any event such that its Base Currency Amount is less than or equal to the Available Facility.

5.4 Lenders' participation

- (a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.

- (b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.
- (c) The Facility Agent shall determine the Base Currency Amount of each Loan which is to be made in a Non-Base Currency and shall notify each Lender of the amount, currency and the Base Currency Amount of each Loan and the amount of its participation in that Loan, in each case by the Specified Time.

6. UTILISATION – SWINGLINE LOANS

6.1 General

- (a) In this Clause 6 and Clause 7 (Swingline Loans):

Euro Swingline Rate means, in relation to any Euro Swingline Loan, the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Euro Swingline Agent at its request quoted by the Reference Banks to leading banks in the European interbank market as of the Specified Time on the Utilisation Date for that Euro Swingline Loan for the offering of deposits in euro for a period comparable to the Interest Period of the relevant Euro Swingline Loan.

Federal Funds Rate means, in relation to any day:

- (a) the rate per annum displayed for that day at or about 1.00 p.m. (New York time) on page GPX5 of the Reuters Monitor System (or, if that day is not a New York Business Day, for the immediately preceding New York Business Day) by the Federal Reserve Bank of New York; or
- (b) if a rate is not so displayed for any day which is a New York Business Day, the average of the quotations for that day on such transactions received by the Dollar Swingline Agent from three federal funds brokers of recognised standing selected by the Dollar Swingline Agent.

New York Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in New York City.

Overall Commitment of a Lender means:

- (a) its Revolving Facility Commitment; or
- (b) in the case of a Swingline Lender which does not have a Revolving Facility Commitment, the Revolving Facility Commitment of a Lender which is its Affiliate;

Prime Rate means:

- (a) the prime commercial lending rate for US dollars from time to time displayed on page USPRIME5 of the Reuters Monitor System;
- (b) if a rate is not so displayed, the prime commercial lending rate in US dollars from time to time announced by the Dollar Swingline Agent.

Total Swingline Commitments means the aggregate of the Dollar Swingline Commitments and the Euro Swingline Commitments, being an amount equal to US\$5,000,000,000 at the date of this Agreement. For the purposes of calculating the amount of the total swingline commitments, the amount of the Euro Swingline Commitments shall be converted into the Base Currency at the Facility Agent's Spot Rate of Exchange on the date the Facility Agent receives the Utilisation Request.

- (b) Any reference in this Agreement to:
 - (i) an **Interest Period** includes each period determined under this Agreement by reference to which interest on a Swingline Loan is calculated; and
 - (ii) a **Lender** includes a Swingline Lender unless the context otherwise requires.
- (c) The following Clauses do not apply to Swingline Loans:
 - (i) Clause 5 (Utilisation – Loans);
 - (ii) Clause 11 (Optional Currencies);
 - (iii) Clause 15 (Interest) as it applies to the calculation of interest on a Loan but not default interest on an overdue amount;
 - (iv) Clause 16 (Interest Periods); and
 - (v) Clause 17 (Changes to the Calculation of Interest).

6.2 Delivery of a Utilisation Request for Dollar Swingline Loans

- (a) A Borrower may utilise the Dollar Swingline Facility provided that the Obligors' Agent delivers to the Dollar Swingline Agent (copied to the Facility Agent) a duly completed Utilisation Request not later than the Specified Time.
- (b) Each Utilisation Request for a Dollar Swingline Loan must be sent to the Dollar Swingline Agent to the address in the United States of America notified by the Dollar Swingline Agent for this purpose with a copy to its address referred to in Clause 40 (Notices).

6.3 Completion of a Utilisation Request for Dollar Swingline Loans

- (a) Each Utilisation Request for a Dollar Swingline Loan is irrevocable and will not be regarded as having been duly completed unless:
 - (i) it identifies the Borrower;
 - (ii) it specifies that it is for a Dollar Swingline Loan;
 - (iii) the proposed Utilisation Date is a New York Business Day within the Availability Period;
 - (iv) the Dollar Swingline Loan is denominated in the Base Currency;
 - (v) the amount of the proposed Dollar Swingline Loan is a minimum of US\$5,000,000 or, if less, the Available Facility; and
 - (vi) the proposed Interest Period:
 - (A) does not overrun the Final Maturity Date applicable to the Revolving Facility;
 - (B) is a period of not more than seven days; and

(C) ends on a New York Business Day.

- (b) Only one Dollar Swingline Loan may be requested in each Utilisation Request.

6.4 Dollar Swingline Lenders' participation

- (a) If the conditions set out in this Agreement have been met, each Dollar Swingline Lender shall make its participation in each Dollar Swingline Loan available through its Facility Office in the United States of America.
- (b) The Dollar Swingline Lenders will only be obliged to comply with paragraph (a) above if on the date of the Utilisation Request and on the proposed Utilisation Date:
- (i) no Default is continuing or would result from the proposed Utilisation; and
 - (ii) the Repeating Representations to be made by each Obligor are true in all material respects.
- (c) The amount of each Dollar Swingline Lender's participation in each Dollar Swingline Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Dollar Swingline Loan, adjusted to take account of any limit applying under Clause 6.8 (Relationship with the Revolving Facility).
- (d) The Facility Agent shall notify each Dollar Swingline Lender of the amount of each Dollar Swingline Loan and its participation in that Dollar Swingline Loan by the Specified Time.

6.5 Delivery of a Utilisation Request for Euro Swingline Loans

- (a) A Borrower may utilise the Euro Swingline Facility provided that the Obligors' Agent delivers to the Euro Swingline Agent (copied to the Facility Agent) a duly completed Utilisation Request not later than the Specified Time.
- (b) Each Utilisation Request for a Euro Swingline Loan must be sent to the Euro Swingline Agent to the address referred to in Clause 40 (Notices).

6.6 Completion of a Utilisation Request for Euro Swingline Loans

- (a) Each Utilisation Request for a Euro Swingline Loan is irrevocable and will not be regarded as having been duly completed unless:
- (i) it identifies the Borrower;
 - (ii) it specifies that it is for a Euro Swingline Loan;
 - (iii) the proposed Utilisation Date is a Business Day within the Availability Period;
 - (iv) the Euro Swingline Loan is denominated in euro;
 - (v) the amount of the proposed Euro Swingline Loan is a minimum of €5,000,000 or, if less, the Available Facility; and
 - (vi) the proposed Interest Period:
 - (A) does not overrun the Final Maturity Date applicable to the Revolving Facility;

- (B) is a period of not more than seven days; and
 - (C) ends on a Business Day.
- (b) Only one Euro Swingline Loan may be requested in each Utilisation Request.

6.7 Euro Swingline Lenders' participation

- (a) The Euro Swingline Lenders will only be obliged to make an Advance under the Euro Swingline Facility if on the date of the Utilisation Request and on the proposed Utilisation Date:
 - (i) no Default is continuing or would result from the proposed Utilisation; and
 - (ii) the Repeating Representations to be made by each Obligor are true in all material respects.
- (b) The amount of each Euro Swingline Lender's participation in each Euro Swingline Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Euro Swingline Loan, adjusted to take account of any limit applying under Clause 6.8 (Relationship with the Revolving Facility).
- (c) The Facility Agent shall notify each Euro Swingline Lender of the amount of each Euro Swingline Loan and its participation in that Euro Swingline Loan by the Specified Time.

6.8 Relationship with the Revolving Facility

- (a) This subclause applies when a Swingline Loan is outstanding or is to be borrowed.
- (b) The Swingline Facility is not independent of the Revolving Facility.
- (c) Notwithstanding any other term of this Agreement a Lender is only obliged to participate in a Revolving Facility Loan or a Swingline Loan to the extent that it would not result in its participation and that of a Lender which is its Affiliate in the Revolving Facility Loans and Swingline Loans exceeding its Overall Commitment.
- (d) Where, but for the operation of paragraph (c) above, the Base Currency Amount of a Lender's participation and that of a Lender which is its Affiliate in the Revolving Facility Loans and Swingline Loans would have exceeded its Overall Commitment, the excess will be apportioned among the other Lenders participating in the relevant Loan pro rata according to their relevant Revolving Facility Commitments. This calculation will be applied as often as necessary until the Loan is apportioned among the relevant Lenders in a manner consistent with paragraph (c) above.

7. SWINGLINE LOANS

7.1 Swingline

- (a) Subject to the terms of this Agreement, the Dollar Swingline Lenders make available to the Borrowers a US Dollar swingline loan facility in an aggregate amount equal to the Total Swingline Commitments.
- (b) Subject to the terms of this Agreement, the Euro Swingline Lenders make available to the Borrowers a Euro swingline loan facility in an aggregate amount equal to the Total Swingline Commitments.
- (c) Notwithstanding any other term of this Agreement, a Lender is only obliged to participate in a Swingline Loan to the extent that the advance of that Swingline Loan would not result in the participation of the Lenders in all Swingline Loans then outstanding exceeding the Total Swingline Commitments.

7.2 Purpose

Each Borrower shall apply all amounts borrowed by it under the Swingline Facilities towards refinancing a note or other instrument maturing under any commercial paper programme of a member of the Group. A Swingline Loan may not be applied in repayment or prepayment of another Swingline Loan.

7.3 Repayment

Each Borrower that has drawn a Swingline Loan shall repay that Swingline Loan on the last day of its Interest Period.

7.4 Voluntary Prepayment of Swingline Loans

- (a) The Borrower to which a Swingline Loan has been made may prepay at any time the whole of that Swingline Loan.
- (b) Unless a contrary indication appears in this Agreement, any part of the Swingline Facilities which is prepaid may be reborrowed in accordance with the terms of this Agreement.

7.5 Dollar Swingline Rate of Interest

- (a) The rate of interest on each Dollar Swingline Loan for any day during its Interest Period is the higher of:
 - (i) the Prime Rate at the Specified Time and in force on that day; and
 - (ii) 0.5% per annum over the rate per annum determined by the Dollar Swingline Agent to be the Federal Funds Rate (as published by the Federal Reserve Bank of New York) for that day.
- (b) The Dollar Swingline Agent shall promptly notify the Dollar Swingline Lenders and the relevant Borrower of the determination of the rate of interest under paragraph (a) above.
- (c) If any day during an Interest Period is not a New York Business Day, the rate of interest on a Dollar Swingline Loan on that day will be the rate applicable to the immediately preceding New York Business Day.
- (d) Each Borrower shall pay accrued interest on each Dollar Swingline Loan made to it on the last day of its Interest Period.

7.6 Euro Swingline Rate of Interest

- (a) The rate of interest for each Euro Swingline Loan for its Interest Period is:
 - (i) Margin;
 - (ii) the rate per annum determined by the Euro Swingline Agent to be the Euro Swingline Rate for each day during its Interest Period; and
 - (iii) Mandatory Cost, if any.

- (b) The Euro Swingline Agent shall promptly notify the Euro Swingline Lenders and the relevant Borrower of the determination of the rate of interest under paragraph (a)(ii) above.
- (c) Each Borrower shall pay accrued interest on each Euro Swingline Loan made to it on the last day of its Interest Period.

7.7 Interest Period

- (a) Each Swingline Loan has one Interest Period only.
- (b) The Interest Period for a Swingline Loan must be selected in the relevant Utilisation Request.

7.8 Swingline Agents

- (a) The Dollar Swingline Agent may perform its duties in respect of the Dollar Swingline Facility through an Affiliate acting as its agent.
- (b) The Euro Swingline Agent may perform its duties in respect of the Euro Swingline Facility through an Affiliate acting as its agent.

7.9 Conditions of assignment or transfer

Notwithstanding any other term of this Agreement, each Lender shall ensure that at all times its Overall Commitment is not less than:

- (a) its Swingline Commitment; or
- (b) if it does not have a Swingline Commitment, the Swingline Commitment of a Lender which is its Affiliate.

7.10 Loss sharing

- (a) In this Clause:

The **Proportion** of a Lender means the proportion borne by:

- (a) its Revolving Facility Commitment (or, if the Total Revolving Facility Commitments are then zero, its Revolving Facility Commitment immediately prior to their reduction to zero) minus the Base Currency Amount of its participation (or that of a Lender which is its Affiliate) in any outstanding Revolving Facility Loans (but ignoring its (or its Affiliate's) participation in the unpaid Swingline Loan)
to
- (b) the Total Revolving Facility Commitments (or, if the Total Revolving Facility Commitments are then zero, the Total Revolving Facility Commitments immediately prior to their reduction to zero) minus any outstanding Revolving Facility Loans (but ignoring the unpaid Swingline Loan).

The **Shortfall** of a Swingline Lender is an amount equal to its Unpaid Swingline Participation minus its (or its Affiliate's) Proportion of the Unpaid Amount.

The **Unpaid Amount** means, in relation to a Swingline Loan, any principal not repaid and/or any interest accrued but unpaid on that Swingline Loan calculated from the Utilisation Date to the Loss Sharing Date.

The **Unpaid Swingline Participation** of a Lender means that part of the Unpaid Amount (if any) owed to that Lender (or its Affiliate) (before any redistribution under this Clause 7.10).

- (b) If a Swingline Loan is not repaid in full on its due date, the Facility Agent shall (if requested to do so in writing by any affected Swingline Lender) set a date (the **Loss Sharing Date**) on which payments shall be made between the Lenders under the Revolving Facility to re-distribute the unpaid amount between them. The Facility Agent shall give at least three Business Days notice to each affected Lender of the Loss Sharing Date and notify it of the amounts to be paid or received by it.
- (c) On the Loss Sharing Date each Lender under the Revolving Facility must pay to the Facility Agent its proportion of the Unpaid Amount minus its (or its Affiliate's) Unpaid Swingline Participation (if any). If this produces a negative figure for a Lender no amount need be paid by that Lender.
- (d) Out of the funds received by the Facility Agent pursuant to paragraph (c) above the Facility Agent shall pay to each Swingline Lender an amount equal to the Shortfall (if any) of that Swingline Lender.
- (e) If the amount actually received by the Facility Agent from the Lenders is insufficient to pay the full amount of the Shortfall of all Swingline Lenders then the amount actually received will be distributed amongst the Swingline Lenders pro rata to the Shortfall of each Swingline Lender.
- (f)
 - (i) On a payment under this Clause, the paying Lender will be subrogated to the rights of the Swingline Lenders which have shared in the payment received.
 - (ii) If and to the extent a paying Lender is not able to rely on its rights under sub-paragraph (i) above, the relevant Borrower shall be liable to the paying Lender for a debt equal to the amount the paying Lender has paid under this paragraph.
 - (iii) Any payment under this paragraph does not increase or reduce the obligations in aggregate of any Obligor.

8. SUBSCRIPTION AND ISSUE OF NOTES

8.1 Subscription for Notes

Each Lender agrees to provide its proportion of an Australian Loan requested by an Australian Borrower under this Agreement by subscribing for Notes to be issued by that Australian Borrower under the relevant Note Deed Poll. Each Lender and the Facility Agent agrees to be bound by each Note Deed Poll.

8.2 Issue of Notes

Each Lender, each Australian Borrower and the Facility Agent agrees that on the first Utilisation Date for an Australian Loan by an Australian Borrower under any Facility, that Australian Borrower shall issue Notes in relation to that Facility to each Lender which provides a proportion of the requested Australian Loan with:

- (a) a maximum aggregate principal amount equal to that Lender's Commitment in respect of that Facility plus AUS\$1; and

- (b) an aggregate principal amount outstanding equal to that Lender's participation in all Australian Loans outstanding from time to time to that Australian Borrower under that Facility plus AUS\$1.

9. PUBLIC OFFERS

9.1 Satisfaction of Public Offer Test

- (a) Each Original Lender undertakes, represents and warrants to the Australian Borrowers as follows:
 - (i) it will make (orally or in writing), within 30 days after the date of this Agreement, invitations for participations in the Facilities being provided to the Australian Borrowers and (if then issued) for the transfer or subscription of the corresponding Notes and participations in the relevant Facility (collectively **Participations**):
 - (A) to at least ten parties, each of whom has been disclosed to the Australian Borrowers and who the Australian Borrowers have confirmed to the Original Lenders are not their Offshore Associates and are parties who each carry on a business of providing finance or investing or dealing in securities in the course of operating in financial markets (for the purposes of section 128F(3)(a)(i) of the Australian Tax Act); or
 - (B) as a result of negotiations being initiated publicly, in an electronic form that is used by financial markets for dealing in debentures or debt interests (for the purposes of section 128F(3)(d) of the Australian Tax Act) such as Reuters or Bloomberg; and
 - (ii) if an invitation referred to in paragraph (i)(A) above is to be made but an invitation referred to in paragraph (i)(B) above is not to be made, at least ten of the parties to whom it will make the invitation referred to in paragraph (i)(A) above are not, to the knowledge or reasonable suspicion of the relevant officers involved in the transaction, Associates of any of the other invitees.
- (b) Subject to compliance by BHP Billiton Limited with paragraph (e) below, each Original Lender undertakes to the Companies that it will not offer or sell Participations to any person who the Australian Borrowers have confirmed to the relevant Original Lender is an Offshore Associate of the Australian Borrowers or in circumstances where employees or officers of the Original Lender directly involved in the offer or sale know or have reasonable grounds to suspect that those Participations (or an interest in or right in respect of them) were being acquired either directly or indirectly by an Offshore Associate of BHP Billiton Limited (other than an Offshore Associate acting in the capacity of a dealer, manager or underwriter in relation to the placement of those Participations or a clearing house, custodian, funds manager or responsible entity of a registered scheme within the meaning of the Corporations Act 2001 of Australia as permitted by section 128F(5) of the Australian Tax Act).
- (c) If any employee or officer of an Original Lender making the invitation, effecting the sale or otherwise directly involved in the offer or sale of Participations does not know or have reasonable grounds to suspect that a person is an Offshore Associate of BHP Billiton Limited, nothing in paragraph (b) above obliges that Original Lender to make positive enquiries of that person to confirm that person is not an Offshore Associate of BHP Billiton Limited.
- (d) Each Original Lender agrees to keep a record of each offer made by it as contemplated by paragraph (a) above.

- (e) Each Australian Borrower agrees to promptly notify the Original Lenders of any entity which is disclosed to it by the Original Lenders pursuant to paragraph (a)(i)(A) above which it knows or reasonably suspects to be its Offshore Associate.

9.2 Participants' representations and warranties

Each Original Lender represents and warrants to the Australian Borrowers that:

- (a) an offer to participate in the Facility and for the transfer or subscription of or for Notes was made to it on behalf of the relevant Australian Borrower;
- (b)
 - (i) if it received an offer it is and, at the time it subscribed for or acquired a Note, it was carrying on the business of providing finance, or investing or dealing in securities, in the course of operating in financial markets; or
 - (ii) the issue of a Note was a result of negotiations being initiated publicly in a form that was used by financial markets for dealing in debentures or debt interests; and
- (c) except as disclosed to the relevant Australian Borrower, it is not, and at the time it acquired a Participation it was not, so far as it has actual knowledge or have reasonable grounds to suspect, an Associate of any other person which was offered a Participation, the Facility Agent or the relevant Australian Borrower.

9.3 Information

In connection with any Note held by it or issued to it, each Lender will provide to the relevant Australian Borrower when reasonably requested by the relevant Australian Borrower any factual information in its possession or which it is reasonably able to provide to assist it to demonstrate that:

- (a) the issue of the Notes satisfies the public offer test under s128F of the Australian Tax Act; and
- (b) payments of interest under the Note are exempt from withholding tax under that section of the Australian Tax Act,

where to do so will not in the Lender's reasonable opinion breach any law or regulation or any duty of confidence.

9.4 Selling restrictions

Each Lender undertakes to each other Finance Party and to the Obligors that it will not directly or indirectly offer or sell Notes or distribute or circulate any offer document or other material in connection with the Notes in any jurisdiction except under circumstances that would result in compliance with the laws and regulations of that jurisdiction. The Notes may only be offered in the United States to an "accredited investor" as defined in Rule 501 (a)(1), (2) or (3) of Regulation D under the United States Securities Act of 1933.

10. REGISTER OF NOTES

10.1 Establishment of Register for each Australian Borrower

The Facility Agent must establish and maintain a register for each Australian Borrower. The Register should be maintained in London or any place in Australia approved by the Obligors' Agent (taking into account stamp duty considerations).

10.2 The Register

- (a) The Facility Agent must inscribe the following information in the Register of the relevant Australian Borrower in respect of each Note issued by that Australian Borrower:
 - (i) the Facility in relation to which that Note is issued and its issue date;
 - (ii) the outstanding principal amount from time to time under the Notes held by a Lender;
 - (iii) the name and address, at its Facility Office, of each Original Lender and each subsequent Lender;
 - (iv) the account of the Lender to which payments are to be made; and
 - (v) details of all transfers or assignments, advances and repayments made in respect of that Australian Borrower's Loan under the Facility in relation to which that Note is issued and redemption of all or part of that Australian Borrower's Notes in relation to that Facility.
- (b) The Facility Agent must update each Register to record changes as at the date of any such change.

10.3 Register is paramount

- (a) Each Australian Borrower and the Facility Agent shall recognise the Lender whose name appears in the Register for that Australian Borrower as the absolute owner of the relevant Notes inscribed in its name on that Register without regard to any other record or instrument.
- (b) No notice of any trust or other interest in any Note will be entered on the relevant Register. No Australian Borrower nor the Facility Agent need take notice of any other interest in, or claim to, a Note, except as ordered by a court of competent jurisdiction or required by law.

10.4 Inspection of Register

- (a) Subject to paragraph (b) below, the Facility Agent shall make available a copy of (or an extract of) a Register to any Australian Borrower, the Obligors' Agent or a Lender upon not less than three Business Days' written notice.
- (b) The Facility Agent is not required to make any Register or a copy of any Register available to any Lender except:
 - (i) where the Lender wishes to inspect only the part of the Register that provides particulars of the Notes held by it; or
 - (ii) where otherwise required by law or by a Government Agency.

10.5 Receipt of payments

On receipt of any payment from a Lender under Clause 8, the Facility Agent will:

- (a) pay that amount to the relevant Australian Borrower in accordance with Clause 38 (Payment Mechanics) to the account and bank specified by that Australian Borrower in the Utilisation Request; and
- (b) issue the Notes referred to in Clause 8.1 (Subscription for Notes) by entering them in the Register.

10.6 Amendment of Register

In the case of each Utilisation by an Australian Borrower (other than the first) and each repayment or prepayment of any Utilisation which was made by an Australian Borrower, the Facility Agent must amend the Register to reflect the revised principal amount outstanding on the relevant Australian Borrower's Notes under that Facility.

10.7 Transfer not effective until recorded in Register

- (a) Even if the Facility Agent has received a Transfer Certificate or instrument of transmission in relation to a Note, the person recorded in the relevant Register as the holder of that Note remains the owner of that Note for all purposes until the name of the transferee or transmittee is entered in that Register as the holder of that Note.
- (b) A transferee or transmittee of a Note will be treated as the holder of that Note from the date and time its name is entered in the relevant Register. Without limiting this, the transferee or transmittee of a Note will be entitled to receive any payments then due or to become due to the holder of that Note, and the relevant Australian Borrower will fully discharge its obligations under this document by making that payment to the transferee or transmittee whether or not all or any part of that payment had accrued before the date on which and time at which the transferee or transmittee is entered on the relevant Register.

11. OPTIONAL CURRENCIES

11.1 Selection of currency

The Obligors' Agent on behalf of a Borrower shall select the currency of a Loan (other than a Swingline Loan) in a Utilisation Request.

11.2 Unavailability of a currency

If before the Specified Time on any Quotation Day:

- (a) the Facility Agent has received notice from a Lender that the Optional Currency requested is not readily available to it in the amount required; or
- (b) a Lender notifies the Facility Agent that compliance with its obligation to participate in a Loan in the proposed Optional Currency would contravene a law or regulation applicable to it,

the Facility Agent will give notice to the Obligors' Agent to that effect by the Specified Time on that day. In this event, any Lender that gives notice pursuant to this Clause 11.2 will be required to participate in the Loan in the Base Currency (in an amount equal to that Lender's proportion of the Base Currency Amount or, in respect of a Rollover Loan, an amount equal to that Lender's proportion of the Base Currency Amount of the Rollover Loan that is due to be made) and its participation will be treated as a separate Loan denominated in the Base Currency during that Interest Period.

11.3 Facility Agent's calculations

Each Lender's participation in a Loan will be determined in accordance with paragraph (b) of Clause 5.4 (Lenders' participation).

12. EXTENSION OF FACILITY A

12.1 First Extension

- (a) If Facility A has not been cancelled in full, the Obligors' Agent may, by not less than 10 days' prior written notice to the Facility Agent before the close of business on the original Final Maturity Date in relation to Facility A, request that the Final Maturity Date in relation to Facility A be extended until the date falling 24 Months after the date of this Agreement (such date being the **First Extension Date**). Following receipt of any such notice, and with effect from the date of that notice, the Final Maturity Date in relation to Facility A shall be automatically extended until the First Extension Date.
- (b) If Facility A has not been cancelled in full and the Offer/Refinancing Certain Funds Period has not expired on or before the close of business on the original Final Maturity Date in relation to Facility A, with effect from the close of business in London on that date, the Final Maturity Date in relation to Facility A shall be automatically extended until the First Extension Date.
- (c) If the Final Maturity Date for Facility A is extended in accordance with paragraphs (a) or (b) above, on the original Final Maturity Date, the Companies must pay to the Facility Agent (for the account of the Lenders) an extension fee in an amount equal to 0.075% of the amount of the Total Facility A Commitments on that date.

12.2 Second Extension

- (a) The Obligors' Agent may (by not less than 20 days' written notice to the Facility Agent before the First Extension Date) request that the Final Maturity Date in relation to Facility A be extended.
- (b) Any such request for an extension shall be irrevocable and will not be regarded as having been duly completed unless it specifies the amount of the Total Facility A Commitments (if any) which shall be cancelled, which must be an amount such that following such cancellation the Facility A Commitments shall be equal to not more than 50% of the Total Facility A Commitments as at the date of this Agreement.
- (c) Following receipt of a duly completed notice under paragraph (a) and with effect from the date of that notice:
 - (i) the Final Maturity Date in relation to Facility A shall be extended until close of business on the date falling 30 Months after the date of this Agreement; and
 - (ii) an amount equal to the amount of the Total Facility A Commitments specified in that notice shall be cancelled automatically. Any such cancellation shall reduce the Facility A Commitments of the Lenders under Facility A rateably.
- (d) If following any cancellation of the Total Facility A Commitments in accordance with paragraph (c)(ii) above, the aggregate outstanding amount of the Facility A Loans at that time exceeds the Total Facility A Commitments, the relevant Borrowers shall prepay immediately the Facility A Loans in an amount equal to the difference between the aggregate outstanding amount of the Facility A Loans at that time and the amount of the Total Facility A Commitments (after such cancellation). Any such prepayment shall be applied against the Facility A Loans of the Lenders rateably.
- (e) On the First Extension Date, the Companies must pay to the Facility Agent (for the account of the Lenders) an extension fee in an amount equal to 0.05% of the amount of the Total Facility A Commitments which are extended and not otherwise cancelled.

13. REPAYMENT

13.1 Repayment of Term Loans

All Term Loans must be repaid in full by the relevant Borrower of any such Loan on or before the Final Maturity Date for the relevant Facility.

13.2 Repayment of Revolving Facility Loans

- (a) Each Borrower which has drawn a Revolving Facility Loan shall repay that Revolving Facility Loan on the last day of its Interest Period.
- (b) All Revolving Facility Loans must be repaid in full on or before the Final Maturity Date for the Revolving Facility.

13.3 Reborrowing

- (a) No Borrower may reborrow any part of a Term Loan Facility which is repaid.
- (b) Any part of a Revolving Facility Loan which is repaid may be reborrowed in accordance with the terms of this Agreement.

14. PREPAYMENT AND CANCELLATION

14.1 Illegality

If it becomes unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Loan:

- (a) that Lender shall promptly notify the Facility Agent upon becoming aware of that event;
- (b) upon the Facility Agent notifying the Obligors' Agent, the Commitment of that Lender will be immediately cancelled; and
- (c) each Borrower shall repay that Lender's participation in the Loans made to that Borrower on the last day of the Interest Period for each Loan occurring after the Facility Agent has notified the Obligors' Agent or, if earlier, the date specified by the Lender in the notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law).

14.2 Change of control

- (a) If a person (or group of persons acting in concert) gains control of either of the Companies (other than as contemplated in Clause 44.4 (New Holding Company)):
 - (i) the Obligors' Agent shall promptly notify the Facility Agent; and
 - (ii) the Facility Agent and the Obligors' Agent shall on such notification enter into negotiations (for a period not more than 30 days) with a view to agreeing any changes that may be required to be made to this Agreement as a consequence of that event if the Lenders are to continue making available the Facilities and to leave the relevant loans outstanding (the **Requested Changes**).

- (b) If any Requested Changes have been requested but, at the end of the period referred to in paragraph (a)(ii) above, the Requested Changes have not been made to this Agreement, at any time within 30 days after the Start Date (as defined in paragraph (e) below), each Borrower must make an offer (a **Prepayment Offer**) to each Lender to prepay all outstanding Loans made to it. If a Lender (an **Accepting Lender**) wishes to accept the Prepayment Offer, it must do so by giving notice to the Obligors' Agent and the Facility Agent within 30 days after receipt by it of the Prepayment Offer.
- (c) Not later than the date falling 45 days after the date of the Prepayment Offer, the Borrowers shall prepay the Loans made to it by each Accepting Lender (together with accrued interest and all other amounts payable to the Accepting Lenders under the Finance Documents) and each Accepting Lender's Commitments will be irrevocably cancelled in full.
- (d) For the purposes of paragraph (a) above **control** means:
 - (i) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or control the casting of, more than 50 per cent. of the maximum number of votes attached to the Publicly-held Shares of each of the Companies that are entitled to be cast on an individual shareholder resolution of one of the Companies or of both of the Companies pursuant to a Joint Electorate Action (as defined in the articles of association of each of the Companies), as the case may be; or
 - (ii) the holding beneficially (directly or indirectly) of more than 50 per cent. of the Publicly-held Shares of the Companies.
- (e) For the purposes of paragraph (b) above, **Start Date** means the later of:
 - (i) the date on which the Trigger Time occurs; and
 - (ii) the last day of the period referred to in paragraph (a)(ii) above.

14.3 Automatic cancellation

- (a) The Available Facility in relation to a Facility shall be automatically cancelled on expiry of the Availability Period relating to that Facility.
- (b) If the Unconditional Date has not occurred by the last day of the Availability Period for the Term Facilities, the Total Commitments shall be automatically cancelled in full at close of business in London on that day.
- (c) Immediately following the advance of any Buyback Loan, the Available Commitments under the Term Facilities will be automatically cancelled.

14.4 Voluntary cancellation

- (a) Subject to paragraph (b) below, the Obligors' Agent may, if it gives the Facility Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of US\$10,000,000) of an Available Facility provided that such cancellation does not result in a breach of Clause 7.9 (Conditions of assignment or transfer).
- (b) Other than a cancellation of the Total Commitments in full, no notice of cancellation may be given under paragraph (a) before the date on which the Alcan Related Debt (other than any Alcan Bond Debt) has been repaid in full if, as a result of that cancellation, the Available Facilities would aggregate less than the sum of (i) the Maximum Refinancing Amount (less the principal amount, as at the Unconditional Date, of any Alcan Bond Debt)

and (ii) the maximum potential aggregate amount of any Acquisition Cash Consideration and any Buyback Cash Consideration as set out in the Press Release (or, if different, in the Offer Document or the Scheme Document, as the case may be), having deducted therefrom the amount of any cash reserves which the Group has available at the time of the proposed cancellation and which it has agreed to commit to the Acquisition or, as the case may be, Buyback.

- (c)
 - (i) Prior to the date on which a Successful Syndication of the Facilities (as defined in the Commitment Letter) has been achieved, any cancellation under paragraph (a) above shall be applied as follows:
 - (A) first, to the Term Facilities pro rata; and
 - (B) secondly, to the Revolving Facility.
 - (ii) After the date on which a Successful Syndication of the Facilities (as defined in the Commitment Letter) has been achieved, any such cancellation may be applied to any Facility at the discretion of the Obligors' Agent.
- (d) Any cancellation under paragraph (a) above will reduce the Commitments of the Lenders under each relevant Facility rateably.

14.5 Cancellation on termination of Offer/Scheme

The Total Commitments shall be automatically cancelled if an Offer or Scheme lapses, is withdrawn or otherwise terminates (in circumstances where the Offer has not become unconditional), except to the extent there is a switch from an Offer to a Scheme or vice versa, in which case, the Total Commitments shall be automatically cancelled when the new Offer or Scheme (as the case may be) lapses, is withdrawn or otherwise terminates (in circumstances where the Offer has not become unconditional).

14.6 Cancellation relating to the Alcan Related Debt

- (a) If, on the Unconditional Date, the aggregate principal amount of:
 - (i) any Capital Markets Issue (as defined in Clause 14.9 (Mandatory prepayment from Capital Markets Proceeds)) by any member of the BHP Billiton Group, the proceeds of which constitute Reserved Proceeds (but excluding the amount of any such proceeds which have been applied in prepayment and/or cancellation of the Facility A Loans); and
 - (ii) any Alcan Bond Debt (other than any Short-term Alcan Bond Debt as defined below),exceeds the amount agreed by the Obligors' Agent and all of the Bookrunners from time to time, then the Available Commitments under each Facility will be automatically cancelled in an aggregate amount which is equal to such excess.
- (b) If any Alcan Non Change of Control Debt (except where all of that Alcan Non Change of Control Debt is Alcan Bond Debt) is outstanding on the Unconditional Date, except to the extent the Bookrunners otherwise agree or the Obligors' Agent has delivered a certificate, signed by two Authorised Signatories of each of the Companies, to the Facility Agent confirming that the Target Group will discharge that Alcan Non Change of Control Debt (other than any of that Alcan Non Change of Control Debt which is Alcan Bond Debt) in full (and not only in part) on or before the date falling 12 weeks after the Unconditional Date, on the date falling four weeks after the Unconditional Date, the Available Commitments under each Facility will be cancelled automatically in an aggregate amount equal to the Maximum Refinancing Amount (less an amount equal to the Available Commitments (if any) which have already been cancelled pursuant to paragraph (a) above).

- (c) Except to the extent the Bookrunners otherwise agree, if, on the date falling 12 weeks after the Unconditional Date, the Target Group has not repaid or prepaid the Alcan Related Debt (other than any Alcan Bond Debt) in full using Refinancing Loans or loans under a Target Standalone Agreement, on that date, the Available Commitments under each Facility will be cancelled automatically in an aggregate amount equal to the Maximum Refinancing Amount (less an amount equal to the Available Commitments (if any) which have already been cancelled pursuant to paragraph (a) or (b) above).
- (d) Any cancellation under paragraphs (a), (b) or (c) above shall be applied as follows:
 - (i) first, to the Term Facilities pro rata; and
 - (ii) secondly, to the Revolving Facility.
 Any such cancellation will reduce the Commitments of the Lenders under each Facility rateably.
- (e) If any amount of the Available Commitments is not cancelled under paragraph (a) above as a result of any Short-term Alcan Bond Debt being outstanding, notwithstanding any other provision of this Agreement (but subject to Clauses 4.6 (Certain funds) and 14.13(h) (Terms of cancellation and prepayment)), a Borrower may not submit a Utilisation Request for any Loan unless, following the utilisation of that Loan, the aggregate Available Facilities will be in an amount at least equal to the amount of that Short-term Alcan Bond Debt and if the Available Facilities have not been used to repay that Short-term Alcan Bond Debt in full on its maturity date, the Available Facilities shall be cancelled automatically in an amount equal to that Short-term Alcan Bond Debt.

14.7 Voluntary prepayment

- (a) The Borrower to which a Loan has been made may, if the Obligors' Agent gives the Facility Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior written notice (signed by an authorised officer of the Obligors' Agent) and identifying the Loan which is to be prepaid, prepay the whole or any part of the Loan (but if in part, being an amount that reduces the Base Currency Amount of the relevant Loan by a minimum amount of US\$10,000,000 (or its equivalent in any other currency)).
- (b)
 - (i) Prior to the date on which a Successful Syndication of the Facilities (as defined in the Commitment Letter) has been achieved, any prepayment under paragraph (a) above shall be applied as follows:
 - (A) first, to the Term Facilities pro rata; and
 - (B) secondly, to the Revolving Facility.
 - (ii) After the date on which a Successful Syndication of the Facilities (as defined in the Commitment Letter) has been achieved, any such prepayment may be applied to any Facility at the discretion of the Obligors' Agent.
- (c) Any prepayment under paragraph (a) above will be applied to reduce the outstanding Loans of the Lenders under each relevant Facility rateably.

14.8 Mandatory prepayment from Net Disposal Proceeds

(a) In this Clause 14.8:

Disposal means the sale, transfer or other disposal (whether by a voluntary or involuntary single transaction or series of transactions) of:

- (a) any business or undertaking (or any asset or assets which comprise, or represent the shares or other ownership interest in a business or undertaking) of the Group; or
- (b) any part of a business or undertaking of the Group (other than a sale, transfer or disposal in the ordinary course of business).

Excluded Disposal Proceeds means the proceeds of any Disposal:

- (a) where the Net Disposal Proceeds of such Disposal (when aggregated with the Net Disposal Proceeds of any related Disposal) are less than US\$1,000,000,000 (or equivalent in other currencies);
- (b) which is by one member of the Group to another member of the Group;
- (c) which is a Disposal in exchange for assets comparable or superior in value; or
- (d) which is a Disposal by a Joint Venture and the proceeds of that Disposal are not received by a wholly-owned Subsidiary of a Company, provided that the Companies shall use reasonable endeavours to procure that such proceeds are paid (in whole or part, such part being no lower a proportion of the total proceeds than the proportionate shareholding of the Group in the relevant Joint Venture, and directly or indirectly) to a wholly-owned Subsidiary of a Company as soon as practicable after the date of receipt of such proceeds (whether by loan, dividend or otherwise) and, upon receipt by a wholly-owned Subsidiary of a Company, such proceeds (or the relevant part) shall cease to be Excluded Disposal Proceeds and shall be applied in prepayment of the Facility A Loans in accordance with paragraph (b) below.

Net Disposal Proceeds means the cash or cash equivalent proceeds (including, when received, the cash or cash equivalent proceeds of any deferred consideration, whether by way of adjustment to the purchase price or otherwise) received by a member of the Group in connection with any Disposal, after deducting:

- (a) all fees and transaction costs and expenses properly incurred in connection with:
 - (i) that Disposal; and
 - (ii) the transfer of such proceeds to a Borrower in order to comply with this Clause 14.8; and
 - (b) any Taxes paid or reasonably estimated by the Companies to be payable as a result of that Disposal (or transferring such proceeds to a Borrower).
- (b) Until the date on which the Total Facility A Commitments have been irrevocably cancelled in full and the Facility A Loans have been repaid or prepaid in full, the Companies shall notify the Facility Agent immediately on receipt of any Net Disposal Proceeds by any member of the Group (other than Excluded Disposal Proceeds), including in such notification whether the provisions of Clause 14.10 (Exceptions to prepayment of Net Disposal Proceeds and Net Capital Markets Proceeds) are applicable with respect to the relevant Net Disposal Proceeds, and, subject to Clause 14.10 (Exceptions to prepayment of Net Disposal Proceeds and Net Capital Markets Proceeds), shall

apply (or shall procure that the Borrowers shall apply) an amount equal to such Net Disposal Proceeds (other than any Excluded Disposal Proceeds) in prepayment of the Facility A Loans on the last day of their Interest Period(s) and, to the extent that the amount of the Net Disposal Proceeds (other than Excluded Disposal Proceeds) exceeds the outstanding amount of the Facility A Loans at that time, in cancellation of the Available Facility under Facility A in an amount equal to that excess on the day of notification of the receipt of the Net Disposal Proceeds.

14.9 Mandatory prepayment from Capital Markets Proceeds

(a) In this Clause 14.9:

Capital Markets Issue means:

- (a) the issue of any share or stock (whether or not ordinary or preference and whether or not redeemable), warrant, depository receipt, option or other equity or quasi-equity instrument;
- (b) the issue of any bond, note or other debt securities with a maturity of more than one year to any person that is not a member of the Group; or
- (c) any loan with a maturity of more than one year made by any person that is not a member of the Group under any syndicated or bilateral loan facility entered into after the date of this Agreement.

Excluded Capital Markets Issue means any Capital Markets Issue:

- (a) the proceeds of which are used to refinance or replace (directly or indirectly) all or any portion of any loan facility or any issue of securities existing at the date of this Agreement which has matured or which has become due as a result of the Acquisition;
- (b) by a Project Company or Joint Venture (but only to the extent the Financial Indebtedness incurred in respect of such Capital Markets Issue meets the requirements contained in sub-paragraph (a)(ii)(A) or sub-paragraph (a)(ii)(B) of Clause 28.9 (Project Companies) or the definition of Joint Venture, as the case may be);
- (c) where the shares or other instruments or securities are issued to employees or officers of the Companies, or in lieu of dividends or;
- (d) where the shares or other instruments or securities are issued by one member of the Group to another member of the Group or in relation to the insertion of a New Holding Company as contemplated by Clause 44.4 (New Holding Company); or
- (e) where the amount of proceeds received by any member of the Group from that Capital Markets Issue (when aggregated with the proceeds of any other Capital Markets Issue made after the date of this Agreement which is not an Excluded Capital Markets Issue under any of paragraphs (a) to (d) above) are less than US\$500,000,000 (or its equivalent in other currencies).

Net Capital Markets Proceeds means the cash or cash equivalent proceeds of any Capital Markets Issue (other than an Excluded Capital Markets Issue) received by any member of the Group, after deducting:

- (a) all fees and transaction costs and expenses properly incurred in connection with:

- (i) the raising of those Capital Markets Proceeds; and
 - (ii) the transfer of such proceeds to a Borrower in order to comply with this Clause 14.9; and
- (b) any Taxes paid or reasonably estimated by the Companies to be payable as a result of that raising of the Capital Markets Issue (or transferring such proceeds to a Borrower).
- (b) Until the date on which Total Facility A Commitments have been irrevocably cancelled in full and the Facility A Loans have been repaid or prepaid in full, the Companies shall notify the Facility Agent immediately on receipt of any Net Capital Markets Proceeds by any member of the Group, including in such notification whether the provisions of Clause 14.10 (Exceptions to prepayment of Net Disposal Proceeds and Net Capital Markets Proceeds) are applicable with respect to the relevant Net Capital Markets Proceeds, and, subject to Clause 14.10 (Exceptions to prepayment of Net Disposal Proceeds and Net Capital Markets Proceeds), shall apply (or shall procure that the Borrowers shall apply) an amount equal to such Net Capital Markets Proceeds in prepayment of the Facility A Loans on the last day of their Interest Period(s) and, to the extent that the amount of the Net Capital Markets Proceeds exceeds the outstanding amount of the Facility A Loans at that time, in cancellation of the Available Facility under Facility A in an amount equal to that excess on the day of notification of the receipt of the Net Capital Markets Proceeds.

14.10 Exceptions to prepayment of Net Disposal Proceeds and Net Capital Markets Proceeds

- (a) No prepayment or cancellation in respect of the Facility A Loans is required under Clause 14.8(b) (Mandatory prepayment from Net Disposal Proceeds) or Clause 14.9(b) (Mandatory prepayment from Capital Markets Proceeds) in respect of the first portion (the amount of such portion being agreed by the Obligors' Agent and the Majority Lenders from time to time) of the aggregate amount of (A) any Net Disposal Proceeds (other than Excluded Disposal Proceeds) and any Net Capital Markets Proceeds received after the date of this Agreement but prior to the Unconditional Date and (B) any Net Disposal Proceeds (other than Excluded Disposal Proceeds) received after the Unconditional Date in respect of a disposal which was contractually committed to by the relevant member of the Group prior to the Unconditional Date, which, in each case, would otherwise be required to be applied in prepayment and/or cancellation of the Facility A Loans in accordance with either of those Clauses (the **Reserved Proceeds**) to the extent that those Reserved Proceeds:
 - (i) are applied; or
 - (ii) remain available to be applied and are applied,
 towards either of the purposes referred to in Clause 3.1(a)(i) or (ii) (Purpose). The Obligors' Agent must certify, on the date of any Buyback (or, if no Buyback is to occur, on the last date on which an Offer Loan is advanced), the amount of any Reserved Proceeds which have arisen and whether the full amount of those Reserved Proceeds have been applied in prepayment or cancellation of the Facility A Loans and/or have been applied for the purposes referred to in Clause 3.1(a)(i) or (ii) (Purpose). If that certificate shows that any Reserved Proceeds have not been used for such purposes, within 10 Business Days after the date of that certificate, the Companies shall apply an amount equal to such unused amounts in prepayment of any of the outstanding Term Loans.
- (b) In the event that, on or before the date falling 12 weeks after the Unconditional Date, the Available Commitments under each Facility have been cancelled in an aggregate amount which is not less than the Maximum Refinancing Amount, any Net Capital Market Proceeds or Net Disposal Proceeds received by any member of the Target Group shall not be required to be applied in prepayment of Facility A Loans or cancellation of the Available Facility under Facility A pursuant to Clause 14.8(b) (Mandatory prepayment from Net Disposal Proceeds) or Clause 14.9(b)

(Mandatory prepayment from Capital Markets Proceeds) (as the case may be) if, and to the extent that, such Net Capital Market Proceeds or Net Disposal Proceeds (as the case may be) are required by the terms (as at the Unconditional Date) of any Alcan Related Debt which is outstanding on the Unconditional Date to be applied in mandatory prepayment or redemption of that Alcan Related Debt and are so applied.

- (c) Notwithstanding Clauses 14.8(b) (Mandatory prepayment from Net Disposal Proceeds) and 14.9(b) (Mandatory prepayment from Capital Markets Proceeds), if, on or before the date falling 12 weeks after the Unconditional Date, any member of the Group receives any Net Capital Market Proceeds or Net Disposal Proceeds and such Net Capital Market Proceeds or Net Disposal Proceeds (as the case may be) are required by the terms (as at the Unconditional Date) of any Alcan Related Debt which is outstanding on the Unconditional Date to be applied in mandatory prepayment or redemption of that Alcan Related Debt, the relevant members of the Target Group shall be entitled to apply such Net Capital Market Proceeds or Net Disposal Proceeds (as the case may be) in prepayment or redemption of the relevant Alcan Related Debt (and no prepayment shall be required under this Agreement). The Obligors' Agent must notify the Facility Agent of any such prepayment or redemption of Alcan Related Debt on or before the date of such prepayment or redemption and, immediately and automatically on such notification, the Available Commitments under each Facility shall be cancelled in an aggregate amount equal to the amount of such Net Capital Market Proceeds or Net Disposal Proceeds (as the case may be) which would otherwise have been applied in mandatory prepayment and/or cancellation of the Facilities.

14.11 Right of repayment and cancellation in relation to a single Lender

- (a) If:
- (i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of Clause 19.4 (Tax gross-up); or
 - (ii) any Lender claims indemnification from the Obligors' Agent under Clause 19.5 (Tax indemnity) or Clause 20.1 (Increased costs),
- the Obligors' Agent may, whilst the circumstance giving rise to the requirement or indemnification continues, either give the Facility Agent notice of cancellation of the Commitment of that Lender and its intention to procure the repayment of that Lender's participation in the Loans or request that Lender to transfer its Commitment and its participation in the Loans (and in the case of Loans to the Australian Borrower, the corresponding Notes) pursuant to Clause 32.6 (Procedure for transfer) to a replacement bank or financial institution as the Obligors' Agent shall specify (and such transfer shall be made against payment at par of an amount equal to the outstanding principal of such Loans together with all interest, any Break Costs (determined as if the relevant Lender had been prepaid on the date of the transfer) and other amounts accrued under the Finance Documents).
- (b) On receipt of a notice referred to in paragraph (a) above in respect of a cancellation, the Commitment of that Lender shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Obligors' Agent has given notice under paragraph (a) above in respect of a cancellation (or, if earlier, the date specified by the Obligors' Agent in that notice), each Borrower to which a Loan is outstanding shall repay (in whole or in part, as the case may be) that Lender's participation in that Loan.

14.12 Unlawfulness for a Borrower

- (a) If it becomes unlawful for a Borrower to perform any of its obligations under this Agreement, then such affected Borrower will prepay all Loans outstanding to it.
- (b) Upon prepayment by such affected Borrower, it will cease to be a Borrower.

14.13 Terms of cancellation and prepayment

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 14 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.
- (c) No Borrower may reborrow any part of a Term Facility which is prepaid.
- (d) Unless a contrary indication appears in this Agreement, any part of a Revolving Facility Loan which is prepaid may be reborrowed in accordance with the terms of this Agreement.
- (e) The Borrowers shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.
- (f) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.
- (g) If the Facility Agent receives a notice under this Clause 14 it shall promptly forward a copy of that notice to the Companies, the Obligors' Agent or the affected Lender, as appropriate.
- (h) Notwithstanding anything to the contrary in this Clause 14, if, on or at any time after the Unconditional Date, the maximum amount of Acquisition Cash Consideration which is required to be paid to shareholders of the Targets has not been paid and any amount of the Facilities is required to be cancelled pursuant to this Clause 14, the Facilities shall only be required to be cancelled by an amount such that the aggregate amount of the Available Facilities after such cancellation would not be less than the lower of:
 - (i) the maximum amount of Acquisition Cash Consideration which is still required to be paid to shareholders of the Targets at that time; and
 - (ii) the amount agreed between the Bookrunners and the Obligors' Agent from time to time.

