Chapter 9

Australia–China and Stern Hu: A Dint in Relations or “Business as Usual”?

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ABSTRACT

China’s economic growth over the last decade has been spectacular and Australia has been a beneficiary of this growth in terms of China’s demand for resources and the strength of Chinese exports. Pundits even suggest that Australia avoided the global recession as a result of this strong trade relationship. Trade relations between Australia and China resulted in China becoming Australia’s key trading partner. The arrest and charging in 2009/10 of four Rio Tinto executives (including Stern Hu the head of Rio’s operation in China) based in China raised fears of posing a strain on this vital economic relationship. Moreover China’s inability to takeover Rio Tinto and the significance and consequences of this incident are at the core of this paper. How do these events reflect the uncertainties of doing business in China or do these events demonstrate China’s sovereign right to enforce anti-corruption legislation? While China has embraced the international business community, to what extent has the arrest and imprisonment of Stern Hu changed the Australian-China trade relations including doing business in this thriving and buoyant market?

INTRODUCTION

The aim of this paper is to offer a critical analysis of the strategic significance of these events. Specifically the two areas examined are impact on firms doing business in China and second the Australia-China relationship. China is a relatively new player in capitalist trade and its adherence to the market principle is unique and contradictory. The Chinese Communist Party is the ultimate power and while many commercial operations will take place independently, when they come to
a sticky end, often the Party’s firm hand will come to the fore. While acts of corruption and industrial espionage are at the fore of these events, do they simply cloud over greater events occurring in the relationship and the exchange between the Chinese and Australian firms? Can a deal gone wrong like this one make the corruption accusation simply a front for deeper and more far reaching matters of principle in the background?

In July 2009, four Rio Tinto executive were arrested by the Chinese government for allegations of bribery and stealing state secretes. Stern Hu, the head of the Anglo-Australian miner’s Shanghai office, and three of his Chinese colleagues, Wang Yong, Ge Minqiang and Liu Caikui were sentenced on March 29, 2010 to ten, fourteen, eight, and seven years prison respectively. The four were convicted of accepting bribes totaling about $US14 million and stealing trade secrets throughout the period of iron ore negotiations between the China Iron and Steel Association (CISA) and Rio Tinto (Mcdonell, 2010).

The four were convicted of accepting bribes in return for helping private Chinese mills secure access to relatively low-cost and stable term iron ore from Rio Tinto. They were also convicted of stealing commercial secrets that helped Rio in iron ore negotiations with Chinese mills. The commercial secrets included information about a steel mill’s production cut, a list of licensed iron ore importers and proceeds of meetings held by the China Iron and Steel Association (Hornby, 2010). On the 8th of April 8 Stern Hu, decided not to appeal his conviction for accepting bribes and stealing commercial secrets. Immediately after the verdict, Rio Tinto dismissed the four executives citing “dishonourable behaviour” (Hornby, 2010). This seemingly insensitive behavior by Rio Tinto might also be explained by the possible repercussions which Rio Tinto would face due to Australia’s signature of the OECD anti-bribery legislation. Stern Hu’s three Chinese colleagues sentenced at the same time on the same charges, decided to appeal the ruling. A number of China’s most active iron ore importers were named as the bribers in the court’s verdict, including iron ore trader Sinochem International, privately owned Rongcheng Steel in Tianjin, also known as Rockcheck Steel, and private steel mills Tangshan Guofeng and Hebei Jinye (Hornby, 2010).

From the Australian government perspective and specifically through the voice of the Foreign Affairs Minister at the time, Stephen Smith, on any measure, the penalty given to Stern Hu was considered a “this a tough sentence,” though in the same breath there was “substantial” evidence that Hu was guilty of bribery (Sainsbury, 2010). Stern Hu and his colleagues all admitted taking bribes from small and medium private steel mills in exchange for providing them with access to regular supplies of iron ore at better prices than they could get from state-run mills. But they argued during the case about the size of the amounts they have been accused of receiving.

The arrest of the Rio Tinto executives occurred after Rio rejected an offer of $US20 billion from the state owned Chinalco and the collapsed iron ore negotiations (Business Today, 2010). The charges were supported by the confiscation of inside information and data which Stern Hu and others had in their possession on Chinese Steel Mills which was interpreted as a threat to China’s national security. News of the arrest and later the trial of Stern Hu ultimately involving Australian companies and executives produced media frenzy in Australia. A brisk and firm Australian government response took little time to arrive. To raise the tension level, Australia complained about the trial being closed to the public. Australia’s then Prime Minister Kevin Rudd challenged the Chinese government stating ‘The world will be watching how this particular court case is conducted’ (Dodd, 2010). It fed into the resurfacing of ‘jingoistic’ fears of China of once upon a time which had been expressed some months earlier by the opposition finance spokesman Barnaby Joyce soon after Chinalco made an offer to takeover Rio Tinto. Joyce stated:
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