

RIO TINTO

IRON ORE

CHIEF EXECUTIVE

8 November 2005

Via email: eet.sen@aph.gov.au

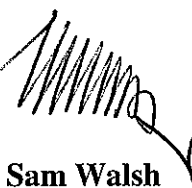
Secretary
Senate Employment, Workplace Relations and Education Committee
Department of the Senate
Parliament House
Canberra ACT 2600
Australia

Dear Sir,

Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

Please find attached a submission to the Committee on behalf of Rio Tinto Limited.

Yours faithfully,



Sam Walsh

RIO TINTO LIMITED ABN 96 004 458 404

152 - 158 St Georges Terrace, Perth 6000 Australia
Box A42 GPO Perth 6837 Australia

Telephone +61-8-9327 2563 Fax +61-8-9327 2667

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

Submitter: Sam Walsh

Organisation: **Rio Tinto Limited**

Address: 152-158 St George's Terrace
Perth WA 6000

Phone: 08 9327 2220

Fax: 08 9327 2667

Email: sam.walsh@riotinto.com

RIO TINTO

**RIO TINTO SUBMISSION TO THE SENATE
EMPLOYMENT, WORKPLACE RELATIONS
AND EDUCATION LEGISLATION
COMMITTEE**

**Inquiry into the Workplace
Relations Amendment
(WorkChoices) Bill 2005**

November 2005

The Rio Tinto Group in Australia

Rio Tinto is a world leader in finding, mining and processing the earth's mineral resources. In 2004, Rio Tinto's Australian investments in iron ore, coal, aluminium, diamonds, uranium, gold and salt totalled A\$13.0 billion. These investments employ over 10,000 Australians. Rio Tinto is the largest iron ore producer in Australia, exporting 127 million tonnes in 2004. Rio Tinto is a large investor in the coal industry - Australia's biggest export earner and an important source of international comparative advantage. Rio Tinto is also a large investor in bauxite production, alumina refining and aluminium smelting in Australia. This industry sector represents Australia's second largest export earner.

The Inquiry

The Senate Employment, Workplace Relations and Education Legislation Committee has established an Inquiry into the WorkChoices reform package as outlined below:

That:

(1) Upon the introduction of the Workplace Relations Amendment (WorkChoices) Bill 2005 in the House of Representatives, the provisions of the bill be referred to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 22 November 2005.

(2) The inquiry not consider those elements of the bill which reflect government bills previously referred to, examined and reported on by the committee; namely those elements which relate to secret ballots, suspension/termination of a bargaining period; pattern bargaining; cooling off periods; remedies for unprotected industrial action; removal of section 166A of the Workplace Relations Act 1996 (the WR Act); strike pay; reform of unfair dismissal arrangements; right of entry; award simplification; freedom of association; amendments to section 299 of the WR Act; and civil penalties for officers of organisations regarding breaches.

Rio Tinto wishes to make the following written submission to the Inquiry.

Rio Tinto Support for the WorkChoices Reforms

Rio Tinto has been at the forefront of changes to workplace relationships as it has pursued greater productivity through improved flexibility, direct relationships with employees and initiatives to encourage people to work to their potential. Significant progress was made in the 1990s as artificial barriers were removed and Rio Tinto operations moved to relationships that recognised contribution, effort and opportunity.

Despite the progress made within each workplace, the full benefits of flexible working arrangements have not been available to our employees and the Company due the complexity and duplication contained within the existing State and Federal industrial relations systems.

Rio Tinto supports the workplace relations reforms contained in the WorkChoices package.

The reforms, once implemented will provide:

- The appropriate balance between providing employers and employees with the ability to reach working arrangements that suit their needs whilst ensuring a regime of minimum protections for all employees;
- One statutory system of workplace regulation removing the duplication, cost and complexity of overlapping Federal and State systems;
- A primary focus on agreement making at each workplace rather than the maintenance of the outdated award processes underpinned by the compulsory arbitration system;
- The proper allocation of accountabilities for all stakeholders in the system whether, employers, employees, unions or statutory bodies.

Rio Tinto Proposals for Amendments to the WorkChoices Package

Rio Tinto supports the following amendments to the WorkChoices reform package:

1. The Workplace Relations Act needs to give Common Law Contracts legal standing to override awards and certified agreements

Whilst the WorkChoices reforms that simplify the Agreement making and lodgement process are supported and will assist at some Rio Tinto sites, the majority of Rio Tinto employees prefer to work under Common Law Contracts that support a culture of working together to meet business goals. Common Law Contracts provide flexibility, focus on performance and rewards that are superior to those available under awards.

The uses of Australian Workplace Agreements or certified agreements with employees involve the use of statutory instruments that are inconsistent with a culture of working together.

Statutory recognition of common law contracts would be underpinned by the protections provided for employees through the application of the Australian Fair Pay and Conditions Standard.

2. Extending the Nominal Life of Employer / Union Greenfields Agreements to Five Years

The Workplace Relations Act currently provides for union greenfields certified agreements. These agreements have a nominal life of three years, consistent with all other categories of certified agreements.

The WorkChoices package significantly alters the statutory scheme for greenfields agreements. In addition to the existing union greenfields agreement, a new employer greenfields agreement is proposed (*Section 96C and 96D of the Bill*). Both categories of greenfields agreements are to have a nominal life of twelve months (*Section 101 of the Bill*).

Rio Tinto does not seek any amendment to the provisions relating to employer greenfields agreements. It is appropriate for such agreements to have a short nominal life.

However, union greenfields agreements are used extensively to provide certainty of employment arrangements for construction work on major infrastructure projects. These projects routinely extend beyond twelve months and in some cases beyond three years.

These projects, involving many billions of dollars of capital investment in Australia require planning certainty. The introduction of such a short nominal life for greenfields agreements would expose these Projects to the potential of projected industrial action at a critical stage of project delivery, add significant delays to scheduled completion dates and involve substantial additional costs from delay and labour cost increases. Exposures of this type will act as a disincentive to investment.

There is no case for reducing the life of these agreements from three years to twelve months. Indeed, it is appropriate given the scope and size of these projects for these agreements to have a nominal life of five years.

3. Overlapping Workplace Agreements

Section 100A of the Bill provides that only one workplace agreement can have effect at a particular time in relation to a particular employee

This provision is aimed at simplifying the complex provisions contained in the Workplace Relations Act dealing with overlapping agreements. Rio Tinto supports simplification of the existing provisions to provide increased certainty and transparency in employment arrangements.

Rio Tinto believes that this provision needs to maintain the flexibility currently available for workplace agreements to overlap where a collective workplace agreement applies to work performed at the site and the following circumstances arise:

- The need for work to be performed by an employee/s in a way, or at times not envisaged when the collective agreement was made eg the need to work an unusual work pattern to commission an item of new plant;
- The employer and an employee wish to implement an employment benefit not provided for under the collective agreement eg the introduction of salary sacrificing

In both cases, the existing collective agreement would continue to apply as the source of most benefits and obligations. An Australian Workplace Agreement with the employee concerned would set out any necessary provisions relating to the work to be performed or the employment benefit.

This flexibility exists under the current statutory scheme and Rio Tinto believes that it should be retained into the future.

Inquiry Process

Rio Tinto does not seek the opportunity to appear at the public hearings in relation to the Inquiry.