If, as a result of this paragraph (h), the Facilities are not cancelled by the full amount which would otherwise have been required to be applied in cancellation of the Facilities pursuant to any other provision of this Clause 14 (the difference between the actual amount of the cancellation as a result of this paragraph (h) and the amount required to be cancelled pursuant to the other provisions of this Clause 14 being the **excess**), on the date on which the last payment of Acquisition Cash Consideration is paid in full to shareholders of the Targets, the Companies shall apply (or shall procure that the Borrowers shall apply) an amount equal to the excess in cancellation of the Commitments and (if the Available Commitments are less than the excess) in prepayment of the Term Loans pro rata.

15. INTEREST

15.1 Calculation of interest

- (a) Subject to Clause 17 (Changes to the Calculation of Interest), the rate of interest on each Loan (other than a Swingline Loan) for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:
- (i) Margin;
 - (ii) in relation to any Loan in euro, EURIBOR and, in relation to any other currency, LIBOR; and
 - (iii) Mandatory Cost, if any.
- (b) The rate of interest under the Dollar Swingline Facility will be determined in accordance with Clause 7.5 (Dollar Swingline Rate of Interest).
- (c) The rate of interest under the Euro Swingline Facility will be determined in accordance with Clause 7.6 (Euro Swingline Rate of Interest).

15.2 Payment of interest

Each Borrower (other than an Australian Borrower) to which a Loan has been made shall pay accrued interest on that Loan on the last day of each Interest Period (and, if the Interest Period is longer than six Months, on the dates falling at six monthly intervals after the first day of the Interest Period).

15.3 Margin adjustment

If:

- (a) no Event of Default has occurred and is continuing; and
- (b) (other than any adjustment to be made under paragraph (iv) below) the Unconditional Date has occurred and each of S&P and Moody's have confirmed the Credit Rating of the Companies taking into account the Acquisition (the **Initial Ratings**),

then the Margin for each Loan will be adjusted by reference to the Credit Ratings of the Companies from time to time to the percentage rate per annum set out in the table below relating to the relevant Facility:

Credit Rating (S&P/ Moody's)	A Term Facility	B Term Facility	C Term Facility / Revolving Credit Facility
A+/A1	0.35	0.40	0.45
A/A2 or higher	0.40	0.45	0.50
A-/A3	0.50	0.55	0.60
BBB+/Baa1	0.60	0.65	0.70
BBB/Baa2 or lower	0.70	0.75	0.80

provided that any such adjustment shall be subject to the following conditions:

- (i) any increase or decrease in the Margin for a Loan shall take effect on:
 - (A) the date which is five Business Days after receipt by the Facility Agent of the Initial Ratings or, if each of S&P and Moody's have confirmed the Credit Rating of the Companies taking into account the Acquisition prior to the Unconditional Date, on the Unconditional Date; and
 - (B) in the case of any subsequent adjustment of any Credit Rating of the Companies by S&P and/or Moody's, the date which is five Business Days after receipt by the Facility Agent of evidence of such new Credit Rating(s);
- (ii) if, at any time, the Credit Ratings assigned to the Companies by S&P and Moody's are at different levels (for example, S&P has assigned a Credit Rating of "A" and Moody's has assigned a Credit Rating of "A3"), the Margin applicable to each Loan shall be the average of the percentage rates per annum set out in the table above opposite each such Credit Rating relating to the relevant Facility;
- (iii) if an Event of Default is continuing or a Company ceases to be rated by both S&P and Moody's or by one of S&P and Moody's and any alternative ratings agency of international repute approved by the Facility Agent (acting reasonably), the Margin for each Loan shall be the relevant percentage rate per annum set out in the table above for a Credit Rating of "BBB/Baa2" for the period during which that Event of Default is continuing or rating has ceased;
- (iv) if the Facility A Loans have been irrevocably repaid or prepaid in full and the Facility A Commitments have been irrevocably cancelled in full, each of the percentage rates per annum set out in the table above and in the definition of Margin shall be reduced by 0.10% per annum.

15.4 Default interest

- (a) If an Obligor (other than an Australian Borrower) fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate 1% higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods under the relevant Facility (or, if the overdue amount does not relate to a particular Facility, under the Revolving Facility), each of a duration selected by the Facility Agent (acting reasonably). Any interest accruing under this Clause 15.4 shall be immediately payable by the Obligor on demand by the Facility Agent.
- (b) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

15.5 Notification of rates of interest

The Facility Agent shall promptly notify the Lenders and the Obligors' Agent of the determination of a rate of interest under this Agreement.

15.6 Interest Act (Canada)

For purposes of disclosure pursuant to the Interest Act (Canada) only and without changing any amounts calculated in accordance with this Agreement, the annual rates of interest or fees to which the rates of interest or

fees provided in this Agreement (and stated herein or therein, as applicable, to be computed on the basis of a 360 day year or any other period of time less than a calendar year) are equivalent are the rates so determined multiplied by the actual number of days in the applicable calendar year and divided by 360 or the actual number of days in such other period of time, respectively.

15.7 Limitation on Interest

In respect of any judicial proceedings in Canada (including any bankruptcy, insolvency or enforcement proceeding), if any provision of this Agreement would obligate a Canadian Borrower or any other Borrower which owns assets in Canada or which carries on business in Canada to make any payment of interest or other amount payable to any Finance Party in an amount or calculated at a rate which would result in a receipt by such Finance Party of interest at a criminal rate (as such terms are construed under the Criminal Code (Canada)) then, notwithstanding such provisions, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not so result in a receipt by such Finance Party of interest at a criminal rate, such adjustment to be effected, to the extent necessary, as follows:

- (a) firstly, by reducing the amount or rate of interest required to be paid to such Finance Party under this Clause 15; and
- (b) thereafter, by reducing any fees, commissions, premiums and other amounts required to be paid to such Finance Party which would constitute "interest" for purposes of Section 347 of the Criminal Code (Canada).

Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if a Finance Party shall have received an amount in excess of the maximum permitted by that section of the Criminal Code (Canada), the relevant Canadian Borrower shall be entitled, by notice in writing to such Finance Party, to obtain reimbursement from such Finance Party in an amount equal to such excess and, pending such reimbursement, such amount shall be deemed to be an amount payable by such Finance Party to the relevant Obligor. Any amount or rate of interest referred to in this Clause 15.7 shall be determined as an effective annual rate of interest over the term that the applicable Loan remains outstanding on the assumption that any charges, fees or expenses that fall within the meaning of "interest" (as defined in the Criminal Code (Canada)) shall, if they relate to a specific period of time, be pro-rated over that period of time and otherwise be pro-rated over the period from the date this Agreement to the date that all obligations and liabilities of the relevant Canadian Borrower under this Agreement have been fully and finally paid and satisfied.

16. INTEREST PERIODS

16.1 Selection of Interest Periods

- (a) The Obligors' Agent may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if the Loan has already been borrowed) in a Selection Notice.
- (b) Each Selection Notice for a Loan is irrevocable and must be delivered to the Facility Agent by the Obligors' Agent not later than the Specified Time.
- (c) Subject to paragraph (h) below, if the Obligors' Agent fails to deliver a Selection Notice to the Facility Agent in accordance with paragraph (b) above, the relevant Interest Period will be three Months.
- (d) Subject to this Clause 16, the Obligors' Agent may select an Interest Period of one, two, three or six Months or any other period (not exceeding six Months) agreed between the Obligors' Agent and the Facility Agent or any other period (not exceeding 12 Months) agreed between the Obligors' Agent and the Facility Agent (acting on the instructions of all the Lenders).

- (e) An Interest Period for a Loan shall not extend beyond the Final Maturity Date applicable to its Facility.
- (f) Each Interest Period for a Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.
- (g) Any Revolving Facility Loan shall have one Interest Period only.
- (h) Until the earlier of the date falling six months after the Unconditional Date and the Syndication Date, Interest Periods shall be one month or such other period (not exceeding one month) as the Facility Agent may determine so as to ensure that the Interest Periods for all Loans then outstanding end on the same date or such other period (not exceeding 6 months) as may be agreed between the Obligors' Agent and the Facility Agent and any Interest Period which would otherwise end during the month preceding or extend beyond the Syndication Date shall end on the Syndication Date.

16.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

16.3 Consolidation and division of Loans

- (a) If two or more Interest Periods:
 - (i) relate to Loans in the same currency and under the same Facility;
 - (ii) end on the same date; and
 - (iii) are made to the same Borrower,
 those Loans will, unless the Obligors' Agent specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Loan on the last day of the Interest Period.
- (b) Subject to Clause 4.5 (Maximum number of Loans) and Clause 5.3 (Currency and amount)) if a Borrower (or the Obligors' Agent on its behalf) requests in a Selection Notice that a Term Loan be divided into two or more Term Loans (having the same designation as the original Term Loan), that Term Loan will, on the last day of its Interest Period, be so divided into Loans in the amounts specified in that Selection Notice provided that each such Term Loan shall be denominated in the same currency as the original Term Loan and the aggregate Base Currency Amount of the divided Term Loans shall be equal to the Base Currency Amount of the original Term Loan immediately before its division.

17. CHANGES TO THE CALCULATION OF INTEREST

17.1 Absence of quotations

Subject to Clause 17.2 (Market disruption), if LIBOR or, if applicable, EURIBOR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by the Specified Time on the Quotation Day, the applicable LIBOR or EURIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

17.2 Market disruption

- (a) If a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on each Lender's share of that Loan for the Interest Period shall be the rate per annum which is the sum of:
- (i) the Margin;
 - (ii) the rate notified to the Facility Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Loan from whatever source it may reasonably select; and
 - (iii) the Mandatory Cost, if any, applicable to that Lender's participation in the Loan.
- (b) In this Agreement **Market Disruption Event** means:
- (i) at or about noon on the Quotation Day for the relevant Interest Period the Screen Rate is not available and none or only one of the Reference Banks supplies a rate to the Facility Agent to determine LIBOR or, if applicable, EURIBOR for the relevant currency and Interest Period; or
 - (ii) before close of business in London on the Quotation Day for the relevant Interest Period, the Facility Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 35% of that Loan) that the cost to it of obtaining matching deposits in the Relevant Interbank Market would be in excess of LIBOR or, if applicable, EURIBOR.

17.3 Loans in Australian or Canadian Dollars

If:

- (a) the aggregate Base Currency Amount of all Loans to be made in Australian Dollars on any day exceeds US\$5,000,000,000; or
- (b) the aggregate Base Currency Amount of all Loans to be made in Canadian Dollars on any day exceeds US\$10,000,000,000,

then, for as long as those Loans remain denominated in that currency, the rate of interest on each Lender's share of those Loans in that currency for each Interest Period shall be the rate per annum which is the sum of:

- (i) the Margin;
- (ii) the rate notified to the Facility Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Loan from whatever source it may reasonably select (or, in the absence of such notification, LIBOR for the relevant period); and
- (iii) the Mandatory Cost, if any, applicable to that Lender's participation in the Loan.

17.4 Alternative basis of interest or funding

- (a) If a Market Disruption Event occurs and the Facility Agent or the Obligors' Agent so requires, the Facility Agent and the Obligors' Agent shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.
- (b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders and the Obligors' Agent, be binding on all Parties.

17.5 Break Costs

- (a) Each Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by that Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.
- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

18. FEES

18.1 Commitment fee

- (a) The Companies shall pay to the Facility Agent (for the account of each Lender) a commitment fee in the Base Currency computed at the rate of:
 - (i) 25% of the applicable Margin on each Lender's Available Commitment under the Term Facilities for the Availability Period applicable to the Term Facilities; and
 - (ii) 30% of the applicable Margin on each Lender's Available Commitment under the Revolving Credit Facility for the Availability Period applicable to the Revolving Credit Facility.
- (b) The commitment fee accrues on a daily basis and is payable in arrear on each 31 March, 30 June, 30 September and 31 December during the relevant Availability Period, on the last day of the relevant Availability Period and, if cancelled in full, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

18.2 Arrangement, Underwriting and Participation fees

The Companies shall pay to the Facility Agent (for the account of the relevant Finance Parties) the arrangement, underwriting and participation fees in the amount and at the times agreed in a Fee Letter.

18.3 Agency fee

The Companies shall pay to each of the Facility Agent, the Dollar Swingline Agent and the Euro Swingline Agent (each for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

19. TAX GROSS UP AND INDEMNITIES

19.1 Definitions

(a) In this Clause 19:

double taxation treaty means any convention or agreement between the government of the United Kingdom and any other government for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains.

Protected Party means a Finance Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

Qualifying Lender means in respect of any Loan to a UK Group Member, a Lender that meets the requirements of Clause 19.2 (Lenders' tax status confirmation).

Tax Confirmation means a confirmation by a UK Non-Bank Lender that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
- (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (for the purposes of section 11(2) of the Taxes Act) the whole of any share of interest payable in respect of that advance that falls to it by reason of sections 114 and 115 of the Taxes Act; or
- (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (for the purposes of section 11(2) of the Taxes Act) of that company.

Tax Credit means a credit against, relief or remission for, or repayment of any Tax.

Tax Deduction means a deduction or withholding for or on account of Tax from a payment under a Finance Document.

Tax Payment means an increased or additional payment made by an Obligor to a Finance Party under Clause 19.4 (Tax gross-up) or a payment under Clause 19.5 (Tax indemnity).

UK Group Member means PLC and any Subsidiary of the Companies that is resident for tax purposes in the United Kingdom.

UK Lender means, in relation to a Loan to a UK Group Member, a Lender which is (on the date a payment falls due) beneficially entitled to interest payable to it under a Finance Document and is:

- (a) a Lender:

- (i) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under a Finance Document; or
- (ii) in respect of an advance made under a Finance Document by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that that advance was made, and which is within the charge to United Kingdom corporation tax as respects any payments made in respect of that advance; or
- (b) a UK Non-Bank Lender; or
- (c) a UK Treaty Lender.

UK Non-Bank Lender means a Lender which is:

- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
- (b) a partnership each member of which is:
 - (i) a company resident in the United Kingdom for United Kingdom tax purposes; or
 - (ii) a company not resident in the United Kingdom for United Kingdom tax purposes but which carries on a trade in the United Kingdom through a permanent establishment and which is required to bring into account in computing its chargeable profits (within the meaning of section 11(2) of the Taxes Act) the whole of any share of interest payable in respect of that advance that falls to it by reason of sections 114 and 115 of the Taxes Act; or
- (c) a company not resident in the United Kingdom for United Kingdom tax purposes but which carries on a trade in the United Kingdom through a permanent establishment and which brings into account that interest payable in respect of that advance in computing its chargeable profits (for the purposes of section 11(2) of the Taxes Act).

UK Treaty Lender means, in relation to a Loan to a UK Group Member, a Lender which:

- (a) is resident (as such term is defined in the appropriate double taxation treaty) in a country with which the United Kingdom has a double taxation treaty giving residents of that country complete exemption from United Kingdom Tax on interest;
- (b) does not carry on business in the United Kingdom through a permanent establishment with which its participation in the Loan is effectively connected; and
- (c) meets all other conditions in the relevant double taxation treaty for complete exemption from United Kingdom Tax on interest relating to:
 - (i) the identity or status of the Lender (including its status for tax purposes);
 - (ii) the circumstances which are particular to the manner in which it holds its rights and obligations under the Finance Documents;
 - (iii) the length of the period during which the Lender holds its rights or obligations under the Finance Documents;

- (iv) the reasons for its acquisition of rights or obligations under the Finance Documents, except where it became a Lender on the date of the Agreement; and
- (v) the nature of any arrangements by which the Lender turns to account its rights under the Finance Documents.

Yearly Interest means yearly interest of money arising in the United Kingdom within the meaning of section 874 of the ITA.

- (b) In this Clause 19 a reference to **determines** or **determined** means a determination made in the absolute discretion of the person making the determination.

19.2 Lenders' tax status confirmation

Each Lender confirms in favour of each of the Borrowers and each Agent on the date of this Agreement or, in the case of a Lender which becomes a Party pursuant to a transfer or assignment, on the date on which the relevant transfer or assignment becomes effective, that in relation to a Loan to a UK Group Member, it is or will be a UK Lender or can otherwise receive payments of interest in relation to a Loan made to a UK Group Member without the imposition of any withholding or deduction for or on account of United Kingdom Tax on interest, and each Lender shall promptly notify each Agent and the Obligors' Agent if there is any change in its position from that set out above.

19.3 Finance Parties' Tax Forms

Each Finance Party will (to the extent it is required to do so in order to receive payments under the Finance Documents without a Tax Deduction) promptly following the date of this Agreement, deliver to its local revenue authority and/or to the Obligors' Agent (and/or such persons as it may designate), as required, such UK HM Revenue and Customs or other local revenue authority forms as may be required to enable an Obligor to obtain authority to pay interest to that Finance Party without withholding or deduction for or on account of Taxes.

19.4 Tax gross-up

- (a) Each Obligor shall make all payments to be made by it under any Finance Document without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The Obligors' Agent shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent upon becoming aware that it is not, or has ceased to be, a Qualifying Lender. If the Facility Agent receives such notification from a Lender it shall notify the Obligors' Agent and that Obligor.
- (c) If a Tax Deduction is required by law to be made by:
 - (i) an Obligor (other than an Australian Obligor), the amount of the payment due from that Obligor shall be increased by an amount which; or
 - (ii) an Australian Obligor, it shall pay an additional amount which,
 when added to the amount of the payment (in each case after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

- (d) An Obligor is not required to make an increased or additional payment to a Finance Party under paragraph (c) above for a Tax Deduction from a payment of interest on a Loan or a Note, if on the date on which the payment falls due:
- (i) the Tax Deduction is in respect of any United Kingdom Tax and the payment is one of Yearly Interest and could have been made to the Lender without Tax Deduction if it was a UK Lender, but on that date that Finance Party is not or has ceased to be a UK Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or double taxation treaty or published practice or concession of any relevant taxing authority;
 - (ii) the Tax Deduction is in respect of any United Kingdom Tax and the Finance Party is a UK Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under Clause 19.3 (Finance Parties' Tax Forms) or paragraph (g) below;
 - (iii) the relevant Lender is a UK Non-Bank Lender and:
 - (A) an officer of H.M. Revenue & Customs has given (and not revoked) a direction (a **Direction**) under section 931 of the Income Tax Act 2007 (as that provision has effect on the date on which the relevant Lender became a Party) which relates to that payment and that Lender has received from that Obligor or the Obligors' Agent a certified copy of that Direction; and
 - (B) the payment could have been made to the Lender without any Tax Deduction in the absence of that Direction;
 - (iv) the relevant Lender is a UK Non-Bank Lender and it has not, other than by reason of any change after the date of this Agreement in (or in the interpretation or application of) any law, or any published practice or concession of any relevant taxing authority, given a Tax Confirmation to the relevant Obligor and the Obligors' Agent;
 - (v) the Tax Deduction is in respect of any Australian Tax required to be withheld or deducted under part III, division 11A of the Australian Tax Act and is as a result of the Lender being an Offshore Associate of an Australian Borrower;
 - (vi) the Tax Deduction is in respect of any Australian Tax and is required as a result of a breach by that particular Lender (and not its predecessor) of any of its obligations under Clause 9 (Public Offers); or
 - (vii) the Tax Deduction is in respect of any Australian Tax and is required as a result of any representation or warranty given by that particular Lender (and not its predecessor) under Clause 9 (Public Offers) being untrue in respect of a Note.
- (e) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (f) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Facility Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

- (g) A UK Treaty Lender and each Obligor which makes a payment to which that UK Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.
- (h) A UK Non-Bank Lender which becomes a Party on the day on which this Agreement is entered into gives a Tax Confirmation to the Companies by entering into this Agreement.
- (i) A UK Non-Bank Lender shall promptly notify the Companies and the Facility Agent if there is any change in the position from that set out in the Tax Confirmation it is deemed to give under Clause 19.4(h) or which it gives upon becoming a Party pursuant to a transfer or assignment in accordance with Clause 32 (Changes to the Lenders). If the Facility Agent receives such notification from a UK Non-Bank Lender, it shall promptly notify the Obligors' Agent.

19.5 Tax indemnity

- (a) The Obligors' Agent shall (within three Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Finance Party:
 - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,
 if in either such case that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party or the Facility Office; or
 - (ii) to the extent a loss, liability or cost:
 - (A) is compensated for by an increased payment under Clause 19.4 (Tax gross-up); or
 - (B) would have been compensated for by an increased payment under Clause 19.4 (Tax gross-up) but was not so compensated solely because one of the exclusions in paragraph (d) of Clause 19.4 (Tax gross-up) applied.
- (c) A Protected Party making, or intending to make, a claim under paragraph (a) above shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Obligors' Agent (but shall not be obliged to disclose any confidential information relating to the organisation of its affairs including, for the avoidance of doubt, any confidential information relating to its Tax affairs).
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 19.5, notify the Facility Agent.

19.6 Tax Credit

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable either to an increased payment of which that Tax Payment forms part, or to that Tax Payment; and
- (b) that Finance Party has obtained, utilised and retained that Tax Credit,

the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been made by the Obligor.

19.7 Stamp taxes

The Obligors' Agent shall pay and, if it fails to do so, shall (without prejudice to any other rights or remedies of any Finance Party), indemnify each Finance Party within three Business Days of demand against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document, except for any such Tax payable in connection with the entry into a Transfer Certificate or any equivalent document entered into in respect of an assignment of rights (unless the relevant assignment or transfer has been made at the request of an Obligor).

19.8 Value added tax

- (a) All consideration expressed to be payable under a Finance Document by an Obligor to a Finance Party shall be deemed to be exclusive of any VAT. If VAT is chargeable that Obligor shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the VAT.
- (b) Where a Finance Document requires an Obligor to reimburse a Finance Party for any costs or expenses, that Obligor shall also at the same time pay and indemnify the Finance Party against all VAT incurred by the Finance Party in respect of the costs or expenses.

20. INCREASED COSTS

20.1 Increased costs

- (a) Subject to Clause 20.3 (Exceptions) the Obligors' Agent shall, within three Business Days of a demand by the Facility Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement.
- (b) In this Agreement **Increased Costs** means:
 - (i) a reduction in the rate of return from the Facility or on a Finance Party's (or its Affiliate's) overall capital;
 - (ii) an additional or increased cost; or
 - (iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

20.2 Increased cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 20.1 (Increased costs) shall notify the Facility Agent of the event giving rise to the claim, following which the Facility Agent shall promptly notify the Obligors' Agent.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Costs.

20.3 Exceptions

- (a) Clause 20.1 (Increased costs) does not apply to the extent any Increased Cost is:
 - (i) incurred more than 90 days before the demand for payment save, if incurred as a result of any change in, or the introduction of, or any change in the interpretation, or application of, any law or regulation having retrospective effect, unless the Finance Party shall not have claimed for such Increased Cost by the end of the period of 90 days commencing on the date that Finance Party determined that such Increased Cost had been incurred;
 - (ii) attributable to a Tax Deduction required by law to be made by an Obligor;
 - (iii) compensated for by Clause 19.5 (Tax indemnity) (or would have been compensated for under Clause 19.5 (Tax indemnity) but was not so compensated solely because the exclusion in paragraph (b) of Clause 19.5 (Tax indemnity) applied);
 - (iv) compensated for by the payment of any Mandatory Cost;
 - (v) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation; or
 - (vi) attributable to the implementation or application of or compliance with the "International Convergence of Capital Measurement and Capital Standards, a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement (**Basel II**) or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates).
- (b) In this Clause 20.3, a reference to a **Tax Deduction** has the same meaning given to the term in Clause 19.1 (Definitions).

21. OTHER INDEMNITIES

21.1 Currency indemnity

- (a) If any sum due from an Obligor under the Finance Documents or a Deed Poll Guarantee (a **Sum**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the **First Currency**) in which that Sum is payable into another currency (the **Second Currency**) for the purpose of:
 - (i) making or filing a claim or proof against that Obligor;

- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings, that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.
- (b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents or Deed Poll Guarantees in a currency or currency unit other than that in which it is expressed to be payable.

21.2 Other indemnities

Each Obligor will, within three Business Days of demand, indemnify each Finance Party against any cost, loss, expense or liability (including, without limitation legal expenses but excluding loss of Margin) incurred by that Finance Party as a result of:

- (a) the occurrence of any Event of Default;
- (b) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 37 (Sharing Among the Lenders);
- (c) funding, or making arrangements to fund, its participation in a Loan requested by a Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement; or
- (d) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Obligors' Agent,

unless any event in paragraphs (a) to (d) above arises as a result of the negligence or wilful misconduct of that Finance Party.

21.3 Indemnity to the Agents

Each Obligor shall promptly indemnify the Facility Agent (and in the case of paragraph (b) below, the Dollar Swingline Agent and the Euro Swingline Agent) against any cost, loss or liability incurred by the Facility Agent, Dollar Swingline Agent or the Euro Swingline Agent, as the case may be, (in each case acting reasonably) as a result of:

- (a) investigating any event which it reasonably believes is a Default; or
- (b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

22. MITIGATION BY THE LENDERS

22.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Obligors' Agent, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under, or cancelled pursuant to, any of Clause 14.1 (Illegality), Clause 19 (Tax Gross up and Indemnities) or Clause 20 (Increased Costs) or

paragraph 3 of Schedule 4 (Mandatory Cost Formulae) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office or to another bank or financial institution provided that such Finance Party shall be under no obligation to make such transfer or assignment to another bank or financial institution if in its reasonable opinion to do so would be prejudicial to it.

- (b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

22.2 Limitation of liability

- (a) The Company shall indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 22.1 (Mitigation).
- (b) A Finance Party is not obliged to take any steps under Clause 22.1 (Mitigation) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

23. COSTS AND EXPENSES

23.1 Transaction expenses

Subject to the terms of the Fee Letter (if applicable), the Companies shall pay the Facility Agent the amount of all costs and expenses (including legal fees as agreed by the Obligors and the Facility Agent) reasonably incurred by it in connection with the negotiation, preparation, printing, execution and syndication of:

- (a) this Agreement and any other documents referred to in this Agreement; and
- (b) any other Finance Documents executed after the date of this Agreement.

23.2 Amendment costs

If in relation to a Finance Document (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 38.9 (Change of currency), the Obligors' Agent shall, within three Business Days of demand, reimburse the Facility Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Facility Agent in responding to, evaluating, negotiating or complying with that request or requirement.

23.3 Enforcement costs

The Obligors' Agent shall, within three Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document or Deed Poll Guarantee.

24. GUARANTEE AND INDEMNITY BY THE COMPANIES

24.1 Guarantee and Indemnity

Each Company irrevocably and unconditionally severally:

- (a) guarantees to each Finance Party punctual performance by each Borrower which is a Subsidiary of that Company and, if the Obligors' Agent is a subsidiary of that Company, the Obligors' Agent, of all that Borrower's (or Obligors' Agent's) obligations under the Finance Documents;

- (b) undertakes with each Finance Party that whenever a Borrower which is a Subsidiary of that Company or, if the Obligors' Agent is a subsidiary of that Company, the Obligors' Agent, does not pay any amount when due under or in connection with any Finance Document, that Company shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) indemnifies each Finance Party immediately on demand against any cost, loss or liability suffered by that Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Finance Party would otherwise have been entitled to recover.

24.2 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Borrower and the Obligors' Agent under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

24.3 Reinstatement

If any payment by a Borrower or the Obligors' Agent or any discharge given by a Finance Party (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

- (a) the liability of each relevant Obligor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) each Finance Party shall be entitled to recover the value or amount of that security or payment from each relevant Obligor, as if the payment, discharge, avoidance or reduction had not occurred.

24.4 Waiver of defences

The obligations of each Company under this Clause 24 will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Clause 24 (without limitation and whether or not known to it or any Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;

- (e) any amendment (however fundamental including, without limitation, any increase in, or changes to the determination of, the interest payable by the Obligors, any increase in or change to the amount of principal advanced to, or fees, charges or other amounts payable by, an Obligor) or replacement of a Finance Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

24.5 Immediate recourse

Each Company waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Company under this Clause 24. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

24.6 Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Company shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from any Company or on account of that Company's liability under this Clause 24.

24.7 Deferral of Companies' rights

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full or unless the Facility Agent otherwise directs, no Company will exercise any rights which it may have by reason of performance by it of its obligations under this Clause 24 or (notwithstanding any agreement to the contrary) under any Company Parent Guarantee:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents; and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party.

24.8 Additional security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

25. REPRESENTATIONS

Unless otherwise specified, each Obligor makes the representations and warranties set out in this Clause 25 to each Finance Party at the times specified in Clause 25.13 (Times when representations are made) in each case in respect of itself or, in the case of PLC and Limited only, where specified, in respect of itself and its respective Subsidiaries.

25.1 Status

- (a) It is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

25.2 Binding obligations

The obligations expressed to be assumed by it in each Finance Document to which it is a party and, in the case of the Guarantors, the Deed Poll Guarantees to which they are a party are, subject to any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered pursuant to this Agreement, legal, valid, binding and enforceable obligations.

25.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents and, in the case of the Guarantors, the Deed Poll Guarantees to which they are a party do not and will not (subject to any matters referred to in any legal opinion delivered pursuant to this Agreement) conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets in a manner or to an extent which has had or is reasonably likely to have a Material Adverse Effect.

25.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and, in the case of the Guarantors, the Deed Poll Guarantees to which they are a party and the transactions contemplated by those Finance Documents and, in the case of the Guarantors, the Deed Poll Guarantees to which they are a party.

25.5 Validity and admissibility in evidence

All Authorisations required:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party and, in the case of the Guarantors, the Deed Poll Guarantees to which they are a party; and
- (b) to make the Finance Documents to which it is a party and, in the case of the Guarantors, the Deed Poll Guarantees to which they are a party, admissible in evidence in its jurisdiction of incorporation, have been obtained or effected (as appropriate) and are in full force and effect (subject to any matters referred to in any legal opinion delivered pursuant to this Agreement).

25.6 No default

- (a) No Event of Default is continuing or would result from the making of any Loan (other than any which have been waived).
- (b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or its Subsidiaries') assets are subject to an extent or in a manner which is reasonably likely to have a Material Adverse Effect.

25.7 No misleading information

Each of the Companies represents and warrants that:

- (a) the factual information contained in the Information Memorandum was true and accurate in all material respects as at the date of the Information Memorandum or as at the date (if any) at which it is stated in the Information Memorandum;
- (b) the financial information and ratios contained in the Information Memorandum have been prepared in good faith from publicly available information and broker/analyst forecasts relating to the BHP Billiton Group, the Target Group and Alcan in accordance with the basis of preparation described in the Information Memorandum; and
- (c) so far as it is aware after due and careful review and enquiries, nothing has occurred or been omitted from the Information Memorandum and no information has been given or withheld that results in the information contained in the Information Memorandum being untrue or misleading in any material respect.

25.8 Financial statements

Each of the Companies represents and warrants that:

- (a) the Original Financial Statements were prepared in accordance with UK GAAP;
- (b) the Original Financial Statements (together with the notes thereto) give a true and fair view of the consolidated financial condition and operations of the Group at the end of and for the relevant financial year;
- (c) its most recent financial statements delivered pursuant to Clause 26.1 (Financial statements):
 - (i) have been prepared in accordance with UK GAAP; and
 - (ii) (together with the notes thereto) give a true and fair view of the consolidated financial condition and operations of the Group at the end of and for the relevant financial year; and
- (d) there has been no adverse change in the consolidated business or financial condition of the Group since the date of the Original Financial Statements which has had or is reasonably likely to have a Material Adverse Effect.

25.9 Pari passu ranking

Its payment obligations under the Finance Documents and, in the case of the Guarantors, the Deed Poll Guarantees to which they are a party rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

25.10 No proceedings pending or threatened

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which is reasonably likely to be adversely determined and, if so adversely determined, is reasonably likely to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against it or any of its Subsidiaries.

25.11 Environmental Matters

Each member of the Group is complying in all material respects with all Environmental Laws, non-compliance with which is reasonably likely to have a Material Adverse Effect.

25.12 Offers/Scheme Documents

Each of the Companies represents and warrants that:

- (a) the Press Release contains all the material terms of the Acquisition; and
- (b) the Offer Documents or the Scheme Documents (as applicable) contain all the material terms and conditions of the Acquisition and such terms and conditions reflect in all material respects the terms and conditions of the Acquisition set out in the Press Release except to the extent those terms have been amended, varied or waived in a manner not prohibited by this Agreement.

25.13 Times when representations are made

- (a) All the representations and warranties in this Clause 25 are made by each Original Obligor on the date of this Agreement except for the representations and warranties set out in Clause 25.7 (No misleading information) and 25.12 (Offers/Scheme Documents).
- (b) The Repeating Representations are deemed to be made, unless otherwise specified, by each Obligor by reference to the facts and circumstances then existing on the date of each Utilisation Request, on each Utilisation Date and the first day of each Interest Period.
- (c) The representations and warranties in Clause 25.7 (No misleading information) are deemed to be made by the Companies on the date of the Information Memorandum, the date of any update to the Information Memorandum, on each date on which a phase of general syndication closes (being the date notified to the Companies at least two Business Days in advance (for which purpose a notification using the Intralinks system will suffice) of the relevant Transfer Certificate(s)) and on the Syndication Date.
- (d) The representations and warranties in Clause 25.8(c) (Financial statements) are deemed to be made by the Companies on the date on which the applicable set of financial statements is delivered pursuant to Clause 26.1 (Financial statements).
- (e) The representations and warranties in Clause 25.12 (Offers/Scheme Documents) are deemed to be made by the Companies on:

- (i) in the case of sub-paragraph (a) of that Clause, the date of the Press Release; and
- (ii) in the case of sub-paragraph (b) of that Clause, the date of the Offer Documents or the Scheme Documents (as applicable) and the date of each Utilisation Request and on each Utilisation Date for an Offer Loan or (to the extent no Offer Loan has been made by such date) the first Utilisation Date for a Refinancing Loan.

26. INFORMATION UNDERTAKINGS

The undertakings in this Clause 26 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

26.1 Financial statements

The Obligors' Agent shall supply to the Facility Agent in sufficient copies for all the Lenders:

- (a) within 120 days after the end of each of its financial years, the annual audited financial statements of PLC (which are the consolidated accounts of the Group) for that financial year; and
- (b) within 90 days after the end of the first six months of each of its financial years, the unaudited financial statements of PLC (which are the consolidated accounts of the Group) for that six month period.

26.2 Compliance Certificate

- (a) The Obligors' Agent shall supply to the Facility Agent, with each set of financial statements delivered pursuant to Clause 26.1 (Financial statements), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 27 (Financial Covenant) as at the date as at which those financial statements were drawn up.
- (b) Each Compliance Certificate shall be signed by two Authorised Signatories of the Companies.

26.3 Requirements as to financial statements

The Companies shall procure that each set of financial statements delivered pursuant to Clause 26.1 (Financial statements) is prepared using UK GAAP.

26.4 Information: miscellaneous

The Obligors' Agent shall supply to the Facility Agent (in sufficient copies for all the Lenders, if the Facility Agent so requests):

- (a) any documents relating to financial difficulties dispatched by an Obligor to its creditors (or any class of them) or its shareholders generally at the same time as they are dispatched;
- (b) promptly upon becoming aware of them, reasonable details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group, and which is reasonably likely to be adversely determined and if so adversely determined is reasonably likely to have a Material Adverse Effect; and
- (c) promptly (subject to any confidentiality obligation with a third party outside the Group) such further information in the possession or control of any member of the Group regarding the financial condition and operations of any member of the Group as any Lender (through the Facility Agent) may reasonably request.

26.5 Notification of default

- (a) The Obligors' Agent shall notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon an Obligor becoming aware of its occurrence (unless the Obligors' Agent is aware that a notification has already been provided by another Obligor).
- (b) Promptly upon a request by the Facility Agent made on reasonable grounds, the Obligors' Agent shall supply to the Facility Agent a certificate signed by the secretary, a director or any authorised officer of the Obligors' Agent on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

26.6 Use of websites

- (a) The Obligors' Agent may satisfy an obligation under this Agreement to deliver any information by posting this information onto an electronic website designated by the Obligors' Agent and the Facility Agent (the **Designated Website**) if:
 - (i) both the Obligors' Agent and the Facility Agent are aware of the address of and any relevant password specifications for the Designated Website; and
 - (ii) the information is in a format previously agreed between the Obligors' Agent and the Facility Agent.
- (b) The Facility Agent shall supply each Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Obligors' Agent and the Facility Agent.
- (c) The Obligors' Agent shall promptly upon becoming aware of its occurrence notify the Facility Agent if:
 - (i) the Designated Website cannot be accessed due to technical failure;
 - (ii) the relevant password specifications for the Designated Website change;
 - (iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;
 - (iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
 - (v) the Obligors' Agent becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Obligors' Agent notifies the Facility Agent under paragraph (c)(i) or paragraph (c)(v) above, all information to be provided by the Obligors' Agent under this Agreement after the date of that notice shall be supplied in paper form unless and until the Facility Agent and the Lenders are satisfied that the circumstances giving rise to the notification are no longer continuing.

26.7 Know your customer requirements

- (a) If:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) any change in the status of an Obligor after the date of this Agreement;
 - (iii) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer; or
 - (iv) the accession of an Additional Borrower,
- obliges the Facility Agent or any Lender (or, in the case of paragraph (iii) above, any prospective new Lender) to comply with “know your customer” procedures in circumstances where the necessary information is not already available to it, each Obligor shall as soon as reasonably practicable after request by the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective new Lender)) in order for the Facility Agent, such Lender or, in the case of the event described in paragraph (iii) above, any prospective new Lender to comply with all necessary “know your customer” requirements under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
- (b) Each Lender shall promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself) in order for the Facility Agent to carry out and be satisfied it has complied with all necessary “know your customer” requirements under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
- (c) Without prejudice to the provisions of Clauses 14 (Prepayment and Cancellation) and 20 (Increased Costs), an Obligor shall not be in breach of this Clause 26.7 if, having used all reasonable endeavours to obtain the same, it is not able to obtain any documentation or other evidence requested pursuant to this Clause 26.7.

26.8 Authorised Signatories

If, at any time, any person (that is not one of the Authorised Signatories for which a specimen signature has been provided as a condition precedent under this Agreement) becomes an Authorised Signatory, the Obligors' Agent shall deliver to the Facility Agent a specimen of the signature of that person.

27. FINANCIAL COVENANT

27.1 Financial definitions

In this Agreement:

Cash means cash in hand or credit balances or amounts on deposit which is freely accessible by a member of the Group and not subject to any Security.

Cash Equivalent Investments means:

- (a) securities with a maturity of less than 12 months from the date of acquisition issued or fully guaranteed or fully insured by the Government of the United States, Canada, any member state of the European Union or any other country that is a member of the OECD;
- (b) commercial paper or other debt securities issued by an issuer rated at least A-1 by S&P or P-1 by Moody's and with a maturity of less than 12 months;
- (c) certificates of deposit or time deposits of any commercial bank (which has outstanding debt securities rated as referred to in paragraph (b) above) and with a maturity of less than three months;
- (d) investments accessible within 30 days in money market funds which have a credit rating, or are sponsored by an institution which has a credit rating of A-1 by S&P or P-1 by Moody's; and
- (e) any other securities approved by the Facility Agent.

Consolidated EBITDA means, in relation to any Testing Period, the total consolidated profit on ordinary activities before finance costs and tax of the Group for that Testing Period:

- (a) **before taking into account:**
 - (i) Acquisition Costs; and
 - (ii) all items excluded from underlying earnings to the extent included in profit on ordinary activities before financing costs and tax;
- (b) **after excluding** (to the extent included) any gains or losses on the disposal or revaluation of interests in businesses (other than in the ordinary course of trading);
- (c) **after adding** any business interruption loss incurred which is covered by insurance and which is not added back to the total profit on ordinary activities before finance costs and tax of the Group in accordance with UK GAAP;
- (d) **after adding back** all amounts provided for depreciation and amortisation (including acquisition goodwill) and impairment charges less reversals; and
- (e) **after adding back** all amounts provided for in depreciation and amortisation, tax and finance costs in equity accounted units of the Group in computing the consolidated profit.

Net Borrowings means, as at any particular time, Total Borrowings **less** Cash and Cash Equivalent Investments at that time.

Total Borrowings means, as at any particular time, the aggregate outstanding principal, capital or nominal amount of the Financial Indebtedness of members of the Group (other than any indebtedness referred to in paragraph (d) of the definition of Financial Indebtedness or any guarantee in respect of that indebtedness or any Financial Indebtedness owed to another member of the Group).

Testing Period means:

- (a) each financial year of the Group; and
- (b) each period beginning on the first day of the second half of a financial year of the Group and ending on the last day of the first half of the next financial year of the Group.

27.2 Leverage ratio

The Companies shall ensure that, in respect of each Testing Period, the ratio of Net Borrowings on the last day of that Testing Period to Consolidated EBITDA in respect of that Testing Period shall not exceed 3.75:1.

27.3 Financial testing

- (a) The financial covenant set out in Clause 27.2 (Leverage ratio) shall be calculated in accordance with UK GAAP and tested by reference to each of the financial statements delivered pursuant to Clause 26.1 (Financial statements) and/or each Compliance Certificate delivered pursuant to Clause 26.2 (Compliance Certificate).
- (b) For the purpose of calculating Total Borrowings, any amount outstanding or repayable in a currency other than US Dollars shall be taken into account in its US Dollar equivalent at the rate of exchange that would have been used had an audited consolidated balance sheet of the Group been prepared as at the day on which that calculation is made in accordance with UK GAAP.
- (c) For the purpose of the calculations to be made in respect of each Testing Period which ends during the first 12 months after the Unconditional Date, the definition of Consolidated EBITDA shall include the results of the Target Group for the full duration of the relevant Testing Period (including any part of the Testing Period falling prior to the Unconditional Date).

28. GENERAL UNDERTAKINGS

The undertakings in this Clause 28 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

28.1 Authorisations

Each Obligor shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Facility Agent of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under this Agreement and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of this Agreement.

28.2 Negative pledge

- (a) No Company shall (and each Company shall procure that none of its Subsidiaries shall) create or have outstanding any Security over any of its property or assets securing Financial Indebtedness.
- (b) Paragraph (a) above does not apply to any Permitted Security Interest.

28.3 Disposals

- (a) At any time that the Credit Ratings assigned to the Companies by S&P and Moody's are A-/A3 or better, no Company shall (and each Company shall procure that none of its Subsidiaries shall) enter into a single transaction or a series of transactions (whether related or not, whether at the time or over a period of time and whether voluntary or involuntary) to sell, lease, transfer or otherwise dispose of the whole of its assets or of any material part of its assets.

- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal:
 - (i) made with the prior consent of the Majority Lenders;
 - (ii) by one member of the Group to another member of the Group (other than a Project Company);
 - (iii) made on arm's length terms for fair consideration; or
 - (iv) which is not reasonably likely to have a Material Adverse Effect.
- (c) At any time that either of the Credit Ratings assigned to the Companies by S&P or Moody's is below A-/A3, no Company shall (and each Company shall procure that none of its Subsidiaries shall) enter into a single transaction or a series of transactions (whether related or not, whether at the time or over a period of time and whether voluntary or involuntary) to sell, lease, transfer or otherwise dispose of the whole of its assets or of any part of its assets.
- (d) Paragraph (c) above does not apply to any sale, lease, transfer or other disposal:
 - (i) made with the prior consent of the Majority Lenders;
 - (ii) by one member of the Group to another member of the Group (other than a Project Company or Joint Venture);
 - (iii) which any member of the Target Group has entered into binding contracts to dispose of prior to the Unconditional Date;
 - (iv) of assets in exchange for other assets comparable or superior as to value;
 - (v) made in the ordinary course of business of the disposing entity (which, for the avoidance of doubt, does not include the sale of shares or other equity-related instruments, businesses, all or substantially all of the assets of a business, mineral rights associated with a mining business or operation, oil rigs, ports, railroads or mines);
 - (vi) where the Net Disposal Proceeds (as defined in Clause 14.8) of such sale, lease, transfer or other disposal are applied in prepayment of the Term Loans and/or cancellation of the Commitments under the Term Facilities (and, for this purpose, the Obligors' Agent may select which Term Loans to prepay) on or before the end of the then current Interest Periods for those Term Loans;
 - (vii) where:
 - (A) the Net Disposal Proceeds (as defined in Clause 14.8 (Mandatory prepayment from Net Disposal Proceeds)) of all transactions under this paragraph (vii) constitute Reserved Proceeds and the aggregate amount of all such Net Disposal Proceeds when taken together with the aggregate amount of all Net Capital Markets Proceeds (as defined in Clause 14.9 (Mandatory prepayment from Capital Markets Proceeds) which constitute Reserved Proceeds do not exceed the amount agreed by the Obligors' Agent and the Majority Lenders in accordance with Clause 14.10(a) (Exceptions to prepayment of Net Disposal Proceeds and Net Capital Markets Proceeds); and
 - (B) the Net Disposal Proceeds are applied (or remain available to be applied and are applied) towards the purposes referred to in Clause 3.1(a)(i) or (ii) (Purpose); or

- (viii) made on arm's length terms for fair consideration where the higher of the market value and the net consideration receivable (when aggregated with the higher of the market value and the net consideration receivable for any other sale, lease, transfer or other disposal not allowed under sub paragraphs (i) to (vii) above) does not exceed an amount equal to the Disposals Basket Amount (or its equivalent in other currencies) in any financial year of the Companies.

For this purpose, **Disposals Basket Amount** means:

- (a) in respect of the period between the date on which paragraph (c) above first applies and the end of the then current financial year of the Group:
 - (i) an amount equal to 10 per cent. of the Gross Assets of the Group multiplied by the number of days remaining between the date on which the relevant ratings downgrade by S&P or Moody's occurred (the **downgrade date**) and the end of the then current financial year of the Companies and divided by 365; or
 - (ii) such higher amount than that determined under sub-paragraph (i) above (not exceeding an amount equal to 10 per cent. of the Gross Assets of the Group) (the difference between the amount under this sub-paragraph (ii) and the amount determined under paragraph (i) above being the **excess**), but only to the extent that the Companies can demonstrate to the Facility Agent that, had the provisions of paragraph (c) above applied from the beginning of the then current financial year, the Companies would not have already utilised the excess as a result of any sale, lease, transfer or other disposal made between the start of that financial year and the downgrade date; or
- (b) in respect of each subsequent financial year of the Group, an amount equal to 10 per cent. of the Gross Assets of the Group.

28.4 Compliance with laws

Each Obligor shall comply in all material respects with all laws to which it may be subject and shall maintain all necessary licences, if failure so to comply or maintain is reasonably likely to have a Material Adverse Effect.

28.5 Change of business

The Companies shall procure that no substantial change is made to the general nature of the business of the Group from that carried on at the date of this Agreement, unless such change is not reasonably likely to have a Material Adverse Effect.

28.6 Environmental Compliance

Each Obligor shall, and shall procure that each of its Subsidiaries will comply in all material respects with all applicable Environmental Laws, where failure to comply is reasonably likely to have a Material Adverse Effect.

28.7 Subsidiary Indebtedness

- (a) Except as permitted under paragraph (b) below, each Company shall ensure that none of its Subsidiaries will incur or allow to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:

- (i) any Financial Indebtedness arising under any of the Finance Documents;
- (ii) any Financial Indebtedness owed by a member of the Group to any other member of the Group;
- (iii) any Financial Indebtedness of any Project Company or Joint Venture (but only to the extent such Financial Indebtedness meets the requirements set out in sub-paragraph (a)(ii)(A) or (a)(ii)(B) of Clause 28.9 (Project Companies) or the definition of Joint Venture, as the case may be);
- (iv) any Financial Indebtedness arising under any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price;
- (v) any Financial Indebtedness of any Finance Company provided that no member of the Target Group which is a Finance Company may incur or have outstanding any Financial Indebtedness solely as a result of this sub-paragraph (v) which is used to refinance any Alcan Related Debt;
- (vi) any Financial Indebtedness of any person (other than any member of the Target Group) acquired by a member of the Group which is incurred under arrangements in existence at the date of acquisition, but not incurred or increased or its maturity date extended in contemplation of, or since, that acquisition, and outstanding only for a period of six months following the date of acquisition;
- (vii) any Financial Indebtedness under finance or capital leases of vehicles, plant, equipment or computers;
- (viii) until the date falling 12 weeks after the Unconditional Date, any Alcan Related Debt in an aggregate amount not exceeding (when aggregated with all Financial Indebtedness outstanding under sub-paragraph (ix) below) the Maximum Refinancing Amount, but only to the extent that such Financial Indebtedness does not benefit from any guarantee (including under any Company Parent Guarantee) by any member of the BHP Billiton Group;
- (ix) without prejudice to the clause entitled "Clear Market" in the Commitment Letter and subject to compliance with Clause 30.4 (Most Favoured Lender), and provided that no Refinancing Loan or loan under a Target Standalone Agreement has been or will be advanced, Financial Indebtedness under:
 - (A) any Continuing Target Indebtedness; or
 - (B) any Third Party Refinancing Agreement,
 in an aggregate amount (when aggregated with all Financial Indebtedness outstanding under sub-paragraph (viii) above and sub-paragraph (x) below) not exceeding the Maximum Refinancing Amount, but only to the extent that such Financial Indebtedness does not benefit from any guarantee (including under any Company Parent Guarantee) by any member of the BHP Billiton Group;
- (x) any Alcan Bond Debt in a principal amount not exceeding the principal amount of that Alcan Bond Debt as at the Unconditional Date, but only to the extent that such Financial Indebtedness does not benefit from any guarantee (including under any Company Parent Guarantee) by any member of the BHP Billiton Group;
- (xi) Financial Indebtedness under any Target Standalone Agreement;

- (xii) if a New Holding Company is put in place in the manner contemplated in Clause 44.4 (New Holding Company), until the date on which the guarantee of PLC under Clause 24 (Guarantee and Indemnity by the Companies) ceases in accordance with Clause 44.4(b)(vii) (New Holding Company), any Financial Indebtedness of PLC existing on the date on which the New Holding Company is put in place (and in a maximum aggregate amount not exceeding the amount of that Financial Indebtedness on such date) or any guarantee given by PLC in respect of any Financial Indebtedness of the New Holding Company incurred after the date on which the New Holding Company is put in place and provided that, in each case, such Financial Indebtedness ranks no more senior than pari passu with the Financial Indebtedness of PLC under this Agreement; and
- (xiii) any Financial Indebtedness not falling within sub-paragraphs (i) to (xii) above, the outstanding principal amount of which does not exceed an amount equal to 10% of the Gross Assets of the Group at that time.

