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## Wake-up call for foreign firms in China

By **Peter Humphrey**, Special to CNN

### STORY HIGHLIGHTS

- Rio Tinto trial is symptomatic to a wider culture of corruption across China business
- China views much information in industries tied to natural resources as state secrets
- The secrecy of the trials has stoked fears among Western firms in China

**Editor's note:** *Peter Humphrey is the founder of ChinaWhys, a China risk management consultancy, and founding president of the Association of Certified Fraud Examiners Mainland China Chapter.*

**Beijing, China (CNN)** -- While the outcome of the Rio Tinto bribes-for-secrets trial in Shanghai was not in doubt, the lessons from the fiasco for businesses operating in China amount to a loud wake-up call that no company can afford to ignore.

With Australian citizen Stern Hu - Rio Tinto's erstwhile head of iron ore business in China - and three Chinese colleagues pleading guilty to bribery charges after a brief 3-day trial last week, nobody expected them to get off the hook in the court verdict issued on Monday. Reports of guilty pleas in the Chinese media ahead of the verdict usually augur trial convictions and stiff penalties.

The true details of the case will probably never emerge in full from China's secretive judicial process. But whatever you believe about what Stern Hu did and did not do, it is clear the case is symptomatic of the wider culture of corruption and cash-for-secrets activity that plagues all business across the country.

### [Prison for four Rio Tinto execs in China](#)

There are many risk management lessons for multinationals operating in China. First, corrupt practices must be strictly monitored and curbed in order to avoid trouble both with Chinese law and home-country anti-bribery law. This can be done with detailed pre-employment background checks on new hires, especially probing their integrity and business practices. It can also be achieved through strict internal controls and regular internal audits, reinforced by ethics training. It is not impossible that rogue employees may resort to corrupt practices not authorized by their employers. I have seen this behavior at many companies.

Second, companies clearly need to gather business intelligence and competitor intelligence but they must do so through legal and ethical means and not through bribes. There are plenty of legal ways to do it using respectable business intelligence firms. Companies should carefully study China's laws on bribery, trade secrets, unfair competition and state secrets. The Rio affair began with allegations of theft of state secrets - i.e. espionage - a charge later downgraded to bribery and theft of trade secrets. But companies must take seriously the risk of a real espionage trial for a company executive one day in a country that does not clearly define what state secrets are.

A closely-related lesson for multinationals is what we have learned about the interests that China considers "strategic". We now know that many natural resources and raw materials carry that tag and that China considers their price information highly sensitive. Iron ore for China's insatiably hungry steel industry is one example. Iron ore price talks now have a strategic significance for this gigantic government-dominated economy on a level similar to annual grain negotiations between America and the old Soviet Union - and the details of China's bargaining position are considered strategic information -- i.e. a state secret. Companies must expect China increasingly to view many natural resources -- oil, copper, etc -- in this way. And tread warily.

Diplomatic lessons have also emerged from the Rio scandal. Australia was angrily defensive of this Australian-Anglo mining giant and its detained Chinese executives upon their arrest last July. Behind-the-scenes wrangling with China since then, however, suggests a more nuanced position has emerged on both sides. Australia continues to provide consular assistance to Stern Hu, but strident criticism of China has faded. Canberra has just done the biggest deal on record to sell liquefied natural gas to China. Rio Tinto has mended bridges somewhat - only days before the trial it signed a deal with China's Chinalco to develop an African iron ore mine. It is also reported that Rio has conducted an audit to

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check if it paid bribes to or received payments from Chinese steel mills.

Nonetheless, the secrecy with which the key parts of the trial were conducted -- allegedly because they dealt with "state secrets" - has left eternal question marks over the quality of its justice and the authenticity of its charges and therefore has sown fears among multinationals that its Chinese staff could one day be arrested on trumped-up charges. Had China been more transparent and opened the whole trial to the public, it would have significantly boosted its own reputation and credibility in this regard.

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