28.8 US Margin Regulations

- (a) In this Clause:
Margin Regulations means Regulations U and X issued by the Board of Governors of the United States Federal Reserve System.
Margin Stock has the meaning given to it in the Margin Regulations.
- (b) No Obligor may:
 - (i) extend credit for the purpose, directly or indirectly, of buying or carrying Margin Stock; or
 - (ii) use any Loan, directly or indirectly, to buy or carry Margin Stock, or for any other purpose, in violation of the Margin Regulations.
- (c) No Obligor may use any part of any Loan to acquire any security in violation of section 13 or 14 of the United States Securities Exchange Act of 1934.

28.9 Project Companies

- (a) The Obligors' Agent may at any time by written notice to the Facility Agent (and specifying whether sub-paragraph (ii)(A) or (ii)(B) applies) designate a member of the Group as a Project Company (a **designated company**) if:
 - (i) its principal activity is or will be the ownership and development and/or operation of a project including without limitation:
 - (A) the discovery, mining, extraction, transportation or development (in each case whether directly or indirectly) of natural resources; or
 - (B) the development or operation of processing facilities (in each case whether directly or indirectly) related to natural resources including, without limitation, metals smelting, processing and refining and oil and gas processing and refining and energy generation facilities; and
 - (ii) (A) none of that designated company's Financial Indebtedness retains the benefit in any material manner from any guarantee, bond, security (other than in a manner permitted by paragraph (m) of the definition of "Permitted Security Interest" in Clause 1.1 (Definitions)), indemnity or

other commitment from another member of the Group (other than a Project Company) to assure the repayment of, or indemnify against loss in respect of non-payment of, that Financial Indebtedness; or

- (B) some or all of that designated company's Financial Indebtedness does so benefit but the relevant guarantee, bond, security, indemnity or other commitment is designed to be withdrawn or cease to apply, in accordance with the terms of that Financial Indebtedness, prior to the repayment of that Financial Indebtedness.

- (b) The Obligors' Agent may give written notice to the Facility Agent at any time that (i) any Project Company is no longer a Project Company whereupon it shall cease to be a Project Company or (ii) that a Project Company previously falling within paragraph (a)(ii)(B) above now falls within paragraph (a)(ii)(A) above.
- (c) The Companies shall procure that the aggregate amount of:
 - (i) all Project Investments in all Project Companies; and
 - (ii) any Financial Indebtedness which benefits from any Security solely permitted under paragraph (o) of the definition of "Permitted Security Interests",does not at any time exceed 10 per cent. of the Gross Assets of the Group.

29. ACQUISITION UNDERTAKINGS

29.1 The Offers or the Schemes

- (a) Except with the prior written consent of the Majority Lenders (or, where indicated below, the requisite number of Bookrunners) the Companies must not (and shall procure that no Bidco or Buyback SPV will):
 - (i) if the Acquisition is being conducted by way of one or more Offers, declare any Offer unconditional as to acceptances until they have received acceptances from shareholders of each of the Targets which, together with any other Target Shares acquired or irrevocably agreed by the relevant seller to be acquired by the Companies, represent more than 50% of the Target Shares in each Target and which would, in any event, give the Companies (a) a majority of the votes which can be cast at a shareholders' meeting of each of the Targets and (b) a majority of the votes which can be cast in respect of a Joint Decision of each of the Targets (as defined in the articles of association of each of the Targets) proposed at general meetings of the Targets;
 - (ii) offer, or do anything which might result in a requirement to offer or to increase an offer of, any Acquisition Cash Consideration or any Buyback Cash Consideration or make any public statements or otherwise give any undertaking about the amount of any Acquisition Cash Consideration or any Buyback Cash Consideration, except to the extent agreed by the Obligors' Agent and all of the Bookrunners from time to time;
 - (iii) (1) amend, vary, waive or treat as satisfied (in circumstances where it is not actually satisfied or has not been complied with) any of the Pre-Conditions or the conditions to the completion of the Acquisition or any of the terms of the Offer Documents or the Scheme Documents (as the case may be), or (2) permit any of the terms and conditions of an Offer Document or Scheme Document to be inconsistent with the Press Release in any material respect or to contain any additional material provisions not referenced in the Press Release, or (3) enter into any agreement with any governmental, regulatory or similar authority with respect to the Acquisition, if, in any such case, to do so would be reasonably likely to be materially prejudicial to the interests of the Lenders (taken as a whole) other than:

- (A) as required by the Panel, the High Court of England and Wales, the Australian Takeovers Panel, a Supreme Court of any Australian State or Territory, the Federal Court of Australia, the High Court of Australia or any other applicable law, regulation or regulatory body, provided that the Companies shall consult with the Bookrunners in any related discussions and shall use reasonable endeavours to enable the Lenders to make representations to the relevant body with respect to their interests;
- (B) as required for the purpose of increasing the price to be paid for the Target Shares or the amount of any Buyback above the amounts (if any) specified in the Press Release, but, in each case, only to the extent such increase is not prohibited under any of sub-paragraph (ii) above and provided that the Companies shall consult with the Bookrunners with respect to any such increase if it would be reasonably likely to be materially prejudicial to the interests of the Lenders (taken as a whole); or
- (C) any extension of the period in which holders of the Target Shares may accept the terms of the Acquisition to a date not falling after the end of the Offer/Refinancing Certain Funds Period, provided that the Companies shall be entitled to leave any Offer open after the end of the Offer/Refinancing Certain Funds Period if:
 - I. the Lenders will not be required (including as a result of any request by the Panel or other regulatory body) to extend any Availability Period in respect of any Facility or the Offer/Refinancing Certain Funds Period; and
 - II. (other than to the extent that, in the opinion of the Majority Bookrunners (acting reasonably), the Facilities remain available for drawing (and the amount available to be drawn under the Facilities equals or exceeds the amount required to finance such further payments)) the Companies demonstrate to the reasonable satisfaction of the Majority Bookrunners that they have sufficient resources available to them to be able to finance any payments for which the Facilities have been made available which may fall due after the end of the Offer/Refinancing Certain Funds Period; or
- (D) to switch from an Offer to a Scheme or vice versa provided that the terms and conditions of the new Offer or Scheme (as the case may be) as set out in the new Offer Document or Scheme Document reflect the terms and conditions of the old Offer or Scheme (as the case may be) in all material respects except for any amendments, variations or waivers which are not prohibited by this Agreement; or
- (iv) issue any press release or make any statement or announcement (other than the Press Release and the Offer Documents or Scheme Documents (as the case may be) in the forms approved by the Bookrunners) which makes reference to the Facilities or to some or all of the Finance Parties or to the Finance Documents, unless required by law, the Code, the UK Listing Authority the Panel, the Corporations Act, the Listing Rules of ASX Limited or the Australian Takeovers Panel or other applicable regulatory body (in which case the Companies must notify the Facility Agent as soon as practicable upon becoming aware of the requirement) without the approval of the Bookrunners (not to be unreasonably withheld or delayed).
- (b) The Companies must (and shall procure that any Bidco or Buyback SPV will):

- (i) comply in all material respects with the Code (subject to any waivers granted by the Panel), the Financial Services and Markets Act 2000, the Companies Acts 1985 and 2006, the Corporations Act, the Listing Rules of the ASX Limited and all other applicable statutes, laws and regulations relevant in the context of the Offer, the Scheme or any Buyback (as applicable);
 - (ii) ensure that it is not obliged to make a mandatory offer under Rule 9 of the Code and ensure that it does not breach section 606 of the Corporations Act; and
 - (iii) issue the Press Release or ensure that the Press Release is issued within ten Business Days of the date of this Agreement.
- (c) The Companies must (and shall procure that any Bidco or Buyback SPV will) subject to any confidentiality, regulatory or other restrictions relating to the supply of such information (provided that the Companies shall use reasonable endeavours to overcome any confidentiality limitations), promptly supply to the Facility Agent:
- (i) copies of all documents, certificates, notices and announcements received or issued by it or on its behalf in relation to the Acquisition and any Buyback which are material in the context of the Facilities; and
 - (ii) such information regarding the Acquisition and any Buyback as the Facility Agent may reasonably request.
- (d) The Companies must promptly notify (and shall procure that any Bidco or Buyback SPV will promptly notify) the Facility Agent if:
- (i) the Offers or the Schemes (as applicable) lapse, are withdrawn or otherwise terminate; or
 - (ii) the Companies become aware of any material circumstance or event which if not waived, would entitle the Companies (with the Panel's consent, if needed but only to the extent that it is reasonably likely that the Panel would give such consent) to lapse, withdraw or otherwise terminate the Offers or the Schemes (as applicable).
- (e) If the Acquisition is being conducted by way of one or more Offers, the Companies must promptly notify (and shall procure that any Bidco or Buyback SPV will promptly notify) the Facility Agent of the occurrence of the earliest date on which all of the following have occurred:
- (i) all payments in respect of acceptances of the Offers have been made;
 - (ii) no further acceptances of the Offers are possible; and
 - (iii) all procedures under sections 979-980 of the Companies Act 2006 (and the compulsory acquisition procedures in Chapter 6A of the Corporations Act) which are capable of being implemented have been completed and all payments required by those sections to (or for the benefit of) shareholders in the Targets have been made in full.
- (f) The Companies must ensure that the Offer Documents or (as the case may be) Scheme Documents contain all the material terms of the Acquisition as set out in the Press Release except for any amendments, variations or waivers which are not prohibited by this Agreement.

29.2 Regulatory authorisations

- (a) If the Pre-Conditions relating to European Union merger control, US merger control, Australian foreign investment approval and Australian merger control (the **Major Authorisations**) have been satisfied with respect to the Acquisition which entitle the Companies to proceed with the Acquisition, but any other Pre-Conditions have not been satisfied at that time, the Companies shall consider, in good faith, waiving such other Pre-Conditions and posting the Offer Documents or Scheme Documents as soon as practicable thereafter, in either case containing conditions which make the completion of the Offers or Schemes as the case may be, subject to receipt (or deemed receipt) of such other Pre-Conditions.
- (b) The Companies shall (and shall procure that any Bidco or Buyback SPV shall) comply with all Major Authorisations and all other similar Authorisations relating to the Acquisition in all material respects.

29.3 Compulsory Acquisition

- (a) The Companies must despatch notices under section 979 of the Companies Act 2006 in respect of the Target Shares of Target plc as soon as practicable after the conditions in section 979 of the Companies Act 2006 for the issuing of those notices in respect of any Target Shares of Target plc are satisfied.
- (b) The Companies must despatch notices under the compulsory acquisition procedures set out in Chapter 6A of the Corporations Act in respect of the Target Shares of Target Limited within two months after:
 - (i) the conditions in section 661A of the Corporations Act for issuing of those notices being satisfied; or
 - (ii) if later, completion of the compulsory acquisition procedures in respect of any Target Shares in Target plc but in any event, within one month of the end of the Offer Period (as defined in the Corporations Act).

29.4 Clear Market

The Companies shall not procure, solicit or encourage any member of the Target Group to do any act or thing referred to in paragraph 7(b) of the Commitment Letter.

30. REFINANCING OF TARGET INDEBTEDNESS

30.1 Procedure

- (a) The Companies shall use reasonable endeavours to procure that all of the Alcan Change of Control Debt is repaid or prepaid and cancelled in full using (directly or indirectly) the proceeds of Refinancing Loans in the manner contemplated in (and subject to the conditions set out in) Clause 30.2 (Refinancing using Refinancing Loans) or using the proceeds of a Target Standalone Agreement in the manner contemplated in (and subject to the conditions set out in) Clause 30.3 (Refinancing using a Target Standalone Agreement) as soon as reasonably practicable and in any event within 12 weeks after the Unconditional Date.
- (b) If, after the Unconditional Date, any creditors in respect of any Alcan Change of Control Debt require repayment of that Alcan Change of Control Debt as a result of the Acquisition, the Companies shall procure that the relevant members of the Target Group repay and cancel that Alcan Change of Control Debt in full no later than the last date on which such Alcan Change of Control Debt is required to be repaid according to its terms and, in any event, if such prepayment is made using the proceeds of a Refinancing Loan, on the date of the relevant Refinancing Loan.

- (c) Except as agreed by the Majority Bookrunners, the Companies shall not (and the Companies shall ensure that no member of the BHP Billiton Group shall, and shall use reasonable endeavours to procure that no member of the Target Group shall), offer or agree to make any amendment to, or to seek any waiver of any provision of, any Alcan Change of Control Debt, or offer any incentive to any creditor under any Alcan Change of Control Debt, unless such amendment, waiver or incentive either:
 - (i) constitutes an administrative or procedural change arising in the ordinary course of administration of the relevant Alcan Change of Control Debt and is not material to the interests of the Lenders (taken as a whole) under this Agreement; or
 - (ii) is not, in the opinion of the Majority Bookrunners (acting reasonably), reasonably likely to encourage any creditor under any Alcan Change of Control Debt to agree that it will not require a repayment or prepayment of its participation in that Alcan Change of Control Debt.
- (d) The Parties acknowledge and agree that the obligations of the Companies under paragraphs (a) and (c) above to use “reasonable endeavours” do not impose any direct obligations on any member of the Target Group.

30.2 Refinancing using Refinancing Loans

- (a) Subject to the terms of this Agreement, it is the intention of the Parties that the Alcan Related Debt (other than any Alcan Bond Debt) should be refinanced in full using the proceeds of Refinancing Loans.
- (b) A Utilisation Request in respect of any Refinancing Loan will not be regarded as having been duly completed unless:
 - (i) the aggregate of the principal amount of that Refinancing Loan and the principal amount (at the time they were advanced) of all other Refinancing Loans which have already been advanced or which will be advanced on or before the Utilisation Date for that Refinancing Loan (together with the principal amount, as at the Unconditional Date, of any Alcan Bond Debt) will not exceed the Maximum Refinancing Amount;
 - (ii) if, on the date of the Utilisation Request for such Refinancing Loans, the Companies own (directly or indirectly) more than 75 per cent. of the Target Shares in respect of each of the Targets, the Borrower is either:
 - (A) one or more of the Permitted Refinancing Borrowers; or
 - (B) one or more of Target plc, Target Limited or any person named as an original borrower under the Alcan Related Debt to be repaid provided that, in each case, it has become an Additional Borrower pursuant to Clause 34.2 (Additional Borrowers);
 - (iii) if, on the date of the Utilisation Request for such Refinancing Loans, the Companies own (directly or indirectly) 75 per cent. or less of the Target Shares in respect of either Target, the Borrower is one or more of the Permitted Refinancing Borrowers;

- (iv) if the Borrower of the Refinancing Loans is one or more of the Permitted Refinancing Borrowers, the Companies have complied with their obligations under paragraph (c) below; and
 - (v) the payment instructions in the Utilisation Request direct the Facility Agent to transmit the proceeds of the Refinancing Loan directly to the relevant agent or lender under the relevant Alcan Related Debt.
- (c) If the Borrower of the Refinancing Loans is to be one or more of the Permitted Refinancing Borrowers, the Companies shall procure that:
- (i) the relevant Permitted Refinancing Borrower(s) enter into one or more Intercompany Loan Agreement(s) with one or more members of the Target Group in accordance with paragraph (d) below (or where the Companies own (directly or indirectly) 90 per cent or more of the Target Shares in respect of each of the Targets, that the relevant Permitted Refinancing Borrower(s) enter(s) into one or more Intercompany Loan Agreements and/or make(s) an equity contribution to members of the Target Group in aggregate amounts equal to the amount of the relevant Refinancing Loans);
 - (ii) unless the Companies own (directly or indirectly) 90 per cent or more of the Target Shares in respect of each of the Targets, either:
 - (A) the amounts owed by the relevant members of the Target Group under such Intercompany Loan Agreement(s) shall either benefit from the guarantees under the Target Parent Guarantees or from a guarantee from Target plc or Target Limited which in turn benefits from the Target Parent Guarantees and that such Target Parent Guarantees will continue in full force and effect after the relevant Alcan Related Debt is refinanced; or
 - (B) the Companies will (in the opinion of the Majority Lenders (acting reasonably)) otherwise be entitled to the benefit of cashflow generated by both of the Targets and their respective Subsidiaries;
 - (iii) the proceeds of the Refinancing Loans are lent in full to the relevant members of the Target Group on the terms of such Intercompany Loan Agreement(s) (or any such equity contribution); and
 - (iv) upon receipt of the proceeds of such loans (or equity contributions) by the relevant members of the Target Group, such proceeds are used by the relevant members of the Target Group in full to repay the relevant Alcan Related Debt in full (when taken together with any cash reserves of the Group (which are not the proceeds of any Financial Indebtedness)), and with a corresponding cancellation of all commitments thereunder.
- (d) Unless the Companies own (directly or indirectly) 90 per cent. or more of the Target Shares in respect of each of the Targets, before entering into any Intercompany Loan Agreement, the relevant Permitted Refinancing Borrower (s) must obtain confirmation from the Facility Agent that such Intercompany Loan Agreement is, in form and substance, acceptable to the Majority Bookrunners (such confirmation not to be unreasonably withheld) (and for this purpose the Majority Bookrunners shall be obliged to notify the Facility Agent that the terms of the Intercompany Loan Agreement are in form and substance satisfactory to them if they have agreed (acting reasonably) that such terms correspond to the terms of this Agreement in all material respects).
- (e) Unless the Companies own (directly or indirectly) 90 per cent of the Target Shares in respect of each of the Targets, if any Intercompany Loan Agreement is entered into, the Companies shall not amend, vary or waive any

term of that Intercompany Loan Agreement without the consent of the Majority Lenders, provided that (except to the extent a Default is outstanding under this Agreement or such waiver would cause a Default to occur under this Agreement) the Companies (or the relevant member of the Group which is the lender under an Intercompany Loan Agreement) may waive a breach of the “negative pledge”, “disposals”, “financial indebtedness” or “project companies” undertakings contained in any Intercompany Loan Agreement to the extent that such breach is a breach of a restriction contained in the relevant undertaking which is expressed by reference to the “Gross Assets” of the Target Group.

- (f) If any Refinancing Loan is advanced to refinance any Alcan Related Debt, the Companies shall procure that all Alcan Related Debt (other than any Alcan Bond Debt) is refinanced in full from the proceeds of Refinancing Loans and/or any cash reserves of the Group (which are not the proceeds of any Financial Indebtedness) utilised for the same purpose.

30.3 Refinancing using a Target Standalone Agreement

- (a) If, at the relevant time, the Companies own (directly or indirectly) 75 per cent. or less of the Target Shares in respect of either Target, and the Companies or the Targets choose not to repay or prepay the Alcan Related Debt (other than any Alcan Bond Debt) which is outstanding at that time in full using (directly or indirectly) the proceeds of Refinancing Loans in the manner contemplated in Clause 30.2 (Refinancing using Refinancing Loans), the Obligors’ Agent may submit a request to the Facility Agent for the Lenders to provide part of the Facilities directly to Target plc, Target Limited or any other borrower under any of the Alcan Related Debt under a Target Standalone Agreement in an amount equal to the Maximum Refinancing Amount (less the principal amount, as at the Unconditional Date, of any Alcan Bond Debt). Upon receipt of any such request the Facility Agent shall notify the other Finance Parties.
- (b) If any loan is advanced under a Target Standalone Agreement to refinance any Alcan Related Debt:
 - (i) on the date on which the Target Standalone Agreement is entered into, the Available Commitments under each Facility will be cancelled automatically in an amount equal to the total commitments under the corresponding facility under the Target Standalone Agreement;
 - (ii) the Companies shall procure that all Alcan Related Debt (other than any Alcan Bond Debt) is refinanced in full from the proceeds of loans under that Target Standalone Agreement and/or any cash reserves of the Group (which are not the proceeds of any Financial Indebtedness) utilised for the same purpose; and
 - (iii) except to the extent the obligations under the Target Standalone Agreement benefit to the same extent from any such guarantee, the Companies shall not (and each Company shall ensure that no member of the BHP Billiton Group shall) give or allow to remain outstanding any guarantee (including under the Company Parent Guarantees) of any Financial Indebtedness of the Target Group.

30.4 Most Favoured Lender

If, despite the Companies having used reasonable endeavours to procure that all of the Alcan Change of Control Debt is repaid or prepaid and cancelled in full using (directly or indirectly) the proceeds of Refinancing Loans or the proceeds of a Target Standalone Agreement in accordance with Clause 30.1(a) (Procedure), the relevant members of the Target Group (whether before or after the Unconditional Date):

- (a) agree with any lender under any Alcan Change of Control Debt that no repayment or prepayment is required to be made to that lender as a result of the Acquisition (the Alcan Change of Control Debt which remains in place being the **Continuing Target Indebtedness**); and/or

- (b) refinance (or have refinanced) all or any part of the Alcan Related Debt with the proceeds of any debt instrument other than in the manner contemplated by Clauses 30.2 (Refinancing using Refinancing Loans) or 30.3 (Refinancing using a Target Standalone Agreement) (such debt instrument being a **Third Party Refinancing Agreement**),

at the request of the Majority Bookrunners each Obligor shall (and, if necessary, shall procure that each of its Subsidiaries shall) enter into such amendments to this Agreement as are necessary such that any provision with respect to pricing, financial covenants, prepayment events, tenor or other term which the Majority Bookrunners (acting reasonably) consider is material which is contained in any Continuing Target Indebtedness (as so amended or waived) or, as the case may be, any Third Party Refinancing Agreement is included in this Agreement to ensure that the Lenders enjoy (in the opinion of the Majority Bookrunners, acting reasonably) in all material respects the same rights with respect to such matters as the lenders under the relevant Continuing Target Indebtedness or Third Party Refinancing Agreement.

31. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 31 (Events of Default) is an Event of Default.

31.1 Non-payment

An Obligor or the Obligors' Agent does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless payment is made within three Business Days of the Facility Agent notifying the Obligors' Agent that such amount has not been paid on its due date.

31.2 Breach of financial covenant

Any requirement of Clause 27 (Financial Covenant) is not satisfied.

31.3 Breach of other obligations

- (a) An Obligor does not comply with:
 - (i) Clause 26.5(a) (Notification of default), Clause 28.2 (Negative pledge), Clause 28.3 (Disposals), Clause 28.7 (Subsidiary Indebtedness), Clause 29 (Acquisition Undertakings) (other than Clause 29.1(c) (The Offers or the Schemes)) or Clause 30 (Refinancing of Target Indebtedness); or
 - (ii) any other provision of the Finance Documents (other than those referred to in Clause 31.1 (Non-payment) and 31.2 (Breach of financial covenant)).
- (b) No Event of Default will occur under paragraph (a)(ii) above if the failure to comply is capable of remedy and is remedied within 30 Business Days of the earlier of the Facility Agent giving notice to the Obligors' Agent specifying the non-compliance and requiring it to be remedied and the Companies becoming aware of the failure to comply.

31.4 Misrepresentation

- (a) Any representation or statement made or deemed to be made by an Obligor in this Agreement or any other document delivered by or on behalf of any Obligor under or in connection with this Agreement is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.
- (b) No Event of Default will occur under paragraph (a) above if the event or circumstance giving rise to the representation or statement being incorrect or misleading is capable of remedy and is remedied within 30 days of the earlier of the Facility Agent notifying the Obligors' Agent of the misrepresentation and the Companies becoming aware of the misrepresentation.

31.5 Cross acceleration

- (a) Any:
 - (i) Financial Indebtedness of a member of the Group (other than Financial Indebtedness of an Excluded Subsidiary or Financial Indebtedness owed to another member of the Group) is duly accelerated by or on behalf of the person to whom such Financial Indebtedness is owed as a result of an event of default (however described) under the documentation relating to that Financial Indebtedness (unless being contested in good faith where the member of the Group concerned has access to sufficient liquidity to cover the amount claimed); or
 - (ii) Financial Indebtedness of a member of the Group (other than Financial Indebtedness of an Excluded Subsidiary or Financial Indebtedness owed to another member of the Group) is not paid within five Business Days of the due date or, if later, at the expiry of any applicable grace period; or
 - (iii) commitment for any Financial Indebtedness of a member of the Group (other than Financial Indebtedness of an Excluded Subsidiary or Financial Indebtedness owed to another member of the Group) is cancelled or suspended as a result of an event of default (howsoever described) under the documentation relating to that Financial Indebtedness (unless the member of the Group concerned has access to sufficient liquidity for its business notwithstanding that cancellation or suspension),

provided that no Event of Default will occur under paragraphs (i), (ii) or (iii) above unless at any particular point in time the amount of such Financial Indebtedness and commitment for Financial Indebtedness specified in any of paragraphs (i) to (iii) above is in aggregate in excess of US\$100,000,000 (or its equivalent in other currencies).

- (b) If an Event of Default has occurred under paragraphs (a)(i), (ii) or (iii) above, the Obligors' Agent shall, upon request by the Facility Agent, provide the Facility Agent with details of all events falling within paragraphs (i), (ii) and (iii) above.

31.6 Insolvency

Any of the following events occurs in respect of a Material Company and is continuing.

- (a) that person is unable or admits inability to pay its debts as they fall due or suspends making payments on any of its debts by reason of actual or anticipated financial difficulties;
- (b) a moratorium is declared in respect of any indebtedness of that person;

- (c) any corporate action, legal proceedings or other procedure or step is taken (other than frivolous or vexatious legal proceedings, steps or other procedures or steps which are being contested by appropriate means and in good faith) in relation to:
 - (i) the suspension of payments, a moratorium of any indebtedness, the winding-up, dissolution or administration of that person other than a solvent winding-up or administration; or
 - (ii) a composition, assignment or arrangement with any creditor of that person,
 and, in the case of any such legal proceedings, those proceedings are not stayed or discharged within 30 days;
- (d) the appointment of:
 - (i) in respect of any Borrower, a liquidator (other than in respect of a solvent liquidation), receiver, administrator, administrative receiver, compulsory manager, trustee; or
 - (ii) in respect of a Canadian Borrower, a liquidator (other than in respect of a solvent liquidation), receiver, administrator, trustee, receiver and manager, sequestrator, custodian,
 or, in each case, other similar officer in respect of that person or all or a substantial part of its assets; or
- (e) any analogous step or proceeding corresponding to those in (c) or (d) is taken in any jurisdiction.

31.7 Creditors' process

Any attachment, sequestration, distress or execution affects any asset of a Material Company unless (i) it is discharged within 30 days (ii) it is being contested in good faith by appropriate means or (iii) it has not had, or is not reasonably likely to have a Material Adverse Effect.

31.8 Ownership of the Obligors

Any Borrower (other than the Companies) to which there are Loans outstanding is not or ceases to be a wholly-owned Subsidiary of one of the Companies or, in the case of a member of the Target Group which is a Borrower, if the Acquisition is effected by way of an Offer, the Companies do not or cease to own (directly or indirectly) at least the same percentage of shares in that member of the Target Group as at the first settlement date in respect of the Offer.

31.9 Security enforceable

Any Security is enforced against any assets of any Material Company having a value, or, during any financial year of the Group, a value which when aggregated with the value of all other assets of the Group over which security has been enforced in that financial year, is at least US\$100,000,000 (or its equivalent in other currencies) (unless such enforcement is being disputed in good faith by appropriate means) and that enforcement is reasonably likely to have a Material Adverse Effect.

31.10 Guarantees

- (a) Subject to any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered pursuant to this Agreement, the guarantee of a Guarantor under this Agreement or under the Deed Poll Guarantee to which it is a party in relation to their application to this Agreement is not effective or is alleged by an Obligor to be ineffective for any reason.
- (b) A Guarantor repudiates its guarantee under this Agreement or under the Deed Poll Guarantee to which it is a party or threatens to do so.

31.11 Acceleration

Subject to Clauses 4.6 (Certain Funds) and 31.12 (Clean-Up Period) if an Event of Default occurs and is continuing, the Facility Agent may, and shall if so directed by the Majority Lenders, by notice to the Obligors' Agent:

- (i) declare all or part of the Loans together with accrued interest and all other amounts accrued under this Agreement, be immediately due and payable whereupon they shall be immediately due and payable; and/or
- (ii) cancel the Total Commitments whereupon they shall immediately be cancelled; and/or
- (iii) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Facility Agent on the instructions of the Majority Lenders.

31.12 Clean-Up Period

- (a) In this Clause, **Clean-Up Period** means the period from the Unconditional Date to the date falling 180 days after the Unconditional Date.
- (b) If, during the Clean-Up Period, any event or circumstance occurs or exists solely with respect to a member of the Target Group (or solely with respect to any of their assets or liabilities) which constitutes a Default (other than to the extent the relevant event or circumstance constitutes a Default under Clause 31.3 (Breach of other obligations) for failure to comply with Clause 28.7 (Subsidiary Indebtedness) or Clause 30 (Refinancing of Target Indebtedness)):
 - (i) the Companies must promptly notify the Facility Agent of that fact, giving a reasonable description of the relevant event or circumstance and the steps, if any, the relevant member of the Group proposes to take to remedy it; and
 - (ii) except as set out in paragraph (c) below, during the Clean-Up Period, no Finance Party shall be entitled to take any of the actions or to give any notice referred to in Clause 31.11 (Acceleration), or to take any other action (or prevent any Utilisation), with respect to that Default.
- (c) Paragraph (b)(ii) shall not apply if:
 - (i) the event or circumstance giving rise to the Default was procured or approved by a member of the Group (other than a member of the Target Group) after the Unconditional Date;
 - (ii) the Default is not capable of remedy;

- (iii) it would otherwise permit any Utilisation to be made by a member of the Group in respect of which any of the events or circumstances referred to in Clauses 31.5 (Cross acceleration) (other than to the extent the relevant event or circumstance has arisen as a result of the Acquisition), 31.6 (Insolvency), 31.7 (Creditors' process) or 31.9 (Security enforceable) have occurred;
 - (iv) the Default is capable of remedy but reasonable steps are not being taken to remedy it or the event or circumstance giving rise to the Event of Default; or
 - (v) the Default would reasonably be expected to have a Material Adverse Effect.
- (d) If the relevant event or circumstances giving rise to the Event of Default are continuing on or after the end of the Clean-Up Period, nothing in this Clause 31.12 (Clean-Up Period) shall prevent any Finance Party from taking any of the actions or from giving any notice referred to in Clause 31.11 (Acceleration), or from taking any other action which it is entitled to take under the Finance Documents, with respect to that Event of Default.

32. CHANGES TO THE LENDERS

32.1 Assignments and transfers by the Lenders

Subject to this Clause 32 (Changes to the Lenders), a Lender (the **Existing Lender**) may by written notice to the Obligors' Agent:

- (a) assign any of its rights (including the Lender's right in relation to any Note held by it); or
 - (b) transfer any of its Notes or transfer by novation any of its other rights and obligations,
- to another bank or financial institution or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the **New Lender**) that is not an Associate of an Australian Borrower.

32.2 Conditions of assignment or transfer

- (a) The prior written consent of the Obligors' Agent is required for an assignment or transfer by a Lender, unless the assignment or transfer is to another Lender or an Affiliate of a Lender or an Event of Default is continuing.
- (b) If an assignment or transfer requires the consent of the Obligors' Agent under paragraph (a), that consent must not be unreasonably withheld or delayed. The Obligors' Agent will be deemed to have given its consent ten Business Days after the Existing Lender has requested it unless consent is expressly refused by the Obligors' Agent within that time.
- (c) An assignment will only be effective on:
 - (i) receipt by the Facility Agent of written confirmation from the New Lender (in form and substance satisfactory to the Facility Agent) that the New Lender will:
 - (A) assume the same Commitment as the Existing Lender; and
 - (B) assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender;

- (ii) satisfaction by the Facility Agent of all necessary “know your customer” requirements under all applicable laws and regulations in relation to such assignment to a New Lender. The Facility Agent shall promptly notify to the Existing Lender and the New Lender upon completion of such requirements; and
 - (iii) where the New Lender is a UK Non-Bank Lender, receipt by the Facility Agent of a written Tax Confirmation from the New Lender. The Facility Agent shall promptly send to the Obligors’ Agent a copy of each such Tax Confirmation it receives.
- (d) A transfer will only be effective if the procedure set out in Clause 32.6 (Procedure for transfer) is complied with.
- (e) If:
- (i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
 - (ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, or of which the New Lender or Existing Lender (in the case of any assignment or transfer) or the Lender (in the case of a change of Facility Office) is aware at that date, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 19 (Tax Gross up and Indemnities) or Clause 20 (Increased Costs),
- then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.
- (f) Following receipt of a written notice from the Facility Agent pursuant to Clause 32.1 (Assignments and transfers by the Lenders), the Obligors’ Agent may in circumstances where its consent to such assignment or transfer is required pursuant to Clause 32.2 (Conditions of assignment or transfer) require the Existing Lender to assign or transfer its rights and obligations under this Agreement to such bank or financial institution as the Obligors’ Agent shall specify (an **Alternative Lender**). The Existing Lender shall use all reasonable endeavours to comply with such request, provided that the Existing Lender shall not be obliged to comply with such request unless the Alternative Lender is prepared to have the relevant rights and/or obligations assigned or transferred to it on exactly the same (or better) terms (including price) as the original New Lender was willing to agree to.
- (g) Any assignment or transfer of part of an Existing Lender’s rights and/or obligations under this Agreement must be in a minimum amount of US\$5,000,000 (or its equivalent in any other currency).
- (h) A Lender may sub-participate its obligations under this Agreement.

32.3 Transfer and Transmission of Notes

- (a) Subject to this Agreement, a Lender may transfer Notes held by it by executing a Transfer Certificate. A transfer of a Note will only be effective if the procedure set out in Clause 10.7 (Transfer not effective until recorded in Register) is complied with.
- (b) It is a condition of such transfer that the transfer of a Note is not to a person whom the transferring Lender knows, after having requested confirmation from such proposed transferee, is an Offshore Associate of the relevant Australian Borrower.

- (c) Subject to this Agreement, a person who is responsible under applicable law for the administration of assets of a Lender or is entitled to Notes as a result of the liquidation of a Lender may, upon production of such evidence of the foregoing as is required by the Facility Agent:
 - (i) be registered as the holder of Notes held by that Lender; or
 - (ii) transfer some or all of those Notes.

32.4 Assignment or transfer fee

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of US\$2,500.

32.5 Limitation of responsibility of Existing Lenders

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
 - (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;
 - (ii) the financial condition of any Obligor;
 - (iii) the performance and observance by any Obligor of its obligations under the Finance Documents or any other documents; or
 - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:
 - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document or Deed Poll Guarantee; and
 - (ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
 - (i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause 32 (Changes to the Lenders); or
 - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents, Deed Poll Guarantees or otherwise.

32.6 Procedure for transfer

- (a) Subject to the conditions set out in Clause 32.2 (Conditions of assignment or transfer) a transfer is effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.
- (b) The Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender upon its completion of all “know your customer” or other checks relating to any person that it is required to carry out in relation to the transfer to such New Lender.
- (c) On the Transfer Date:
 - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer its Notes and the Loans they represent and transfer by novation its other rights and obligations under the Finance Documents each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents (other than under the Notes) shall be cancelled (being the **Discharged Rights and Obligations**);
 - (ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;
 - (iii) the Facility Agent, the Mandated Lead Arrangers, the Bookrunners, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Facility Agent, the Mandated Lead Arrangers, the Bookrunners and the Existing Lender shall each be released from further obligations to each other under this Agreement; and
 - (iv) the New Lender shall become a Party as a **Lender**.

32.7 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 32, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by an Obligor or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.

33. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

33.1 Confidentiality undertaking

Each Finance Party undertakes to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 33.2 (Permitted disclosure), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

33.2 Permitted disclosure

A Finance Party may disclose any Confidential Information as that Finance Party shall consider appropriate:

- (a) to any of its Affiliates and any of its or their officers, directors, employees and professional advisers and to any auditors of that Finance Party or its Affiliates;
- (b) to any other person:
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under this Agreement;
 - (ii) with (or through) whom it enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, this Agreement or any Obligor; or
 - (iii) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation;
- (c) to a rating agency or its professional advisers; or
- (d) with the prior written consent of the Obligors' Agent, to any other person,

provided that in relation to paragraphs (b)(i) and (ii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking.

33.3 Notification of required or unauthorised disclosure

Each Finance Party agrees (to the extent permitted by law and except where disclosure is to be made to any competent supervisory or regulatory body during the ordinary course of its supervisory or regulatory function) to inform each of the Companies prior to any disclosure under Clause 33.2(b)(iii) (Permitted disclosure) or upon becoming aware that Confidential Information has been disclosed in breach of this Agreement.

33.4 Continuing obligations

The obligations in this Clause 33 (Confidentiality and disclosure of information) are continuing and, in particular, shall survive the transfer or assignment by a Finance Party of any of its rights or obligations under this Agreement in accordance with the provisions of Clause 32 (Changes to the Lenders). Notwithstanding the previous sentence, the obligations in this Clause 33 (Confidentiality and disclosure of information) shall cease on the date twelve months after the date the Finance Party ceases to be a Finance Party under the Agreement.

34. CHANGES TO THE OBLIGORS

34.1 Assignments and transfer by Obligors

- (a) Except as set out below, no Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.
- (b) Notwithstanding paragraph (a) above, a Finance Company which is the Borrower of any Loan may novate its obligations under all such Loans to any other Finance Company which becomes a Borrower in accordance with Clause 34.2 (Additional Borrowers) and which is incorporated in the same jurisdiction as the original Finance Company, provided that the Obligors' Agent gives the Facility Agent at least five Business Days' prior written notice. Such Loans shall be novated to such other Finance Company in accordance with the relevant Accession Letter on the date on which the Facility Agent executes that Accession Letter.

34.2 Additional Borrowers

- (a) The Obligors' Agent may request that any wholly owned Subsidiary of either Company or, to the extent permitted under Clause 30.2(b)(ii)(B), any of Target plc, Target Limited or other member of the Target Group becomes an Additional Borrower. That Subsidiary shall become an Additional Borrower if:
 - (i) subject to paragraph (c) below, all the Lenders consent to the addition of that Subsidiary (such consent not to be unreasonably withheld or delayed);
 - (ii) the Obligors' Agent delivers to the Facility Agent a duly completed and executed Accession Letter;
 - (iii) the Obligors' Agent confirms that no Default is continuing or would occur as a result of that Subsidiary becoming an Additional Borrower; and
 - (iv) the Facility Agent has received all of the documents and other evidence listed in Part 3 of Schedule 2 (Conditions Precedent) in relation to that Additional Borrower, each in form and substance satisfactory to the Facility Agent.
- (b) The Facility Agent shall notify the Obligors' Agent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part 3 of Schedule 2 (Conditions Precedent).
- (c) Subject to fulfilment of the conditions in paragraph (a) (ii), (iii) and (iv) above, no Lender consent will be required for the accession as an Additional Borrower of:
 - (i) a wholly owned Subsidiary of either Company incorporated in the United Kingdom or The Netherlands;

- (ii) an Additional Borrower which is a Permitted Refinancing Borrower; or
- (iii) if, on the date on which the relevant Accession Letter is delivered to the Facility Agent, the Companies own (directly or indirectly) more than 75 per cent. of the Target Shares in respect of each of the Targets:
 - (A) Target plc or Target Limited; or
 - (B) any other person named as an original borrower under any Alcan Related Debt which is to be repaid using Loans borrowed under this Agreement and which is:
 - I. a wholly owned Subsidiary of either or both Targets; and
 - II. incorporated in the United Kingdom, The Netherlands or Australia or is incorporated or formed under the laws of Canada or of a province or territory thereof, but, if such person is incorporated or formed under the laws of Canada or of a province or territory thereof, only to the extent it has borrowed or issued amounts under that Alcan Related Debt.
- (d) Other than as expressly contemplated in this Agreement, any member of the Group which becomes an Additional Borrower under this Clause may only be a Borrower under the Revolving Facility.

34.3 Additional Guarantors

- (a) The Obligors' Agent may request that any member of the Group become an Additional Guarantor.
- (b) A member of the Group shall become an Additional Guarantor if:
 - (i) the Obligors' Agent and the proposed Additional Guarantor deliver to the Facility Agent a duly completed and executed Accession Letter; and
 - (ii) the Facility Agent has received all of the documents and other evidence listed in Part 3 of Schedule 2 (Conditions Precedent) in relation to that Additional Guarantor, each in form and substance satisfactory to the Facility Agent (acting reasonably).
- (c) The Facility Agent shall notify the Obligors' Agent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it, acting reasonably) all the documents and other evidence listed in Part 3 of Schedule 2 (Conditions Precedent).

34.4 Resignation of a Borrower

- (a) The Obligors' Agent may request that a Borrower ceases to be a Borrower by delivering to the Facility Agent a Resignation Letter at least five Business Days prior to the proposed date of resignation.
- (b) The Facility Agent shall accept a Resignation Letter and notify the Obligors' Agent and the Lenders of its acceptance if:
 - (i) no Default is continuing or would result from the acceptance of the Resignation Letter (and the Obligors' Agent has confirmed this is the case); and
 - (ii) the Borrower is under no actual or contingent obligations as a Borrower under any Finance Documents,

whereupon that company shall cease to be a Borrower and shall have no further rights or obligations as a Borrower under the Finance Documents.

34.5 Repetition of Representations

Delivery of an Accession Letter constitutes confirmation by the relevant Subsidiary that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

35. ROLE OF THE AGENTS, THE MANDATED LEAD ARRANGERS AND THE BOOKRUNNERS

35.1 Appointment of the Agents

- (a) Each other Finance Party appoints each Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each other Finance Party authorises each Agent to exercise the rights, powers, authorities and discretions specifically given to it under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

35.2 Duties of the Agents

- (a) Each Agent shall promptly forward to a Party the original or a copy of any document which is delivered to it for that Party by any other Party.
- (b) If an Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the Finance Parties and, if so instructed by the Majority Lenders, the Obligors' Agent.
- (c) If an Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party under this Agreement it shall promptly notify the other Finance Parties and the Obligors' Agent.
- (d) Each Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

35.3 No fiduciary duties

- (a) Nothing in this Agreement constitutes an Agent or any Mandated Lead Arranger as a trustee or fiduciary of any other person.
- (b) No Agent nor any Mandated Lead Arranger shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

35.4 Business with the Group

Each Agent and each Mandated Lead Arranger may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

35.5 Rights and discretions of the Agents

- (a) Each Agent may rely on:

- (i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and
 - (ii) any statement made by a director, Authorised Signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.
- (b) Each Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
 - (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 31.1 (Non-payment));
 - (ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and
 - (iii) any notice or request made by the Companies or Obligors' Agent (other than a Utilisation Request or Selection Notice) is made on behalf of and with the consent and knowledge of all the Obligors.
- (c) Each Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) Each Agent may act in relation to the Finance Documents through its personnel and agents.
- (e) Notwithstanding any other provision of any Finance Document to the contrary, no Agent nor any Mandated Lead Arranger is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (f) The Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.

35.6 Majority Lenders' instructions

- (a) Unless a contrary indication appears in a Finance Document, each Agent shall (i) exercise any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by the Majority Lenders (or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Facility Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders.
- (b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders will be binding on all the Finance Parties.
- (c) Each Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.
- (d) In the absence of instructions from the Majority Lenders (or, if appropriate, the Lenders), each Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.
- (e) No Agent is authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document or Deed Poll Guarantee.

35.7 Responsibility for documentation

No Agent nor any Mandated Lead Arranger:

- (a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by it to an Obligor or any other person given in or in connection with any Finance Document, Deed Poll Guarantee or the Information Memorandum; or
- (b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or Deed Poll Guarantee or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document or Deed Poll Guarantee.

35.8 Exclusion of liability

- (a) Without limiting paragraph (b) below, no Agent will be liable for any action taken by it under or in connection with any Finance Document or Deed Poll Guarantee, unless directly caused by its gross negligence or wilful misconduct.
- (b) No Party (other than an Agent) may take any proceedings against any officer, employee or agent of that Agent in respect of any claim it might have against that Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of an Agent may rely on this Clause.
- (c) No Agent will be liable for any delay (or any related consequences):
 - (i) in crediting an account with an amount required under the Finance Documents to be paid by it if such Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by it for that purpose; or
 - (ii) in informing the Obligors' Agent or any Finance Party of any failure of an Obligor to make a payment on a due date, unless that Agent has actual knowledge of the non-payment, and its failure to inform another party is due to its gross negligence or wilful misconduct. No Agent will be deemed to have knowledge of any payment which is due to be made to any other Agent but which is not in fact made on the due date.
- (d)
 - (i) Nothing in this Agreement will oblige any Agent or Mandated Lead Arranger to satisfy any know your customer requirement in relation to the identity of any person on behalf of any Finance Party.
 - (ii) Each Finance Party confirms to each Agent and Mandated Lead Arranger that it is solely responsible for any know your customer requirements it is required to carry out and that it may not rely on any statement in relation to those requirements made by any other Finance Party.

35.9 Lenders' indemnity to the Agents

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify each Agent, within three Business Days of demand, against any cost, loss or liability incurred by such Agent (otherwise than by reason of that Agent's gross negligence or wilful misconduct) in acting as Agent under the Finance Documents (unless that Agent has been reimbursed by an Obligor pursuant to a Finance Document).

35.10 Resignation of an Agent

- (a) After consultation with the Obligors' Agent, an Agent may resign and appoint one of its Affiliates acting, in the case of the Facility Agent through an office in the United Kingdom or, in the case of the Dollar Swingline Agent, New York, or in the case of the Euro Swingline Agent, London as successor by giving notice to the Lenders and the Obligors' Agent.
- (b) Alternatively an Agent may (after consultation with the Obligors' Agent) resign by giving notice to the other Finance Parties and the Obligors' Agent, in which case the Majority Lenders (after consultation with the Obligors' Agent) may appoint a reputable and experienced bank or financial institution as successor Agent.
- (c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Agent (after consultation with the Obligors' Agent) may appoint a reputable and experienced bank or financial institution as successor Agent (acting in the case of the Facility Agent through an office in the United Kingdom or, in the case of the Dollar Swingline Agent, the United States of America or, in the case of the Euro Swingline Agent, the United Kingdom).
- (d) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Facility Agent, Dollar Swingline Agent or Euro Swingline Agent under the Finance Documents.
- (e) An Agent's resignation notice shall only take effect upon the appointment of a successor.
- (f) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 35 (Role of the Agents, the Mandated Lead Arrangers and the Bookrunners). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) After consultation with the Obligors' Agent, the Majority Lenders may, by notice to an Agent, require it to resign in accordance with paragraph (b) above. In this event, the relevant Agent shall resign in accordance with paragraph (b) above.

35.11 Confidentiality

- (a) In acting as agent for the Finance Parties, each Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of an Agent, it may be treated as confidential to that division or department and that Agent shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, no Agent and no Mandated Lead Arranger is obliged to disclose to any other person:
 - (i) any confidential information; or
 - (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

35.12 Relationship with the Lenders

- (a) Each Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.
- (b) Each Lender shall supply the Facility Agent with any information required by the Facility Agent in order to calculate the Mandatory Cost in accordance with Schedule 4 (Mandatory Cost Formulae).

35.13 Credit appraisal by the Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to each Agent and each Mandated Lead Arranger that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document or Deed Poll Guarantee including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or Deed Poll Guarantee and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or Deed Poll Guarantee;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document or Deed Poll Guarantee, the transactions contemplated by the Finance Documents or Deed Poll Guarantees or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or Deed Poll Guarantee; and
- (d) the adequacy, accuracy and/or completeness of any information provided by an Agent, any Party or by any other person under or in connection with any Finance Document or Deed Poll Guarantee, the transactions contemplated by the Finance Documents or Deed Poll Guarantees or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or Deed Poll Guarantee.

35.14 Reference Banks

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an Affiliate) ceases to be a Lender, the Facility Agent shall (in consultation with the Obligors' Agent) appoint another Lender or an Affiliate of a Lender to replace that Reference Bank.

35.15 Mandated Lead Arrangers and Bookrunners

Except as specifically provided in the Finance Documents, none of the Mandated Lead Arrangers and the Bookrunners have any obligations of any kind to any other party under or in connection with any Finance Document.

35.16 Deduction from amounts payable by the Facility Agent

If any Finance Party owes an amount to the Facility Agent under the Finance Documents, the Facility Agent may, after giving notice to that Finance Party, deduct an amount not exceeding that amount from any payment to that

Finance Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Finance Party shall be regarded as having received any amount so deducted.

36. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

37. SHARING AMONG THE LENDERS

37.1 Payments to Lenders

If a Lender (a **Recovering Lender**) receives or recovers any amount from an Obligor other than in accordance with Clause 38 (Payment Mechanics) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Lender shall, within three Business Days, notify details of the receipt or recovery to the Facility Agent;
- (b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Lender would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 38 (Payment Mechanics), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Lender shall, within three Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the **Sharing Payment**) equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Lender as its share of any payment to be made, in accordance with Clause 38.5 (Partial payments).

37.2 Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Lender) in accordance with Clause 38.5 (Partial payments).

37.3 Recovering Lender's rights

- (a) On a distribution by the Facility Agent under Clause 37.2 (Redistribution of payments), the Recovering Lender will be subrogated to the rights of the Finance Parties which have shared in the redistribution.

- (b) If and to the extent that the Recovering Lender is not able to rely on its rights under paragraph (a) above, the relevant Obligor shall be liable to the Recovering Lender for a debt equal to the Sharing Payment which is immediately due and payable.

37.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Lender becomes repayable and is repaid by that Recovering Lender, then:

- (a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 37.2 (Redistribution of payments) shall, upon request of the Facility Agent, pay to the Facility Agent for account of that Recovering Lender an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Lender for its proportion of any interest on the Sharing Payment which that Recovering Lender is required to pay); and
- (b) that Recovering Lender's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Lender for the amount so reimbursed.

37.5 Exceptions

- (a) This Clause 37 (Sharing Among the Lenders) shall not apply to the extent that the Recovering Lender would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.
- (b) A Recovering Lender is not obliged to share with any other Lender any amount which the Recovering Lender has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified the other Lenders of the legal or arbitration proceedings; and
 - (ii) the other Lender had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

38. PAYMENT MECHANICS

38.1 Payments to an Agent

- (a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document or Deed Poll Guarantee, that Obligor or Lender shall make the same available to the Facility Agent, the Dollar Swingline Agent, or the Euro Swingline Agent (as the case may be) (unless a contrary indication appears in a Finance Document or Deed Poll Guarantee) for value on the due date at the time, in immediately available funds specified by the Facility Agent, the Dollar Swingline Agent, or the Euro Swingline Agent (as the case may be) as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre in a Participating Member State or London) with such bank as the Facility Agent, the Dollar Swingline Agent or the Euro Swingline Agent (as the case may be) specifies.

38.2 Distributions by an Agent

Each payment received by the Facility Agent, the Dollar Swingline Agent or the Euro Swingline Agent under the Finance Documents for another Party shall, subject to Clause 38.3 (Distributions to an Obligor) and Clause 38.4 (Clawback), be made available by the Facility Agent, the Dollar Swingline Agent, or the Euro Swingline Agent (as the case may be) as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent, the Dollar Swingline Agent, or the Euro Swingline Agent (as the case may be) by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London).

38.3 Distributions to an Obligor

Each Agent may (with the consent of the Obligor or in accordance with Clause 39 (Set-Off)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

38.4 Clawback

- (a) Where a sum is to be paid to an Agent under the Finance Documents for another Party, that Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If an Agent pays an amount to another Party and it proves to be the case that such Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by such Agent shall on demand refund the same to such Agent together with interest on that amount from the date of payment to the date of receipt by such Agent, calculated by such Agent to reflect its cost of funds.

38.5 Partial payments

- (a) If an Agent receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, that Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:
 - (i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of the Agents under the Finance Documents;
 - (ii) **secondly**, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under this Agreement;
 - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement; and
 - (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Facility Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

38.6 No set-off by Obligor

All payments to be made by an Obligor under the Finance Documents or Deed Poll Guarantees shall be calculated and made without (and free and clear of any deduction for) set-off or counterclaim.

38.7 Business Days

- (a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or an Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

38.8 Currency of account

- (a) Subject to paragraphs (b) to (e) below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.
- (b) A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.
- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

38.9 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Obligor's Agent); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Obligor's Agent) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

39. SET-OFF

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents or Deed Poll Guarantees (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

40. NOTICES

40.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter or by such other means as may be agreed between the Facility Agent and the Obligors' Agent from time to time.

40.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

- (a) in the case of the Companies, that identified with its name in Schedule 11 (Contact Details);
- (b) in the case of the Obligors' Agent, that identified with its name in Schedule 11 (Contact Details);
- (c) in the case of each Lender or any other Original Obligor, that notified in writing to the Facility Agent on or prior to the date on which it becomes a Party; and
- (d) in the case of each Agent, that identified with its name in Schedule 11 (Contact Details),

or any substitute address or fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five Business Days' notice.

40.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
 - (i) if by way of fax, when received in legible form; or
 - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 40.2 (Addresses), if addressed to that department or officer.

- (b) All notices from or to an Obligor shall be sent through the Facility Agent.
- (c) Any communication or document made or delivered to the Obligors' Agent or an Obligor in accordance with this Clause will be deemed to have been made or delivered to each of the Obligors.

40.4 Notification of address and fax number

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to Clause 40.2 (Addresses) or changing its own address or fax number, the Facility Agent shall notify the other Parties.

40.5 Electronic communication

- (a) Any communication to be made between an Agent and a Lender under or in connection with the Finance Documents may be made by electronic mail or other electronic means, if that Agent and the relevant Lender:
 - (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
 - (ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (iii) notify each other of any change to their address or any other such information supplied by them.
- (b) Any electronic communication made between an Agent and a Lender will be effective only when actually received in readable form and in the case of any electronic communication made by a Lender to that Agent only if it is addressed in such a manner as that Agent shall specify for this purpose.

40.6 English language

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Facility Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

41. CALCULATIONS AND CERTIFICATES

41.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are prima facie evidence of the matters to which they relate.

41.2 Certificates and Determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

41.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and in relation to sterling a year of 365 days and in relation to any other currency a year of 360 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

42. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents or Deed Poll Guarantees is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

43. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents or Deed Poll Guarantees shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

44. AMENDMENTS AND WAIVERS

44.1 Required consents

- (a) Subject to Clause 44.2 (Exceptions), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Obligors' Agent and any such amendment or waiver will be binding on all Parties.
- (b) The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause.

44.2 Exceptions

- (a) An amendment or waiver that has the effect of changing or which relates to:
 - (i) the definition of **Majority Lenders** in Clause 1.1 (Definitions);
 - (ii) an extension to the date of payment of any amount under the Finance Documents;
 - (iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
 - (iv) an increase in or an extension of any Commitment;
 - (v) a change to the Borrowers or Guarantors other than in accordance with Clause 35 (Role of the Agents, the Mandated Lead Arrangers and the Bookrunners);
 - (vi) any provision which expressly requires the consent of all the Lenders; or
 - (vii) Clause 2.3 (Finance Parties' rights and obligations), Clause 32 (Changes to the Lenders), Clause 37 (Sharing Among the Lenders), or this Clause 44 (Amendments and Waivers), shall not be made without the prior consent of all the Lenders.

- (b) An amendment or waiver which relates to the rights or obligations of an Agent or a Mandated Lead Arranger may not be effected without the consent of that Agent or that Mandated Lead Arranger.

44.3 Replacement of Lender

- (a) If at any time:
- (i) any Lender becomes a Non-Consenting Lender (as defined in paragraph (c) below);
 - (ii) except to the extent it is permitted to do so under this Agreement, any Lender refuses or fails to fund an advance or repudiates an obligation to fund an advance; or
 - (iii) an Obligor becomes obliged to repay any amount in accordance with Clause 14.1 (Illegality) or to pay additional amounts pursuant to Clause 19.4 (Tax gross-up) or Clause 20.1 (Increased costs) to any Lender in excess of amounts payable to the other Lenders generally, or the provisions of Clause 17.2 (Market disruption) apply,

then the Obligors' Agent may, at any time up to 30 days after the date on which the circumstances referred to in sub-paragraphs (i) or (ii) above occur or at any time that any of the circumstances referred to in sub-paragraph (iii) above are continuing, give a written notice (a **Written Notification**) to the Facility Agent and the relevant Lender that it intends to replace that Lender by requiring that Lender to (and the Lender shall) transfer, pursuant to Clause 32 (Changes to the Lenders) all (and not part only) of its rights and obligations under this Agreement, to one or more Lenders or other banks, financial institutions or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (a **Replacement Lender**) selected by the Obligors' Agent which confirms its willingness to assume and does assume all the obligations of the transferring Lender (including the assumption of the transferring Lender's participations on the same basis as the transferring Lender) for a purchase price in cash payable at the time of transfer equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest, Break Costs and other amounts payable in relation thereto under the Finance Documents.

- (b) The replacement of a Lender pursuant to this Clause shall be subject to the following conditions:
- (i) neither the Facility Agent nor the Lender shall have any obligation to the Obligors' Agent to find a Replacement Lender;
 - (ii) such replacement must take place no later than 20 days after the date the Written Notification is delivered to the Facility Agent and the relevant Lender; and
 - (iii) in no event shall the Lender replaced under this Clause be required to pay or surrender to the Replacement Lender any of the fees received by that Lender pursuant to the Finance Documents.
- (c) In the event that:
- (i) the Obligors' Agent or the Facility Agent (at the request of the Obligors' Agent) has requested the Lenders to consent to a waiver or amendment of any provisions of the Finance Documents;
 - (ii) the waiver or amendment in question requires the consent of all the Lenders; and

(iii) the Super-Majority Lenders have consented to such waiver or amendment, then any Lender who does not and continues not to agree to such waiver or amendment shall be deemed a **Non-Consenting Lender**.

44.4 New Holding Company

- (a) On or after the Unconditional Date, PLC shall be entitled to become a wholly-owned Subsidiary of a newly incorporated company (the **New Holding Company**) and the Facility Agent is irrevocably authorised by each other Finance Party to agree and enter into amendments to this Agreement with the Obligors' Agent to reflect the provisions of paragraph (c) below, provided that the conditions set out in paragraph (b) below are satisfied.
- (b) The conditions referred to in paragraph (a) above are:
- (i) the New Holding Company must be incorporated in England and Wales and be listed on the London Stock Exchange;
 - (ii) the New Holding Company must enter into a new deed poll guarantee on substantially the same terms as the Company Parent Guarantee given by PLC;
 - (iii) the Facility Agent must be satisfied (acting reasonably) that the obligations of the New Holding Company are guaranteed by Limited under Limited's existing Company Parent Guarantee or any replacement Company Parent Guarantee to which Limited is a party.
 - (iv) PLC and the New Holding Company shall deliver a certificate signed by two Authorised Signatories of PLC and the New Holding Company confirming that the new deed poll guarantee of the New Holding Company applies to the obligations of the Obligors under the Finance Documents and will not be excluded obligations for the purposes of that deed poll guarantee;
 - (v) if any Loan has been borrowed by PLC which is still outstanding at that time the Obligors' Agent shall designate whether (1) PLC shall continue to be the Borrower in respect of such Loan or (2) such Loan shall be novated to the New Holding Company (in which case, the designation notice must attach the documents listed in Part 4 of Schedule 2, in form and substance satisfactory to the Facility Agent (acting reasonably));
 - (vi) the New Holding Company acceding to this Agreement as an Additional Borrower in accordance with Clause 34.2 (Additional Borrowers) and an Additional Guarantor in accordance with Clause 34.3 (Additional Guarantors), in respect of which accession the documents to be provided to the Facility Agent shall be those listed in Part 4 (and not Part 3) of Schedule 2 (Conditions precedent documents); and
 - (vii) PLC shall continue to be a Guarantor under this Agreement until such date as the aggregate amount of Financial Indebtedness of PLC (excluding for this purpose the Financial Indebtedness under this Agreement and any other Financial Indebtedness which is expressed to terminate at the same time as the guarantee of PLC under this Agreement terminates) is less than US\$100,000,000.
- (c) On the satisfaction of the conditions in paragraph (b) above:
- (i) the New Holding Company shall become a Guarantor;

- (ii) all references to PLC in the Finance Documents shall be deemed to be references to the New Holding Company and all references to the Companies shall be deemed to be references to Limited and the New Holding Company; and
- (iii) any Loan designated by the Obligors' Agent in accordance with paragraph (b)(v)(2) above shall be novated to the New Holding Company in accordance with the terms of the Accession Letter.

45. COUNTERPARTS

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

46. GOVERNING LAW

This Agreement is governed by English law.

47. ENFORCEMENT

47.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a **Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 47.1 (Jurisdiction of English courts) is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

47.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales):

- (a) irrevocably appoints PLC as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

PLC confirms its acceptance of its appointment under this Clause 47.2 (Service of process) with respect to each Obligor.

47.3 Limitations Act

- (a) Each of the parties hereto agrees that any and all limitation periods provided for in the Limitations Act, 2002 (Ontario) (or other similar statutes in any province or territory of Canada), as amended from time to time, shall be excluded from application to the obligations and any undertaking, covenant, indemnity or other agreement of any Obligor provided for in any Finance Document to which it is a party, in each case to fullest extent permitted by such Act.

- (b) For the avoidance of doubt, the exclusion of the limitation periods in (a) above shall not affect the applicability of any provision of English law to the obligations and any undertaking, covenant, indemnity or other agreement of any Obligor in any such Finance Document.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

THE ORIGINAL PARTIES

PART 1

THE ORIGINAL BORROWERS

Name of Original Borrower	Jurisdiction of incorporation	Registration number (or equivalent, if any)
BHP Billiton Limited	Australia	ABN 49 004 028 077
BHP Billiton Plc	England and Wales	3196209
BHP Billiton Finance B.V.	Netherlands	27154589
BHP Billiton Finance Limited	Australia	ABN 82 008 519 319

PART 2

THE ORIGINAL LENDERS

Name of Original Lender	Facility A Commitment (US\$)	Facility B Commitment (US\$)	Facility C Commitment (US\$)	Revolving Facility Commitment (US\$)	Total (US\$)
Barclays Bank PLC	3,090,909,091	2,318,181,818	1,931,818,182	1,159,090,909	8,500,000,000
BNP Paribas	3,090,909,091	2,318,181,818	1,931,818,182	1,159,090,909	8,500,000,000
Citibank N.A., London Branch	3,090,909,091	2,318,181,818	1,931,818,182	1,159,090,909	8,500,000,000
Goldman Sachs Credit Partners L.P.	3,090,909,091	2,318,181,818	1,931,818,182	1,159,090,909	8,500,000,000
HSBC Bank plc	3,090,909,091	2,318,181,818	1,931,818,182	1,159,090,909	8,500,000,000
Banco Santander, S.A. London Branch	2,545,454,545	1,909,090,910	1,590,909,090	954,545,455	7,000,000,000
UBS AG, London Branch	2,000,000,000	1,500,000,000	1,250,000,000	750,000,000	5,500,000,000
Total	20,000,000,000	15,000,000,000	12,500,000,000	7,500,000,000	55,000,000,000

PART 3

THE ORIGINAL SWINGLINE LENDERS

PART A

Name of Original Dollar Swingline Lender	Dollar Swingline Commitment (US\$)
Barclays Bank PLC	772,727,272.67
BNP Paribas	772,727,272.67
Citibank N.A., New York Branch	772,727,272.67
Goldman Sachs Credit Partners L.P.	772,727,272.67
HSBC Bank plc	772,727,272.67
Banco Santander, S.A. London Branch	636,363,636.65
UBS Loan Finance LLC	500,000,000.00
Total	5,000,000,000

PART B

Name of Original Euro Swingline Lender	Euro Swingline Commitment (euro equivalent of US\$)
Barclays Bank PLC	772,727,272.67
BNP Paribas	772,727,272.67
Citibank N.A., London Branch	772,727,272.67
Goldman Sachs Credit Partners L.P.	772,727,272.67
HSBC Bank plc	772,727,272.67
Banco Santander, S.A. London Branch	636,363,636.65
UBS AG, London Branch	500,000,000.00
Total	5,000,000,000

PART 4

THE MANDATED LEAD ARRANGERS

Banco Santander, S.A.

Barclays Capital

BNP Paribas

Citigroup Global Markets Limited

Goldman Sachs International

HSBC Bank plc

UBS Limited

SCHEDULE 2
CONDITIONS PRECEDENT
PART 1

CONDITIONS PRECEDENT TO BE DELIVERED ON THE DATE OF THIS AGREEMENT

Original Obligors

1. A copy of the constitutional documents of each Original Obligor and any Authorisation required by that Original Obligor in connection with this Agreement.
2. An extract of the resolutions of the board of directors of each of the Companies appointing a committee of the board of directors to act in relation to the Finance Documents, certified by a director or the company secretary of each Company as being a true extract of the relevant resolutions and confirming, among other things, that the board meeting was properly convened and the identity of the persons attending the meeting.
3. A copy of a resolution of the board of directors of each Original Obligor (other than the Companies) and a copy of a resolution of the committee of the board of directors of each of the Companies referred to in paragraph 2 above:
 - (a) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;
 - (b) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request and Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
 - (d) in relation to the Dutch Original Obligor including a confirmation that it does not have a works council (*ondernemingsraad*) having jurisdiction over the transactions contemplated by the Finance Documents to which it is (or will become) a party.
4. A confirmation of the sole shareholder of the Dutch Original Obligor that it has not designated any specific person to represent the Dutch Obligor pursuant to the authority of the shareholder of the relevant Dutch Obligor under Section 2:256 of the Dutch Civil Code.
5. A specimen of the signature of each person authorised by each resolution referred to in paragraphs 3(b) and 3(c) above.
6. A certificate of an Authorised Signatory of the relevant Original Obligor certifying that each copy document relating to it specified in this Part 1 of Schedule 2 (Conditions Precedent) is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement and certifying that borrowing or guaranteeing, as appropriate, the Total Commitments would not cause any borrowing, guaranteeing or similar limit in its constitutional documents to be exceeded.
7. A copy of each of the Company Parent Guarantees.

8. A certificate of an Authorised Signatory of each Company confirming that the Company Parent Guarantee to which it is a party has not been amended or terminated in accordance with its terms or otherwise, and it has not agreed with the other Company that the Finance Documents (or any obligations under the Finance Documents) will be **Excluded Obligations** for the purposes of, and as defined in, that Company Parent Guarantee.
9. A copy of a power of attorney executed by each of the Companies appointing the persons specified in each power to execute and deliver on behalf of the Companies, as the case may be, any or all of the Finance Documents, any closing certificate, receipt, side letter or verification certificate in connection with any Finance Document and any other document which is incidental, ancillary or related to or contemplated by any of such documents, to which that company is a party, with power to amend such documents, sign such other documents and do all such other acts, matters and things as they in their judgment deem necessary or desirable in connection with the transactions contemplated in such documents.
10. A Note Deed Poll executed by each Australian Borrower.
11. Any certificate or other documents required to be entered into in relation to the Finance Documents by the terms of the board resolutions referred to in paragraph 3 above.

Legal opinions

12. A legal opinion of Allen & Overy LLP London, legal advisers to the Facility Agent in England.
13. A legal opinion of Allen & Overy LLP Amsterdam, legal advisers to the Facility Agent in the Netherlands.
14. A legal opinion of Clayton Utz, legal advisers to the Facility Agent in Australia.

Press Release

15. A copy of the Press Release in the form approved by the Bookrunners.

Other documents and evidence

16. A copy of any documentation or other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) in order for the Facility Agent or such Lender to comply with all necessary "know your customer" requirements under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents which the Facility Agent or any Lender is obliged to comply with where the necessary information is not already available to it.

PART 2

CONDITIONS PRECEDENT TO INITIAL UTILISATION

Original Obligors

1. A certificate of an Authorised Signatory of each of the Companies certifying that each copy document specified in this Part 2 of Schedule 2 (Conditions Precedent) is correct, complete and in full force and effect as at the date of that certificate.

Offers/Scheme Conditions

2. The Offer Documents or the Scheme Documents (as the case may be).
3. If the Acquisition is conducted by way of one or more Offers a copy of any revised Offer Documents or supplementary circular sent to shareholders in the Targets, together with (whether the Acquisition is conducted by way of Offer or Scheme) a copy of all amendments, variations, supplements and any other documents relating to the Offer Documents or the Scheme Documents (as the case may be).
4. If the Acquisition is conducted by way of one or more Schemes:
 - (a) a copy of the certificate of registration issued by the registrar of companies evidencing registration of the order and minutes (approved by the court);
 - (b) evidence that the requirements of ASX Listing Rule 7.19 have been complied with, the court order approving the Scheme has been lodged with the Australian Securities and Investments Commission in accordance with section 411(10) of the Corporations Act and the Facility Agent has received a certified copy of the court orders (from the first and second court hearings) approving the Scheme and each Scheme Document either unconditionally, or subject only to the Scheme becoming effective in England as contemplated by paragraph (a); and
 - (c) confirmation that no Scheme Document has been terminated or rescinded.
5. A copy of a resolution of the shareholders of each of the Companies approving the Acquisition.
6. A certificate from the Companies confirming that:
 - (a) the Unconditional Date has occurred;
 - (b) all Pre-Conditions to the Acquisition have been satisfied or waived (to the extent permitted by (or not prohibited by) this Agreement) (and attaching a copy of the relevant Authorisations); and
 - (c) no term or condition of the Acquisition has been varied, waived or amended except as permitted by (or not prohibited by) this Agreement.

Other documents and evidence

7. Evidence that the fees, costs and expenses then due from the Company pursuant to Clause 18 (Fees) and Clause 23 (Costs and Expenses) have been paid or will be paid on the first Utilisation Date.

PART 3

CONDITIONS PRECEDENT FOR AN ADDITIONAL OBLIGOR

1. An Accession Letter, duly executed by the Additional Obligor and the Obligors' Agent.
 2. A copy of the constitutional documents of the Additional Obligor and any Authorisation required by that Additional Obligor in connection with this Agreement.
 3. A copy of a resolution of the board of directors of the Additional Obligor:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Letter and the Finance Documents and resolving that it execute the Accession Letter;
 - (b) authorising a specified person or persons to execute the Accession Letter on its behalf; and
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices (including, in relation to an Additional Obligor, any Utilisation Request or Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents.
 4. A specimen of the signature of each person authorised by the resolution referred to in paragraph 4.
 5. A certificate of an Authorised Signatory of the Additional Obligor certifying that each copy document listed in this Part 3 of Schedule 2 (Conditions Precedent) is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Letter and certifying that the borrowing of the Total Commitments would not cause any borrowing or similar limit in its constitutional documents to be exceeded.
 6. A legal opinion of the legal advisers to the Facility Agent in England.
 7. If the Additional Obligor is incorporated in a jurisdiction other than England and Wales, a legal opinion of the legal advisers to the Facility Agent in the jurisdiction in which the Additional Obligor is incorporated (or in the case of a Canadian Borrower, a legal opinion of the legal advisers in Canada to the Company).
 8. A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent after consulting with the Obligors' Agent reasonably considers necessary in connection with the accession of that Additional Obligor to this Agreement and the performance by it of the transactions contemplated by any Finance Document.
 9. If the Additional Obligor would be an Australian Borrower, a Note Deed Poll executed by that Additional Obligor. ¹
 10. If the Additional Obligor is a member of the Target Group, a certificate of an Authorised Signatory of each Company confirming that the Company Parent Guarantee to which it is a party has not been amended or terminated in accordance with its terms or otherwise, and it has not agreed with the other Company that the Finance Documents (or any obligations under the Finance Documents) will be **Excluded Obligations** for the purposes of, and as defined in, that Company Parent Guarantee.
- ¹ **Note:** The Companies and the Facility Agent should seek Australian tax advice before any member of the Group that is a resident of Australia under the Australian Tax Act, or that carries on business in Australia through a permanent establishment with which the borrowing would be connected becomes an Additional Borrower, as payments of interest by such an Additional Borrower could be subject to Australian withholding tax.

11. A copy of any documentation or other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) in connection with the accession of that Additional Obligor to this Agreement in order for the Facility Agent or such Lender to comply with all necessary “know your customer” requirements under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents which the Facility Agent or any Lender is obliged to comply with where the necessary information is not already available to it.

PART 4

CONDITIONS PRECEDENT FOR THE NEW HOLDING COMPANY

1. An Accession Letter, duly executed by the New Holding Company.
2. A copy of the constitutional documents of the New Holding Company and any Authorisation required by that New Holding Company in connection with this Agreement.
3. A copy of a resolution of the board of directors of the New Holding Company:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Letter and the Finance Documents and resolving that it execute the Accession Letter;
 - (b) authorising a specified person or persons to execute the Accession Letter on its behalf; and
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices (including in relation to a New Holding Company any Utilisation Request or Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents.
4. A specimen of the signature of each person authorised by the resolution referred to in paragraph 4 above.
5. A certificate of an Authorised Signatory of the New Holding Company certifying that each copy document listed in this Part 4 of Schedule 2 (Conditions Precedent) is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Letter and certifying that the borrowing of the Total Commitments would not cause any borrowing or similar limit in its constitutional documents to be exceeded.
6. A legal opinion of the legal advisers to the Facility Agent in England.
7. A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent after consulting with the Obligors' Agent reasonably considers necessary in connection with the accession of that New Holding Company to this Agreement and the performance by it of the transactions contemplated by any Finance Document.
8. A copy of any documentation or other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) in connection with the accession of that New Holding Company to this Agreement in order for the Facility Agent or such Lender to comply with all necessary "know your customer" requirements under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents which the Facility Agent or any Lender is obliged to comply with where the necessary information is not already available to it.

SCHEDULE 3
FORM OF REQUESTS
PART 1

FORM OF UTILISATION REQUEST

From: [Obligors' Agent]

To: Barclays Bank PLC as [Facility Agent/Dollar Swingline Agent/Euro Swingline Agent]

Dated:

Dear Sirs

**BHP Billiton Plc/BHP Billiton Limited – US\$55,000,000,000 Facility and Subscription Agreement
dated 5th February, 2008 (as amended on 31st March, 2008) (the Agreement)**

1. We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
2. [] wishes to borrow a [Facility A Loan/Facility B Loan/Facility C Loan/Revolving Facility Loan/Dollar Swingline Loan/Euro Swingline Loan]² on the following terms:

Borrower: []
Proposed Utilisation Date: [] [(or, if that is not a Business Day, the next Business Day)/- (or, if that is not a New York Business Day, the next New York Business Day)]

Currency of Loan: []
Amount: [] or, if less, the Available Facility³
Interest Period: []
Purpose:⁴
3. We confirm that each condition specified in Clause [4.3 (Further conditions precedent)/ 6.4(b) (Dollar Swingline Lenders' participation)/ 6.7(a) (Euro Swingline Lenders' participation)], is satisfied on the date of this Utilisation Request.
4. The proceeds of the [Facility A Loan/Facility B Loan/Facility C Loan/Revolving Facility Loan/Dollar Swingline Loan/Euro Swingline Loan] should be credited to [account].
5. This Utilisation Request is irrevocable.
- 2 Except for any Loan for "general corporate purposes" and subject to Clause 5.2(i) (Completion of Utilisation Request), the Utilisation must be made pro rata across each Facility.
- 3 Please specify the amount of each Loan under each Facility.
- 4 Insert "general corporate purposes" if the Utilisation is made under the Revolving Facility for that purpose.

6. [Insert any certificates or refer to any attached documents required to ensure compliance with Clauses 5.2 (Completion of a Utilisation Request) and 30.2 (Refinancing using Refinancing Loans).]

Yours faithfully

authorised signatory for
[Obligors' Agent]

PART 2
FORM OF SELECTION NOTICE

From: [Obligors' Agent]

To: Barclays Bank PLC as [Facility Agent/Dollar Swingline Agent/Euro Swingline Agent]

Dated:

Dear Sirs

**BHP Billiton Plc/BHP Billiton Limited – US\$55,000,000,000 Facility and Subscription Agreement
dated 5th February, 2008 (as amended on 31st March, 2008) (the Agreement)**

1. We refer to the Agreement. This is a Selection Notice. Terms defined in the Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.
2. We refer to the following Loan[s] in [identify currency] with an Interest Period ending on [•]⁵:
[•]
3. [We request that the above Loan[s] be divided into [•] Loans with the following Base Currency Amounts and Interest Periods:]⁶
- or
4. [We request that the next Interest Period for the above Loan[s] is []].⁷
5. This Selection Notice is irrevocable.

Yours faithfully

authorised signatory for
[Obligors' Agent]

- 5 Insert details of all Loans in the same currency which have an Interest Period ending on the same date.
- 6 Use this option if division of Loans is requested.
- 7 Use this option if sub-division is not required.

SCHEDULE 4

MANDATORY COST FORMULAE

1. The Mandatory Cost is an addition to the interest rate to compensate Lenders for the cost of compliance with (a) the requirements of the Bank of England and/or the Financial Services Authority (or, in either case, any other authority which replaces all or any of its functions) or (b) the requirements of the European Central Bank.
2. On the first day of each Interest Period (or as soon as possible thereafter) the Facility Agent shall calculate, as a percentage rate, a rate (the **Additional Cost Rate**) for each Lender, in accordance with the paragraphs set out below. The Mandatory Cost will be calculated by the Facility Agent as a weighted average of the Lenders' Additional Cost Rates (weighted in proportion to the percentage participation of each Lender in the relevant Loan) and will be expressed as a percentage rate per annum.
3. The Additional Cost Rate for any Lender lending from a Facility Office in a Participating Member State will be the percentage notified by that Lender to the Facility Agent. This percentage will be certified by that Lender in its notice to the Facility Agent to be its reasonable determination of the cost (expressed as a percentage of that Lender's participation in all Loans made from that Facility Office) of complying with the minimum reserve requirements of the European Central Bank in respect of loans made from that Facility Office.
4. The Additional Cost Rate for any Lender lending from a Facility Office in the United Kingdom will be calculated by the Facility Agent as follows:

- (a) in relation to a sterling Loan:

$$\frac{AB + C(B - D) + E \times 0.01}{100 - (A + C)} \quad \% \text{ per annum}$$

- (b) in relation to a Loan in any currency other than sterling:

$$\frac{E \times 0.01}{300} \% \text{ per annum}$$

Where:

- A is the percentage of Eligible Liabilities (assuming these to be in excess of any stated minimum) which that Lender is from time to time required to maintain as an interest free cash ratio deposit with the Bank of England to comply with cash ratio requirements.
- B is the percentage rate of interest (excluding the Margin and the Mandatory Cost and, if the Loan is an Unpaid Sum, the additional rate of interest specified in paragraph (a) of Clause 15.4 (Default interest)) payable for the relevant Interest Period on the Loan.
- C is the percentage (if any) of Eligible Liabilities which that Lender is required from time to time to maintain as interest bearing Special Deposits with the Bank of England.
- D is the percentage rate per annum payable by the Bank of England to the Facility Agent on interest bearing Special Deposits.

- E is designed to compensate Lenders for amounts payable under the Fees Rules and is calculated by the Facility Agent as being the average of the most recent rates of charge supplied by the Reference Banks to the Facility Agent pursuant to paragraph 7 below and expressed in pounds per £1,000,000.
5. For the purposes of this Schedule:
- (a) **Eligible Liabilities** and **Special Deposits** have the meanings given to them from time to time under or pursuant to the Bank of England Act 1998 or (as may be appropriate) by the Bank of England;
 - (b) **Fees Rules** means the rules on periodic fees contained in the FSA Supervision Manual or such other law or regulation as may be in force from time to time in respect of the payment of fees for the acceptance of deposits;
 - (c) **Fee Tariffs** means the fee tariffs specified in the Fees Rules under the activity group A.1 Deposit acceptors (ignoring any minimum fee or zero rated fee required pursuant to the Fees Rules but taking into account any applicable discount rate); and
 - (d) **Tariff Base** has the meaning given to it in, and will be calculated in accordance with, the Fees Rules.
6. In application of the above formulae, A, B, C and D will be included in the formulae as percentages (i.e. 5% will be included in the formula as 5 and not as 0.05). A negative result obtained by subtracting D from B shall be taken as zero. The resulting figures shall be rounded to four decimal places.
7. If requested by the Facility Agent, each Reference Bank shall, as soon as practicable after publication by the Financial Services Authority, supply to the Facility Agent, the rate of charge payable by that Reference Bank to the Financial Services Authority pursuant to the Fees Rules in respect of the relevant financial year of the Financial Services Authority (calculated for this purpose by that Reference Bank as being the average of the Fee Tariffs applicable to that Reference Bank for that financial year) and expressed in pounds per £1,000,000 of the Tariff Base of that Reference Bank.
8. Each Lender shall supply any information required by the Facility Agent for the purpose of calculating its Additional Cost Rate. In particular, but without limitation, each Lender shall supply the following information on or prior to the date on which it becomes a Lender:
- (a) the jurisdiction of its Facility Office; and
 - (b) any other information that the Facility Agent may reasonably require for such purpose.
- Each Lender shall promptly notify the Facility Agent of any change to the information provided by it pursuant to this paragraph.
9. The percentages of each Lender for the purpose of A and C above and the rates of charge of each Reference Bank for the purpose of E above shall be determined by the Facility Agent based upon the information supplied to it pursuant to paragraphs 7 and 8 above and on the assumption that, unless a Lender notifies the Facility Agent to the contrary, each Lender's obligations in relation to cash ratio deposits and Special Deposits are the same as those of a typical bank from its jurisdiction of incorporation with a Facility Office in the same jurisdiction as its Facility Office.

10. The Facility Agent shall have no liability to any person if such determination results in an Additional Cost Rate which over or under compensates any Lender and shall be entitled to assume that the information provided by any Lender or Reference Bank pursuant to paragraphs 3, 7 and 8 above is true and correct in all respects.
11. The Facility Agent shall distribute the additional amounts received as a result of the Mandatory Cost to the Lenders on the basis of the Additional Cost Rate for each Lender based on the information provided by each Lender and each Reference Bank pursuant to paragraphs 3, 7 and 8 above.
12. Any determination by the Facility Agent pursuant to this Schedule in relation to a formula, the Mandatory Cost, an Additional Cost Rate or any amount payable to a Lender shall, in the absence of manifest error, be conclusive and binding on all Parties.
13. The Facility Agent may from time to time, after consultation with the Obligors' Agent and the Lenders, determine and notify to all Parties any amendments which are required to be made to this Schedule in order to comply with any change in law, regulation or any requirements from time to time imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any other authority which replaces all or any of its functions) and any such determination shall, in the absence of manifest error, be conclusive and binding on all Parties.

SCHEDULE 5
FORM OF TRANSFER CERTIFICATE

To: Barclays Bank PLC as Facility Agent

From: [The Existing Lender] (the **Existing Lender**) and [The New Lender] (the **New Lender**)

Dated:

BHP Billiton Plc/BHP Billiton Limited – US\$55,000,000,000 Facilities Agreement dated 5th February, 2008 (as amended on 31st March, 2008) (the Agreement)

1. We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
2. We refer to Clause 32.6 (Procedure for transfer):
 - (a) The Existing Lender transfers to the New Lender all or part of its Notes as described in the Schedule and the Loans they represent.
 - (b) The Existing Lender and the New Lender agree to the Existing Lender and the New Lender transferring by novation all or part of the Existing Lender's Commitment, rights and obligations referred to in the Schedule (together with any associated Notes) in accordance with Clause 32.6 (Procedure for transfer).
 - (c) The proposed Transfer date is [].
 - (d) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 40.2 (Addresses) are set out in the Schedule.
3. The New Lender expressly acknowledges the confirmation and limitations on the Existing Lender's obligations set out in paragraph (b) of Clause 32.5 (Limitation of responsibility of Existing Lenders).
4. The New Lender confirms that it is [a UK Lender (other than a UK Non Bank Lender or a UK Treaty Lender)] [a UK Treaty Lender] [a UK Non Bank Lender].⁸
5. [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:
 - (a) a company resident in the United Kingdom for United Kingdom tax purposes;
 - (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (for the purposes of section 11(2) of the Taxes Act) the whole of any share of interest payable in respect of that advance that falls to it by reason of sections 114 and 115 of the Taxes Act; or
- 8 Delete as applicable

- (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (for the purposes of section 11(2) of the Taxes Act) of that company.
- 6. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
- 7. This Transfer Certificate is governed by English law.

THE SCHEDULE

Commitment/rights and obligations to be transferred

[insert relevant details including details of any associated Notes]

[Note: Any transfers in respect of any Commitment or Utilisation must always be in a minimum amount of US\$5,000,000 (or its equivalent in any other currency).]

[Facility Office address, fax number and attention details for notices and account details for payments,]

For and on behalf of

[Existing Lender]

By:

For and on behalf of

[New Lender]

By:

This Transfer Certificate is accepted by the Facility Agent and the Transfer Date is confirmed as [].

For and on behalf of
Barclays Bank PLC as Facility Agent
By:

SCHEDULE 6
FORM OF ACCESSION LETTER

To: Barclays Bank PLC as Facility Agent

From: [Subsidiary] and [Obligors' Agent]

Dated:

Dear Sirs

**BHP Billiton Plc/BHP Billiton Limited – US\$55,000,000,000 Facility and Subscription Agreement
dated 5th February, 2008 (as amended on 31st March, 2008) (the Agreement)**

1. We refer to the Agreement. This is an Accession Letter. Terms defined in the Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter.
2. [[Subsidiary] agrees to become an Additional Borrower and to be bound by the terms of the Facility Agreement as an Additional Borrower pursuant to Clause [34.2 (Additional Borrowers)/4.2(b) (Additional condition precedent to Refinancing Loan)] of the Facility Agreement. [Subsidiary] is a company duly incorporated under the laws of [name of relevant jurisdiction].]⁹
3. [New Finance Company/New Holding Company] agrees to become the Borrower in respect of the following Loans by way of novation so that[, on satisfaction of the conditions in Clause 45.4(b) (New Holding Company) of the Agreement]:
 - (a) [name of relevant original Borrower] is released from its obligations to the Lenders in respect of such Loans (the **Discharged Obligations**) (such obligations being cancelled) and [New Finance Company/New Holding Company] assumes obligations to the Lenders in respect of such Loans to the Finance Parties which differ from the Discharged Obligations only insofar as the [New Finance Company/New Holding Company] has assumed those obligations in place of [the original Borrower]; and
 - (b) the [New Finance Company/New Holding Company] and the other Parties shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the [New Finance Company/New Holding Company] been the original Borrower in respect of such Loans: [**detail Loans**]¹⁰
4. [New Holding Company / Subsidiary] agrees to become an Additional Guarantor and to be bound by the terms of the Facility Agreement as an Additional Guarantor pursuant to Clause 34.3 (Additional Guarantors).]¹¹
5. [Subsidiary's] administrative details are as follows:

Address:
Fax No:
Attention:
- 9 Only needed for an Additional Borrower. **Note:** The Companies and the Facility Agent should seek Australian tax advice before any member of the Group that is a resident of Australia under the Australian Tax Act, or that carries on business in Australia through a permanent establishment with which the borrowing would be connected becomes an Additional Borrower, as payments of interest by such an Additional Borrower could be subject to Australian withholding tax.
- 10 Only needed in the circumstances contemplated by Clauses 34.1 and 44.4(b)(v)(2).
- 11 Only needed for an Additional Guarantor.

9. This letter is governed by English law.

10. [This Accession Letter is entered into by deed.]

[Obligors' Agent]

By:

[Subsidiary]

By:

[This Accession Letter is accepted by the Facility Agent and the date on which the novation referred to in paragraph 3 above is confirmed as []].

For and on behalf of
Barclays Bank PLC as Facility Agent
By:]¹²

12 Only needed in the circumstances contemplated by Clauses 34.1 and 45.4(b)(v)(2).

SCHEDULE 7
FORM OF RESIGNATION LETTER

To: Barclays Bank PLC as Facility Agent

From: [Obligors' Agent]

Dated:

Dear Sirs

**BHP Billiton Plc/BHP Billiton Limited – US\$55,000,000,000 Facility and Subscription Agreement
dated 5th February, 2008 (as amended on 31st March, 2008) (the Agreement)**

1. We refer to the Agreement. This is a Resignation Letter. Terms defined in the Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.
2. Pursuant to Clause 34.4 (Resignation of a Borrower), we request that [resigning Borrower] be released from its obligations as a Borrower under the Facility Agreement.
3. We confirm that no Default is continuing or would result from the acceptance of this request.
4. This letter is governed by English law.

[Obligors' Agent]

By:

SCHEDULE 8
FORM OF COMPLIANCE CERTIFICATE

To: Barclays Bank PLC as Facility Agent

From: [Obligors' Agent]

Dated:

Dear Sirs

**BHP Billiton Plc/BHP Billiton Limited – US\$55,000,000,000 Facility and Subscription Agreement
dated 5th February, 2008 (as amended on 31st March, 2008) (the Agreement)**

1. We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
2. We confirm that: [Insert details of covenants to be certified]
3. [We confirm that no Default is continuing.]¹³
4. This letter is governed by English law.

Authorised Signatory
[Companies]

Authorised Signatory
[Companies]

- 13 If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

SCHEDULE 9

TIMETABLES

D refers to the Utilisation Date. **D-X** refers to the number of Business Days before the relevant Utilisation Date.

All times are London time unless otherwise stated.

	Loans in euro	Loans in sterling	Loans in other currencies
Request for approval as an Optional Currency, if required (Clause 4.4 (Conditions relating to Optional Currencies))			D-5 10.00 a.m.
Facility Agent notifies the Lenders of the request (Clause 4.4 (Conditions relating to Optional Currencies))			D-5 3.00 p.m.
Responses by Lenders to the request (Clause 4.4 (Conditions relating to Optional Currencies))			D-4 1.00 p.m.
Facility Agent notifies the Company if a currency is approved as an Optional Currency in accordance with (Clause 4.4 (Conditions relating to Optional Currencies))			D-4 5.00 p.m.
Delivery of a duly completed Utilisation Request (Clause 5.1 (Delivery of a Utilisation Request)) or a Selection Notice (Clause 16.1 (Selection of Interest Periods))	D-3 10.00 a.m.	D-1 10.00 a.m.	D-3 10.00 a.m. (for currencies other than US\$) D-2 10.00 a.m. (for US\$)
Facility Agent determines (in relation to a Utilisation) the Base Currency Amount of the Loan, if required under Clause 5.4 (Lenders' participation) and notifies the Lenders of the Loan in accordance with Clause 5.4 (Lenders' participation)	D-3 3.00 p.m.	D-1 3.00 p.m.	D-3 3.00 p.m. (for currencies other than US\$) D-2 10.30 a.m. (for US\$)
LIBOR or EURIBOR is fixed	Quotation Day 11.00 a.m. (Brussels time)	Quotation Day 11.00 a.m.	Quotation Day 11.00 a.m.
Facility Agent receives a notification from a Lender under Clause 11.2 (Unavailability of a currency)			Quotation Day 3.00 p.m.
Facility Agent gives notice in accordance with Clause 11.2 (Unavailability of a currency)			Quotation Day 5.00 p.m.
Delivery of a duly completed Utilisation Request Clause 6.2 (Delivery of a Utilisation Request for Dollar Swingline Loans)			D 10.00 a.m. (New York time)
Delivery of a duly completed Utilisation Request Clause 6.5 (Delivery of a Utilisation Request for Euro Swingline Loans)	D 9.00 a.m.		

Dollar Swingline Agent notifies each Dollar Swingline Lender of the amount of its participation in the Dollar Swingline Loan under Clause 6.4 (Dollar Swingline Lenders' participation)

D 12.00 (noon)
(New York time)

Euro Swingline Agent notifies each Euro Swingline Lender of the amount of its participation in the Euro Swingline Loan under Clause 6.7 (Euro Swingline Lenders' participation)

D 10.00 a.m.

Dollar Swingline Agent determines Federal Funds Rate under Clause 7.5 (Dollar Swingline Rate of Interest)

D 1.00 p.m.
(New York time)

Euro Swingline Agent determines Euro Swingline Rate under Clause 7.6 (Euro Swingline Rate of Interest)

D 11.00 a.m.

SCHEDULE 10
FORM OF NOTE DEED POLL

Date: 200[•]

THIS NOTE DEED POLL is made by [BHP BILLITON LIMITED (ABN 49 004 028 077)/ BHP BILLITON FINANCE LIMITED (ABN 82 008 519 319)] (**Australian Borrower**) **IN FAVOUR OF** each person who from time to time is a Lender, Barclays Bank PLC as facility agent (**Facility Agent**), dollar swingline agent (**Dollar Swingline Agent**) and euro swingline agent (**Euro Swingline Agent**).

RECITAL

The Australian Borrower has offered to issue Notes pursuant to the terms of a facility and subscription agreement (**Facility Agreement**) expressed to be amongst BHP Billiton Plc, BHP Billiton Limited and others and dated [] 200 [•].

Operative provisions:

1. THE NOTES

1.1 Creation of Notes

The Australian Borrower may create Notes in favour of each Lender by inscription in the Register. The Notes have an aggregate principal amount outstanding from time to time equal to the principal amount subscribed by the relevant Lender under the Facility Agreement as recorded in the Register and a maximum aggregate principal amount equal to the sum of the relevant Lender's Commitment in respect of that Facility plus AUS\$1.

1.2 Undertakings and acknowledgment of debt

The Australian Borrower:

- (a) acknowledges that it is indebted to each Lender for an amount equal to the aggregate outstanding principal amount of the Notes;
- (b) agrees to pay principal and interest in respect of each Note issued to a Lender in accordance with the Facility Agreement, the Note and this deed.

1.3 Effect of payment of interest or redemption

The obligations of the Australian Borrower under Clause 1.2 (Undertakings and acknowledgments of debt) are discharged to the extent interest is paid on a Note and to the extent that the aggregate principal amount outstanding in respect of a Note is repaid in accordance with the Facility Agreement.

2. RIGHTS AND OBLIGATIONS OF LENDERS

2.1 Benefit and entitlement

This deed is executed as a deed poll. The Notes are issued on the condition that the Facility Agent, the Dollar Swingline Agent, the Euro Swingline Agent and each Lender has the benefit of, and is entitled to enforce, this deed subject to the Facility Agreement even though it is not a party to or is not in existence at the time of execution and delivery of this deed.

2.2 Rights independent

The Facility Agent, the Dollar Swingline Agent, the Euro Swingline Agent and each Lender may enforce its rights under this deed independently from each other Lender, subject to the Facility Agreement.

2.3 Agents and Lenders bound

Each Lender together with the Facility Agent, the Dollar Swingline Agent and the Euro Swingline Agent (and any person claiming through or under a Lender) is bound by this deed.

2.4 Directions to hold Deed Poll

Each Lender is taken to have irrevocably instructed the Australian Borrower that this deed is to be held by the Facility Agent on its behalf and on behalf of each Lender.

2.5 Facility Agreement

The Notes are issued on the condition that each Lender is bound by the provisions of the Facility Agreement.

2.6 Notes issued as a result of Offers

Each Note is issued as a result of an offer to the Lenders. This is the case regardless of the time of issue.

3. FORM, TITLE AND STATUS

3.1 Registered form

Each Note takes the form of an entry in the Register. No certificate will be issued in respect of it, unless required by law.

3.2 Issue of Notes by entry in Register

A Note is:

- (a) issued when details of the Note are first entered in the Register; and
- (b) transferred when the details of the transfer are entered in the Register.

3.3 Effect of entries in Register

Each entry in the Register in respect of a Note constitutes:

- (a) an acknowledgment to the Lenders by the Australian Borrower of the indebtedness of the Australian Borrower to that Lender on the terms of this deed;
- (b) an undertaking by the Australian Borrower to the Lenders to make all payments of principal and interest in respect of the Note in accordance with the terms of the Note and this deed; and

- (c) an entitlement to the other benefits given to the Lenders, the Facility Agent Dollar Swingline Agent and the Euro Swingline Agent under the Facility Agreement in respect of the relevant Note.

3.4 Independent obligations

Subject to the terms of the Facility Agreement, the obligations of the Australian Borrower in respect of each Note constitute separate and independent obligations which the Lender to whom those obligations are owed is entitled to enforce without having to join any other Lender or any predecessor in title of a Lender.

3.5 Register conclusive as to ownership

Entries in the Register in relation to a Note constitute conclusive evidence that the person so entered is the absolute owner of the Note subject to correction for fraud or error.

3.6 Holder absolutely entitled

Upon a person acquiring title to any Note by virtue of becoming registered as the owner of that Note, all rights and entitlements arising by virtue of this deed in respect of that Note vest absolutely in the registered owner of the Note free of all equities. Any person who has previously been registered as the owner of the Note does not have, and is not entitled to assert against the Australian Borrower or the Facility Agent or the Dollar Swingline Agent or the Euro Swingline Agent or the registered owner of the Note for the time being and from time to time, any rights, benefits or entitlements in respect of the Note.

3.7 Status of Notes

The Notes are direct, unsubordinated and unsecured obligations of the Australian Borrower and rank at least equally among themselves with all other unsecured and unsubordinated obligations of the Australian Borrower except for liabilities mandatorily preferred by law.

4. TRANSFERS

4.1 Limit on transfer

Each Note may only be transferred in accordance with Clause 32 (Changes to the Lenders) of the Facility Agreement (including, without limitation, Clause 32.3 (Transfer and Transmission of Notes) of the Facility Agreement).

4.2 Transfer of all of Note

Each Note may only be transferred in whole.

4.3 Registration of transfer

The transferor of a Note is taken to remain the holder of that Note until the name of the transferee is entered in the Register in respect of that Note.

5. INTEREST AND DEFAULT INTEREST

- (a) The Australian Borrower agrees to pay interest and default interest on each Note issued under a Facility as calculated under the Facility Agreement as though Clauses 15.2 (Payment of interest) and 15.4 (Default interest) of the Facility Agreement applied to it.

- (b) The Australian Borrower shall pay accrued interest on each Note on the last day of each Interest Period (and, if the Interest Period is longer than six Months, on the dates falling at six monthly intervals after the first day of the Interest Period).
- (c)
 - (i) If the Australian Borrower fails to pay any amount payable by it under a Note on its due date, interest shall accrue on the overdue amount from the due date up to the actual payment (both before and after judgment) at a rate 1% higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted an amount payable under a Note in the currency of the overdue amount for successive Interest Periods under the relevant Facility (or, if the overdue amount for successive Interest Periods under the relevant Facility (or, if the overdue amount does not relate to a particular Facility, under Facility A), each of a duration selected by the Facility Agent (acting reasonably). Any interest accruing under this Clause 5(c) shall be immediately payable by the Australian Borrower on demand by the Facility Agent.
 - (ii) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

6. PAYMENTS

The Australian Borrower agrees to make all payments under a Note in accordance with Clause 38 (Payment Mechanics) of the Facility Agreement.

7. GOVERNING LAW

This deed poll and the Notes are governed by the law of New South Wales. The Australian Borrower submits to the non-exclusive jurisdiction of the courts of New South Wales.

8. INTERPRETATION

Clauses 1.1 (Definitions) and 1.2 (Construction) of the Facility Agreement described above apply to this deed poll as if each clause was fully set out herein, except that a reference in this deed poll to a Note is a reference only to a Note (as defined in Clause 1.1 (Definitions) of the Facility Agreement) that is or is to be issued by the Australian Borrower.

EXECUTED as a deed poll.

[Insert execution clause for each Australian Borrower]

SCHEDULE 11
CONTACT DETAILS

Party	Contact Details
BHP Billiton Plc	Address: Neathouse Place, London SW1V 1BH, United Kingdom Fax No: + 44 (0) 207 802 3176 Attention: Treasurer and Vice President, Treasury and Corporate Finance
BHP Billiton Limited	Address: Level 27, BHP Billiton Centre, 180 Lonsdale Street, Melbourne VIC 3000, Australia Fax No: + 61 3 9609 3572 Attention: Treasurer and Vice President, Treasury and Corporate Finance
Obligors' Agent: BHP Billiton Finance B.V.	Address: Verheeskade 25, 2521 BE The Hague, The Netherlands Fax No: + 31 70 315 6638 Attention: Treasurer and Vice President, Treasury and Corporate Finance
Facility Agent (Amendments and Waivers etc.):	Address: 5 The North Colonnade, Canary Wharf, London E14 4BB Telephone: +44 (0) 20 7773 1045 Facsimile: +44 (0) 20 7773 4893 Attention: Antony Girling (antony.girling@barcap.com)
Facility Agent and Euro Swingline Agent (Loan Operations):	Address: 5 The North Colonnade, Canary Wharf, London E14 4BB Telephone: +44 (0) 20 7773 6417 (Direct) Facsimile: +44 (0) 20 7773 6808 Telex: 94049433 RGSUG
Dollar Swingline Agent (all purposes):	Address: Barclays Bank PLC London, c/o Barclays Capital Services LLC Global Services Unit as US Dollar Funding Administrator, 4th Floor, 200 Cedar Knolls Road, Whippany, New Jersey USA 07981 Telephone: 00 1 973-576-3214 Facsimile: 00 1 973-576-3382 / 3017 Attention: Louis Oberti (louis.oberti@barcap.com)

SCHEDULE 12
FORM OF CONFIDENTIALITY UNDERTAKING
[Letterhead of Existing Lender]

To: [insert name of Potential Lender]

The Directors of BHP Billiton Plc and BHP Billiton Limited (the “**Companies**”)

Re: The US\$55,000,000,000 Facility and Subscription Agreement dated [●] (the **Agreement**)

Company: BHP Billiton Plc and BHP Billiton Limited

Amount: US\$55,000,000,000

Facility Agent: Barclays Bank PLC

Dear Sirs

We understand that you are considering [participating in the Facilit[y/ies]][entering a sub-participation in relation to the Agreement] and we confirm that the consent of the Companies has been obtained (or is deemed to have been obtained) to your participation. In consideration of us and the Companies agreeing to make available to you certain information, by your signature of a copy of this letter you agree with us and each of the Companies as follows:

(a) *Confidentiality Undertaking*

You undertake:

- (i) to keep the Confidential Information confidential and not to disclose it to anyone except as provided for by paragraph (b) below and to ensure that the Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information;
- (ii) to keep confidential and not disclose to anyone the fact that the Confidential Information has been made available or that discussions or negotiations are taking place or have taken place between us in connection with the Facility;
- (iii) to use the Confidential Information only for the Permitted Purpose;
- (iv) to use all reasonable endeavours to ensure that any person to whom you pass any Confidential Information (unless disclosed under paragraph (b)(ii) below) acknowledges and complies with the provisions of this letter as if that person were also a party to it; and
- (v) not to make enquiries of any member of the Group or any related entity or any of their officers, directors, employees or professional advisers relating directly or indirectly to the Facility, save for such officers, directors, employees or professional advisers as may be nominated by the Companies for this purpose.

(b) *Permitted Disclosure*

We agree that you may disclose Confidential Information:

- (i) to members of the Participant Group and their officers, directors, employees and professional advisers, on a confidential basis, to the extent necessary for the Permitted Purpose and to any auditors of members of the Participant Group;
- (ii) (A) where requested or required by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body, (B) where required by the rules of any stock exchange on which the shares or other securities of any member of the Participant Group are listed or (C) where required by the laws or regulations of any country with jurisdiction over the affairs of any member of the Participant Group; or
- (iii) with the prior written consent of us and the Companies.[,

provided that until the Unconditional Date, in relation to sub-paragraph (i) above, you may only make a disclosure to a member of the Participant Group if (A) such disclosure is to a team, division or department (a **Business Unit**) of that member other than any Business Unit of that member which, for the purposes of the City Code on Takeovers and Mergers, would be treated as being interested in securities of Target plc (an **Interested Business Unit**) and (B) any Business Unit to whom Confidential Information is disclosed is separated and remains separated from any Interested Business Unit by appropriate information barriers.]¹⁴

(c) *Notification of Required or Unauthorised Disclosure*

You agree (to the extent permitted by law and except for any disclosure made under paragraph b(ii) to any competent supervisory or regulatory body during the ordinary course of its supervisory or regulatory function) to inform us and the Companies prior to any disclosure under paragraph (b)(ii) (including full details of the circumstances of that disclosure) or upon becoming aware that Confidential Information has been disclosed in breach of this letter.

(d) *Return of Copies*

If we or the Companies so request in writing, you shall return all Confidential Information supplied to you by us and destroy or permanently erase all copies of Confidential Information made by you and use all reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy (provided that the provisions of paragraph (a) of this letter shall continue to apply to such retained Confidential Information), or where the Confidential Information has been disclosed under paragraph (b)(ii) above.

(e) *Continuing Obligations*

The obligations in this letter are continuing and, in particular, shall survive the termination of any discussions or negotiations between you and us but (except for the proviso to paragraph (b)(i) above, which shall terminate on the Unconditional Date) shall terminate on the execution of the Agreement (and be replaced by the confidentiality provisions contained in the Agreement). Except as set out in the previous sentence, the obligations in this letter shall cease 12 months after you have returned all Confidential Information supplied to you by us or any member of the Group and destroyed or permanently erased (to the extent technically practicable) all copies of Confidential Information made by you (other than any such Confidential Information or copies which have been disclosed

14 Not to be included for any Confidentiality Undertaking entered into after the Unconditional Date.

under paragraph (b) above (other than subparagraph (b)(i)) or which, pursuant to paragraph (d) above, are not required to be returned or destroyed).

(f) *No Representation; Consequences of Breach, etc*

You acknowledge and agree that:

- (i) neither we nor any of our officers, employees or advisers (each a **Relevant Person**) (A) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or any member of the Group or the assumptions on which it is based or (B) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or any member of the Group or be otherwise liable to you or any other person in respect to the Confidential Information or any such information; and
- (ii) we or members of the Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person or member of the Group may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

(g) *No Waiver; Amendments, etc*

This letter sets out the full extent of your obligations of confidentiality owed to us in relation to the information the subject of this letter but shall not affect any other duty of confidentiality owed by you to any member of the Group. No failure or delay in exercising any right, power or privilege under this letter will operate as a waiver thereof nor will any single or partial exercise of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privileges under this letter. The terms of this letter and your obligations under this letter may only be amended or modified by written agreement with us and the Companies.

(h) *Inside Information*

You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation relating to insider dealing and you undertake not to use any Confidential Information for any unlawful purpose.

(i) *Nature of Undertakings*

The undertakings given by you under this letter are given to us and (without implying any fiduciary obligations on our part) are also given for the benefit of the Companies and each other member of the Group.

(j) *Third party rights*

- (i) A person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy a benefit of any term of this letter.
- (ii) This letter may not be rescinded or varied without the consent of all the parties to this letter.

(k) *Governing Law and Jurisdiction*

This letter (including the agreement constituted by your acknowledgement of its terms) shall be governed by and construed in accordance with the laws of England and the parties submit to the non-exclusive jurisdiction of the English courts.

(l) *Definitions*

In this letter (including the acknowledgement set out below):

Acquisition means the acquisition of all or part of the Target Shares;

Confidential Information means any information relating to the Companies, the Group, the Acquisition and the Facility including, without limitation, the Information Memorandum, provided to you by us, any of our affiliates or advisers, the Companies or any other member of the Group in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that (a) is or becomes public knowledge other than as a direct or indirect result of any breach of this letter or (b) is known by you before the date the information is disclosed to you by us, any of our affiliates or advisers, the Companies or any other member of the Group or is lawfully obtained by you after that date, other than from a source which is connected with the Group and which, in either case, as far as you are aware, has not been obtained in violation of, and is not otherwise subject to, any obligation of confidentiality;

Group means each of the Companies and their respective Subsidiaries;

Information Memorandum means the document prepared in relation to the Acquisition and the Facilities as updated and/or supplemented from time to time.

Participant Group means you, each of your holding companies and subsidiaries and each subsidiary of each of your holding companies;

Permitted Purpose means considering and evaluating whether to enter into the Facility;

Subsidiary means:

- (a) a subsidiary within the meaning of section 736 of the Companies Act 1985;
- (b) a subsidiary within the meaning of section 9 of the Corporations Act 2001 (Cth);
- (c) any other entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership; or
- (d) for the purpose of determining whether a person is a Subsidiary of a Company or a Target (as the case may be):
 - (i) any other entity of which PLC and Limited together have direct or indirect control or together own directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership;
 - (ii) any other entity of which Target plc and Target Limited together have direct or indirect control or together own directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership; or

- (iii) any other entity which is treated in the audited consolidated financial statements of the Group or the Target Group as being a subsidiary of PLC and/or Limited or Target plc and/or Target Limited (as the case may be); and

Target Shares means the ordinary shares in the share capital of each of Rio Tinto plc and Rio Tinto Ltd other than any such shares which are held by a member of the Target Group at that time.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

For and on behalf of

[Existing Lender]

To: [Existing Lender]
The Companies and each other member of the Group

We acknowledge and agree to the above:

For and on behalf of
[Potential Lender]

SIGNATORIES

The Facility Agent

BARCLAYS BANK PLC

By: JUANA HUWAIDI

The Original Borrowers

BHP BILLITON FINANCE B.V.

By: WILLIE MURRAY

BHP BILLITON FINANCE LIMITED

By: WILLIE MURRAY

By: BARRY VAN JAARSVELD

BHP BILLITON LIMITED

By: WILLIE MURRAY

By: BARRY VAN JAARSVELD

BHP BILLITON PLC

By: WILLIE MURRAY

By: BARRY VAN JAARSVELD

The Original Guarantors

BHP BILLITON LIMITED

By: WILLIE MURRAY

By: BARRY VAN JAARSVELD

BHP BILLITON PLC

By: WILLIE MURRAY

By: BARRY VAN JAARSVELD



PRIVATE & CONFIDENTIAL

To: The Directors
BHP Billiton plc and BHP Billiton Limited (the **Companies**)
The Directors
BHP Billiton Finance B.V. (as Obligors' Agent)

5th February, 2008

Dear Sirs,

BHP Billiton plc and BHP Billiton Limited - US\$55,000,000,000 credit agreement dated on or about the date of this letter (the *Credit Agreement*)

We refer to the Credit Agreement. Capitalised terms in the Credit Agreement have the same meaning when used in this letter.

This letter supplements the Credit Agreement. The Obligors' Agent enters into this letter on its own behalf and on behalf of each other Obligor (other than the Companies). Please countersign the enclosed copy of this letter to indicate your agreement to its terms.

For the purposes of the Finance Documents, you and we agree that the following shall constitute an additional Event of Default (the **Additional Event of Default**) as if it were set out as such in Clause 31 (Events of Default) of the Credit Agreement:

"Any event or series of events occurs which has or is reasonably likely to have a Material Adverse Effect."

The Additional Event of Default shall cease to have any further force or effect on the date on which a Successful Syndication (as defined in the Commitment Letter) of the Facilities has been achieved.

You agree that we are entitled to disclose a copy of this letter to the Financial Adviser.

This letter is a Finance Document and is governed by English law.

Yours faithfully

for and on behalf of
Banco Santander, S.A. as Bookrunner

for and on behalf of
Barclays Capital (the investment banking division of Barclays Bank PLC) as Bookrunner

We acknowledge and agree to the terms of this letter.



for and on behalf of
BHP Billiton plc



for and on behalf of
BHP Billiton Limited



for and on behalf of
BHP Billiton Finance BV

Date: 5 February 2008

BHP Billiton Limited Group Incentive Scheme

(approved by shareholders at the AGM on 04.11.02, as amended and approved by shareholders at the AGM on 22.10.04)

Group Incentive Scheme

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Group Incentive Scheme

BHP Billiton Limited Group Incentive Scheme

1. Purpose

- (a) The Scheme is an integral part of the Company's overall approach to competitive performance-based remuneration. The Scheme aims to reward an employee for meeting or exceeding his or her goals and aligning his or her activities to the Company's charter values.
- (b) The Scheme is designed to develop a clear line of sight between individual goals, business objectives and reward. It is intended to bind members of the senior management team at BHP Billiton through a global performance reward arrangement which ensures his or her focus on the achievement of the global business strategy of BHP Billiton, while providing equity in employee reward throughout the global business.
- (c) The Scheme has 2 components – a short term incentive and a long term incentive. Both components of the reward are directly linked to individual performance as assessed against the business and an individual's personal goals.

2. Definitions and interpretation

2.1 Definitions

In this Scheme the following terms have the following meanings:

Allocate means granting an option or other right to acquire unissued Shares, or if there is no such grant, the issue and allotment of Shares.

ASX means Australian Stock Exchange Limited (ABN 98 008 624 691).

Award means the issue or transfer to a Participant of the Shares the subject of the Deferred Shares on the terms set out in the Scheme.

BHPB Securities Dealing Code means the Company's Securities Dealing Code, as amended from time to time.

Board means the board of directors of the Company from time to time.

Bonus Amount means the bonus receivable by an Eligible Employee under the Scheme in respect of a Performance Year as determined by RemCo in accordance with section 3 of the Scheme and the processes established by RemCo from time to time.

Business Day means any day on which the ASX is open for trading.

Cash Payment means the payment of the Participant's STI Amount.

Close Period has the meaning set out in the BHPB Securities Dealing Code.

Company means BHP Billiton Limited (ABN 49 004 028 077) whose registered office is at 180 Lonsdale Street, Melbourne, Victoria, Australia.

Group Incentive Scheme

Confirmation means the confirmation issued by RemCo to each Participant in accordance with clause 3.4 and confirming the Participant's STI Amount and LTI Amount for a Performance Year.

Constitution means the constitution of the Company.

Control Event means:

- (a) either:
 - (i) a change of control of the Company within the meaning of section 50AA of the Corporations Act; or
 - (ii) transactions have occurred or will occur which have resulted in or will or are highly likely to result in:
 - (A) changes in the identity of more than one half of the existing Board members; or
 - (B) the appointment of new Board members such that more than one half of the Board is newly appointed; or
 - (C) persons who were entitled to cast more than one half of the votes that could be cast at a Board meeting prior to the changes occurring not being entitled to cast more than one half of the votes after the changes have occurred,

which the Board determines in its discretion, acting reasonably (and after obtaining written advice from a leading commercial Queens Counsel or other equivalent Senior Counsel), to constitute or be equivalent to a change of control for the purposes of the Scheme;

- (b) when a Court sanctions a compromise or arrangement for the purposes of or in connection with a scheme for the amalgamation of the Company with any other company or companies other than Plc under Part 5.1 of the Corporations Act; or
- (c) when the Company passes a resolution for voluntary winding up or if an order is made for the compulsory winding up of the Company.

Controllable Event means resignation by a Participant from a Group Company.

Corporations Act means the Corporations Act 2001 (Cth).

Deferred Share means an option or a conditional right granted under clause 7 to acquire a Share on the terms set out in the Scheme.

Dismissal means termination of a Participant's employment with a Group Company for cause, including unlawful or serious misconduct, as determined by RemCo in its absolute discretion.

Dividend Equivalent Payment means the payment of an amount equivalent to the amount of dividends that would have been payable to a Participant on and from the start of the Performance Year as if a Share had been issued or transferred to the Participant on that date instead of the Deferred Share or Option being granted in accordance with this plan, and accruing until the date on which the Deferred Share or Option is exercised by or Awarded to the Participant in accordance with this plan.

Group Incentive Scheme

Eligible Employee means an Employee nominated by OCE or RemCo and whom RemCo determines in its absolute discretion is to participate in the Scheme and who has not given or been given notice of termination of employment.

Employee means any person who is in full-time or part-time employment of a Group Company.

Event means the occurrence of one of the circumstances described in clauses 12 to 16.

Grant Period means the period referred to in clause 10.2.

Gross Salary means an Eligible Employee's gross annual base salary based on the lower of the salary as at 30 March and at 30 June in the Performance Year either, as determined by RemCo in its discretion, in the currency of the jurisdiction in which the Employee is located at the time of receipt of an Invitation or the US dollars equivalent, as calculated under the global net pay formula in operation at that time.

Group means the Company and its Subsidiaries from time to time and a **Group Company** means any one of them.

Holding Lock means a mechanism to prevent dealings with Shares issued or transferred to a Participant under the Scheme for the purposes of meeting any Minimum Shareholding Requirement.

Holding Lock Period means the period from the date on which a Holding Lock is placed on Shares until the earlier of:

- (a) the date the Shares are no longer required to be subject to a Holding Lock to meet the Minimum Shareholding Requirement;
- (b) the date on which a Participant ceases to be employed by a Group Company or a Plc Group Company; or
- (c) the date RemCo approves a request to release the Holding Lock made by a Participant under clause 9.5.

Invitation means an invitation to participate in the Scheme in respect of a Performance Year in accordance with clause 3.1.

Joint Electorate Action has the meaning given in the Sharing Agreement.

Law means the laws of Australia and any applicable legislation of the jurisdiction in which an Eligible Employee is located at the time of receipt of an Invitation.

Listing Rules means the listing rules of the ASX as amended from time to time.

LTI means the long term incentive in accordance with sections 6 to 10 of the Scheme.

LTI Amount means the amount of LTI for a Performance Year as specified in a Participant's Confirmation.

LTI Proportion means the percentage of the LTI Amount which a Participant may elect to receive in the form of Deferred Shares or Options in accordance with clause 6, which will be specified in the Confirmation and which will total 100% of the LTI Amount.

Group Incentive Scheme

Market Value means the market value of a Share on the relevant date as determined by RemCo in its discretion, but will not be less than the volume weighted average price of Shares over the 5 Business Days immediately prior to the relevant date.

Minimum Shareholding Requirement means the minimum value of Shares which a Participant must hold as determined by RemCo from time to time.

Non-Participation Form means a form by which an Eligible Employee can elect not to accept an Invitation in such form as RemCo may approve from time to time.

OCE means the Office of the Chief Executive.

Option means a right granted under clause 8 to acquire a Share on payment of the exercise price and otherwise on the terms set out in the Scheme.

Option Value means the value of an Option as at the date of grant as determined by RemCo based on a Black-Scholes valuation (or such other valuation method approved by RemCo which is not more beneficial to participants and which will be disclosed in the Annual Report) and taking into account the potential for Dividend Equivalent Payments, which value shall be confirmed by an independent actuary (approved by RemCo).

Participant means an Eligible Employee who is deemed to have accepted an Invitation and to whom an award is made under the Scheme.

Performance Year means the financial year in respect of which an award for that year is granted.

PDMR has the meaning set out in the BHPB Securities Dealing Code.

Plc means BHP Billiton Plc, a company incorporated in England and Wales with registered number 3196209, whose registered office is at Neathouse Place, London SW1V 1BH, England.

Plc Group means Plc and its subsidiaries from time to time as determined in accordance with English law and **Plc Group Company** means any one of them.

Plc Scheme means the Group Incentive Scheme of Plc.

Prohibited Period means a prohibited period as specified in the BHPB Securities Dealing Code, during which trading in the Company's securities is restricted.

Relevant Interest means where a Participant:

- (a) is the holder of securities;
- (b) has the power to exercise, or control the exercise of, a right to vote attached to securities;
- (c) has the power to dispose of, or control the disposal of, securities; or
- (d) is the holder of vested (but unexercised) Deferred Shares where RemCo has set the amount payable upon exercise or Award of the Deferred Shares at zero or a nominal amount.

RemCo means the Remuneration Committee of the Board as constituted from time to time.

Restricted Persons has the meaning set out in the BHPB Securities Dealing Code.

Group Incentive Scheme

Retirement means the cessation of employment of a Participant with a Group Company where the Participant has notified the company of his or her intention to permanently leave the workforce and where it is reasonable for the Remuneration Committee to conclude in its absolute discretion that the Participant is genuinely and permanently leaving the workforce.

Scheme means the Group Incentive Scheme of the Company.

Security Interest means a mortgage, charge, pledge, lien or other encumbrance of any nature.

Shares means fully paid ordinary shares in the capital of the Company.

Sharing Agreement means the DLC Structure Sharing Agreement between the Company and Plc dated 29 June 2001.

STI means the short term incentive in accordance with clauses 4 and 5 of the Scheme.

STI Amount means the amount of STI for a Performance Year as specified in a Participant's Confirmation.

Subsidiary means a body corporate which is a subsidiary of the Company within the meaning of section 9 of the Corporations Act.

Tax includes any tax, levy, impost, deduction, charge, rate, contribution, duty or withholding which is assessed (or deemed to be assessed), levied, imposed or made by any government or any governmental, semi-governmental or judicial entity or authority together with any interest, penalty, fine, charge, fee or other amount assessed (or deemed to be assessed), levied, imposed or made on or in respect of any or all of the foregoing.

Target Bonus Amount has the meaning given in clause 3.1.

Termination by Mutual Agreement means termination of a Participant's employment with a Group Company that occurs as a result of a mutual agreement between the Participant and the Group Company.

Trustee means the trustee or trustees for the time being of any employee share ownership scheme or plan trust established by the Company, the beneficiaries of which include the Participants.

Uncontrollable Event means death, serious injury, disability or illness which prohibits continued employment, forced early retirement, retrenchment or redundancy, or such other circumstances which results in a Participant leaving the employment of a Group Company and which RemCo determines is an Uncontrollable Event (but excluding a Controllable Event or where the business or company for which the Participant works is sold outside the Group).

2.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.

Group Incentive Scheme

- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person includes a body corporate, an unincorporated body or other entity and conversely.
- (e) A reference to a clause is to a clause of the Scheme.
- (f) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by the Scheme.
- (g) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.
- (h) A reference to **conduct** includes any omission and any statement or undertaking, whether or not in writing.
- (i) A reference to **writing** includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.
- (j) Mentioning anything after **include, includes** or **including** does not limit what else might be included.

3. Invitation to participate

3.1 Invitations

- (a) RemCo may from time to time in its absolute discretion issue or cause to be issued Invitations on behalf of the Company to Eligible Employees. That Invitation will be in such form as RemCo determines from time to time and will include the following information:
 - (i) the date of the Invitation;
 - (ii) the name of the Eligible Employee to whom the Invitation is made;
 - (iii) the percentage of the Eligible Employee's Gross Salary which is capable of being received as a bonus if target performance criteria are met (**Target Bonus Amount**), which percentage will be capped at a maximum of 140% (with the actual percentage for each Eligible Employee determined by RemCo or its delegate);
 - (iv) the scorecard for the Eligible Employee, establishing threshold, target and stretch performance criteria and the percentage applicable to achievement of the relevant criteria (**Achievement Percentage**), which percentage will range between 0% and a maximum of 200% for each key performance indicator, with 0% for failing to meet threshold criteria, 100% for meeting target criteria and 200% for meeting or exceeding all stretch criteria, provided that for the purpose of the calculation in (v) below, the maximum overall Achievement Percentage that an individual can receive is capped at 150%;

Group Incentive Scheme

- (v) the maximum total bonus amount which can be achieved by the Eligible Employee (determined by multiplying the Target Bonus Amount by the maximum Achievement Percentage (**Potential Bonus Amount**));
 - (vi) that 50% of the actual bonus amount will constitute the STI Amount and that 50% of the actual bonus amount will constitute the LTI Amount;
 - (vii) any Minimum Shareholding Requirement applicable to the Eligible Employee; and
 - (viii) the time period in which an Eligible Employee may elect not to accept the Invitation by returning a duly completed Non-Participation Form.
- (b) Invitations may be made by RemCo on a differential basis to Eligible Employees, different classes of Eligible Employees or to Eligible Employees within the same class, as the case may be.
 - (c) Notwithstanding the issue of an Invitation by RemCo as provided for in 3.1(a), if circumstances arise which RemCo determines in its absolute discretion require changes to the items specified in clauses 3.1(a)(iii) to (viii) (but not to levels higher than the maximum amounts specified above) for the current Performance Year, RemCo may make those changes and provide appropriate notification to the relevant employee.

3.2 Deemed Acceptance

- (a) An Eligible Employee who receives an Invitation will be deemed to have accepted the Invitation to participate in the Scheme unless the Eligible Employee returns a duly completed Non-Participation Form within the time period and as otherwise specified in the Invitation.
- (b) For the avoidance of doubt, RemCo in its sole discretion can refuse to allow an Eligible Employee to participate in the Scheme even though the Eligible Employee is deemed to have accepted the Invitation in accordance with paragraph (a).
- (c) A Participant who is deemed to have accepted an Invitation in accordance with clause 3.2(a) and who has received a revised Invitation in accordance with clause 3.1(c) will be deemed to have accepted the revised Invitation from the date the notification of that revised Invitation is received.

3.3 Participants

Provided no duly completed Non-Participation Form is received within the time period and as otherwise specified in the Invitation and subject to clause 3.2(b), and provided further that the Eligible Employee is then still in the full-time or part-time employment of a Group Company, the Eligible Employee will be entitled to participate in the Scheme according to its terms.

3.4 Confirmation

Following the announcement of the annual results for the Performance Year, a Confirmation will be issued to each Participant. The Confirmation will be in such form as RemCo determines from time to time and will include the following information:

Group Incentive Scheme

- (a) the date of the Confirmation;
- (b) the name of the Participant;
- (c) subject to clauses 3.1(c), 4 and 19, the determination of the Participant's Bonus Amount for that year (determined by multiplying the Participant's Target Bonus Amount by their actual Achievement Percentage for the Performance Year);
- (d) the Participant's STI Amount and LTI Amount for the Performance Year;
- (e) the choices available to the Participant in relation to the LTI Amount, being whether the Participant wishes to receive Deferred Shares and/or Options and specification of the LTI Proportion choices (if any) which are available to the Participant;
- (f) the dates on which Deferred Shares (if any) will become exercisable or be Awarded, the dates on which Options (if any) will become exercisable and (if applicable) the exercise period for those Deferred Shares and Options; and
- (g) the date by which (and the manner in which) the Participant must inform RemCo of their choices in relation to the LTI for the relevant Performance Year.

SHORT TERM INCENTIVE

4. RemCo Discretion

RemCo may in its absolute discretion (acting in accordance with clause 18(f)) determine that notwithstanding the determination of a Participant's STI Amount in accordance with the Participant's scorecard, no STI Amount shall be granted or paid to any Participant for a Performance Year.

5. STI Amount

- (a) A Participant will receive their STI Amount in the form of a Cash Payment.
 - (b) The Cash Payment will be paid (less any tax, social security contributions or other levies) to a Participant as soon as reasonably practicable following the Confirmation issued for the Performance Year (which shall not be prior to the announcement of the annual results).
 - (c) The Cash Payment will be payable by any Group Company.
 - (d) The Cash Payment will be paid to the Participant as directed by the Participant.
 - (e) The Cash Payment will be paid in the local currency of the jurisdiction in which the Participant is located.
-

Group Incentive Scheme

LONG TERM INCENTIVE

6. Election

- (a) A Participant must elect to receive the LTI in the form of Deferred Shares or Options or a combination of the two by specifying the relevant percentage following receipt by the Participant of the Confirmation.
- (b) If no election is made by the date specified in the Confirmation, the Participant will be deemed to have elected an LTI Proportion of 100% in the form of Deferred Shares.
- (c) A Participant will not pay anything for the grant of Deferred Shares or Options.
- (d) The percentage choices which a Participant may elect to receive in the form of Deferred Shares or Options will be set by RemCo.

LONG AND SHORT TERM INCENTIVE

7. Deferred Shares

7.1 Grant of Deferred Shares

The Company will grant to each Participant in satisfaction of all or part of their LTI Proportion of their LTI Amount, the number of Deferred Shares determined in accordance with clause 7.2.

A Participant will not pay anything for the grant of the Deferred Shares. Deferred Shares will be granted on a date determined by RemCo which will be during the Grant Period.

7.2 Number of Deferred Shares

The number of Deferred Shares to be granted to a Participant will be calculated by multiplying the amount of the Participant's LTI Amount by the LTI Proportion that the Participant has elected (or is deemed to have elected) to receive in the form of Deferred Shares, and dividing that amount by the Market Value on the date on which the Deferred Shares are granted.

7.3 Exercise or Award of Deferred Shares

- (a) Subject to clause 7.3(c) and clauses 11 to 16, Deferred Shares which are granted as options may only be exercised during a period determined by RemCo, which will start on or as soon as practicable after:
 - (i) in the case of a Participant who is a director or PDMR of the Company, the first non-Prohibited Period date which occurs 2 years after the end of the Performance Year in respect of which the Deferred Shares are granted; and

Group Incentive Scheme

- (ii) in the case of other Participants, the first non-Close Period date which occurs 2 years after the end of the Performance Year in respect of which the Deferred Shares are grantedand, in each case, ending 3 years after the start of the exercise period.
- (b) Subject to clause 7.3(c) and clauses 11 to 16, Deferred Shares which are granted as conditional rights may only be Awarded on a date determined by RemCo, which will be on or as soon as practicable after:
 - (i) in the case of a Participant who is a director or PDMR of the Company, the first non-Prohibited Period date which occurs 2 years after the end of the Performance Year in respect of which the Deferred Shares are granted; and;
 - (ii) in the case of other Participants the first non-Close Period date which occurs 2 years after the end of the Performance Year in respect of which the Deferred Shares are granted.
- (c) Subject to the operation of section 409A of the US Internal Revenue Code, RemCo may (if it considers appropriate) determine that the exercise period of Deferred Shares which are granted as Options to Restricted Persons who are not directors or PDMRs of the Company starts, or that Deferred Shares which are granted as conditional rights to Restricted Persons who are not directors or PDMRs of the Company are Awarded on or as soon as practicable after the first non-Prohibited Period date which occurs 2 years after the end of the Performance Year in respect of which the Deferred Shares are granted.

7.4 Exercise or Award Price

RemCo will set the amount which will be payable by a Participant upon exercise or Award of a Deferred Share, which could be zero, a nominal amount or some higher amount.

8. Options

8.1 Grant

The Company will grant to each Participant in satisfaction of all or part of their LTI Proportion of their LTI Amount, the number of Options determined in accordance with clause 8.2.

A Participant will not pay anything for the grant of the Options. Options will be granted on a date determined by RemCo which will be during the Grant Period.

8.2 Number of Options

The number of Options to be granted to a Participant will be calculated by multiplying the Participant's LTI Amount by the LTI Proportion that the Participant has elected to receive in the form of Options and dividing that amount by the Option Value.

If the Black Scholes option valuation model is used, RemCo will use the Market Value of a Share on or about the date of grant and an exercise price and term for the options established in accordance with the Scheme. In addition,

Group Incentive Scheme

RemCo will determine the risk free rate by considering the 3 year bank bill rate on or about the date of grant, the dividend yield by considering the prior year's ordinary dividend yield and the volatility by considering either or both of the average volatility of the Company's shares over the medium term or the implied volatility from publicly traded options over the Company's shares.

8.3 Exercise of Options

- (a) Subject to clause 8.3(b) and clauses 11 to 16, Options may only be exercised during a period determined by RemCo, which will start on or as soon as practicable after:
 - (i) in the case of a Participant who is a director or PDMR of the Company, the first non-Prohibited Period date which occurs 2 years after the end of the Performance Year in respect of which the Options are granted; and
 - (ii) in the case of other Participants, the first non-Close Period date which occurs 2 years after the end of the Performance Year in respect of which the Options are granted,and, in each case, ending 3 years after the start of the exercise period.
- (b) Subject to the operation of section 409A of the US Internal Revenue Code, RemCo may (if it considers appropriate) determine that the exercise period of Options awarded to Restricted Persons who are not directors or PDMRs of the Company will start on or as soon as practicable after the first non-Prohibited Period date which occurs 2 years after the end of the Performance Year in respect of which the Options are granted.

8.4 Exercise Price

The exercise price of an Option will be the Market Value on the date an Option is granted.

9. Minimum Shareholding Requirement

9.1 Setting requirement

RemCo may in its discretion determine that a Minimum Shareholding Requirement will apply to Participants and may determine the procedure and times for calculating such Minimum Shareholding Requirement.

9.2 Application of Holding Lock

If upon the exercise or Award of Deferred Shares or upon the exercise of Options a Participant fails to meet the Minimum Shareholding Requirement, a Holding Lock will be applied by the Company to such number of Shares to be issued or transferred to a Participant under the Scheme as is necessary to meet that Minimum Shareholding Requirement, subject to a maximum limit of 25% of the number of Shares to be issued or transferred to the Participant in any one year. Each Participant agrees that any such Shares will be subject to a Holding Lock for the duration of the Holding Lock Period.

Group Incentive Scheme

9.3 Shares already held

For the purposes of determining whether a Participant meets the Minimum Shareholding Requirement, RemCo may take into account any Shares or shares in Plc in which the Participant shows to the satisfaction of RemCo he or she has a Relevant Interest.

9.4 Enforcement by RemCo

RemCo will be entitled to prescribe, take and enforce such action, steps or arrangements as it considers necessary, desirable or appropriate to enforce or give further effect to the provisions of clause 9.2 so as to ensure the Minimum Shareholding Requirement is satisfied.

9.5 Release Request

RemCo may in its discretion release the Holding Lock applied to all or some of a Participant's Shares following a written request to do so made by a Participant on the grounds of hardship (other than exposure by the Participant to share price fluctuations) suffered or being suffered by that Participant.

10. Other provisions

10.1 New issues

A Deferred Share or Option does not confer on a Participant the right to participate in new issues of Shares by the Company, including by way of bonus issue, rights issue or otherwise until the relevant Shares are either issued or transferred to that Participant.

10.2 Grant Period

All grants of Deferred Shares and Options shall be made during the Grant Period which will be either:

- (a) within the 42 days starting on any of the following:
 - (i) the day after the announcement of the Company's results to the ASX for any period;
 - (ii) any day on which changes to the Law affecting such Deferred Shares or Options are announced, effected or made; or
 - (iii) if RemCo cannot make any grant due to restrictions imposed by statute, order, regulation, government directions or the BHPB Securities Dealing Code, within 42 days of the lifting of such restrictions; or
- (b) as soon as practicable after the annual general meeting for the Company and Plc is held.

10.3 Securities Dealing Code

All grants of Deferred Shares and Options, any exercise of Options and all Shares to be issued or transferred upon exercise or Award pursuant to the Scheme must be in accordance with and will be subject to the BHPB Securities Dealing Code as amended or replaced from time to time.

Group Incentive Scheme

10.4 Security Interest

Subject to clause 10.8, Participants will not grant any Security Interest in or over or otherwise dispose of or deal with any Deferred Shares or Options or any interest in them until the relevant Shares are either issued or transferred to that Participant, and any such Security Interest or disposal or dealing will not be recognised in any manner by the Company.

10.5 Rounding

Where the number of Deferred Shares or Options to be granted is not a whole number, the number will be rounded down to the next whole number.

10.6 Exercise procedure

The manner in which Deferred Shares and Options may be exercised will be determined by RemCo from time to time.

10.7 Lapse

All Deferred Shares and Options which have not been exercised at the expiry of the relevant exercise period will lapse. If more than one such period applies, then the provision which results in the earliest lapse will prevail.

10.8 Not transferable

- (a) Except on the death of a Participant, Deferred Shares and Options may not be transferred, assigned or novated except with the approval of RemCo.
- (b) RemCo may in its discretion determine that where a Participant requests in writing, a Deferred Share or Option which is exercisable may be transferred to his or her spouse or children or step-children under the age of 18 years or to any trust for the benefit of those people, provided that the Deferred Share or Option is exercised within 20 Business Days of the transfer. Where the Deferred Share or Option is not exercised within 20 Business Days of the transfer, the Deferred Share or Option will lapse.

10.9 Dividend Equivalent Payment

- (a) RemCo will authorise a Dividend Equivalent Payment in respect of a Share that is transferred or issued following the exercise or Award of a Deferred Share or the exercise of an Option.
- (b) The Dividend Equivalent Payment will be paid (less any tax, social security contributions or other levies) to a Participant as soon as reasonably practicable following the issue or transfer of a Share.
- (c) The Dividend Equivalent Payment will not be grossed up or otherwise adjusted to account for any Tax consequences which would have applied if the payment was actually the payment of a dividend.

Group Incentive Scheme

- (d) The Dividend Equivalent Payment will be payable by any Group Company.
- (e) The Dividend Equivalent Payment will be paid to the Participant as directed by the Participant.
- (f) The Dividend Equivalent Payment will be paid in the local currency of the jurisdiction in which the Participant is located.

EVENTS

11. Events

The provisions of clauses 12 to 16 apply on the occurrence of the relevant Event. Where there is any doubt as to whether a set of circumstances constitutes a particular Event or those circumstances may constitute one or more different Events, the relevant provision to be applied to those circumstances will be determined by RemCo in its absolute discretion.

12. Leaver Provisions

12.1 Uncontrollable Event, Termination by Mutual Agreement or Retirement

Where a Participant leaves the employment of a Group Company because of an Uncontrollable Event, Termination by Mutual Agreement or Retirement, then:

- (a) the Participant's Deferred Shares will become immediately exercisable or will be immediately Awarded and, where relevant, may be exercised by his or her personal representatives; and
- (b) the Participant's Options will become immediately exercisable and, where relevant, may be exercised by his or her personal representatives.

Subject to clauses 11 to 16, any Deferred Shares or Options which become exercisable at the time of the Uncontrollable Event, Termination by Mutual Agreement or Retirement under clause 12.1(a) and (b), may be exercised from the first non-Prohibited Period date following the relevant event until 3 years after that date.

12.2 Controllable Event

Where a Participant leaves the employment of a Group Company because of a Controllable Event, then:

- (a) the Participant's Deferred Shares which are not then exercisable or Awarded will lapse; and
- (b) the Participant's Options which are not then exercisable will lapse.

Subject to clauses 11 to 16, any Deferred Shares or Options which were exercisable at the time of the Controllable Event will remain exercisable for the remainder of the exercise period applying to those Deferred Shares or Options.

Group Incentive Scheme

12.3 Dismissal

Where a Participant leaves the employment of a Group Company because of Dismissal, then:

- (a) the Participant's Deferred Shares which are not then exercisable or Awarded will lapse;
- (b) the Participant's Options which are not then exercisable will lapse; and
- (c) the Participant's Deferred Shares or Options which were exercisable at the time of Dismissal will lapse.

12.4 Current Performance Year

- (a) Where a Participant leaves the employment of a Group Company during a Performance Year because of an Uncontrollable Event, Termination by Mutual Agreement or Retirement, the Participant shall not be entitled to any STI Amount for the Performance Year unless RemCo determines in its absolute discretion to pay a pro-rata amount of the STI Amount in respect of the current Performance Year based on the length of employment and performance of the Eligible Employee up to that date.
- (b) Where a Participant leaves the employment of a Group Company during a Performance Year because of a Controllable Event or Dismissal, no STI Amount (and no pro-rata amount) will be paid in respect of the current Performance Year.
- (c) Where a Participant leaves the employment of a Group Company during a Performance Year for any reason, no LTI Amount will be granted in respect of the current Performance Year.

12.5 Leaving before grant

Where an Eligible Employee leaves the employment of a Group Company for any reason after the end of a Performance Year but before the date of grant or payment of any LTI or STI in respect of that Performance Year, no LTI Amount or STI Amount will be granted or paid in respect of that Performance Year, but RemCo may determine in its discretion to pay an amount in respect of the Eligible Employee's performance for that year.

12.6 Other Leavers

Other than as specified in clauses 12.1 to 12.5, if a Participant leaves the employment of a Group Company for any reason, including where the business or company for which the Participant works is sold outside the Group, then RemCo in its discretion will determine the rights of a Participant to the exercise or Award of Deferred Shares or the exercise of Options (or the lapse of such Deferred Shares or Options, as the case may be). In those circumstances, no LTI Amount will be awarded for the current Performance Year but RemCo may determine in its discretion to pay an STI Amount in respect of the current Performance Year.

Group Incentive Scheme

12.7 Global Mobility

- (a) Where a Participant transfers employment to Plc or a subsidiary of Plc or any other company in which either the Company or Plc or both have an interest and which RemCo designates for this purpose (**Connected Company**), the Participant will:
 - (i) not be treated for the purposes of the Scheme as leaving the employment of a Group Company until he or she is no longer employed by a Group Company, Plc, a subsidiary of Plc or the Connected Company;
 - (ii) maintain any unexercised Deferred Shares or Options granted under the Scheme and remain eligible to receive an award in respect of the current Performance Year in accordance with the Scheme; and
 - (iii) at the discretion of RemCo (including consideration by RemCo of the transfer date) and on terms approved by RemCo, have his or her Bonus Amount for the current Performance Year calculated by reference to the Group and the Plc Group on a combined basis.
- (b) After the transfer of a Participant to Plc or a subsidiary of Plc, the Participant will only be eligible to be invited to participate in the Plc Scheme in respect of any year after the Performance Year in which he or she transfers.

13. Joining Provisions

Where an employee joins a Group Company after the commencement of a Performance Year and RemCo selects that employee to participate in the Scheme, the terms of the Eligible Employee's participation will be determined by RemCo, based in part on consideration of the length of time remaining in the Performance Year. The Eligible Employee will then be issued an Invitation in accordance with clause 3.1, with any required modifications. The Eligible Employee will not be entitled to any STI or LTI for any Performance Years before the Performance Year in which the employee joined the Group Company.

14. Temporary or Unpaid Leave

Subject to applicable laws:

- (a) if a Participant goes on temporary leave due to serious injury, disability or illness or for parental leave, long service leave or unpaid leave which is not dealt with in clause 14(b), RemCo may, in its absolute discretion, reduce the Participant's Bonus Amount for the Performance Years in which the leave falls on a pro-rata basis to reflect the period of leave; and
- (b) If a Participant takes unpaid leave from a Group Company for a minimum of six consecutive months, the Participant's Bonus Amount (if any) for the Performance Years in which the leave falls will be determined by RemCo in its absolute discretion.

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15. Breach, fraud or dishonesty

If in the opinion of RemCo an Eligible Employee or Participant acts fraudulently or dishonestly or is in material breach of his or her obligations to any Group Company (or a Plc Group Company) then RemCo may in its absolute discretion determine that:

- (a) no STI Amount or LTI Amount will be awarded for the current Performance Year;
 - (b) all the Participant's Deferred Shares will lapse; and
 - (c) all the Participant's Options will lapse,
- and RemCo's decision will be final and binding.

16. Takeover, Reconstruction and Winding Up

Upon a Control Event occurring, then:

- (a) all Shares held by a Participant under the Scheme which are subject to a Holding Lock will be released;
- (b) all Deferred Shares will immediately become exercisable or will be immediately Awarded but, if not exercised (where required), will lapse 6 months after the date the Control Event occurs; and
- (c) all Options will immediately become exercisable but will lapse 6 months after the date the Control Event occurs.

GENERAL MATTERS

17. Commencement

The Scheme will take effect on the date specified by RemCo, being a date on or following the date of resolution by the shareholders of the Company and Plc approving the Scheme.

18. Administration of the Scheme

- (a) The Scheme will be administered by RemCo. RemCo will have power to delegate the exercise of its powers or discretions arising under the Scheme to any one or more persons (including, but not restricted to, a sub-committee of RemCo) for such period and on such conditions as RemCo may determine.
- (b) RemCo may at any time appoint or engage specialist service providers for the operation and administration of the Scheme.
- (c) RemCo will ensure a complete register of Participants is maintained to facilitate efficient management and administration and to comply with regulatory reporting requirements.
- (d) Shares to be provided under the Scheme in satisfaction of an Award or an exercise of an Option may either be satisfied by the issue of new Shares or by the transfer of existing Shares.

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- (e) The Scheme may be administered in conjunction with an employee share ownership scheme or plan trust and for these purposes the Company may issue Shares or grant options to the Trustee to facilitate the awards made under the Scheme. The transfer of a Share by the Trustee to a Participant will satisfy the obligation of the Company to issue or transfer a share to a Participant under the Scheme.
- (f) Where RemCo is required to make a determination or is entitled to exercise discretion in respect of the Scheme, that determination or discretion shall be exercised reasonably and in good faith.

19. Amendment of the Scheme

19.1 Amendments

- (a) The Board, on advice from RemCo, may at any time and from time to time by resolution alter the Scheme.
- (b) Without limiting paragraph (a), the Board may alter the Scheme by creating sub-schemes based on the terms and conditions set out in the Scheme to apply to Eligible Employees employed in, resident in, or who are citizens of, countries other than Australia in order to take account of securities, exchange control, taxation or employment laws or regulations, or similar factors, in countries in which the Scheme is to be implemented. The limits in clause 20 will apply to any such sub-scheme.

19.2 Shareholder approval

Subject to clause 19.3, any alteration to the Scheme which:

- (a) is to the advantage of Participants and which amends:
 - (i) the definition of “Eligible Employee”;
 - (ii) the limitations on the number of Shares which may be issued under the Scheme;
 - (iii) any limit on benefits or any category of benefit that may be granted under the Scheme to any one Participant;
 - (iv) the means of determining the exercise price of an Option;
 - (v) any rights attaching to the Deferred Shares or Options;
 - (vi) the rights of the holders of Deferred Shares or Options in the event of a capitalisation issue, rights issue, sub-division or consolidation of shares or reduction or any other variation of capital of the Company; or
 - (vii) the terms of this clause 19.2; or
- (b) relates to directors of the Company participating in the Scheme, will require the prior approval by ordinary

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resolution of the members of the Company and Plc as a Joint Electorate Action, provided that this does not relate to the creation of sub-schemes in accordance with clause 19.1.

19.3 Minor Alterations

Clause 19.2 will not apply to any minor alteration to benefit the administration of the Scheme or any alteration to take account of a change in legislation or to obtain or maintain favourable tax, exchange control or regulatory treatment for Participants or any Group Company.

19.4 Listing Rules

Any amendment to the Scheme is subject to any restrictions or procedural requirements relating to the amendment of the rules of an employee incentive scheme imposed by the Listing Rules.

20. Issue limitations

20.1 10% in 10 years

The number of Shares which may be Allocated under the Scheme on any day must not exceed 10% of the combined issued ordinary share capital of the Company and Plc immediately before that day, when added to the total number of Shares which have been Allocated in the previous 10 years under the Scheme and any other employee share scheme operated by the Company or Plc.

20.2 5% in 10 years

The number of Shares which may be Allocated under the Scheme on any day must not exceed 5% of the combined issued ordinary share capital of the Company and Plc immediately before that day when added to the total number of Shares which have been Allocated in the previous 10 years under the Scheme and any other discretionary share scheme adopted by the Company or Plc. This limit may be exceeded where vesting is dependent on the achievement of stretching performance criteria.

20.3 Exclusions

Where the right to acquire Shares is released or lapses without being exercised or Awarded, the Shares concerned are ignored when calculating the limits in this clause 20.

21. No interest or right until grant or exercise

- (a) An Eligible Employee has no entitlement to be granted any Deferred Share or Option unless and until such Deferred Share or Option is granted.
- (b) Unless and until a Deferred Share is exercised or Awarded or an Option is exercised and the relevant Shares are either issued or transferred to that Participant as a result of that Award or exercise, a Participant has no interest in those Shares.

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22. Ranking and Listing

- (a) All Shares issued or transferred to a Participant under this Scheme, will, from the date of issue or transfer, rank equally with all other issued Shares. If necessary, the Company will apply for official quotation of these shares on each stock exchange on which Shares are quoted.
- (b) The Options and Deferred Shares will not be listed for quotation on any stock exchange.

23. Capital Events

23.1 Variation of Capital

If there are certain variations of the share capital of the Company including a capitalisation or rights issue, sub-division, consolidation or reduction of share capital, a demerger (in whatever form) or other distribution in specie, RemCo may make such adjustments as it considers appropriate under clause 23.2 in accordance with the provisions of the Listing Rules.

23.2 Adjustments

An adjustment made under this clause will be to one or more of the following:

- (a) the number of Shares subject to any Deferred Share or Option;
- (b) the exercise price for an Option; or
- (c) where the Deferred Share or Option has been exercised but no Shares have been issued or transferred following the exercise, the number of Shares which may be issued or transferred.

23.3 Notice of Variation

As soon as reasonably practicable after making any adjustment under clause 23.2, RemCo will give notice in writing of the adjustment to any Participant affected by it.

24. Law, Listing Rules and the Constitution

The Scheme and all offers and issues of Deferred Shares and Options under the Scheme are subject to the Law, the Listing Rules and the Constitution, each as in force from time to time.

25. Rights of Participants

Nothing in this Scheme or participation in the Scheme:

- (a) confers on any Eligible Employee or Participant the right to continue as an employee of any Group Company;
- (b) confers on any Employee the right to become or remain an Eligible Employee or Participant or to participate under the Scheme;

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- (c) will be taken into account in determining a Participant's salary or remuneration for the purposes of superannuation or other pension arrangements;
- (d) affects the rights and obligations of any Eligible Employee or Participant under the terms of their office or employment with any Group Company;
- (e) affects any rights which a Group Company may have to terminate the employment of an Eligible Employee or Participant or will be taken into account in determining an Eligible Employee's or Participant's termination or severance pay;
- (f) may be used to increase damages in any action brought against any Group Company in respect of any such termination; and
- (g) confers any responsibility or liability on any Group Company or its directors, officers, employees, representatives or agents in respect of any taxation liabilities of the Eligible Employee or Participant.

26. Termination and suspension

- (a) Grants of awards under this Scheme may only be made for a period of 10 years commencing on the date on which the Scheme is approved by the Company's shareholders. RemCo will, however, review the Scheme after it has been in effect for 5 years to ensure that it is still meeting its objectives and will report on that review to shareholders.
- (b) RemCo may at any time, and at its complete discretion, suspend or terminate the Scheme without notice to Participants. The suspension or termination of the Scheme will not affect any existing grants of Deferred Shares or Options already made under the Scheme and the terms of the Scheme will continue to apply to such grants provided that, in the case of termination, all Shares then subject to a Holding Lock will be released from the Holding Lock on the date of termination or on such other date specified by RemCo.

27. General

27.1 Costs and Expenses

The Company will pay all expenses, costs and charges in relation to the establishment, implementation and administration of the Scheme, including all costs incurred in or associated with the payment of any Cash Payment, the issue or purchase of Shares (except for Taxes which are payable by Participants and the exercise or Award price (if any) for the Deferred Shares and the exercise price of Options) for the purposes of the Scheme. Each Group Company will, if required by RemCo, reimburse the Company for any such costs and charges to the extent that they relate to its employees or former employees.

27.2 Withholding

- (a) If any person (not being the Participant) is obliged as a result of or in connection with the payment of any Cash Payment, the grant, vesting, exercise or Award of any Deferred Shares or Options or the payment of a Dividend

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Equivalent Payment to account for income tax or employment taxes under any wage, withholding or other arrangements or for any other tax, social security contributions or levy or charge of a similar nature, then that person is entitled to be reimbursed by the Participant for the amounts so paid or payable.

- (b) Where paragraph (a) applies, the Company is not obliged to pay the relevant amount or issue or transfer the relevant Shares to the Participant unless the relevant person is satisfied that arrangements have been made for reimbursement. Those arrangements may include, without limitation, the sale, on behalf of the Participant, of Shares issued or transferred or otherwise to be issued or transferred to the Participant and where this happens, the Participant will also reimburse the costs of any such sale (e.g. stamp duty, brokerage, etc.)
- (c) RemCo may require any Participant, as a condition of exercise or Award of any Deferred Shares or the exercise of any Options, to enter into an agreement transferring any liability of any Group Company to social security contributions in respect of those shares or options.

27.3 Data protection

By electing not to return a Non-Participation Form, each Participant consents to the holding and processing of personal data provided by the Participant to any Group Company for all purposes relating to the operation of the Scheme. These include, but are not limited to:

- (a) administering and maintaining Participants' records;
- (b) providing information to trustees of any employee benefit trust, registrars, brokers or third party administrators of the Scheme;
- (c) providing information to future purchasers of the Company or the business in which the Participant works;
- (d) transferring information about the Participant to a country or territory outside Australia.

27.4 Mistaken Recipient

- (a) If any Deferred Share or Option is granted under this Scheme in error or by mistake to a person who is not the intended recipient (***Mistaken Recipient***), the Mistaken Recipient shall have no right or interest, and shall be taken never to have had any right or interest in that Deferred Share or Option and those Deferred Shares and Options will immediately lapse.
- (b) If any Cash Payment or Dividend Equivalent Payment is paid under this Scheme in error or by mistake to a person who is not the intended recipient (***Mistaken Recipient***), the Mistaken Recipient shall have no right to retain in that Cash Payment or Dividend Equivalent Payment and the Company may take whatever steps it deems reasonably necessary to seek repayment of that Cash Payment or Dividend Equivalent Payment.

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27.5 Dispute

Any disputes or differences of any nature arising under the Scheme will be referred to RemCo and its decision will be final and binding in all respects.

27.6 Notices

Any notice or other communication under or in connection with the Scheme may be given by personal delivery or by sending it by post or fax or email, in the case of a company to its registered office (or any other address notified by that company from time to time (**Notified Address**)) or the fax number (if any) of that registered office (or Notified Address), and in the case of an individual to their last known address, fax number, email address or, if they are a director or employee of a Group Company, either to their last known address, fax number or to the address of the place of business at which they carry out all or most of their duties, or to the fax number or email address relating to that address.

27.7 Governing Law

This Scheme and the rights of Eligible Employees and Participants under the Scheme are governed by the laws in force in the State of Victoria, Australia.

BHP Billiton Limited Long Term Incentive Plan

(approved by shareholders at the AGM on 22.10.04)

Long Term Incentive Plan

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Long Term Incentive Plan

BHP Billiton Limited Long Term Incentive Plan

1. Purpose

- (a) The LTIP is an integral part of the Company's overall approach to competitive performance-based remuneration.
- (b) The LTIP is designed to develop a clear line of sight between business objectives and reward. It is intended to bind members of the senior management team at BHP Billiton through a global performance reward arrangement which ensures his or her focus on the achievement of the global business strategy of BHP Billiton, while providing equity in employee reward throughout the global business.
- (c) The LTIP is a long term incentive aimed at creating a stronger link between employee performance and reward and increasing shareholder value by enabling Participants to have a greater involvement with, and share in the future growth and profitability of, the Company.

2. Definitions and interpretation

2.1 Definitions

In this LTIP the following terms have the following meanings:

Allocate means granting an option or other right to acquire unissued Shares, or if there is no such grant, the issue and allotment of Shares.

ASX means Australian Stock Exchange Limited (ABN 98 008 624 691).

Award means the issue or transfer to a Participant of a Share on the terms set out in the LTIP.

Board means the board of directors of the Company from time to time.

Business Day means any day on which the ASX is open for trading.

Company means BHP Billiton Limited (ABN 49 004 028 077) whose registered office is at 180 Lonsdale Street, Melbourne, Victoria, Australia.

Comparator Group means the entities determined by RemCo from time to time and in accordance with RemCo's policies to determine the Median TSR, which group will be set out in the Invitation. The Comparator Group may be varied by RemCo in respect of each grant of Performance Shares but must constitute at least 10 entities who are reasonably considered by RemCo to be competitors or peers of the Company.

Constitution means the constitution of the Company.

Control Event means:

- (a) either:

Long Term Incentive Plan

- (i) a change of control of the Company within the meaning of section 50AA of the Corporations Act; or
- (ii) transactions have occurred or will occur which have resulted in or will or are highly likely to result in:
 - (A) changes in the identity of more than one half of the existing Board members; or
 - (B) the appointment of new Board members such that more than one half of the Board is newly appointed; or
 - (C) persons who were entitled to cast more than one half of the votes that could be cast at a Board meeting prior to the changes occurring not being entitled to cast more than one half of the votes after the changes have occurred,

which the Board determines in its discretion, acting reasonably (and after obtaining written advice from a leading commercial Queens Counsel or other equivalent Senior Counsel), to constitute or be equivalent to a change of control for the purposes of the LTIP;

- (b) when a Court sanctions a compromise or arrangement for the purposes of or in connection with a scheme for the amalgamation of the Company with any other company or companies other than Plc under Part 5.1 of the Corporations Act; or
- (c) when the Company passes a resolution for voluntary winding up or if an order is made for the compulsory winding up of the Company.

Controllable Event means resignation by a Participant from a Group Company.

Corporations Act means the Corporations Act 2001 (Cth).

Dismissal means termination of a Participant's employment with a Group Company for cause, including unlawful or serious misconduct, as determined by RemCo in its absolute discretion.

Dividend Equivalent Payment means the payment of an amount equivalent to the amount of dividends that would have been payable to a Participant on and from the start of the Performance Year as if a Share had been issued or transferred to the Participant on that date instead of a Performance Share being granted in accordance with this plan, and accruing until the date on which the Performance Share is exercised by or Awarded to the Participant in accordance with this plan.

Eligible Employee means an Employee nominated by OCE or RemCo and whom RemCo determines in its absolute discretion is to participate in the LTIP and who has not given or been given notice of termination of employment.

Employee means any person who is in full-time or part-time employment of a Group Company.

Event means the occurrence of one of the circumstances described in clauses 9 to 12.

Executive Director means a director of the Company who is also an employee of the Company.

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Expected Value means the value of the Performance Shares at the time of grant, taking into account all relevant factors including the potential for Dividend Equivalent Payments, as determined by an independent expert appointed by RemCo.

Financial Year means a period of 12 months starting on 1 July in one year and ending on 30 June in the following year.

Grant Period means the period referred to in clause 7.2.

Gross Salary means an Employee's gross annual salary base as at 30 June in any year either, as determined by RemCo in its discretion, in the currency of the jurisdiction in which the Employee is located or the US dollars equivalent, as calculated under the global net pay formula in operation at that time.

Group means the Company and its Subsidiaries from time to time and a **Group Company** means any one of them.

Group TSR means the lower of the TSR of the Group for the Performance Period (as determined by RemCo in respect of each grant of Performance Shares) and the Group TSR under the Plc LTIP for the Performance Period.

Holding Lock means a mechanism to prevent dealings with Shares issued or transferred to a Participant under the LTIP for the purposes of meeting any Minimum Shareholding Requirement.

Holding Lock Period means the period from the date on which a Holding Lock is placed on Shares until the earlier of:

- (a) the date the Shares are no longer required to be subject to a Holding Lock to meet the Minimum Shareholding Requirement;
- (b) the date on which a Participant ceases to be employed by a Group Company or a Plc Group Company; or
- (c) the date RemCo approves a request to release the Holding Lock made by a Participant under clause 6.5.

Invitation means an invitation to participate in the LTIP in respect of a Performance Year in accordance with clause 3.1.

Joint Electorate Action has the meaning given in the Sharing Agreement.

Law means the laws of Australia and any applicable legislation of the jurisdiction in which an Eligible Employee is located at the time of receipt of an Invitation.

Listing Rules means the listing rules of the ASX as amended from time to time.

LTIP means the Long Term Incentive Plan of the Company.

Market Value means the market value of a Share on the relevant date as determined by RemCo in its discretion, but will not be less than the volume weighted average price of Shares over the 5 Business Days immediately prior to the relevant date.

Median TSR means the weighted average TSR of all entities in the Comparator Group for the Performance Period, with weighting based on the market capitalisation of the relevant entity, as determined by RemCo in respect of each grant of Performance Shares.

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Minimum Shareholding Requirement means the minimum value of Shares which a Participant must hold as determined by RemCo from time to time.

Non-Participation Form means a form by which an Eligible Employee can elect not to accept an Invitation in such form as RemCo may approve from time to time.

OCE means the Office of the Chief Executive.

Participant means an Eligible Employee who is deemed to have accepted an Invitation and to whom an award is made under the LTIP.

Performance Hurdles means the conditions relating to the performance of the Group (and the manner in which those conditions will be tested) for the purposes of determining the number of a Participant's Performance Shares which may be Awarded or exercised, as set out in clause 5.

Performance Share means an option or a conditional right granted under clause 3 to acquire a Share on the terms set out in the LTIP for the relevant Performance Year, subject to the Performance Hurdles.

Performance Period means the 5 Financial Years (starting with the Performance Year) required for the purpose of determining the extent (if any) to which the Performance Hurdles have been made.

Performance Year means the Financial Year in respect of which Performance Shares for that year are granted.

Plc means BHP Billiton Plc, a company incorporated in England and Wales with registered number 3196209, whose registered office is at Neathouse Place, London SW1V 1BH, England.

Plc Group means Plc and its subsidiaries from time to time as determined in accordance with English law and **Plc Group Company** means any one of them.

Plc LTIP means the Long Term Incentive Plan of Plc.

Prohibited Period means a prohibited period as specified in the BHPB Securities Dealing Code, during which trading in the Company's securities is restricted.

Relevant Interest means where a Participant:

- (a) is the holder of securities;
- (b) has the power to exercise, or control the exercise of, a right to vote attached to securities;
- (c) has the power to dispose of, or control the disposal of, securities; or
- (d) is the holder of vested (but unexercised) Performance Shares where RemCo has set the amount payable upon exercise or Award of the Performance Shares at zero or a nominal amount.

RemCo means the Remuneration Committee of the Board as constituted from time to time.

Reporting Date means the date determined by RemCo in its absolute discretion after the end of the Performance Period, on which Participants are advised whether the Performance Hurdles for the relevant Performance Shares have been satisfied.

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Retirement the cessation of employment of a Participant with a Group Company where the Participant has notified the company of his or her intention to permanently leave the workforce and where it is reasonable for the Remuneration Committee to conclude in its absolute discretion that the Participant is genuinely and permanently leaving the workforce.

Security Interest means a mortgage, charge, pledge, lien or other encumbrance of any nature.

Shares means fully paid ordinary shares in the capital of the Company.

Sharing Agreement means the DLC Structure Sharing Agreement between the Company and Plc dated 29 June 2001.

Specified Percentage means the percentage determined by RemCo in its absolute discretion to be applied in the Vesting Schedule for each grant of Performance Shares.

Subsidiary means a body corporate which is a subsidiary of the Company within the meaning of section 9 of the Corporations Act.

Tax includes any tax, levy, impost, deduction, charge, rate, contribution, duty or withholding which is assessed (or deemed to be assessed), levied, imposed or made by any government or any governmental, semi-governmental or judicial entity or authority together with any interest, penalty, fine, charge, fee or other amount assessed (or deemed to be assessed), levied, imposed or made on or in respect of any or all of the foregoing.

Termination by Mutual Agreement means termination of a Participant's employment with a Group Company that occurs as a result of a mutual agreement between the Participant and the Group Company.

Trustee means the trustee or trustees for the time being of any employee share ownership scheme or plan trust established by the Company, the beneficiaries of which include the Participants.

TSR means, in respect of an entity, the total shareholder return (including dividends) of the entity for the Performance Period, expressed as a percentage, as determined from time to time by RemCo.

Uncontrollable Event means death, serious injury, disability or illness which renders the Employee incapable of continuing employment with a Group Company on the same basis and in the same position as immediately prior to the serious injury, disability or illness occurring.

Unvested Performance Shares means Performance Shares which are not yet exercisable or have not yet been Awarded.

Vesting Schedule has the meaning set out in clause 5(c).

2.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.

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- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person includes a body corporate, an unincorporated body or other entity and conversely.
- (e) A reference to a clause is to a clause of the LTIP.
- (f) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by the LTIP.
- (g) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.
- (h) A reference to **conduct** includes any omission and any statement or undertaking, whether or not in writing.
- (i) A reference to **writing** includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.
- (j) Mentioning anything after **include**, **includes** or **including** does not limit what else might be included.

3. Invitation to participate

3.1 Invitations

- (a) RemCo may from time to time in its absolute discretion issue or cause to be issued Invitations on behalf of the Company to Eligible Employees. That Invitation will be in such form as RemCo determines from time to time and will include the following information:
 - (i) the date of the Invitation;
 - (ii) the name of the Eligible Employee to whom the Invitation is made;
 - (iii) the number of Performance Shares which are capable of being Awarded or becoming exercisable if Performance Hurdles are met;
 - (iv) the Performance Hurdles;
 - (v) the approximate Reporting Date in respect of the Performance Shares and the approximate dates for the exercise or Award of Performance Shares;
 - (vi) any Minimum Shareholding Requirement applicable to the Eligible Employee; and
 - (vii) the time period in which an Eligible Employee may elect not to accept the Invitation by returning a duly completed Non-Participation Form.
- (b) Invitations may be made by RemCo on a differential basis to Eligible Employees, different classes of Eligible Employees or to Eligible Employees within the same class, as the case may be, provided that no Eligible Employee shall be offered a number of Performance Shares which is greater than the smallest number of Performance Shares which is offered to any Executive Director of the Company for the relevant Performance Year.

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- (c) Notwithstanding the issue of an Invitation by RemCo as provided for in 3.1(a), if circumstances arise which RemCo determines in its absolute discretion require changes to the items specified in clauses 3.1(a)(iii) to (vii) (but not to levels higher than the maximum amounts specified above or which would involve a decrease in the Performance Hurdles) for the current Performance Year, RemCo may make those changes and provide appropriate notification to the relevant employee.

3.2 Acceptance Form

- (a) An Eligible Employee who receives an Invitation will be deemed to have accepted the Invitation to participate in the Scheme unless the Eligible Employee returns a duly completed Non-Participation Form within the time period and as otherwise specified in the Invitation.
- (b) For the avoidance of doubt, RemCo in its sole discretion can refuse to allow an Eligible Employee to participate in the LTIP even though the Eligible Employee is deemed to have accepted the Invitation in accordance with paragraph (a).
- (c) A Participant who is deemed to have accepted an Invitation in accordance with clause 3.2(a) and who has received a revised Invitation in accordance with clause 3.1(c) will be deemed to have accepted the revised Invitation from the date the notification of that revised Invitation is received.

3.3 Participants

Provided no duly completed Non-Participation Form is received within the time period and as otherwise specified in the Invitation and subject to clause 3.2(b), and provided further that the Eligible Employee is then still in the full-time or part-time employment of a Group Company, the Eligible Employee will be entitled to participate in the LTIP according to its terms.

4. Performance Shares

4.1 Grant of Performance Shares

- (a) Subject to clause 4.1(b), the Company will grant to each Participant the number of Performance Shares that RemCo determines in its absolute discretion as set out in the Invitation. A Participant will not pay anything for the grant of Performance Shares. Performance Shares will be granted on a date determined by RemCo which will be during the Grant Period.
- (b) The maximum number of Performance Shares that may be granted to a Participant in any Performance Year is the number achieved by multiplying the Participant's Gross Salary by two and dividing that amount by the Expected Value.

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4.2 Exercise of Performance Shares

- (a) Subject to clauses 9 to 12 and the remainder of this clause 4.2, Performance Shares will become exercisable or be Awarded if and to the extent that the Performance Hurdles applicable to those Performance Shares are met.
- (b) To the extent the conditions described in clause 4.2(a) are met, Performance Shares which are granted as options may only be exercised during a period determined by RemCo, which will be from the first non-Prohibited Period date after the Reporting Date and ending 5 years after the start of the exercise period.
- (c) To the extent the conditions described in clause 4.2(a) are met, Performance Shares which are granted as conditional rights may only be Awarded on a date determined by RemCo, which will be on or as soon as practicable after the first non-Prohibited Period date after the Reporting Date.
- (d) Performance Shares that are exercised must be exercised on a “first in, first out” basis.
- (e) The maximum number of Performance Shares that a Participant may exercise in any Financial Year is the number achieved by multiplying the Participant’s Gross Salary for that Financial Year (or, if applicable, for the last Financial Year in which the Employee was employed by the Group) by four and dividing that amount by the Market Value on the date on which the Performance Shares are exercised.
- (f) The cap in clause 4.2(e) may only be exceeded where:
 - (i) any Performance Shares are scheduled to lapse within six months of the exercise date, in which case all of those Performance Shares which are scheduled to lapse may be exercised; or
 - (ii) where the Participant may be required to pay Tax on the Performance Shares prior to exercise, in which case RemCo may exercise its discretion to permit sufficient shares to be exercised to pay for that Tax.
- (g) Performance Shares which are exercised pursuant to this exception will continue to be counted for the purposes of clause 4.2(e).
- (h) Notwithstanding any other provision of this plan, no Performance Share will be exercisable for a period which is greater than 10 years from the date of the grant of the Performance Share.

4.3 Exercise or Award Price

RemCo will set the amount which will be payable by a Participant upon Award or exercise of a Performance Share, which may be zero, a nominal amount or a higher amount.

5. Performance Hurdles

The Performance Hurdles applicable to any Performance Period relating to Performance Shares shall be as follows:

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- (a) where, as at the end of Performance Period, the Group TSR is less than the Median TSR, the number of Performance Shares that shall be Awarded or become exercisable in accordance with clause 4.2 shall be zero;
- (b) where, as at the end of the Performance Period, the Group TSR is equal to or greater than the Median TSR, the number of Performance Shares that shall be Awarded or become exercisable in accordance with clause 4.2 will be as determined by the Vesting Schedule set out in clause 5(c); and
- (c) the Vesting Schedule shall specify the percentage of Performance Shares which will be Awarded or become exercisable in accordance with clause 4.2 depending on the percentage by which the Group TSR exceeds the Median TSR, as set out below:

Group TSR	% of Performance Shares which vest
• Is below or equal to Median TSR	0%
• Exceeds Median TSR by the Specified Percentage per annum on a cumulative basis (Outperformance)	100%
• Is between Median TSR and Outperformance	Pro rata between 0% and 100% depending on position of performance between Median TSR and Outperformance

- (d) RemCo may determine, in its absolute discretion that, notwithstanding that the Group TSR is equal to or exceeds the Median TSR, all or some of the Performance Shares which would otherwise vest in accordance with clause 5(c) will not vest and will instead lapse.

6. Minimum Shareholding Requirement

6.1 Setting requirement

RemCo may in its discretion determine that a Minimum Shareholding Requirement will apply to Participants and may determine the procedure and times for calculating such Minimum Shareholding Requirement.

6.2 Application of Holding Lock

If upon the exercise or Award of Performance Shares a Participant fails to meet the Minimum Shareholding Requirement, a Holding Lock will be applied by the Company to such number of Shares to be issued or transferred to a Participant under the LTIP as is necessary to meet that Minimum Shareholding Requirement, subject to a maximum limit of 25% of the number of Shares to be issued or transferred to the Participant in any one year. Each Participant agrees that any such Shares will be subject to a Holding Lock for the duration of the Holding Lock Period.

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6.3 Shares already held

For the purposes of determining whether a Participant meets the Minimum Shareholding Requirement, RemCo may take into account any Shares or shares in Plc in which the Participant shows to the satisfaction of RemCo he or she has a Relevant Interest.

6.4 Enforcement by RemCo

RemCo will be entitled to prescribe, take and enforce such action, steps or arrangements as it considers necessary, desirable or appropriate to enforce or give further effect to the provisions of clause 6.2 so as to ensure the Minimum Shareholding Requirement is satisfied.

6.5 Release Request

RemCo may in its discretion release the Holding Lock applied to all or some of a Participant's Shares following a written request to do so made by a Participant on the grounds of hardship (other than exposure by the Participant to share price fluctuations) suffered or being suffered by that Participant.

7. Other provisions

7.1 New issues

A Performance Share does not confer on a Participant the right to participate in new issues of Shares by the Company, including by way of bonus issue, rights issue or otherwise.

7.2 Grant Period

All grants of Performance Shares shall be made during the Grant Period which will be either:

- (a) the 42 days starting on any of the following:
 - (i) the day after the announcement of the Company's results to the ASX for any period;
 - (ii) any day on which changes to the Law affecting such Performance Shares are announced, effected or made; or
 - (iii) if RemCo cannot make any grant due to restrictions imposed by statute, order, regulation, government directions or the BHPB Securities Dealing Code, within 42 days of the lifting of such restrictions; or
- (b) as soon as practicable after the annual general meeting for the Company and Plc is held.

7.3 Securities Dealing Code

All grants of Performance Shares, any exercise of Performance Shares and all Shares to be issued or transferred upon exercise or Award pursuant to the LTIP must be in accordance with and will be subject to the BHPB Securities Dealing Code as amended or replaced from time to time.

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7.4 Security Interest

Subject to clause 7.8, Participants will not grant any Security Interest in or over or otherwise dispose of or deal with any Performance Shares or any interest in them until the relevant Shares are either issued or transferred to that Participant, and any such Security Interest or disposal or dealing will not be recognised in any manner by the Company.

7.5 Rounding

Where the number of Performance Shares to be granted is not a whole number, the number will be rounded down to the next whole number.

7.6 Exercise procedure

The manner in which Performance Shares may be exercised will be determined by RemCo from time to time.

7.7 Lapse

All Performance Shares which have not been exercised at the expiry of the relevant exercise period will lapse. If more than one such period applies, then the provision which results in the earliest lapse will prevail.

7.8 Not transferable

- (a) Except on the death of a Participant, Performance Shares may not be transferred, assigned or novated except with the approval of RemCo.
- (b) RemCo may in its discretion determine that where a Participant requests in writing, a Performance Share which is exercisable may be transferred to his or her spouse or children or step-children under the age of 18 years or to any trust for the benefit of those people provided that the Performance Share is exercised within 20 Business Days of the transfer. Where the Performance Share is not exercised within 20 Business Days of the transfer, the Performance Share will lapse.

7.9 Dividend Equivalent Payment

- (a) RemCo will authorise a Dividend Equivalent Payment in respect of a Share that is transferred or issued following the exercise or Award of a Performance Share.
- (b) The Dividend Equivalent Payment will be paid (less any tax, social security contributions or other levies) to a Participant as soon as reasonably practicable following the issue or transfer of a Share.
- (c) The Dividend Equivalent Payment will not be grossed up or otherwise adjusted to account for any Tax consequences which would have applied if the payment was actually the payment of a dividend.
- (d) The Dividend Equivalent Payment will be payable by any Group Company.
- (e) The Dividend Equivalent Payment will be paid to the Participant as directed by the Participant.
- (f) The Dividend Equivalent Payment will be paid in the local currency of the jurisdiction in which the Participant is located.

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EVENTS

8. Events

The provisions of clauses 9 to 12 apply on the occurrence of the relevant Event. Where there is any doubt as to whether a set of circumstances constitutes a particular Event or those circumstances may constitute one or more different Events, the relevant provision to be applied to those circumstances will be determined by RemCo in its absolute discretion.

9. Leaver Provisions

9.1 Uncontrollable Event

- (a) Where a Participant leaves the employment of a Group Company because of an Uncontrollable Event, then the Participant's Performance Shares will become immediately exercisable or be immediately Awarded (without satisfaction of the Performance Hurdles) and, where relevant, may be exercised by his or her personal representatives.
- (b) Subject to clauses 8 to 12, any Performance Shares which become exercisable at the time of the Uncontrollable Event under clause 9.1(a) may be exercised from the first non-Prohibited Period date after the Uncontrollable Event and ending 5 years after the start of the exercise period.
- (c) Clauses 4.2(d), (e) and (f) (but not clauses 4.2(a), (b) or (c)) will apply to the exercise of any Performance Shares under this clause 9.1.

9.2 Retirement

- (a) Where a Participant leaves the employment of a Group Company because of Retirement:
 - (i) the Participant shall retain the number of Unvested Performance Shares as calculated in accordance with the following formula:
$$RP = PS \times M \div 60$$

Where:

RP is the number of Unvested Performance Shares retained by the Participant;

PS is the number of Unvested Performance Shares granted to the Participant in a Performance Year;

M, in any Performance Period, is the number of months, or part thereof, that have passed since the beginning of the Performance Period during which the Participant has been employed by a Group Company; and
 - (ii) the balance of the Participant's Unvested Performance Shares not retained by the Participant in accordance with clause 9.2(a)(i), shall lapse.

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- (b) Subject to clauses 8 to 12, all of the Participant's Unvested Performance Shares that are retained by the Participant in accordance with clause 9.2(a) will become exercisable or be Awarded in accordance with clause 4.2 (unless the Participant dies following Retirement, in which case the Unvested Performance Shares will become immediately exercisable and clauses 4.2(a), (b) and (c) shall no longer apply).
- (c) Subject to clauses 8 to 12, any Performance Shares which are exercisable in accordance with clause 9.2(b) will remain exercisable for the exercise period applying to those Performance Shares (provided that if the Participant dies following Retirement the exercise period for any Performance Shares which are exercisable in accordance with clause 9.2(b) shall start on the first non-Prohibited Period date after the Participant dies and end 5 years after the start of the exercise period).

9.3 Redundancy

If a Participant leaves the employment of a Group Company because of Redundancy, the provisions of clause 9.2 shall apply as if all references to "Retirement" are read as "Redundancy".

9.4 Dismissal or Controllable Event

If a Participant leaves the employment of a Group Company because of Dismissal or a Controllable Event then all of the Participant's Unvested Performance Shares will lapse.

9.5 Termination by Mutual Agreement

If a Participant leaves the employment of a Group Company because of Termination by Mutual Agreement, the provisions of clause 9.2 will apply as if all references to "Retirement" are read as "Termination by Mutual Agreement".

9.6 Other Leavers

Other than as specified in clauses 9.1 to 9.5 if a Participant leaves the employment of a Group Company for any reason, including where the business or company for which the Participant works is sold outside the Group, then RemCo in its discretion will determine the rights of a Participant to the exercise or Award of any Performance Shares (or the lapse of such Performance Shares), based on the general principle that the Participant will not be treated more favourably than would have been the case under clause 9.2 if the relevant event was a Retirement of the Participant.

9.7 Global Mobility

- (a) Where a Participant transfers employment to Plc or a subsidiary of Plc or any other company in which either the Company or Plc or both have an interest and which RemCo designates for this purpose (**Connected Company**), the Participant will:
 - (i) not be treated for the purposes of the LTIP as leaving the employment of a Group Company until he or she is no longer employed by a Group Company, Plc, a subsidiary of Plc or the Connected Company; and

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- (ii) maintain any unexercised Performance Shares granted under the LTIP and remain eligible to receive an award in respect of the current Performance Year in accordance with the LTIP.
- (b) After the transfer of a Participant to Plc or a subsidiary of Plc, the Participant will only be eligible to be invited to participate in the Plc LTIP in respect of any year after the Performance Year in which he or she transfers.

10. Temporary or Unpaid Leave

Subject to applicable laws, if a Participant goes on temporary leave due to serious injury, disability or illness or for parental leave, long service leave or unpaid leave, RemCo may, in its absolute discretion, reduce the amount of the Participant's Performance Shares (if any) capable of being Awarded or exercised for the Performance Period on a pro-rata basis to reflect the period of leave.

11. Breach, fraud or dishonesty

If in the opinion of RemCo an Eligible Employee or Participant acts fraudulently or dishonestly or is in material breach of his or her obligations to any Group Company (or a Plc Group Company) then RemCo may in its absolute discretion determine that all the Participant's Performance Shares will lapse and RemCo's decision will be final and binding.

12. Takeover, Reconstruction and Winding Up

Upon a Control Event occurring, then:

- (a) all Shares held by a Participant under the LTIP which are subject to a Holding Lock will be released;
- (b) all Performance Shares which are not then exercisable or the Award of any Performance Shares which are not then Awarded will either:
 - (i) require the prior approval by ordinary resolution of the shareholders of the Company and Plc as a Joint Electorate Action before they can be exercised or Awarded; or
 - (ii) lapse or be cancelled if RemCo determines in its absolute discretion that a term of the Control Event is that holders of those Performance Shares have been or will be offered participation in an acceptable alternative employee share incentive scheme which is reasonably acceptable to RemCo in its absolute discretion.

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GENERAL MATTERS

13. Commencement

The LTIP will take effect on the date specified by RemCo, being a date on or following the date of resolution by the shareholders of the Company and Plc approving the LTIP.

14. Administration of the LTIP

- (a) The LTIP will be administered by RemCo. RemCo will have power to delegate the exercise of its powers or discretions arising under the LTIP to any one or more persons (including, but not restricted to, a sub-committee of RemCo) for such period and on such conditions as RemCo may determine.
- (b) RemCo may at any time appoint or engage specialist service providers for the operation and administration of the LTIP.
- (c) RemCo will ensure a complete register of Participants is maintained to facilitate efficient management and administration and to comply with regulatory reporting requirements.
- (d) Shares to be provided under the LTIP may either be satisfied by the issue of new Shares or by the transfer of existing Shares.
- (e) The LTIP may be administered in conjunction with an employee share ownership scheme or plan trust and for these purposes the Company may issue LTIP or grant options to the Trustee to facilitate the awards made under the LTIP. The transfer of a Share by the Trustee to a Participant will satisfy the obligation of the Company to issue or transfer a share to a Participant under the LTIP.
- (f) Where RemCo is required to make a determination or is entitled to exercise discretion in respect of the LTIP, that determination or discretion shall be exercised reasonably and in good faith.

15. Amendment of the LTIP

15.1 Amendments

- (a) The Board, on advice from RemCo, may at any time and from time to time by resolution alter the LTIP.
- (b) Without limiting paragraph (a), the Board may alter the LTIP by creating sub-schemes based on the terms and conditions set out in the LTIP to apply to Eligible Employees employed in, resident in, or who are citizens of, countries other than Australia in order to take account of securities, exchange control, taxation or employment laws or regulations, or similar factors, in countries in which the LTIP is to be implemented. The limits in clause 16 will apply to any such sub-scheme.

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15.2 Shareholder approval

Subject to clause 15.3, any alteration to the LTIP which:

- (a) is to the advantage of Participants and which amends:
 - (i) the definition of “Eligible Employee”;
 - (ii) the limitations on the number of Shares which may be issued under the LTIP;
 - (iii) any limit on benefits or any category of benefit that may be granted under the LTIP to any one Participant;
 - (iv) the Vesting Schedule;
 - (v) any rights attaching to the Performance Shares;
 - (vi) the rights of the holders of Performance Shares in the event of a capitalisation issue, rights issue, sub-division or consolidation of shares or reduction or any other variation of capital of the Company; or
 - (vii) the terms of this clause 15.2; or
- (b) relates to directors of the Company participating in the LTIP,

will require the prior approval by ordinary resolution of the members of the Company and Plc as a Joint Electorate Action, provided that this does not relate to the creation of sub-schemes in accordance with clause 15.1.

15.3 Minor Alterations

Clause 15.2 will not apply to any minor alteration to benefit the administration of the LTIP or any alteration to take account of a change in legislation or to obtain or maintain favourable tax, exchange control or regulatory treatment for Participants or any Group Company.

15.4 Listing Rules

Any amendment to the LTIP is subject to any restrictions or procedural requirements relating to the amendment of the rules of an employee incentive scheme imposed by the Listing Rules.

16. Issue limitations

16.1 10% in 10 years

The number of Shares which may be Allocated under the LTIP on any day must not exceed 10% of the combined issued ordinary share capital of the Company and Plc immediately before that day, when added to the total number of Shares which have been Allocated in the previous 10 years under the LTIP and any other employee share scheme operated by the Company or Plc.

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16.2 5% in 10 years

The number of Shares which may be Allocated under the LTIP on any day must not exceed 5% of the combined issued ordinary share capital of the Company and Plc immediately before that day when added to the total number of Shares which have been Allocated in the previous 10 years under the LTIP and any other discretionary share scheme adopted by the Company or Plc. This limit may be exceeded where vesting is dependent on the achievement of stretching performance criteria.

16.3 Exclusions

Where the right to acquire Shares is released or lapses without being exercised or Awarded, the Shares concerned are ignored when calculating the limits in this clause 16.

17. No interest or right until grant or exercise

- (a) An Eligible Employee has no entitlement to be granted any Performance Shares unless and until such Performance Shares are granted.
- (b) An Eligible Employee has no entitlement to have a Performance Share exercised or Awarded other than as expressly provided in this LTIP.
- (c) Unless and until a Performance Share is exercised or Awarded and the relevant Shares are either issued or transferred to that Participant as a result of that exercise, a Participant has no interest in those Shares.

18. Ranking and Listing

- (a) All Shares issued or transferred to a Participant under this LTIP, will, from the date of issue or transfer, rank equally with all other issued Shares. If necessary, the Company will apply for official quotation of these shares on each stock exchange on which Shares are quoted.
- (b) None of the Performance Shares will be listed for quotation on any stock exchange.

19. Capital Events

19.1 Variation of Capital

If there are certain variations of the share capital of the Company including a capitalisation or rights issue, sub-division, consolidation or reduction of share capital, a demerger (in whatever form) or other distribution in specie, RemCo may make such adjustments as it considers appropriate under clause 19.2 in accordance with the provisions of the Listing Rules.

19.2 Adjustments

An adjustment made under this clause will be to one or more of the following:

- (a) the number of Shares subject to any Performance Share;

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- (b) the exercise price for a Performance Share; or
- (c) where a Performance Share has been exercised but no Shares have been issued or transferred following the exercise, the number of Shares which may be issued or transferred.

19.3 Notice of Variation

As soon as reasonably practicable after making any adjustment under clause 19.2, RemCo will give notice in writing of the adjustment to any Participant affected by it.

20. Law, Listing Rules and the Constitution

The LTIP and all offers and issues of Performance Shares under the LTIP are subject to the Law, the Listing Rules and the Constitution, each as in force from time to time.

21. Rights of Participants

Nothing in this LTIP or participation in the LTIP:

- (a) confers on any Eligible Employee or Participant the right to continue as an employee of any Group Company;
- (b) confers on any Employee the right to become or remain an Eligible Employee or Participant or to participate under the LTIP;
- (c) will be taken into account in determining a Participant's salary or remuneration for the purposes of superannuation or other pension arrangements;
- (d) affects the rights and obligations of any Eligible Employee or Participant under the terms of their office or employment with any Group Company;
- (e) affects any rights which a Group Company may have to terminate the employment of an Eligible Employee or Participant or will be taken into account in determining an Eligible Employee's or Participant's termination or severance pay;
- (f) may be used to increase damages in any action brought against any Group Company in respect of any such termination; and
- (g) confers any responsibility or liability on any Group Company or its directors, officers, employees, representatives or agents in respect of any taxation liabilities of the Eligible Employee or Participant.

22. Termination and suspension

- (a) Grants of awards under this LTIP may only be made for a period of 10 years commencing on the date on which the LTIP is approved by the Company's shareholders. RemCo will, however, review the LTIP after it has been in effect for 5 years to ensure that it is still meeting its objectives and will report on that review to shareholders.

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- (b) RemCo may at any time, and at its complete discretion, suspend or terminate the LTIP without notice to Participants. The suspension or termination of the LTIP will not affect any existing grants of Performance Shares already made under the LTIP and the terms of the LTIP will continue to apply to such grants provided that, in the case of termination, all Shares then subject to a Holding Lock will be released from the Holding Lock on the date of termination or on such other date specified by RemCo.

23. General

23.1 Costs and Expenses

The Company will pay all expenses, costs and charges in relation to the establishment, implementation and administration of the LTIP, including all costs incurred in or associated with the issue or purchase of Shares (except for Taxes which are payable by Participants and the exercise or Award price (if any) for the Performance Shares) for the purposes of the LTIP. Each Group Company will, if required by RemCo, reimburse the Company for any such costs and charges to the extent that they relate to its employees or former employees.

23.2 Withholding

- (a) If any person (not being the Participant) is obliged as a result of or in connection with the grant, vesting, exercise or Award of any Performance Shares or the payment of a Dividend Equivalent Payment to account for income tax or employment taxes under any wage, withholding or other arrangements or for any other tax, social security contributions or levy or charge of a similar nature, then that person is entitled to be reimbursed by the Participant for the amounts so paid or payable.
- (b) Where paragraph (a) applies, the Company is not obliged to pay the relevant amount or issue or transfer the relevant Shares to the Participant unless the relevant person is satisfied that arrangements have been made for reimbursement. Those arrangements may include, without limitation, the sale, on behalf of the Participant, of Shares issued or transferred or otherwise to be issued or transferred to the Participant and where this happens, the Participant will also reimburse the costs of any such sale (e.g. stamp duty, brokerage, etc.)
- (c) RemCo may require any Participant, as a condition of exercise or Award of any Performance Shares, to enter into an agreement transferring any liability of any Group Company to social security contributions in respect of those shares or options.

23.3 Data protection

By electing not to return a Non-Participation Form, each Participant consents to the holding and processing of personal data provided by the Participant to any Group Company for all purposes relating to the operation of the LTIP. These include, but are not limited to:

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- (a) administering and maintaining Participants' records;
- (b) providing information to trustees of any employee benefit trust, registrars, brokers or third party administrators of the LTIP;
- (c) providing information to future purchasers of the Company or the business in which the Participant works;
- (d) transferring information about the Participant to a country or territory outside Australia.

23.4 Error in Allocation

- (a) If any Performance Share is provided under this LTIP in error or by mistake to a person (***Mistaken Recipient***) who is not the intended recipient, the Mistaken Recipient shall have no right or interest, and shall be taken never to have had any right or interest in that Performance Share and those Performance Shares will immediately lapse.
- (b) If any Dividend Equivalent Payment is paid under this LTIP in error or by mistake to a person who is not the intended recipient (***Mistaken Recipient***), the Mistaken Recipient shall have no right to retain that Dividend Equivalent Payment and the Company may take whatever steps it deems reasonably necessary to seek repayment of that Dividend Equivalent Payment.

23.5 Dispute

Any disputes or differences of any nature arising under the LTIP will be referred to RemCo and its decision will be final and binding in all respects.

23.6 Notices

Any notice or other communication under or in connection with the LTIP may be given by personal delivery or by sending it by post or fax or email, in the case of a company to its registered office (or any other address notified by that company from time to time (***Notified Address***)) or the fax number (if any) of that registered office (or Notified Address), and in the case of an individual to their last known address, fax number, email address or, if they are a director or employee of a Group Company, either to their last known address, fax number or to the address of the place of business at which they carry out all or most of their duties, or to the fax number or email address relating to that address.

23.7 Governing Law

This LTIP and the rights of Eligible Employees and Participants under the LTIP are governed by the laws in force in the State of Victoria, Australia.

BHP Billiton Plc Group Incentive Scheme

(approved by shareholders at the AGM on 4.11.02, as amended and approved by shareholders at the AGM on 25.11.04)

Group Incentive Scheme

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Group Incentive Scheme

BHP Billiton Plc Group Incentive Scheme

1. Purpose

- (a) The Scheme is an integral part of the Company's overall approach to competitive performance-based remuneration. The Scheme aims to reward an employee for meeting or exceeding his or her goals and aligning his or her activities to the Company's charter values.
- (b) The Scheme is designed to develop a clear line of sight between individual goals, business objectives and reward. It is intended to bind members of the senior management team at BHP Billiton through a global performance reward arrangement which ensures his or her focus on the achievement of the global business strategy of BHP Billiton, while providing equity in employee reward throughout the global business.
- (c) The Scheme has 2 components – a short term incentive and a long term incentive. Both components of the reward are directly linked to individual performance as assessed against the business and an individual's personal goals.

2. Definitions and interpretation

2.1 Definitions

In this Scheme the following terms have the following meanings:

Allocate means granting an option or other right to acquire unissued Shares, or if there is no such grant, the issue and allotment of Shares.

Award means the issue or transfer to a Participant of the Shares the subject of the Deferred Shares on the terms set out in the Scheme.

BHPB Securities Dealing Code means the Company's Securities Dealing Code, as amended from time to time.

Board means the board of directors of the Company from time to time.

Bonus Amount means the bonus receivable by an Eligible Employee under the Scheme in respect of a Performance Year as determined by RemCo in accordance with section 3 of the Scheme and the processes established by RemCo from time to time.

Business Day means any day on which the London Stock Exchange is open for trading.

Cash Payment means the payment of the Participant's STI Amount.

Close Period has the meaning set out in the BHPB Securities Dealing Code.

Company means BHP Billiton Plc, a company incorporated in England and Wales with registered number 3196209 whose registered office is at Neathouse Place, London SW1V 1BH.

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Confirmation means the confirmation issued by RemCo to each Participant in accordance with clause 3.4 and confirming the Participant's STI Amount and LTI Amount for a Performance Year.

Constitution means the constitution of the Company.

Control Event means:

(a) either:

- (i) a person (or a group of persons acting in concert) obtains control (as defined in section 840 of the Income and Corporations Act 1988) of the Company as a result of making an offer to acquire Shares; or
- (ii) transactions have occurred or will occur which have resulted in or will or are highly likely to result in:
 - (A) changes in the identity of more than one half of the existing Board members; or
 - (B) the appointment of new Board members such that more than one half of the Board is newly appointed; or
 - (C) persons who were entitled to cast more than one half of the votes that could be cast at a Board meeting prior to the changes occurring not being entitled to cast more than one half of the votes after the changes have occurred,

which the Board determines in its discretion, acting reasonably (and after obtaining written advice from a leading commercial Queens Counsel or other equivalent Senior Counsel), to constitute or be equivalent to a change of control for the purposes of the Scheme;

- (b) when a Court sanctions a compromise or arrangement for the purposes of or in connection with a scheme for the amalgamation of the Company with any other company or companies other than Limited under section 425 of the Companies Act 1985; or
- (c) when the Company passes a resolution for voluntary winding up or if an order is made for the compulsory winding up of the Company.

Controllable Event means resignation by a Participant from a Group Company.

Deferred Share means an option or a conditional right granted under clause 7 to acquire a Share on the terms set out in the Scheme.

Dismissal means termination of a Participant's employment with a Group Company for cause, including unlawful or serious misconduct, as determined by RemCo in its absolute discretion.

Dividend Equivalent Payment means the payment of an amount equivalent to the amount of dividends that would have been payable to a Participant on and from the start of the Performance Year as if a Share had been issued or transferred to the Participant on that date instead of the Deferred Share or Option being granted in accordance with this plan, and accruing until the date on which the Deferred Share or Option is exercised by or Awarded to the Participant in accordance with this plan.

Group Incentive Scheme

Eligible Employee means an Employee nominated by OCE or RemCo and whom RemCo determines in its absolute discretion is to participate in the Scheme and who has not given or been given notice of termination of employment.

Employee means any person who is in full-time or part-time employment of a Group Company.

Event means the occurrence of one of the circumstances described in clauses 12 to 16.

Grant Period means the period referred to in clause 10.2.

Gross Salary means an Eligible Employee's gross annual base salary based on the lower of the salary as at 30 March and at 30 June in the Performance Year either, as determined by RemCo in its discretion, in the currency of the jurisdiction in which the Employee is located at the time of receipt of an Invitation or the US dollars equivalent, as calculated under the global net pay formula in operation at that time.

Group means the Company and its Subsidiaries from time to time and a **Group Company** means any one of them.

Holding Lock means a mechanism to prevent dealings with Shares issued or transferred to a Participant under the Scheme for the purposes of meeting any Minimum Shareholding Requirement.

Holding Lock Period means the period from the date on which a Holding Lock is placed on Shares until the earlier of:

- (a) the date the Shares are no longer required to be subject to a Holding Lock to meet the Minimum Shareholding Requirement;
- (b) the date on which a Participant ceases to be employed by a Group Company or a Limited Group Company; or
- (c) the date RemCo approves a request to release the Holding Lock made by a Participant under clause 9.5.

Invitation means an invitation to participate in the Scheme in respect of a Performance Year in accordance with clause 3.1.

Joint Electorate Action has the meaning given in the Sharing Agreement.

Law means the laws of England Wales and any applicable legislation of the jurisdiction in which an Eligible Employee is located at the time of receipt of an Invitation.

Limited means BHP Billiton Limited (ABN 49 004 028 077) whose registered office is at 45th Floor, Bourke Place, 600 Bourke Street, Melbourne, Victoria, Australia.

Limited Group means Limited and its subsidiaries from time to time as determined in accordance with Australian law and **Limited Group Company** means any one of them.

Limited Scheme means the Group Incentive Scheme of Limited.

Listing Rules means the listing rules of the UK Listing Authority as amended from time to time.

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London Stock Exchange means London Stock Exchange plc

LTI means the long term incentive in accordance with sections 6 to 10 of the Scheme.

LTI Amount means the amount of LTI for a Performance Year as specified in a Participant's Confirmation.

LTI Proportion means the percentage of the LTI Amount which a Participant may elect to receive in the form of Deferred Shares or Options in accordance with clause 6, which will be specified in the Confirmation and which will total 100% of the LTI Amount.

Market Value means the market value of a Share on the relevant date as determined by RemCo in its discretion, but will not be less than the volume weighted average price of Shares over the 5 Business Days immediately prior to the relevant date.

Minimum Shareholding Requirement means the minimum value of Shares which a Participant must hold as determined by RemCo from time to time.

Non-Participation Form means a form by which an Eligible Employee can elect not to accept an Invitation in such form as RemCo may approve from time to time.

OCE means the Office of the Chief Executive.

Option means a right granted under clause 8 to acquire a Share on payment of the exercise price and otherwise on the terms set out in the Scheme.

Option Value means the value of an Option as at the date of grant as determined by RemCo based on a Black-Scholes valuation (or such other valuation method approved by RemCo which is not more beneficial to participants and which will be disclosed in the Annual Report) and taking into account the potential for Dividend Equivalent Payments, which value shall be confirmed by an independent actuary (approved by RemCo).

Participant means an Eligible Employee who is deemed to have accepted an Invitation and to whom an award is made under the Scheme.

PDMR has the meaning set out in the BHPB Securities Dealing Code.

Performance Year means the financial year in respect of which an award for that year is granted.

Prohibited Period means a prohibited period as specified in the BHPB Securities Dealing Code, during which trading in the Company's securities is restricted.

Relevant Interest means where a Participant:

- (a) is the holder of securities;
- (b) has the power to exercise, or control the exercise of, a right to vote attached to securities;
- (c) has the power to dispose of, or control the disposal of, securities; or
- (d) is the holder of vested (but unexercised) Deferred Shares where RemCo has set the amount payable upon exercise or Award of the Deferred Shares at zero or a nominal amount.

RemCo means the Remuneration Committee of the Board as constituted from time to time.

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Restricted Persons has the meaning set out in the BHPB Securities Dealing Code.

Retirement means the cessation of employment of a Participant with a Group Company where the Participant has notified the company of his or her intention to permanently leave the workforce and where it is reasonable for the Remuneration Committee to conclude in its absolute discretion that the Participant is genuinely and permanently leaving the workforce.

Scheme means the Group Incentive Scheme of the Company.

Security Interest means a mortgage, charge, pledge, lien or other encumbrance of any nature.

Shares means fully paid ordinary shares in the capital of the Company.

Sharing Agreement means the DLC Structure Sharing Agreement between the Company and Plc dated 29 June 2001.

STI means the short term incentive in accordance with clauses 4 and 5 of the Scheme.

STI Amount means the amount of STI for a Performance Year as specified in a Participant's Confirmation.

Subsidiary means a body corporate which is a subsidiary of the Company within the meaning of section 736 of the Companies Act 1985.

Tax includes any tax, levy, impost, deduction, charge, rate, contribution, duty or withholding which is assessed (or deemed to be assessed), levied, imposed or made by any government or any governmental, semi-governmental or judicial entity or authority together with any interest, penalty, fine, charge, fee or other amount assessed (or deemed to be assessed), levied, imposed or made on or in respect of any or all of the foregoing.

Target Bonus Amount has the meaning given in clause 3.1.

Termination by Mutual Agreement means termination of a Participant's employment with a Group Company that occurs as a result of a mutual agreement between the Participant and the Group Company.

Trustee means the trustee or trustees for the time being of any employee share ownership scheme or plan trust established by the Company, the beneficiaries of which include the Participants.

Uncontrollable Event means death, serious injury, disability or illness which prohibits continued employment, forced early retirement, retrenchment or redundancy, or such other circumstances which results in a Participant leaving the employment of a Group Company and which RemCo determines is an Uncontrollable Event (but excluding a Controllable Event or where the business or company for which the Participant works is sold outside the Group).

2.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.

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- (b) A gender includes all genders.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person includes a body corporate, an unincorporated body or other entity and conversely.
- (e) A reference to a clause is to a clause of the Scheme.
- (f) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by the Scheme.
- (g) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.
- (h) A reference to **conduct** includes any omission and any statement or undertaking, whether or not in writing.
- (i) A reference to **writing** includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.
- (j) Mentioning anything after **include**, **includes** or **including** does not limit what else might be included.

3. Invitation to participate

3.1 Invitations

- (a) RemCo may from time to time in its absolute discretion issue or cause to be issued Invitations on behalf of the Company to Eligible Employees. That Invitation will be in such form as RemCo determines from time to time and will include the following information:
 - (i) the date of the Invitation;
 - (ii) the name of the Eligible Employee to whom the Invitation is made;
 - (iii) the percentage of the Eligible Employee's Gross Salary which is capable of being received as a bonus if target performance criteria are met (**Target Bonus Amount**), which percentage will be capped at a maximum of 140% (with the actual percentage for each Eligible Employee determined by RemCo or its delegate);
 - (iv) the scorecard for the Eligible Employee, establishing threshold, target and stretch performance criteria and the percentage applicable to achievement of the relevant criteria (**Achievement Percentage**), which percentage will range between 0% and a maximum of 200% for each key performance indicator, with 0% for failing to meet threshold criteria, 100% for meeting target criteria and 200% for meeting or exceeding all stretch criteria, provided that for the purpose of the calculation in (v) below, the maximum overall Achievement Percentage that an individual can receive is capped at 150%;

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- (v) the maximum total bonus amount which can be achieved by the Eligible Employee (determined by multiplying the Target Bonus Amount by the maximum Achievement Percentage (**Potential Bonus Amount**));
 - (vi) that 50% of the actual bonus amount will constitute the STI Amount and that 50% of the actual bonus amount will constitute the LTI Amount;
 - (vii) any Minimum Shareholding Requirement applicable to the Eligible Employee; and
 - (viii) the time period in which an Eligible Employee may elect not to accept the Invitation by returning a duly completed Non-Participation Form.
- (b) Invitations may be made by RemCo on a differential basis to Eligible Employees, different classes of Eligible Employees or to Eligible Employees within the same class, as the case may be.
- (c) Notwithstanding the issue of an Invitation by RemCo as provided for in 3.1(a), if circumstances arise which RemCo determines in its absolute discretion require changes to the items specified in clauses 3.1(a)(iii) to (viii) (but not to levels higher than the maximum amounts specified above) for the current Performance Year, RemCo may make those changes and provide appropriate notification to the relevant employee.

3.2 Deemed Acceptance

- (a) An Eligible Employee who receives an Invitation will be deemed to have accepted the Invitation to participate in the Scheme unless the Eligible Employee returns a duly completed Non-Participation Form within the time period and as otherwise specified in the Invitation.
- (b) For the avoidance of doubt, RemCo in its sole discretion can refuse to allow an Eligible Employee to participate in the Scheme even though the Eligible Employee is deemed to have accepted the Invitation in accordance with paragraph (a).
- (c) A Participant who is deemed to have accepted an Invitation in accordance with clause 3.2(a) and who has received a revised Invitation in accordance with clause 3.1(c) will be deemed to have accepted the revised Invitation from the date the notification of that revised Invitation is received.

3.3 Participants

Provided no duly completed Non-Participation Form is received within the time period and as otherwise specified in the Invitation and subject to clause 3.2(b), and provided further that the Eligible Employee is then still in the full-time or part-time employment of a Group Company, the Eligible Employee will be entitled to participate in the Scheme according to its terms.

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3.4 Confirmation

Following the announcement of the annual results for the Performance Year, a Confirmation will be issued to each Participant. The Confirmation will be in such form as RemCo determines from time to time and will include the following information:

- (a) the date of the Confirmation;
- (b) the name of the Participant;
- (c) subject to clauses 3.1(c), 4 and 19, the determination of the Participant's Bonus Amount for that year (determined by multiplying the Participant's Target Bonus Amount by their actual Achievement Percentage for the Performance Year);
- (d) the Participant's STI Amount and LTI Amount for the Performance Year;
- (e) the choices available to the Participant in relation to the LTI Amount, being whether the Participant wishes to receive Deferred Shares and/or Options and specification of the LTI Proportion choices (if any) which are available to the Participant;
- (f) the dates on which Deferred Shares (if any) will become exercisable or be Awarded, the dates on which Options (if any) will become exercisable and (if applicable) the exercise period for those Deferred Shares and Options; and
- (g) the date by which (and the manner in which) the Participant must inform RemCo of their choices in relation to the LTI for the relevant Performance Year.

SHORT TERM INCENTIVE

4. RemCo Discretion

RemCo may in its absolute discretion (acting in accordance with clause 18(f)) determine that notwithstanding the determination of a Participant's STI Amount in accordance with the Participant's scorecard, no STI Amount shall be granted or paid to any Participant for a Performance Year.

5. STI Amount

- (a) A Participant will receive their STI Amount in the form of a Cash Payment.
- (b) The Cash Payment will be paid (less any tax, social security contributions or other levies) to a Participant as soon as reasonably practicable following the Confirmation issued for the Performance Year (which shall not be prior to the announcement of the annual results).
- (c) The Cash Payment will be payable by any Group Company.
- (d) The Cash Payment will be paid to the Participant as directed by the Participant.
- (e) The Cash Payment will be paid in the local currency of the jurisdiction in which the Participant is located.

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LONG TERM INCENTIVE

6. Election

- (a) A Participant must elect to receive the LTI in the form of Deferred Shares or Options or a combination of the two by specifying the relevant percentage following receipt by the Participant of the Confirmation.
- (b) If no election is made by the date specified in the Confirmation, the Participant will be deemed to have elected an LTI Proportion of 100% in the form of Deferred Shares.
- (c) A Participant will not pay anything for the grant of Deferred Shares or Options.
- (d) The percentage choices which a Participant may elect to receive in the form of Deferred Shares or Options will be set by RemCo.

LONG AND SHORT TERM INCENTIVE

7. Deferred Shares

7.1 Grant of Deferred Shares

The Company will grant to each Participant in satisfaction of all or part of their LTI Proportion of their LTI Amount, the number of Deferred Shares determined in accordance with clause 7.2.

A Participant will not pay anything for the grant of the Deferred Shares. Deferred Shares will be granted on a date determined by RemCo which will be during the Grant Period.

7.2 Number of Deferred Shares

The number of Deferred Shares to be granted to a Participant will be calculated by multiplying the amount of the Participant's LTI Amount by the LTI Proportion that the Participant has elected (or is deemed to have elected) to receive in the form of Deferred Shares, and dividing that amount by the Market Value on the date on which the Deferred Shares are granted.

7.3 Exercise or Award of Deferred Shares

- (a) Subject to clause 7.3(c) and clauses 11 to 16, Deferred Shares which are granted as options may only be exercised during a period determined by RemCo, which will start on or as soon as practicable after:
 - (i) in the case of a Participant who is a director or PDMR of the Company, the first non-Prohibited Period date which occurs 2 years after the end of the Performance Year in respect of which the Deferred Shares are granted; and

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- (ii) in the case of other Participants, the first non-Close Period date which occurs 2 years after the end of the Performance Year in respect of which the Deferred Shares are grantedand, in each case, ending 3 years after the start of the exercise period.
- (b) Subject to clause 7.3(c) and clauses 11 to 16, Deferred Shares which are granted as conditional rights may only be Awarded on a date determined by RemCo, which will be on or as soon as practicable after:
 - (i) in the case of a Participant who is a director or PDMR of the Company, the first non-Prohibited Period date which occurs 2 years after the end of the Performance Year in respect of which the Deferred Shares are granted; and
 - (ii) in the case of other Participants, the first non-Close Period date which occurs 2 years after the end of the Performance Year in respect of which the Deferred Shares are granted.
- (c) Subject to the operation of section 409A of the US Internal Revenue Code, RemCo may (if it considers appropriate) determine that the exercise period of Deferred Shares which are granted as Options to Restricted Persons who are not directors or PDMRs of the Company starts, or that Deferred Shares which are granted as conditional rights to Restricted Persons who are not directors or PDMRs of the Company are Awarded on or as soon as practicable after the first non-Prohibited Period date which occurs 2 years after the end of the Performance Year in respect of which the Deferred Shares are granted.

7.4 Exercise or Award Price

RemCo will set the amount which will be payable by a Participant upon exercise or Award of a Deferred Share, which could be zero, a nominal amount or some higher amount.

8. Options

8.1 Grant

The Company will grant to each Participant in satisfaction of all or part of their LTI Proportion of their LTI Amount, the number of Options determined in accordance with clause 8.2.

A Participant will not pay anything for the grant of the Options. Options will be granted on a date determined by RemCo which will be during the Grant Period.

8.2 Number of Options

The number of Options to be granted to a Participant will be calculated by multiplying the Participant's LTI Amount by the LTI Proportion that the Participant has elected to receive in the form of Options and dividing that amount by the Option Value.

If the Black Scholes option valuation model is used, RemCo will use the Market Value of a Share on or about the date of grant and an exercise price and term for the options established in accordance with the Scheme. In addition,

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RemCo will determine the risk free rate by considering the 3 year bank bill rate on or about the date of grant, the dividend yield by considering the prior year's ordinary dividend yield and the volatility by considering either or both of the average volatility of the Company's shares over the medium term or the implied volatility from publicly traded options over the Company's shares.

8.3 Exercise of Options

- (a) Subject to clause 8.3(b) and clauses 11 to 16, Options may only be exercised during a period determined by RemCo, which will start on or as soon as practicable after:
 - (i) in the case of a Participant who is a director or PDMR of the Company, the first non-Prohibited Period date which occurs 2 years after the end of the Performance Year in respect of which the Options are granted; and
 - (ii) in the case of other Participants, the first non-Close Period date which occurs 2 years after the end of the Performance Year in respect of which the Options are granted,and, in each case, ending 3 years after the start of the exercise period.
- (b) Subject to the operation of section 409A of the US Internal Revenue Code, RemCo may (if it considers appropriate) determine that the exercise period of Options awarded to Restricted Persons who are not directors or PDMRs of the Company will start on or as soon as practicable after the first non-Prohibited Period date which occurs 2 years after the end of the Performance Year in respect of which the Options are granted.

8.4 Exercise Price

The exercise price of an Option will be the Market Value on the date an Option is granted.

9. Minimum Shareholding Requirement

9.1 Setting requirement

RemCo may in its discretion determine that a Minimum Shareholding Requirement will apply to Participants and may determine the procedure and times for calculating such Minimum Shareholding Requirement.

9.2 Application of Holding Lock

If upon the exercise or Award of Deferred Shares or upon the exercise of Options a Participant fails to meet the Minimum Shareholding Requirement, a Holding Lock will be applied by the Company to such number of Shares to be issued or transferred to a Participant under the Scheme as is necessary to meet that Minimum Shareholding Requirement, subject to a maximum limit of 25% of the number of Shares to be issued or transferred to the Participant in any one year. Each Participant agrees that any such Shares will be subject to a Holding Lock for the duration of the Holding Lock Period.

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9.3 Shares already held

For the purposes of determining whether a Participant meets the Minimum Shareholding Requirement, RemCo may take into account any Shares or shares in Limited in which the Participant shows to the satisfaction of RemCo he or she has a Relevant Interest.

9.4 Enforcement by RemCo

RemCo will be entitled to prescribe, take and enforce such action, steps or arrangements as it considers necessary, desirable or appropriate to enforce or give further effect to the provisions of clause 9.2 so as to ensure the Minimum Shareholding Requirement is satisfied.

9.5 Release Request

RemCo may in its discretion release the Holding Lock applied to all or some of a Participant's Shares following a written request to do so made by a Participant on the grounds of hardship (other than exposure by the Participant to share price fluctuations) suffered or being suffered by that Participant.

10. Other provisions

10.1 New issues

A Deferred Share or Option does not confer on a Participant the right to participate in new issues of Shares by the Company, including by way of bonus issue, rights issue or otherwise until the relevant Shares are either issued or transferred to that Participant.

10.2 Grant Period

All grants of Deferred Shares and Options shall be made during the Grant Period which will be either:

- (a) within the 42 days starting on any of the following:
 - (i) the day after the announcement of the Company's results to the London Stock Exchange for any period;
 - (ii) any day on which changes to the Law affecting such Deferred Shares or Options are announced, effected or made; or
 - (iii) if RemCo cannot make any grant due to restrictions imposed by statute, order, regulation, government directions or the BHPB Securities Dealing Code, within 42 days of the lifting of such restrictions; or
- (b) as soon as practicable after the annual general meeting for the Company and Plc is held.

10.3 Securities Dealing Code

All grants of Deferred Shares and Options, any exercise of Options and all Shares to be issued or transferred upon exercise or Award pursuant to the Scheme must be in accordance with and will be subject to the BHPB Securities Dealing Code as amended or replaced from time to time.

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10.4 Security Interest

Subject to clause 10.8, Participants will not grant any Security Interest in or over or otherwise dispose of or deal with any Deferred Shares or Options or any interest in them until the relevant Shares are either issued or transferred to that Participant, and any such Security Interest or disposal or dealing will not be recognised in any manner by the Company.

10.5 Rounding

Where the number of Deferred Shares or Options to be granted is not a whole number, the number will be rounded down to the next whole number.

10.6 Exercise procedure

The manner in which Deferred Shares and Options may be exercised will be determined by RemCo from time to time.

10.7 Lapse

All Deferred Shares and Options which have not been exercised at the expiry of the relevant exercise period will lapse. If more than one such period applies, then the provision which results in the earliest lapse will prevail.

10.8 Not transferable

- (a) Except on the death of a Participant, Deferred Shares and Options may not be transferred, assigned or novated except with the approval of RemCo.
- (b) RemCo may in its discretion determine that where a Participant requests in writing, a Deferred Share or Option which is exercisable may be transferred to his or her spouse or children or step-children under the age of 18 years or to any trust for the benefit of those people, provided that the Deferred Share or Option is exercised within 20 Business Days of the transfer. Where the Deferred Share or Option is not exercised within 20 Business Days of the transfer, the Deferred Share or Option will lapse.

10.9 Dividend Equivalent Payment

- (a) RemCo will authorise a Dividend Equivalent Payment in respect of a Share that is transferred or issued following the exercise or Award of a Deferred Share or the exercise of an Option.
- (b) The Dividend Equivalent Payment will be paid (less any tax, social security contributions or other levies) to a Participant as soon as reasonably practicable following the issue or transfer of a Share.
- (c) The Dividend Equivalent Payment will not be grossed up or otherwise adjusted to account for any Tax consequences which would have applied if the payment was actually the payment of a dividend.

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- (d) The Dividend Equivalent Payment will be payable by any Group Company.
- (e) The Dividend Equivalent Payment will be paid to the Participant as directed by the Participant.
- (f) The Dividend Equivalent Payment will be paid in the local currency of the jurisdiction in which the Participant is located.

EVENTS

11. Events

The provisions of clauses 12 to 16 apply on the occurrence of the relevant Event. Where there is any doubt as to whether a set of circumstances constitutes a particular Event or those circumstances may constitute one or more different Events, the relevant provision to be applied to those circumstances will be determined by RemCo in its absolute discretion.

12. Leaver Provisions

12.1 Uncontrollable Event, Termination by Mutual Agreement or Retirement

Where a Participant leaves the employment of a Group Company because of an Uncontrollable Event, Termination by Mutual Agreement or Retirement, then:

- (a) the Participant's Deferred Shares will become immediately exercisable or will be immediately Awarded and, where relevant, may be exercised by his or her personal representatives; and
- (b) the Participant's Options will become immediately exercisable and, where relevant, may be exercised by his or her personal representatives.

Subject to clauses 11 to 16, any Deferred Shares or Options which become exercisable at the time of the Uncontrollable Event, Termination by Mutual Agreement or Retirement under clause 12.1(a) and (b), may be exercised from the first non-Prohibited Period date following the relevant event until 3 years after that date.

12.2 Controllable Event

Where a Participant leaves the employment of a Group Company because of a Controllable Event, then:

- (a) the Participant's Deferred Shares which are not then exercisable or Awarded will lapse; and
- (b) the Participant's Options which are not then exercisable will lapse.

Subject to clauses 11 to 16, any Deferred Shares or Options which were exercisable at the time of the Controllable Event will remain exercisable for the remainder of the exercise period applying to those Deferred Shares or Options.

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12.3 Dismissal

Where a Participant leaves the employment of a Group Company because of Dismissal, then:

- (a) the Participant's Deferred Shares which are not then exercisable or Awarded will lapse;
- (b) the Participant's Options which are not then exercisable will lapse; and
- (c) the Participant's Deferred Shares or Options which were exercisable at the time of Dismissal will lapse.

12.4 Current Performance Year

- (a) Where a Participant leaves the employment of a Group Company during a Performance Year because of an Uncontrollable Event, Termination by Mutual Agreement or Retirement, the Participant shall not be entitled to any STI Amount for the Performance Year unless RemCo determines in its absolute discretion to pay a pro-rata amount of the STI Amount in respect of the current Performance Year based on the length of employment and performance of the Eligible Employee up to that date.
- (b) Where a Participant leaves the employment of a Group Company during a Performance Year because of a Controllable Event or Dismissal, no STI Amount (and no pro-rata amount) will be paid in respect of the current Performance Year.
- (c) Where a Participant leaves the employment of a Group Company during a Performance Year for any reason, no LTI Amount will be granted in respect of the current Performance Year.

12.5 Leaving before grant

Where an Eligible Employee leaves the employment of a Group Company for any reason after the end of a Performance Year but before the date of grant or payment of any LTI or STI in respect of that Performance Year, no LTI Amount or STI Amount will be granted or paid in respect of that Performance Year, but RemCo may determine in its discretion to pay an amount in respect of the Eligible Employee's performance for that year.

12.6 Other Leavers

Other than as specified in clauses 12.1 to 12.5, if a Participant leaves the employment of a Group Company for any reason, including where the business or company for which the Participant works is sold outside the Group, then RemCo in its discretion will determine the rights of a Participant to the exercise or Award of Deferred Shares or the exercise of Options (or the lapse of such Deferred Shares or Options, as the case may be). In those circumstances, no LTI Amount will be awarded for the current Performance Year but RemCo may determine in its discretion to pay an STI Amount in respect of the current Performance Year.

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12.7 Global Mobility

- (a) Where a Participant transfers employment to Limited or a subsidiary of Limited or any other company in which either the Company or Limited or both have an interest and which RemCo designates for this purpose (**Connected Company**), the Participant will:
 - (i) not be treated for the purposes of the Scheme as leaving the employment of a Group Company until he or she is no longer employed by a Group Company, Limited, a subsidiary of Limited or the Connected Company;
 - (ii) maintain any unexercised Deferred Shares or Options granted under the Scheme and remain eligible to receive an award in respect of the current Performance Year in accordance with the Scheme; and
 - (iii) at the discretion of RemCo (including consideration by RemCo of the transfer date) and on terms approved by RemCo, have his or her Bonus Amount for the current Performance Year calculated by reference to the Group and the Limited Group on a combined basis.
- (b) After the transfer of a Participant to Limited or a subsidiary of Limited, the Participant will only be eligible to be invited to participate in the Limited Scheme in respect of any year after the Performance Year in which he or she transfers.

13. Joining Provisions

Where an employee joins a Group Company after the commencement of a Performance Year and RemCo selects that employee to participate in the Scheme, the terms of the Eligible Employee's participation will be determined by RemCo, based in part on consideration of the length of time remaining in the Performance Year. The Eligible Employee will then be issued an Invitation in accordance with clause 3.1, with any required modifications. The Eligible Employee will not be entitled to any STI or LTI for any Performance Years before the Performance Year in which the employee joined the Group Company.

14. Temporary or Unpaid Leave

Subject to applicable laws:

- (a) if a Participant goes on temporary leave due to serious injury, disability or illness or for parental leave, long service leave or unpaid leave which is not dealt with in clause 14(b), RemCo may, in its absolute discretion, reduce the Participant's Bonus Amount for the Performance Years in which the leave falls on a pro-rata basis to reflect the period of leave; and
- (b) If a Participant takes unpaid leave from a Group Company for a minimum of six consecutive months, the Participant's Bonus Amount (if any) for the Performance Years in which the leave falls will be determined by RemCo in its absolute discretion.

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15. Breach, fraud or dishonesty

If in the opinion of RemCo an Eligible Employee or Participant acts fraudulently or dishonestly or is in material breach of his or her obligations to any Group Company (or a Limited Group Company) then RemCo may in its absolute discretion determine that:

- (a) no STI Amount or LTI Amount will be awarded for the current Performance Year;
 - (b) all the Participant's Deferred Shares will lapse; and
 - (c) all the Participant's Options will lapse,
- and RemCo's decision will be final and binding.

16. Takeover, Reconstruction and Winding Up

Upon a Control Event occurring, then:

- (a) all Shares held by a Participant under the Scheme which are subject to a Holding Lock will be released;
- (b) all Deferred Shares will immediately become exercisable or will be immediately Awarded but, if not exercised (where required), will lapse 6 months after the date the Control Event occurs; and
- (c) all Options will immediately become exercisable but will lapse 6 months after the date the Control Event occurs.

GENERAL MATTERS

17. Commencement

The Scheme will take effect on the date specified by RemCo, being a date on or following the date of resolution by the shareholders of the Company and Plc approving the Scheme.

18. Administration of the Scheme

- (a) The Scheme will be administered by RemCo. RemCo will have power to delegate the exercise of its powers or discretions arising under the Scheme to any one or more persons (including, but not restricted to, a sub-committee of RemCo) for such period and on such conditions as RemCo may determine.
- (b) RemCo may at any time appoint or engage specialist service providers for the operation and administration of the Scheme.
- (c) RemCo will ensure a complete register of Participants is maintained to facilitate efficient management and administration and to comply with regulatory reporting requirements.
- (d) Shares to be provided under the Scheme in satisfaction of an Award or an exercise of an Option may either be satisfied by the issue of new Shares or by the transfer of existing Shares.

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- (e) The Scheme may be administered in conjunction with an employee share ownership scheme or plan trust and for these purposes the Company may issue Shares or grant options to the Trustee to facilitate the awards made under the Scheme. The transfer of a Share by the Trustee to a Participant will satisfy the obligation of the Company to issue or transfer a share to a Participant under the Scheme.
- (f) Where RemCo is required to make a determination or is entitled to exercise discretion in respect of the Scheme, that determination or discretion shall be exercised reasonably and in good faith.

19. Amendment of the Scheme

19.1 Amendments

- (a) The Board, on advice from RemCo, may at any time and from time to time by resolution alter the Scheme.
- (b) Without limiting paragraph (a), the Board may alter the Scheme by creating sub-schemes based on the terms and conditions set out in the Scheme to apply to Eligible Employees employed in, resident in, or who are citizens of, countries other than the United Kingdom in order to take account of securities, exchange control, taxation or employment laws or regulations, or similar factors, in countries in which the Scheme is to be implemented. The limits in clause 20 will apply to any such sub-scheme.

19.2 Shareholder approval

Subject to clause 19.3, any alteration to the Scheme which:

- (a) is to the advantage of Participants and which amends:
 - (i) the definition of “Eligible Employee”;
 - (ii) the limitations on the number of Shares which may be issued under the Scheme;
 - (iii) any limit on benefits or any category of benefit that may be granted under the Scheme to any one Participant;
 - (iv) the means of determining the exercise price of an Option;
 - (v) any rights attaching to the Deferred Shares or Options;
 - (vi) the rights of the holders of Deferred Shares or Options in the event of a capitalisation issue, rights issue, sub-division or consolidation of shares or reduction or any other variation of capital of the Company; or
 - (vii) the terms of this clause 19.2; or
- (b) relates to directors of the Company participating in the Scheme,

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will require the prior approval by ordinary resolution of the members of the Company and Limited as a Joint Electorate Action, provided that this does not relate to the creation of sub-schemes in accordance with clause 19.1.

19.3 Minor Alterations

Clause 19.2 will not apply to any minor alteration to benefit the administration of the Scheme or any alteration to take account of a change in legislation or to obtain or maintain favourable tax, exchange control or regulatory treatment for Participants or any Group Company.

19.4 Listing Rules

Any amendment to the Scheme is subject to any restrictions or procedural requirements relating to the amendment of the rules of an employee incentive scheme imposed by the Listing Rules.

20. Issue limitations

20.1 10% in 10 years

The number of Shares which may be Allocated under the Scheme on any day must not exceed 10% of the combined issued ordinary share capital of the Company and Limited immediately before that day, when added to the total number of Shares which have been Allocated in the previous 10 years under the Scheme and any other employee share scheme operated by the Company or Limited.

20.2 5% in 10 years

The number of Shares which may be Allocated under the Scheme on any day must not exceed 5% of the combined issued ordinary share capital of the Company and Limited immediately before that day when added to the total number of Shares which have been Allocated in the previous 10 years under the Scheme and any other discretionary share scheme adopted by the Company or Limited. This limit may be exceeded where vesting is dependent on the achievement of stretching performance criteria.

20.3 Exclusions

Where the right to acquire Shares is released or lapses without being exercised or Awarded, the Shares concerned are ignored when calculating the limits in this clause 20.

21. No interest or right until grant or exercise

- (a) An Eligible Employee has no entitlement to be granted any Deferred Share or Option unless and until such Deferred Share or Option is granted.
- (b) Unless and until a Deferred Share is exercised or Awarded or an Option is exercised and the relevant Shares are either issued or transferred to that Participant as a result of that Award or exercise, a Participant has no interest in those Shares.

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22. Ranking and Listing

- (a) All Shares issued or transferred to a Participant under this Scheme, will, from the date of issue or transfer, rank equally with all other issued Shares. If necessary, the Company will apply for official quotation of these shares on each stock exchange on which Shares are quoted.
- (b) The Options and Deferred Shares will not be listed for quotation on any stock exchange.

23. Capital Events

23.1 Variation of Capital

If there are certain variations of the share capital of the Company including a capitalisation or rights issue, sub-division, consolidation or reduction of share capital, a demerger (in whatever form) or other distribution in specie, RemCo may make such adjustments as it considers appropriate under clause 23.2 in accordance with the provisions of the Listing Rules.

23.2 Adjustments

An adjustment made under this clause will be to one or more of the following:

- (a) the number of Shares subject to any Deferred Share or Option;
- (b) the exercise price for an Option; or
- (c) where the Deferred Share or Option has been exercised but no Shares have been issued or transferred following the exercise, the number of Shares which may be issued or transferred.

23.3 Notice of Variation

As soon as reasonably practicable after making any adjustment under clause 23.2, RemCo will give notice in writing of the adjustment to any Participant affected by it.

24. Law, Listing Rules and the Constitution

The Scheme and all offers and issues of Deferred Shares and Options under the Scheme are subject to the Law, the Listing Rules and the Constitution, each as in force from time to time.

25. Rights of Participants

Nothing in this Scheme or participation in the Scheme:

- (a) confers on any Eligible Employee or Participant the right to continue as an employee of any Group Company;
- (b) confers on any Employee the right to become or remain an Eligible Employee or Participant or to participate under the Scheme;

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- (c) will be taken into account in determining a Participant's salary or remuneration for the purposes of superannuation or other pension arrangements;
- (d) affects the rights and obligations of any Eligible Employee or Participant under the terms of their office or employment with any Group Company;
- (e) affects any rights which a Group Company may have to terminate the employment of an Eligible Employee or Participant or will be taken into account in determining an Eligible Employee's or Participant's termination or severance pay;
- (f) may be used to increase damages in any action brought against any Group Company in respect of any such termination; and
- (g) confers any responsibility or liability on any Group Company or its directors, officers, employees, representatives or agents in respect of any taxation liabilities of the Eligible Employee or Participant.

26. Termination and suspension

- (a) Grants of awards under this Scheme may only be made for a period of 10 years commencing on the date on which the Scheme is approved by the Company's shareholders. RemCo will, however, review the Scheme after it has been in effect for 5 years to ensure that it is still meeting its objectives and will report on that review to shareholders.
- (b) RemCo may at any time, and at its complete discretion, suspend or terminate the Scheme without notice to Participants. The suspension or termination of the Scheme will not affect any existing grants of Deferred Shares or Options already made under the Scheme and the terms of the Scheme will continue to apply to such grants provided that, in the case of termination, all Shares then subject to a Holding Lock will be released from the Holding Lock on the date of termination or on such other date specified by RemCo.

27. General

27.1 Costs and Expenses

The Company will pay all expenses, costs and charges in relation to the establishment, implementation and administration of the Scheme, including all costs incurred in or associated with the payment of any Cash Payment, the issue or purchase of Shares (except for Taxes which are payable by Participants and the exercise or Award price (if any) for the Deferred Shares and the exercise price of Options) for the purposes of the Scheme. Each Group Company will, if required by RemCo, reimburse the Company for any such costs and charges to the extent that they relate to its employees or former employees.

27.2 Withholding

- (a) If any person (not being the Participant) is obliged as a result of or in connection with the payment of any Cash Payment, the grant, vesting, exercise or Award of any Deferred Shares or Options or the payment of a Dividend

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Equivalent Payment to account for income tax or employment taxes under any wage, withholding or other arrangements or for any other tax, social security contributions or levy or charge of a similar nature, then that person is entitled to be reimbursed by the Participant for the amounts so paid or payable.

- (b) Where paragraph (a) applies, the Company is not obliged to pay the relevant amount or issue or transfer the relevant Shares to the Participant unless the relevant person is satisfied that arrangements have been made for reimbursement. Those arrangements may include, without limitation, the sale, on behalf of the Participant, of Shares issued or transferred or otherwise to be issued or transferred to the Participant and where this happens, the Participant will also reimburse the costs of any such sale (e.g. stamp duty, brokerage, etc.)
- (c) RemCo may require any Participant, as a condition of exercise or Award of any Deferred Shares or the exercise of any Options, to enter into an agreement transferring any liability of any Group Company to social security contributions in respect of those shares or options.

27.3 Data protection

By electing not to return a Non-Participation Form, each Participant consents to the holding and processing of personal data provided by the Participant to any Group Company for all purposes relating to the operation of the Scheme. These include, but are not limited to:

- (a) administering and maintaining Participants' records;
- (b) providing information to trustees of any employee benefit trust, registrars, brokers or third party administrators of the Scheme;
- (c) providing information to future purchasers of the Company or the business in which the Participant works;
- (d) transferring information about the Participant to a country or territory outside United Kingdom.

27.4 Mistaken Recipient

- (a) If any Deferred Share or Option is granted under this Scheme in error or by mistake to a person who is not the intended recipient (***Mistaken Recipient***), the Mistaken Recipient shall have no right or interest, and shall be taken never to have had any right or interest in that Deferred Share or Option and those Deferred Shares and Options will immediately lapse.
- (b) If any Cash Payment or Dividend Equivalent Payment is paid under this Scheme in error or by mistake to a person who is not the intended recipient (***Mistaken Recipient***), the Mistaken Recipient shall have no right to retain in that Cash Payment or Dividend Equivalent Payment and the Company may take whatever steps it deems reasonably necessary to seek repayment of that Cash Payment or Dividend Equivalent Payment.

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27.5 Dispute

Any disputes or differences of any nature arising under the Scheme will be referred to RemCo and its decision will be final and binding in all respects.

27.6 Notices

Any notice or other communication under or in connection with the Scheme may be given by personal delivery or by sending it by post or fax or email, in the case of a company to its registered office (or any other address notified by that company from time to time (**Notified Address**)) or the fax number (if any) of that registered office (or Notified Address), and in the case of an individual to their last known address, fax number, email address or, if they are a director or employee of a Group Company, either to their last known address, fax number or to the address of the place of business at which they carry out all or most of their duties, or to the fax number or email address relating to that address.

27.7 Governing Law

This Scheme and the rights of Eligible Employees and Participants under the Scheme are governed by the laws in force in England and Wales.

BHP Billiton Plc Long Term Incentive Plan

(approved by shareholders at the AGM on 25.11.04)

Long Term Incentive Plan

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Long Term Incentive Plan

BHP Billiton Plc

Long Term Incentive Plan

1. Purpose

- (a) The LTIP is an integral part of the Company's overall approach to competitive performance-based remuneration.
- (b) The LTIP is designed to develop a clear line of sight between business objectives and reward. It is intended to bind members of the senior management team at BHP Billiton through a global performance reward arrangement which ensures his or her focus on the achievement of the global business strategy of BHP Billiton, while providing equity in employee reward throughout the global business.
- (c) The LTIP is a long term incentive aimed at creating a stronger link between employee performance and reward and increasing shareholder value by enabling Participants to have a greater involvement with, and share in the future growth and profitability of, the Company.

2. Definitions and interpretation

2.1 Definitions

In this LTIP the following terms have the following meanings:

Allocate means granting an option or other right to acquire unissued Shares, or if there is no such grant, the issue and allotment of Shares.

Award means the issue or transfer to a Participant of a Share on the terms set out in the LTIP.

Board means the board of directors of the Company from time to time.

Business Day means any day on which the London Stock Exchange is open for trading.

Company means BHP Billiton Plc, a company incorporated in England and Wales with registered number 3196209, whose registered office is at Neathouse Place, London SW1V 1BH, England.

Comparator Group means the entities determined by RemCo from time to time and in accordance with RemCo's policies to determine the Median TSR, which group will be set out in the Invitation. The Comparator Group may be varied by RemCo in respect of each grant of Performance Shares but must constitute at least 10 entities who are reasonably considered by RemCo to be competitors or peers of the Company.

Constitution means the constitution of the Company.

Control Event means:

- (a) either:

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- (i) a person (or a group of persons acting in concert) obtains control (as defined in section 840 of the Income and Corporations Taxes Act 1988) of the Company as a result of making an offer to acquire Shares; or
- (ii) transactions have occurred or will occur which have resulted in or will or are highly likely to result in:
 - (A) changes in the identity of more than one half of the existing Board members; or
 - (B) the appointment of new Board members such that more than one half of the Board is newly appointed; or
 - (C) persons who were entitled to cast more than one half of the votes that could be cast at a Board meeting prior to the changes occurring not being entitled to cast more than one half of the votes after the changes have occurred,

which the Board determines in its discretion, acting reasonably (and after obtaining written advice from a leading commercial Queens Counsel or other equivalent Senior Counsel), to constitute or be equivalent to a change of control for the purposes of the LTIP;

- (b) when a Court sanctions a compromise or arrangement for the purposes of or in connection with a scheme for the amalgamation of the Company with any other company or companies other than Limited under section 425 of the Companies Act 1985; or
- (c) when the Company passes a resolution for voluntary winding up or if an order is made for the compulsory winding up of the Company.

Controllable Event means resignation by a Participant from a Group Company.

Dismissal means termination of a Participant's employment with a Group Company for cause, including unlawful or serious misconduct, as determined by RemCo in its absolute discretion.

Dividend Equivalent Payment means the payment of an amount equivalent to the amount of dividends that would have been payable to a Participant on and from the start of the Performance Year as if a Share had been issued or transferred to the Participant on that date instead of a Performance Share being granted in accordance with this plan, and accruing until the date on which the Performance Share is exercised by or Awarded to the Participant in accordance with this plan.

Eligible Employee means an Employee nominated by OCE or RemCo and whom RemCo determines in its absolute discretion is to participate in the LTIP and who has not given or been given notice of termination of employment.

Employee means any person who is in full-time or part-time employment of a Group Company.

Event means the occurrence of one of the circumstances described in clauses 9 to 12.

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Executive Director means a director of the Company who is also an employee of the Company.

Expected Value means the value of the Performance Shares at the time of grant, taking into account all relevant factors including the potential for Dividend Equivalent Payments, as determined by an independent expert appointed by RemCo.

Financial Year means a period of 12 months starting on 1 July in one year and ending on 30 June in the following year.

Grant Period means the period referred to in clause 7.2.

Gross Salary means an Employee's gross annual salary base as at 30 June in any year either, as determined by RemCo in its discretion, in the currency of the jurisdiction in which the Employee is located or the US dollars equivalent, as calculated under the global net pay formula in operation at that time.

Group means the Company and its Subsidiaries from time to time and a **Group Company** means any one of them.

Group TSR means the lower of the TSR of the Group for the Performance Period (as determined by RemCo in respect of each grant of Performance Shares) and the Group TSR under the Limited LTIP for the Performance Period.

Holding Lock means a mechanism to prevent dealings with Shares issued or transferred to a Participant under the LTIP for the purposes of meeting any Minimum Shareholding Requirement.

Holding Lock Period means the period from the date on which a Holding Lock is placed on Shares until the earlier of:

- (a) the date the Shares are no longer required to be subject to a Holding Lock to meet the Minimum Shareholding Requirement;
- (b) the date on which a Participant ceases to be employed by a Group Company or a Plc Group Company; or
- (c) the date RemCo approves a request to release the Holding Lock made by a Participant under clause 6.5.

Invitation means an invitation to participate in the LTIP in respect of a Performance Year in accordance with clause 3.1.

Joint Electorate Action has the meaning given in the Sharing Agreement.

Law means the laws of England and Wales and any applicable legislation of the jurisdiction in which an Eligible Employee is located at the time of receipt of an Invitation.

Limited means BHP Billiton Limited (ABN 49 004 028 077) whose registered office is at 180 Lonsdale Street, Melbourne, Victoria, Australia.

Limited Group means Limited and its subsidiaries from time to time as determined in accordance with English law and **Limited Group Company** means any one of them.

Limited LTIP means the Long Term Incentive Plan of Limited.

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Listing Rules means the listing rules of the UK Listing Authority as amended from time to time.

London Stock Exchange means London Stock Exchange plc.

LTIP means the Long Term Incentive Plan of the Company.

Market Value means the market value of a Share on the relevant date as determined by RemCo in its discretion, but will not be less than the volume weighted average price of Shares over the 5 Business Days immediately prior to the relevant date.

Median TSR means the weighted average TSR of all entities in the Comparator Group for the Performance Period, with weighting based on the market capitalisation of the relevant entity, as determined by RemCo in respect of each grant of Performance Shares.

Minimum Shareholding Requirement means the minimum value of Shares which a Participant must hold as determined by RemCo from time to time.

Non-Participation Form means a form by which an Eligible Employee can elect not to accept an Invitation in such form as RemCo may approve from time to time.

OCE means the Office of the Chief Executive.

Participant means an Eligible Employee who is deemed to have accepted an Invitation and to whom an award is made under the LTIP.

Performance Hurdles means the conditions relating to the performance of the Group (and the manner in which those conditions will be tested) for the purposes of determining the number of a Participant's Performance Shares which may be Awarded or exercised, as set out in clause 5.

Performance Share means an option or a conditional right granted under clause 3 to acquire a Share on the terms set out in the LTIP for the relevant Performance Year, subject to the Performance Hurdles.

Performance Period means the 5 Financial Years (starting with the Performance Year) required for the purpose of determining the extent (if any) to which the Performance Hurdles have been made.

Performance Year means the Financial Year in respect of which Performance Shares for that year are granted.

Prohibited Period means a prohibited period as specified in the BHPB Securities Dealing Code, during which trading in the Company's securities is restricted.

Relevant Interest means where a Participant:

- (a) is the holder of securities;
- (b) has the power to exercise, or control the exercise of, a right to vote attached to securities;
- (c) has the power to dispose of, or control the disposal of, securities; or
- (d) is the holder of vested (but unexercised) Performance Shares where RemCo has set the amount payable upon exercise or Award of the Performance Shares at zero or a nominal amount.

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RemCo means the Remuneration Committee of the Board as constituted from time to time.

Reporting Date means the date determined by RemCo in its absolute discretion after the end of the Performance Period, on which Participants are advised whether the Performance Hurdles for the relevant Performance Shares have been satisfied.

Retirement means the cessation of employment of a Participant with a Group Company where the Participant has notified the company of his or her intention to permanently leave the workforce and where it is reasonable for the Remuneration Committee to conclude in its absolute discretion that the Participant is genuinely and permanently leaving the workforce.

Security Interest means a mortgage, charge, pledge, lien or other encumbrance of any nature.

Shares means fully paid ordinary shares in the capital of the Company.

Sharing Agreement means the DLC Structure Sharing Agreement between the Company and Plc dated 29 June 2001.

Specified Percentage means the percentage determined by RemCo in its absolute discretion to be applied in the Vesting Schedule for each grant of Performance Shares.

Subsidiary means a body corporate which is a subsidiary of the Company within the meaning of section 736 of the Companies Act 1985.

Tax includes any tax, levy, impost, deduction, charge, rate, contribution, duty or withholding which is assessed (or deemed to be assessed), levied, imposed or made by any government or any governmental, semi-governmental or judicial entity or authority together with any interest, penalty, fine, charge, fee or other amount assessed (or deemed to be assessed), levied, imposed or made on or in respect of any or all of the foregoing.

Termination by Mutual Agreement means termination of a Participant's employment with a Group Company that occurs as a result of a mutual agreement between the Participant and the Group Company.

Trustee means the trustee or trustees for the time being of any employee share ownership scheme or plan trust established by the Company, the beneficiaries of which include the Participants.

TSR means, in respect of an entity, the total shareholder return (including dividends) of the entity for the Performance Period, expressed as a percentage, as determined from time to time by RemCo.

Uncontrollable Event means death, serious injury, disability or illness which renders the Employee incapable of continuing employment with a Group Company on the same basis and in the same position as immediately prior to the serious injury, disability or illness occurring.

Unvested Performance Shares means Performance Shares which are not yet exercisable or have not yet been Awarded.

Vesting Schedule has the meaning set out in clause 5(c).

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2.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person includes a body corporate, an unincorporated body or other entity and conversely.
- (e) A reference to a clause is to a clause of the LTIP.
- (f) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by the LTIP.
- (g) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.
- (h) A reference to **conduct** includes any omission and any statement or undertaking, whether or not in writing.
- (i) A reference to **writing** includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.
- (j) Mentioning anything after **include**, **includes** or **including** does not limit what else might be included.

3. Invitation to participate

3.1 Invitations

- (a) RemCo may from time to time in its absolute discretion issue or cause to be issued Invitations on behalf of the Company to Eligible Employees. That Invitation will be in such form as RemCo determines from time to time and will include the following information:
 - (i) the date of the Invitation;
 - (ii) the name of the Eligible Employee to whom the Invitation is made;
 - (iii) the number of Performance Shares which are capable of being Awarded or becoming exercisable if Performance Hurdles are met;
 - (iv) the Performance Hurdles;
 - (v) the approximate Reporting Date in respect of the Performance Shares and the approximate dates for the exercise or Award of Performance Shares;
 - (vi) any Minimum Shareholding Requirement applicable to the Eligible Employee; and

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- (vii) the time period in which an Eligible Employee may elect not to accept the Invitation by returning a duly completed Non-Participation Form.
- (b) Invitations may be made by RemCo on a differential basis to Eligible Employees, different classes of Eligible Employees or to Eligible Employees within the same class, as the case may be, provided that no Eligible Employee shall be offered a number of Performance Shares which is greater than the smallest number of Performance Shares which is offered to any Executive Director of the Company for the relevant Performance Year.
- (c) Notwithstanding the issue of an Invitation by RemCo as provided for in 3.1(a), if circumstances arise which RemCo determines in its absolute discretion require changes to the items specified in clauses 3.1(a)(iii) to (vii) (but not to levels higher than the maximum amounts specified above or which would involve a decrease in the Performance Hurdles) for the current Performance Year, RemCo may make those changes and provide appropriate notification to the relevant employee.

3.2 Acceptance Form

- (a) An Eligible Employee who receives an Invitation will be deemed to have accepted an Invitation to participate in the Scheme unless the Eligible Employee returns a duly completed Non-Participation Form within the time period and as otherwise specified in the Invitation.
- (b) For the avoidance of doubt, RemCo in its sole discretion can refuse to allow an Eligible Employee to participate in the LTIP even though the Eligible Employee is deemed to have accepted the Invitation in accordance with paragraph (a).
- (c) A Participant who is deemed to have accepted an Invitation in accordance with clause 3.2(a) and who has received a revised Invitation in accordance with clause 3.1(c) will be deemed to have accepted the revised Invitation from the date the notification of that revised Invitation is received.

3.3 Participants

Provided no duly completed Non-Participation Form is received within the time period and as otherwise specified in the Invitation and subject to clause 3.2(b), and provided further that the Eligible Employee is then still in the full-time or part-time employment of a Group Company, the Eligible Employee will be entitled to participate in the LTIP according to its terms.

4. Performance Shares

4.1 Grant of Performance Shares

- (a) Subject to clause 4.1(b), the Company will grant to each Participant the number of Performance Shares that RemCo determines in its absolute discretion as set out in the Invitation. A Participant will not pay anything for the grant of Performance Shares. Performance Shares will be granted on a date determined by RemCo which will be during the Grant Period.

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- (b) The maximum number of Performance Shares that may be granted to a Participant in any Performance Year is the number achieved by multiplying the Participant's Gross Salary by two and dividing that amount by the Expected Value.

4.2 Exercise of Performance Shares

- (a) Subject to clauses 9 to 12 and the remainder of this clause 4.2, Performance Shares will become exercisable or be Awarded if and to the extent that the Performance Hurdles applicable to those Performance Shares are met.
- (b) To the extent the conditions described in clause 4.2(a) are met, Performance Shares which are granted as options may only be exercised during a period determined by RemCo, which will be from the first non-Prohibited Period date after the Reporting Date and ending 5 years after the start of the exercise period.
- (c) To the extent the conditions described in clause 4.2(a) are met, Performance Shares which are granted as conditional rights may only be Awarded on a date determined by RemCo, which will be on or as soon as practicable after the first non-Prohibited Period date after the Reporting Date.
- (d) Performance Shares that are exercised must be exercised on a "first in, first out" basis.
- (e) The maximum number of Performance Shares that a Participant may exercise in any Financial Year is the number achieved by multiplying the Participant's Gross Salary for that Financial Year (or, if applicable, for the last Financial Year in which the Employee was employed by the Group) by four and dividing that amount by the Market Value on the date on which the Performance Shares are exercised.
- (f) The cap in clause 4.2(e) may only be exceeded where:
 - (i) any Performance Shares are scheduled to lapse within six months of the exercise date, in which case all of those Performance Shares which are scheduled to lapse may be exercised; or
 - (ii) where the Participant may be required to pay Tax on the Performance Shares prior to exercise, in which case RemCo may exercise its discretion to permit sufficient shares to be exercised to pay for that Tax.
- (g) Performance Shares which are exercised pursuant to this exception will continue to be counted for the purposes of clause 4.2(e).
- (h) Notwithstanding any other provision of this plan, no Performance Share will be exercisable for a period which is greater than 10 years from the date of the grant of the Performance Share.

4.3 Exercise or Award Price

RemCo will set the amount which will be payable by a Participant upon Award or exercise of a Performance Share, which may be zero, a nominal amount or a higher amount.

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5. Performance Hurdles

The Performance Hurdles applicable to any Performance Period relating to Performance Shares shall be as follows:

- (a) where, as at the end of Performance Period, the Group TSR is less than the Median TSR, the number of Performance Shares that shall be Awarded or become exercisable in accordance with clause 4.2 shall be zero;
- (b) where, as at the end of the Performance Period, the Group TSR is equal to or greater than the Median TSR, the number of Performance Shares that shall be Awarded or become exercisable in accordance with clause 4.2 will be as determined by the Vesting Schedule set out in clause 5(c); and
- (c) the Vesting Schedule shall specify the percentage of Performance Shares which will be Awarded or become exercisable in accordance with clause 4.2 depending on the percentage by which the Group TSR exceeds the Median TSR, as set out below:

Group TSR	% of Performance Shares which vest
• Is below or equal to Median TSR	0%
• Exceeds Median TSR by the Specified Percentage per annum on a cumulative basis (Outperformance)	100%
• Is between Median TSR and Outperformance	Pro rata between 0% and 100% depending on position of performance between Median TSR and Outperformance

- (d) RemCo may determine, in its absolute discretion that, notwithstanding that the Group TSR is equal to or exceeds the Median TSR, all or some of the Performance Shares which would otherwise vest in accordance with clause 5(c) will not vest and will instead lapse.

6. Minimum Shareholding Requirement

6.1 Setting requirement

RemCo may in its discretion determine that a Minimum Shareholding Requirement will apply to Participants and may determine the procedure and times for calculating such Minimum Shareholding Requirement.

6.2 Application of Holding Lock

If upon the exercise or Award of Performance Shares a Participant fails to meet the Minimum Shareholding Requirement, a Holding Lock will be applied by the Company to such number of Shares to be issued or transferred to a Participant under the LTIP as is necessary to meet that Minimum Shareholding Requirement, subject to a maximum limit of 25% of the number of Shares to be issued or transferred to the Participant in any one year. Each Participant agrees that any such Shares will be subject to a Holding Lock for the duration of the Holding Lock Period.

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6.3 Shares already held

For the purposes of determining whether a Participant meets the Minimum Shareholding Requirement, RemCo may take into account any Shares or shares in Limited in which the Participant shows to the satisfaction of RemCo he or she has a Relevant Interest.

6.4 Enforcement by RemCo

RemCo will be entitled to prescribe, take and enforce such action, steps or arrangements as it considers necessary, desirable or appropriate to enforce or give further effect to the provisions of clause 6.2 so as to ensure the Minimum Shareholding Requirement is satisfied.

6.5 Release Request

RemCo may in its discretion release the Holding Lock applied to all or some of a Participant's Shares following a written request to do so made by a Participant on the grounds of hardship (other than exposure by the Participant to share price fluctuations) suffered or being suffered by that Participant.

7. Other provisions

7.1 New issues

A Performance Share does not confer on a Participant the right to participate in new issues of Shares by the Company, including by way of bonus issue, rights issue or otherwise.

7.2 Grant Period

All grants of Performance Shares shall be made during the Grant Period which will be either:

- (a) the 42 days starting on any of the following:
 - (i) the day after the announcement of the Company's results to the London Stock Exchange for any period;
 - (ii) any day on which changes to the Law affecting such Performance Shares are announced, effected or made; or
 - (iii) if RemCo cannot make any grant due to restrictions imposed by statute, order, regulation, government directions or the BHPB Securities Dealing Code, within 42 days of the lifting of such restrictions; or
- (b) as soon as practicable after the annual general meeting for the Company and Plc is held.

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7.3 Securities Dealing Code

All grants of Performance Shares, any exercise of Performance Shares and all Shares to be issued or transferred upon exercise or Award pursuant to the LTIP must be in accordance with and will be subject to the BHPB Securities Dealing Code as amended or replaced from time to time.

7.4 Security Interest

Subject to clause 7.8, Participants will not grant any Security Interest in or over or otherwise dispose of or deal with any Performance Shares or any interest in them until the relevant Shares are either issued or transferred to that Participant, and any such Security Interest or disposal or dealing will not be recognised in any manner by the Company.

7.5 Rounding

Where the number of Performance Shares to be granted is not a whole number, the number will be rounded down to the next whole number.

7.6 Exercise procedure

The manner in which Performance Shares may be exercised will be determined by RemCo from time to time.

7.7 Lapse

All Performance Shares which have not been exercised at the expiry of the relevant exercise period will lapse. If more than one such period applies, then the provision which results in the earliest lapse will prevail.

7.8 Not transferable

- (a) Except on the death of a Participant, Performance Shares may not be transferred, assigned or novated except with the approval of RemCo.
- (b) RemCo may in its discretion determine that where a Participant requests in writing, a Performance Share which is exercisable may be transferred to his or her spouse or children or step-children under the age of 18 years or to any trust for the benefit of those people provided that the Performance Share is exercised within 20 Business Days of the transfer. Where the Performance Share is not exercised within 20 Business Days of the transfer, the Performance Share will lapse.

7.9 Dividend Equivalent Payment

- (a) RemCo will authorise a Dividend Equivalent Payment in respect of a Share that is transferred or issued following the exercise or Award of a Performance Share.
- (b) The Dividend Equivalent Payment will be paid (less any tax, social security contributions or other levies) to a Participant as soon as reasonably practicable following the issue or transfer of a Share.
- (c) The Dividend Equivalent Payment will not be grossed up or otherwise adjusted to account for any Tax consequences which would have applied if the payment was actually the payment of a dividend.

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- (d) The Dividend Equivalent Payment will be payable by any Group Company.
- (e) The Dividend Equivalent Payment will be paid to the Participant as directed by the Participant.
- (f) The Dividend Equivalent Payment will be paid in the local currency of the jurisdiction in which the Participant is located.

EVENTS

8. Events

The provisions of clauses 9 to 12 apply on the occurrence of the relevant Event. Where there is any doubt as to whether a set of circumstances constitutes a particular Event or those circumstances may constitute one or more different Events, the relevant provision to be applied to those circumstances will be determined by RemCo in its absolute discretion.

9. Leaver Provisions

9.1 Uncontrollable Event

- (a) Where a Participant leaves the employment of a Group Company because of an Uncontrollable Event, then the Participant's Performance Shares will become immediately exercisable or be immediately Awarded (without satisfaction of the Performance Hurdles) and, where relevant, may be exercised by his or her personal representatives.
- (b) Subject to clauses 8 to 12, any Performance Shares which become exercisable at the time of the Uncontrollable Event under clause 9.1(a) may be exercised from the first non-Prohibited Period date after the Uncontrollable Event and ending 5 years after the start of the exercise period.
- (c) Clauses 4.2(d), (e) and (f) (but not clauses 4.2(a), (b) or (c)) will apply to the exercise of any Performance Shares under this clause 9.1.

9.2 Retirement

- (a) Where a Participant leaves the employment of a Group Company because of Retirement:
 - (i) the Participant shall retain the number of Unvested Performance Shares as calculated in accordance with the following formula:
$$RP = PS \times M \div 60$$
Where:
 - RP** is the number of Unvested Performance Shares retained by the Participant;
 - PS** is the number of Unvested Performance Shares granted to the Participant in a Performance Year;

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M, in any Performance Period, is the number of months, or part thereof, that have passed since the beginning of the Performance Period during which the Participant has been employed by a Group Company; and

- (ii) the balance of the Participant's Unvested Performance Shares not retained by the Participant in accordance with clause 9.2(a)(i), shall lapse.
- (b) Subject to clauses 8 to 12, all of the Participant's Unvested Performance Shares that are retained by the Participant in accordance with clause 9.2(a) will become exercisable or be Awarded in accordance with clause 4.2 (unless the Participant dies following Retirement, in which case the Unvested Performance Shares will become immediately exercisable and clauses 4.2(a), (b) and (c) shall no longer apply).
- (c) Subject to clauses 8 to 12, any Performance Shares which are exercisable in accordance with clause 9.2(b) will remain exercisable for the exercise period applying to those Performance Shares (provided that if the Participant dies following Retirement the exercise period for any Performance Shares which are exercisable in accordance with clause 9.2(b) shall start on the first non-Prohibited Period date after the Participant dies and end 5 years after the start of the exercise period).

9.3 Redundancy

If a Participant leaves the employment of a Group Company because of Redundancy, the provisions of clause 9.2 shall apply as if all references to "Retirement" are read as "Redundancy".

9.4 Dismissal or Controllable Event

If a Participant leaves the employment of a Group Company because of Dismissal or a Controllable Event then all of the Participant's Unvested Performance Shares will lapse.

9.5 Termination by Mutual Agreement

If a Participant leaves the employment of a Group Company because of Termination by Mutual Agreement, the provisions of clause 9.2 will apply as if all references to "Retirement" are read as "Termination by Mutual Agreement".

9.6 Other Leavers

Other than as specified in clauses 9.1 to 9.5 if a Participant leaves the employment of a Group Company for any reason, including where the business or company for which the Participant works is sold outside the Group, then RemCo in its discretion will determine the rights of a Participant to the exercise or Award of any Performance Shares (or the lapse of such Performance Shares), based on the general principle that the Participant will not be treated more favourably than would have been the case under clause 9.2 if the relevant event was a Retirement of the Participant.

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9.7 Global Mobility

- (a) Where a Participant transfers employment to Limited or a subsidiary of Limited or any other company in which either the Company or Limited or both have an interest and which RemCo designates for this purpose (**Connected Company**), the Participant will:
 - (i) not be treated for the purposes of the LTIP as leaving the employment of a Group Company until he or she is no longer employed by a Group Company, Limited, a subsidiary of Limited or the Connected Company; and
 - (ii) maintain any unexercised Performance Shares granted under the LTIP and remain eligible to receive an award in respect of the current Performance Year in accordance with the LTIP.
- (b) After the transfer of a Participant to Limited or a subsidiary of Limited, the Participant will only be eligible to be invited to participate in the Limited LTIP in respect of any year after the Performance Year in which he or she transfers.

10. Temporary or Unpaid Leave

Subject to applicable laws, if a Participant goes on temporary leave due to serious injury, disability or illness or for parental leave, long service leave or unpaid leave, RemCo may, in its absolute discretion, reduce the amount of the Participant's Performance Shares (if any) capable of being Awarded or exercised for the Performance Period on a pro-rata basis to reflect the period of leave.

11. Breach, fraud or dishonesty

If in the opinion of RemCo an Eligible Employee or Participant acts fraudulently or dishonestly or is in material breach of his or her obligations to any Group Company (or a Limited Group Company) then RemCo may in its absolute discretion determine that all the Participant's Performance Shares will lapse and RemCo's decision will be final and binding.

12. Takeover, Reconstruction and Winding Up

Upon a Control Event occurring, then:

- (a) all Shares held by a Participant under the LTIP which are subject to a Holding Lock will be released;
- (b) all Performance Shares which are not then exercisable or the Award of any Performance Shares which are not then Awarded will either:
 - (i) require the prior approval by ordinary resolution of the shareholders of the Company and Limited as a Joint Electorate Action before they can be exercised or Awarded; or

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- (ii) lapse or be cancelled if RemCo determines in its absolute discretion that a term of the Control Event is that holders of those Performance Shares have been or will be offered participation in an acceptable alternative employee share incentive scheme which is reasonably acceptable to RemCo in its absolute discretion.

GENERAL MATTERS

13. Commencement

The LTIP will take effect on the date specified by RemCo, being a date on or following the date of resolution by the shareholders of the Company and Plc approving the LTIP.

14. Administration of the LTIP

- (a) The LTIP will be administered by RemCo. RemCo will have power to delegate the exercise of its powers or discretions arising under the LTIP to any one or more persons (including, but not restricted to, a sub-committee of RemCo) for such period and on such conditions as RemCo may determine.
- (b) RemCo may at any time appoint or engage specialist service providers for the operation and administration of the LTIP.
- (c) RemCo will ensure a complete register of Participants is maintained to facilitate efficient management and administration and to comply with regulatory reporting requirements.
- (d) Shares to be provided under the LTIP may either be satisfied by the issue of new Shares or by the transfer of existing Shares.
- (e) The LTIP may be administered in conjunction with an employee share ownership scheme or plan trust and for these purposes the Company may issue LTIP or grant options to the Trustee to facilitate the awards made under the LTIP. The transfer of a Share by the Trustee to a Participant will satisfy the obligation of the Company to issue or transfer a share to a Participant under the LTIP.
- (f) Where RemCo is required to make a determination or is entitled to exercise discretion in respect of the LTIP, that determination or discretion shall be exercised reasonably and in good faith.

15. Amendment of the LTIP

15.1 Amendments

- (a) The Board, on advice from RemCo, may at any time and from time to time by resolution alter the LTIP.
- (b) Without limiting paragraph (a), the Board may alter the LTIP by creating sub-schemes based on the terms and conditions set out in the LTIP to apply to Eligible Employees employed in, resident in, or who are citizens of, countries other than United Kingdom in order to take account of securities, exchange control, taxation or employment laws or regulations, or similar factors, in countries in which the LTIP is to be implemented. The limits in clause 16 will apply to any such sub-scheme.

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15.2 Shareholder approval

Subject to clause 15.3, any alteration to the LTIP which:

- (a) is to the advantage of Participants and which amends:
 - (i) the definition of “Eligible Employee”;
 - (ii) the limitations on the number of Shares which may be issued under the LTIP;
 - (iii) any limit on benefits or any category of benefit that may be granted under the LTIP to any one Participant;
 - (iv) the Vesting Schedule;
 - (v) any rights attaching to the Performance Shares;
 - (vi) the rights of the holders of Performance Shares in the event of a capitalisation issue, rights issue, sub-division or consolidation of shares or reduction or any other variation of capital of the Company; or
 - (vii) the terms of this clause 15.2; or
- (b) relates to directors of the Company participating in the LTIP,

will require the prior approval by ordinary resolution of the members of the Company and Limited as a Joint Electorate Action, provided that this does not relate to the creation of sub-schemes in accordance with clause 15.1.

15.3 Minor Alterations

Clause 15.2 will not apply to any minor alteration to benefit the administration of the LTIP or any alteration to take account of a change in legislation or to obtain or maintain favourable tax, exchange control or regulatory treatment for Participants or any Group Company.

15.4 Listing Rules

Any amendment to the LTIP is subject to any restrictions or procedural requirements relating to the amendment of the rules of an employee incentive scheme imposed by the Listing Rules.

16. Issue limitations

16.1 10% in 10 years

The number of Shares which may be Allocated under the LTIP on any day must not exceed 10% of the combined issued ordinary share capital of the Company and Plc immediately before that day, when added to the total number of Shares which have been Allocated in the previous 10 years under the LTIP and any other employee share scheme operated by the Company or Limited.

Long Term Incentive Plan

16.2 5% in 10 years

The number of Shares which may be Allocated under the LTIP on any day must not exceed 5% of the combined issued ordinary share capital of the Company and Limited immediately before that day when added to the total number of Shares which have been Allocated in the previous 10 years under the LTIP and any other discretionary share scheme adopted by the Company or Limited. This limit may be exceeded where vesting is dependent on the achievement of stretching performance criteria.

16.3 Exclusions

Where the right to acquire Shares is released or lapses without being exercised or Awarded, the Shares concerned are ignored when calculating the limits in this clause 16.

17. No interest or right until grant or exercise

- (a) An Eligible Employee has no entitlement to be granted any Performance Shares unless and until such Performance Shares are granted.
- (b) An Eligible Employee has no entitlement to have a Performance Share exercised or Awarded other than as expressly provided in this LTIP.
- (c) Unless and until a Performance Share is exercised or Awarded and the relevant Shares are either issued or transferred to that Participant as a result of that exercise, a Participant has no interest in those Shares.

18. Ranking and Listing

- (a) All Shares issued or transferred to a Participant under this LTIP, will, from the date of issue or transfer, rank equally with all other issued Shares. If necessary, the Company will apply for official quotation of these shares on each stock exchange on which Shares are quoted.
- (b) None of the Performance Shares will be listed for quotation on any stock exchange.

19. Capital Events

19.1 Variation of Capital

If there are certain variations of the share capital of the Company including a capitalisation or rights issue, sub-division, consolidation or reduction of share capital, a demerger (in whatever form) or other distribution in specie, RemCo may make such adjustments as it considers appropriate under clause 19.2 in accordance with the provisions of the Listing Rules.

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19.2 Adjustments

An adjustment made under this clause will be to one or more of the following:

- (a) the number of Shares subject to any Performance Share;
- (b) the exercise price for a Performance Share; or
- (c) where a Performance Share has been exercised but no Shares have been issued or transferred following the exercise, the number of Shares which may be issued or transferred.

19.3 Notice of Variation

As soon as reasonably practicable after making any adjustment under clause 19.2, RemCo will give notice in writing of the adjustment to any Participant affected by it.

20. Law, Listing Rules and the Constitution

The LTIP and all offers and issues of Performance Shares under the LTIP are subject to the Law, the Listing Rules and the Constitution, each as in force from time to time.

21. Rights of Participants

Nothing in this LTIP or participation in the LTIP:

- (a) confers on any Eligible Employee or Participant the right to continue as an employee of any Group Company;
- (b) confers on any Employee the right to become or remain an Eligible Employee or Participant or to participate under the LTIP;
- (c) will be taken into account in determining a Participant's salary or remuneration for the purposes of superannuation or other pension arrangements;
- (d) affects the rights and obligations of any Eligible Employee or Participant under the terms of their office or employment with any Group Company;
- (e) affects any rights which a Group Company may have to terminate the employment of an Eligible Employee or Participant or will be taken into account in determining an Eligible Employee's or Participant's termination or severance pay;
- (f) may be used to increase damages in any action brought against any Group Company in respect of any such termination; and
- (g) confers any responsibility or liability on any Group Company or its directors, officers, employees, representatives or agents in respect of any taxation liabilities of the Eligible Employee or Participant.

22. Termination and suspension

- (a) Grants of awards under this LTIP may only be made for a period of 10 years commencing on the date on which the LTIP is approved by the Company's shareholders. RemCo will, however, review the LTIP after it has been in effect for 5 years to ensure that it is still meeting its objectives and will report on that review to shareholders.

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- (b) RemCo may at any time, and at its complete discretion, suspend or terminate the LTIP without notice to Participants. The suspension or termination of the LTIP will not affect any existing grants of Performance Shares already made under the LTIP and the terms of the LTIP will continue to apply to such grants provided that, in the case of termination, all Shares then subject to a Holding Lock will be released from the Holding Lock on the date of termination or on such other date specified by RemCo.

23. General

23.1 Costs and Expenses

The Company will pay all expenses, costs and charges in relation to the establishment, implementation and administration of the LTIP, including all costs incurred in or associated with the issue or purchase of Shares (except for Taxes which are payable by Participants and the exercise or Award price (if any) for the Performance Shares) for the purposes of the LTIP. Each Group Company will, if required by RemCo, reimburse the Company for any such costs and charges to the extent that they relate to its employees or former employees.

23.2 Withholding

- (a) If any person (not being the Participant) is obliged as a result of or in connection with the grant, vesting, exercise or Award of any Performance Shares or the payment of a Dividend Equivalent Payment to account for income tax or employment taxes under any wage, withholding or other arrangements or for any other tax, social security contributions or levy or charge of a similar nature, then that person is entitled to be reimbursed by the Participant for the amounts so paid or payable.
- (b) Where paragraph (a) applies, the Company is not obliged to pay the relevant amount or issue or transfer the relevant Shares to the Participant unless the relevant person is satisfied that arrangements have been made for reimbursement. Those arrangements may include, without limitation, the sale, on behalf of the Participant, of Shares issued or transferred or otherwise to be issued or transferred to the Participant and where this happens, the Participant will also reimburse the costs of any such sale (e.g. stamp duty, brokerage, etc.)
- (c) RemCo may require any Participant, as a condition of exercise or Award of any Performance Shares, to enter into an agreement transferring any liability of any Group Company to social security contributions in respect of those shares or options.

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23.3 Data protection

By electing not to return a Non-Participation Form, each Participant consents to the holding and processing of personal data provided by the Participant to any Group Company for all purposes relating to the operation of the LTIP. These include, but are not limited to:

- (a) administering and maintaining Participants' records;
- (b) providing information to trustees of any employee benefit trust, registrars, brokers or third party administrators of the LTIP;
- (c) providing information to future purchasers of the Company or the business in which the Participant works;
- (d) transferring information about the Participant to a country or territory outside United Kingdom.

23.4 Error in Allocation

- (a) If any Performance Share is provided under this LTIP in error or by mistake to a person (***Mistaken Recipient***) who is not the intended recipient, the Mistaken Recipient shall have no right or interest, and shall be taken never to have had any right or interest in that Performance Share and those Performance Shares will immediately lapse.
- (b) If any Dividend Equivalent Payment is paid under this LTIP in error or by mistake to a person who is not the intended recipient (***Mistaken Recipient***), the Mistaken Recipient shall have no right to retain that Dividend Equivalent Payment and the Company may take whatever steps it deems reasonably necessary to seek repayment of that Dividend Equivalent Payment.

23.5 Dispute

Any disputes or differences of any nature arising under the LTIP will be referred to RemCo and its decision will be final and binding in all respects.

23.6 Notices

Any notice or other communication under or in connection with the LTIP may be given by personal delivery or by sending it by post or fax or email, in the case of a company to its registered office (or any other address notified by that company from time to time (***Notified Address***)) or the fax number (if any) of that registered office (or Notified Address), and in the case of an individual to their last known address, fax number, email address or, if they are a director or employee of a Group Company, either to their last known address, fax number or to the address of the place of business at which they carry out all or most of their duties, or to the fax number or email address relating to that address.

23.7 Governing Law

This LTIP and the rights of Eligible Employees and Participants under the LTIP are governed by the laws in force in England and Wales.

List of Subsidiaries of BHP Billiton Limited and BHP Billiton Plc

	Company Name	Country
1	141 Union Company	United States
2	A & BP Co Pty Ltd	Australia
3	Advalloy (Proprietary) Limited	South Africa
4	African Metals Limited	South Africa
5	Albion Downs Pty Limited	Australia
6	Aluminium Consortium Venezuela B.V.	Netherlands
7	Araguaia Participações Ltda	Brazil
8	Astra Explorations & Mining Company (Proprietary) Limited (Submitted for deregistration in March 2007)	Botswana
9	Atlas Steels Company Limited	Canada
10	Auvernier Limited (In liquidation 30.06.2004)	United Kingdom
11	Baniettor Mining (Proprietary) Limited	South Africa
12	Beswick Pty Ltd (in liquidation 30/06/2004)	Australia
13	BHB Billiton Petroleum (Canco - 2) Corporation	Canada
14	BHP (USA) Investments Inc.	United States
15	BHP Asia Pacific Nickel Pty Ltd	Australia
16	BHP Billiton (Aus) Limited	United Kingdom
17	BHP Billiton (BVI) Limited	Virgin Islands, British
18	BHP Billiton (China) Pty Ltd	Australia
19	BHP Billiton (Trinidad - 2C) Limited	Canada
20	BHP Billiton (Trinidad) Holdings Limited	Saint Lucia
21	BHP Billiton (Trinidad-3A) Limited	Trinidad and Tobago
22	BHP Billiton (Trinidad-3B) Corp.	Canada
23	BHP Billiton (UK) Limited	United Kingdom
24	BHP Billiton Agnew Mining Company Pty Ltd	Australia
25	BHP Billiton Aluminium Limited	United Kingdom
26	BHP Billiton Aluminium Projects (Pty) Ltd	South Africa
27	BHP Billiton Aluminium Technologies Limited	Jersey
28	BHP Billiton Aluminium Vietnam Jersey Limited	Jersey
29	BHP Billiton Aluminium Vietnam UK Limited	United Kingdom
30	BHP Billiton Australia UK Finance Limited	Virgin Islands, British
31	BHP Billiton Boliviana de Petroleo Inc.	United States
32	BHP Billiton Brasil Investimentos Ltda.	Brazil
33	BHP Billiton Brasil Ltda	Brazil
34	BHP Billiton Canadian Finance Inc.	Canada
35	BHP Billiton Capital Inc.	United States
36	BHP Billiton CBM Investments Pty Ltd	Australia
37	BHP Billiton Chile Inversiones Limitada	Chile
38	BHP Billiton China Limited	Hong Kong
39	BHP Billiton China Logistics Pty Ltd	Australia
40	BHP Billiton Community Limited	Australia
41	BHP Billiton Company B.V.	Netherlands
42	BHP Billiton Diamonds (Belgium) N.V.	Belgium
43	BHP Billiton Diamonds (Eurasia) LLC	Russia
44	BHP Billiton Diamonds Australia Pty Ltd	Australia
45	BHP Billiton Diamonds Holdings Limited	Virgin Islands, British
46	BHP Billiton Diamonds Inc.	Canada
47	BHP Billiton Direct Reduced Iron Pty Limited	Australia
48	BHP Billiton Employee Plan Pty Ltd	Australia
49	BHP Billiton Energy Coal (UK) Limited	United Kingdom
50	BHP Billiton Energy Coal Australia Pty Ltd	Australia
51	BHP Billiton Energy Coal Chile Limited	United Kingdom
52	BHP Billiton Energy Coal Inc.	United States
53	BHP Billiton Energy Coal South Africa Limited	South Africa
54	BHP Billiton Escom Diamonds Limited	Virgin Islands, British
55	BHP Billiton Eurasia B.V.	Netherlands

	Company Name	Country
57	BHP Billiton Finance (USA) B.V.	Netherlands
58	BHP Billiton Finance (USA) Limited	Australia
59	BHP Billiton Finance Australia Limited	Virgin Islands, British
60	BHP Billiton Finance B.V.	Netherlands
61	BHP Billiton Finance Limited	Australia
62	BHP Billiton Finance Plc	United Kingdom
63	BHP Billiton Finance South Africa Limited	Virgin Islands, British
64	BHP Billiton Foreign Holdings Inc.	United States
65	BHP Billiton Global Aluminium Technology (Proprietary) Limited	South Africa
66	BHP Billiton Great Boulder Mines Pty Ltd	Australia
67	BHP Billiton Group (BVI) Limited	Virgin Islands, British
68	BHP Billiton Group Limited	United Kingdom
69	BHP Billiton Group Operations Pty Ltd	Australia
70	BHP Billiton Holdings B.V.	Netherlands
71	BHP Billiton Holdings Limited	United Kingdom
72	BHP Billiton Innovation Pty Ltd	Australia
73	BHP Billiton International Development Limited	United Kingdom
74	BHP Billiton International Metals B.V.	Netherlands
75	BHP Billiton International Services Limited	United Kingdom
76	BHP Billiton International Trading (Shanghai) Co., Ltd.	China
77	BHP Billiton Investment Holdings Limited	United Kingdom
78	BHP Billiton Iron Ore Pty Limited	Australia
79	BHP Billiton Japan Limited	Japan
80	BHP Billiton Jersey Limited	Jersey
81	BHP Billiton Korea Co., Ltd.	Korea, Republic of
82	BHP Billiton Limited	Australia
83	BHP Billiton LNG International Inc.	United States
84	BHP Billiton Lonsdale Investments Pty Ltd	Australia
85	BHP Billiton Marine & General Insurances Pty Ltd	Australia
86	BHP Billiton Marketing AG	Switzerland
87	BHP Billiton Marketing Asia Pte Ltd.	Singapore
88	BHP Billiton Marketing B.V.	Netherlands
89	BHP Billiton Marketing Inc.	United States
90	BHP Billiton Marketing Investments ApS	Denmark
91	BHP Billiton Marketing Investments Limited	United Kingdom
92	BHP Billiton Marketing Services India Pvt Ltd	India
93	BHP Billiton Marylebone B.V.	Netherlands
94	BHP Billiton Metais SA	Brazil
95	BHP Billiton Metall GmbH in liquidation as per 01/02/2007	Germany
96	BHP Billiton Minerals Pty Ltd	Australia
97	BHP Billiton Named Corporation	Canada
98	BHP Billiton Nickel Nouvelle Caledonie SAS	New Caledonia
99	BHP Billiton Nickel West Pty Ltd	Australia
100	BHP Billiton Olympic Dam Copper Pty Ltd	Australia
101	BHP Billiton Olympic Dam Corporation Pty Ltd	Australia
102	BHP Billiton Olympic Dam Gold Pty Ltd	Australia
103	BHP Billiton Olympic Dam Marketing Pty Ltd	Australia
104	BHP Billiton Olympic Dam Operations Pty Ltd	Australia
105	BHP Billiton Olympic Dam Uranium Pty Ltd	Australia
106	BHP Billiton Overseas Holdings Limited (in liquidation 30.06.2004)	United Kingdom
107	BHP Billiton Paddington Limited	United Kingdom
108	BHP Billiton Petroleum (Americas) Inc.	United States
109	BHP Billiton Petroleum (Australia) Pty Ltd	Australia
110	BHP Billiton Petroleum (Bass Strait) Pty Ltd	Australia
111	BHP Billiton Petroleum (CanCo - 1) Corporation	Canada
112	BHP Billiton Petroleum (China) Corp.	Canada
113	BHP Billiton Petroleum (Colombia) Corporation	Canada
114	BHP Billiton Petroleum (Deepwater) Inc.	United States
115	BHP Billiton Petroleum (Denmark) ApS	Denmark

116 BHP Billiton Petroleum (Falkland) Corporation
117 BHP Billiton Petroleum (GOM) Inc.

Canada
United States

	Company Name	Country
118	BHP Billiton Petroleum (India) Corporation	Canada
119	BHP Billiton Petroleum (International Exploration) Pty Ltd	Australia
120	BHP Billiton Petroleum (Laurentian) Corporation	Canada
121	BHP Billiton Petroleum (Netherlands) B.V.	Netherlands
122	BHP Billiton Petroleum (New Ventures) Corporation	Canada
123	BHP Billiton Petroleum (North West Shelf) Pty Ltd	Australia
124	BHP Billiton Petroleum (Pilbara LNG) Pty Ltd	Australia
125	BHP Billiton Petroleum (Pipelines Investments) Pty Ltd	Australia
126	BHP Billiton Petroleum (Sabah) Corporation	Canada
127	BHP Billiton Petroleum (South Africa) LLC	Saint Kitts and Nevis
128	BHP Billiton Petroleum (Victoria) Pty Ltd	Australia
129	BHP Billiton Petroleum Great Britain Limited	United Kingdom
130	BHP Billiton Petroleum International Pty Ltd	Australia
131	BHP Billiton Petroleum Investments (Great Britain) Pty Ltd	Australia
132	BHP Billiton Petroleum Limited	United Kingdom
133	BHP Billiton Petroleum Pty Ltd	Australia
134	BHP Billiton Petroleum Trading and Marketing (Asia) Pte Limited (in liquidation)	Singapore
135	BHP Billiton Petroleum Trading and Marketing Inc.	United States
136	BHP Billiton Petroleum Trading and Marketing Pty Ltd	Australia
137	BHP Billiton Plc	United Kingdom
138	BHP Billiton PNG Services Limited	Papua New Guinea
139	BHP Billiton Properties (Proprietary) Limited	South Africa
140	BHP Billiton Raw Materials Limited	South Africa
141	BHP Billiton Resources (China) Pty Ltd	Australia
142	BHP Billiton Resources Exploration Pty Ltd	Australia
143	BHP Billiton Resources International (RSA) Pty Ltd	Australia
144	BHP Billiton Resources Marketing Pty Ltd	Australia
145	BHP Billiton SA Holdings Limited	South Africa
146	BHP Billiton SA Investments Limited	United Kingdom
147	BHP Billiton SA Limited	South Africa
148	BHP Billiton Services Jersey Limited	Jersey
149	BHP Billiton Shared Business Services Pty Ltd	Australia
150	BHP Billiton Shared Services Malaysia Sdn. Bhd.	Malaysia
151	BHP Billiton South Africa (Jersey) Limited	Jersey
152	BHP Billiton South Africa Holdings B.V.	Netherlands
153	BHP Billiton SSM Development Pty Ltd	Australia
154	BHP Billiton SSM Hallmark Inc	Philippines
155	BHP Billiton SSM Indonesia Holdings Pty Ltd	Australia
156	BHP Billiton SSM Indonesia Pte Ltd	Singapore
157	BHP Billiton SSM International Pty Ltd	Australia
158	BHP Billiton SSM Technology Pty Limited	Australia
159	BHP Billiton Taiwan Limited	Taiwan, Province of China
160	BHP Billiton UK Holdings Limited	Virgin Islands, British
161	BHP Billiton UK Investments Limited	Virgin Islands, British
162	BHP Billiton Victoria Limited (in liquidation 30.06.2006)	United Kingdom
163	BHP Billiton Wesminco Oil Pty Ltd	Australia
164	BHP Billiton Western Mining Holdings Pty Ltd	Australia
165	BHP Billiton Western Mining Innovation Pty Ltd	Australia
166	BHP Billiton Western Mining Resources International Pty Ltd	Australia
167	BHP Billiton Westmin Talc Pty Ltd	Australia
168	BHP Billiton World Exploration Inc.	Canada
169	BHP Billiton Yakabindie Nickel Pty Ltd	Australia
170	BHP Billiton Yeelirrie Development Company Pty Ltd	Australia
171	BHP Billiton Yeelirrie Management Services Pty Ltd	Australia
172	BHP Canadian Diamonds Company	Canada
173	BHP Capital No. 20 Pty Ltd	Australia
174	BHP Chile Inc.	United States
175	BHP Coal Holdings Pty Limited	Australia
176	BHP Coal Pty Ltd	Australia

177 BHP Copper Inc.
178 BHP Development Finance Pty Ltd

United States
Australia

	Company Name	Country
179	BHP Escondida Inc.	United States
180	BHP Finance (International) Inc.	United States
181	BHP Finance (Investments) USA Inc.	United States
182	BHP Finance Investments (I) Pty Ltd (in liquidation 30/06/2004)	Australia
183	BHP Financial Services (UK) Limited	Guernsey
184	BHP Group Resources Pty Limited	Australia
185	BHP Hawaii Inc.	United States
186	BHP Holdings (International) Inc.	United States
187	BHP Holdings (Operations) Inc.	United States
188	BHP Holdings (Resources) Inc.	United States
189	BHP Holdings (USA) Inc.	United States
190	BHP Holdings International (Investments) Inc.	United States
191	BHP Internacional Participacoes Ltda	Brazil
192	BHP International Finance Corp.	United States
193	BHP Iron Ore (Jimblebar) Pty Ltd	Australia
194	BHP Iron Pty Limited	Australia
195	BHP Khanij Anveshana Pvt Limited	India
196	BHP Madagascar SARL	Madagascar
197	BHP Madencilik Limited Sirketi	Turkey
198	BHP Mineral Resources Inc.	United States
199	BHP Minerals Asia Inc.	United States
200	BHP Minerals Asia Pacific Pty Ltd	Australia
201	BHP Minerals Europe Limited	United Kingdom
202	BHP Minerals Exploration Inc.	United States
203	BHP Minerals Ghana Inc.	United States
204	BHP Minerals Holdings Pty Ltd	Australia
205	BHP Minerals India Pvt Limited	India
206	BHP Minerals International Exploration Inc.	United States
207	BHP Minerals International Inc.	United States
208	BHP Minerals Pacific Inc.	United States
209	BHP Minerals Service Company	United States
210	BHP Mitsui Coal Pty Limited	Australia
211	BHP Navajo Coal Company	United States
212	BHP Nominees Investments No 3 Pty Ltd (in liquidation 30/06/2003)	Australia
213	BHP Nominees Investments No. 1 Pty. Limited (in liquidation 30/06/2004)	Australia
214	BHP Operations Inc.	United States
215	BHP Peru Holdings Inc.	United States
216	BHP Petroleum (Argentina) S.A.	Argentina
217	BHP Petroleum (Ashmore Operations) Pty Ltd	Australia
218	BHP Petroleum (Cambodia) Pty Ltd	Australia
219	BHP Petroleum (Pakistan) Pty Ltd	Australia
220	BHP Petroleum (Tankers) Limited	Bermuda
221	BHP Petroleum (U.K.) Corporation	United States
222	BHP Petroleum North Sea Limited (in liquidation 4.7.2007)	United Kingdom
223	BHP Queensland Coal Investments Pty Limited	Australia
224	BHP Queensland Coal Limited	United States
225	BHP Resources Inc.	United States
226	BHP Titanium Minerals Pty Ltd	Australia
227	BHP Venezuela DRI Limited (In Liquidation)	United Kingdom
228	BHP Venezuela Inc.	United States
229	BHP Venture Investments Pty Ltd (in liquidation 30/06/2006)	Australia
230	BHPB Freight Pty Ltd	Australia
231	Billiton (RA) B.V.	Netherlands
232	Billiton Aluminium (RAA) Pty Ltd	Australia
233	Billiton Aluminium (Worsley) Pty Ltd	Australia
234	Billiton Aluminium Australia Pty Ltd	Australia
235	Billiton Aluminium SA Limited	South Africa
236	Billiton Argentina B.V.	Netherlands
237	Billiton Australia Finance Pty Ltd	Australia

238	Billiton Australia Holdings B.V.	Netherlands
239	Billiton Australia Investment 3 Pty Ltd	Australia

	Company Name	Country
240	Billiton Chile B.V.	Netherlands
241	Billiton Coal Australia Holdings B.V.	Netherlands
242	Billiton Coal SA Limited	South Africa
243	Billiton Development (Zambia) Limited	Zambia
244	Billiton Development B.V.	Netherlands
245	Billiton E & D 3 B.V.	Netherlands
246	Billiton Executive Pension Scheme Trustee Limited	United Kingdom
247	Billiton Exploration and Mining Indonesia B.V.	Netherlands
248	Billiton Exploration and Mining Peru B.V. (in liquidation as per 16/06/2008)	Netherlands
249	Billiton Exploration Australia Pty Limited	Australia
250	Billiton Guinea B.V.	Netherlands
251	Billiton Indonesia Holdings B.V.	Netherlands
252	Billiton Intellectual Property B.V.	Netherlands
253	Billiton Investment 1 B.V.	Netherlands
254	Billiton Investment 12 B.V.	Netherlands
255	Billiton Investment 13 B.V.	Netherlands
256	Billiton Investment 15 B.V.	Netherlands
257	Billiton Investment 2 B.V.	Netherlands
258	Billiton Investment 3 B.V.	Netherlands
259	Billiton Investment 7 B.V.	Netherlands
260	Billiton Investment 8 B.V.	Netherlands
261	Billiton Investment 9 B.V.	Netherlands
262	Billiton Investments Ireland Limited	Ireland
263	Billiton Manganese Australia Pty Ltd	Australia
264	Billiton Manganese Holdings B.V.	Netherlands
265	Billiton Marketing France SARL	France
266	Billiton Marketing Holding B.V.	Netherlands
267	Billiton Marketing Investments B.V.	Netherlands
268	Billiton Marketing SAR (Hong Kong) Limited	Hong Kong
269	Billiton Nickel (Ravensthorpe) Pty Limited	Australia
270	Billiton Nickel Holdings B.V.	Netherlands
271	Billiton Suriname Holdings B.V.	Netherlands
272	Broadmeadow Mine Services Pty Limited	Australia
273	Broken Hill Proprietary (USA) Inc.	United States
274	Broken Hill Proprietary Billiton Mongolia LLC	Mongolia
275	Bulkers Limited	Liberia
276	Carson Hill Gold Mining Corporation	United States
277	Cerro Matoso Holdings (BVI) Limited	Virgin Islands, British
278	Cerro Matoso SA	Colombia
279	Chaco Valley Energy LLC	United States
280	Chemfos Limited	South Africa
281	Clear Sky Diamonds Limited	Virgin Islands, British
282	Coal Mines Australia Pty Ltd	Australia
283	Coal Operations Australia Pty Limited	Australia
284	Compania Minera Cerro Colorado Limitada	Chile
285	Conicol BVI Limited	Virgin Islands, British
286	Consolidated Nominees (Proprietary) Limited	South Africa
287	Corridor Sands Limitada	Mozambique
288	County Shipping Company Limited	Hong Kong
289	D & H Coal Limited	South Africa
290	Dampier Coal (Queensland) Pty Limited	Australia
291	Danjan (Proprietary) Limited	South Africa
292	Dendrobium Coal Pty Ltd	Australia
293	Dia Met Minerals (Africa) Limited	Cayman Islands
294	Donkerpoort Iron Limited	South Africa
295	Douglas Colliery Limited	South Africa
296	Douglas Colliery Services Limited	South Africa
297	Electrolytic Metal Corporation (Proprietary) Limited	South Africa
298	Emaswati Holding Company (Pty) Limited	Swaziland

299	Empresa de Mineracao Jacui Ltda	Brazil
300	Empresa de Mineracao Seara Ltda.	Brazil

	Company Name	Country
301	Endeavour Coal Pty Ltd	Australia
302	Equatorial Diamonds Limited	Virgin Islands, British
303	Ermelo Mines Services (Proprietary) Limited	South Africa
304	Esidulini (Proprietary) Limited	South Africa
305	Federale Prospekteerders Beperk	South Africa
306	Gard Australia Pty Ltd	Australia
307	Gard Holdings Limited	Virgin Islands, British
308	Gengro Limited	South Africa
309	Global BHP Copper Ltd.	Cayman Islands
310	Groote Eylandt Mining Company Pty Ltd	Australia
311	Haematite Pty Limited	Australia
312	Hamilton Brothers Corporation	United States
313	Hamilton Brothers Exploration Company	United States
314	Hamilton Brothers Oil and Gas Corporation (Liquidated but not Dissolved)	United States
315	Hamilton Brothers Petroleum Corporation	United States
316	Hamilton Oil Company Inc.	United States
317	Hard Carbon Limited	Jersey
318	Hay Point Services Pty Limited	Australia
319	Helios Diamonds Limited	Virgin Islands, British
320	Hillside Aluminium Limited	South Africa
321	Honeybourne Investments Pty Ltd	Australia
322	Hotazel Manganese Mines (Proprietary) Limited	South Africa
323	Hunter Valley Energy Coal Pty Ltd	Australia
324	Illawarra Coal Holdings Pty Ltd	Australia
325	Illawarra Services Pty Ltd	Australia
326	Ingwe Housing Association	South Africa
327	Ingwe Surface Holdings Limited	South Africa
328	IPS USA, Inc.	United States
329	Jenipapo Recursos Naturais S.A.	Brazil
330	Kangwane Anthracite (Proprietary) Limited	South Africa
331	Keliney Closed Joint Stock Company	Russia
332	Kendilo Coal Inc.	United States
333	Lime Technologies (Proprietary) Limited (Submitted for deregistration in September 2007)	South Africa
334	Main Street 58 (Proprietary) Limited	South Africa
335	Manganese Metal Company (Proprietary) Limited	South Africa
336	Manhattan Syndicate Limited	South Africa
337	Marcona International, S.A.	Panama
338	Mayaniquel SA	Guatemala
339	McAlpine S.A. Limited	South Africa
340	Middelburg Mine Services (Proprietary) Limited	South Africa
341	Middelplaats Manganese Limited	South Africa
342	Mine and Smelter Investments (Proprietary) Limited	South Africa
343	Minera BHP Billiton, S.A. de C.V.	Mexico
344	Minera Escondida Ltda	Chile
345	Minera Geleen S.A.	Chile
346	Minera Spence SA	Chile
347	Mineracao Wesminas Ltda	Brazil
348	Minsaco Investments Pty Ltd	Australia
349	Mosbay Management Company (Pty) Limited	South Africa
350	Mt Arthur Coal Pty Limited	Australia
351	N.V. BHP Billiton Maatschappij Suriname	Netherlands
352	Natural Diamond Company Limited	Jersey
353	New Horizon Diamonds Limited	Virgin Islands, British
354	Newcoal Generacion S.A.	Chile
355	Noumea Entreprises S.A.	New Caledonia
356	Oy Alwima Limited	Finland
357	P & DP Co Pty Ltd	Australia
358	P R I Eastern Limited	Cook Islands
359	Pacific Liner Services Pty Ltd (in liquidation 04/05/2007)	Australia

	Company Name	Country
361	Pering Mine Services Holdings (Proprietary) Limited	South Africa
362	Phoenix Mining Finance Company (Pty) Limited (in liquidation 19.4.2001)	South Africa
363	Pienaarsrivier Mynboumaatskappy Beperk	South Africa
364	Pilbara Gas Pty Limited	Australia
365	Plettenberg Bay Estates Limited (Submitted for deregistration November 2007)	South Africa
366	PT BHP Billiton Indonesia	Indonesia
367	PT BHP Billiton Services Indonesia	Indonesia
368	PT Billiton Indonesia	Indonesia
369	PT Gag Nikel	Indonesia
370	PT Juloi Coal	Indonesia
371	PT Kalteng Coal	Indonesia
372	PT Kendilo Coal Indonesia	Indonesia
373	PT Lahai Coal	Indonesia
374	PT Maruwai Coal	Indonesia
375	PT Pari Coal	Indonesia
376	PT Ratah Coal	Indonesia
377	PT Sumber Barito Coal	Indonesia
378	QNI (Nouvelle-Caledonie) SA	New Caledonia
379	QNI International Pty Ltd	Australia
380	QNI Metals Pty Ltd	Australia
381	QNI Nickel (WA) Pty Limited	Australia
382	QNI Philippines Inc	Philippines
383	QNI Pty Ltd	Australia
384	QNI Resources Pty Ltd	Australia
385	QNI Superannuation Nominees Pty Ltd (in liquidation 12/06/2007)	Australia
386	QNI Western Australia Pty Ltd	Australia
387	Queensland Nickel Pty Ltd	Australia
388	Queensland Nickel Sales Pty Ltd	Australia
389	RAL Cayman Inc.	Cayman Islands
390	Ravensthorpe Nickel Operations Pty Limited	Australia
391	Richbay Mine Holdings (Proprietary) Limited	South Africa
392	Richbay Smelter Holdings (Proprietary) Limited	South Africa
393	Rietspruit Mine Services (Pty) Limited	South Africa
394	Rio Algom Exploration Inc.	Canada
395	Rio Algom Investments (Agencia - Chile) Inc.	Chile
396	Rio Algom Investments (Chile) Inc	Canada
397	Rio Algom Ireland Limited (in liquidation)	Ireland
398	Rio Algom Limited	Canada
399	Rio Algom Mining LLC	United States
400	Rio Algom Namibia (Proprietary) Limited	Namibia
401	Riocerro Inc	Cayman Islands
402	Riochile Inc	Cayman Islands
403	Roedtan Mining Company Limited	South Africa
404	Samancor AG	Switzerland
405	Samancor Gabon SA	Gabon
406	Samancor Holdings (Proprietary) Limited	South Africa
407	Samancor Manganese (Proprietary) Limited	South Africa
408	San Felipe Mining Limited	Virgin Islands, British
409	San Juan Coal Company	United States
410	San Juan Transportation Company	United States
411	San Manuel Arizona Railroad Company	United States
412	Savage & Lovemore Mining (Proprietary) Limited	South Africa
413	Savannah Diamonds Limited	Virgin Islands, British
414	Settlers Mynboumaatskappy Beperk	South Africa
415	Sociedad Contractual Minera Otway	Chile
416	Sociedade Geral de Mineracao de Mocambique S.A.R.L.	Mozambique
417	Southeastern Petroleum Sales Corporation	United States
418	Stein Insurance Company Limited	Guernsey
419	Stein Insurance Company Limited	Cayman Islands

420	Sunrise Diamonds Limited	Virgin Islands, British
421	Tasmanian Electro Metallurgical Company Pty Ltd	Australia

	Company Name	Country
422	Terra Nominees (Proprietary) Limited	South Africa
423	The Broken Hill Proprietary Company Pty Ltd	Australia
424	The Norwegian Oil Corporation (DNO-U.S.)	United States
425	The World Marine & General Insurance Plc	United Kingdom
426	Tonmet AG	Switzerland
427	Transition Benefits Fund Pty Ltd (in liquidation 30/06/2004)	Australia
428	Transkei Granite Holdings (Proprietary) Limited	South Africa
429	Transvaal and Delagoa Bay Investment Company Limited	South Africa
430	UMAL Consolidated Pty Limited	Australia
431	Venezuela Aluminium Holding B.V.	Netherlands
432	Westchester Insurance Company (Proprietary) Limited	South Africa
433	Western Complex Coal (Pty) Ltd	South Africa
434	Western Hog Ranch Company	United States
435	Western Venture, Inc.	United States
436	Westmin Talc (U.K.)	United Kingdom
437	Westminer Insurance Pte Ltd	Singapore
438	WMC (Argentina) Inc.	United States
439	WMC (Liberia) Limited	Hong Kong
440	WMC (Mineral Sands) Limited	Jersey
441	WMC (Peru) Inc.	United States
442	WMC Corporate Services Inc.	United States
443	WMC Exploration Inc.	United States
444	WMC Finance (USA) Limited	Australia
445	WMC Finance Limited	Australia
446	WMC Mineracao Ltda.	Brazil
447	WMC Pty Ltd	Australia
448	WMC Resources (Namibia) (Proprietary) Limited	Namibia
449	WMC Resources Marketing (UK) Limited (in liquidation 22.05.2006)	United Kingdom
450	WMC Resources Marketing Limited	Canada
451	WMC Securities Pty Ltd	Australia
452	Worsley Alumina Pty Limited	Australia

Exhibit 12.1
CEO Certification

I, Marius Kloppers, certify that:

1. I have reviewed this annual report on Form 20-F of BHP Billiton Plc and BHP Billiton Limited;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the companies as of, and for, the periods presented in this report;
4. The companies' other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the companies and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the companies, including their consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the companies' disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the companies' internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the companies' internal control over financial reporting; and
5. The companies' other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the companies' auditors and the audit committee of the companies' board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the companies' ability to record, process, summarise and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the companies' internal control over financial reporting.

Date: 15 September 2008

/s/ MARIUS KLOPPERS

Chief Executive Officer

Exhibit 12.2

CFO Certification

I, Alex Vanselow, certify that:

1. I have reviewed this annual report on Form 20-F of BHP Billiton Plc and BHP Billiton Limited;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the companies as of, and for, the periods presented in this report;
4. The companies' other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the companies and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the companies, including their consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the companies' disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the companies' internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the companies' internal control over financial reporting; and
5. The companies' other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the companies' auditors and the audit committee of the companies' board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the companies' ability to record, process, summarise and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the companies' internal control over financial reporting.

Date: 15 September 2008

/s/ ALEX VANSELOW

Chief Financial Officer

Exhibit 13

CEO and CFO Certification

In connection with the Annual Report on Form 20-F of BHP Billiton Limited and BHP Billiton Plc (the “Companies”) for the annual period ended 30 June 2008 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), Marius Kloppers, as Chief Executive Officer of the Companies, and Alex Vanselow, as Chief Financial Officer of the Companies, each hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Companies.

Date: 15 September 2008

/s/ MARIUS KLOPPERS

Chief Executive Officer

Date: 15 September 2008

/s/ ALEX VANSELOW

Chief Financial Officer

Consent of Independent Registered Public Accounting Firms

The Board of Directors
BHP Billiton Limited and BHP Billiton Plc:

We consent to the incorporation by reference in the registration statement (No. 333-141218) on Form F-3 of BHP Billiton Finance (USA) Limited and the registration statements (Nos. 333-100496 and 333-141531) on Form S-8 of BHP Billiton Limited of our reports dated 15 September 2008, with respect to the consolidated balance sheets of the BHP Billiton Group (comprising BHP Billiton Plc, BHP Billiton Limited and their respective subsidiaries) as of 30 June 2008 and 2007, and the related consolidated income statements, consolidated statements of recognised income and expense and consolidated cash flow statements for each of the years in the three-year period ended 30 June 2008, and the effectiveness of internal control over financial reporting as of 30 June 2008, which reports appear in the 30 June 2008 Annual Report on Form 20-F of the BHP Billiton Group. Our report makes reference to a change in accounting for interests in jointly controlled entities.

/s/ KPMG Audit Plc
KPMG Audit Plc
London, United Kingdom

15 September 2008

/s/ KPMG
KPMG
Melbourne, Australia

15 September 2008