

SE Business
HD **ANZ chief puts hard word on China with call for give and take**

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At last weekend's Beijing meeting of the powerful and very private Australia-China CEO Roundtable, the top bilateral business forum between the two countries, there was an unmistakable change in tone.

Previous meetings have tended to follow a predictable script, reflecting the lopsided economic relationship we have with the world's emerging superpower.

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China's business elite typically make forceful complaints about investment access and visa issues, among other things, while Australia's business representatives — sometimes to the frustration of our political leaders — listen attentively and promise that we'll do better.

The fourth meeting of the roundtable, held last Saturday at the St Regis Hotel, coincided with ANZ Bank chief executive Mike Smith — one of the nation's few business leaders with serious China credentials — taking over as the Australian chair.

Smith's subsequent briefing of Tony Abbott and Chinese Vice-Premier Wang Yang on the roundtable's discussions might have seemed routine, if you weren't familiar with the vibe of previous meetings.

However, it was anything but routine, largely because Smith gave as good as he got.

While not confrontational, the former HSBC banker made it clear to the Chinese that the nine-year negotiation of a free-trade agreement, which is expected to bear fruit before the end of this year, called for concessions on both sides.

In a note about the briefing, which has been seen by The Weekend Australian, Smith told his hosts that Australia had already shown "considerable flexibility".

"We hope China can match our level of concessions in order to achieve a balanced, win-win outcome," he said.

The Chinese side of the roundtable was a roll call of the country's top business leaders.

Among them were the chairs of two of the country's banking behemoths, Bank of China's Tian Guoli and China Development Bank's Hu Huaibang.

Also present was Shu Yinbiao, president of the world's biggest state utility, State Grid Corporation of China, which last year got approval to buy stakes worth up to \$5 billion in electricity supplier SP AusNet and energy infrastructure company SPI Australia, as well as Yang Hua, president of the state-owned oil and gas company CNOOC.

Apart from Smith, the Australian side included Westpac chief executive Gail Kelly, BG Australia chair Catherine Tanna, and Business Council of Australia boss Jennifer Westacott.

Smith told Abbott and Vice- Continued on Page 27 Continued from Page 21 Premier Wang that Australia looked forward to **China** providing a more level playing field for investment in services, stressing that we had approved 580 **Chinese** foreign investment applications worth more than \$100 billion over the past nine years.

He said **Chinese** investment and partnerships in our major resource projects were welcome, particularly in the emerging areas of unconventional gas to LNG.

But in a similar vein, **China** should “open up” to more Australian investment. Smith pointed to **China's** Foreign Investment Catalogue, which prohibits or restricts foreign investment in a wide range of areas, saying it remained “a concern”.

On the controversial topic of investment in Australia by **China's** state-owned enterprises, he said the roundtable had discussed how SOEs could help us better understand how their processes were consistent with our business practices.

“We discussed the strength of the energy and resources relationship, noting the new Australian government has taken a number of decisive actions to address many of the issues raised by the **Chinese** participants at last year’s roundtable,” Smith said.

The issues included streamlined environmental approvals, applying foreign investment guidelines in an “encouraging manner”, and moving to abolish the mining and carbon taxes.

Further, in January, the government had also introduced three-year, multi-entry visas for **Chinese** business people coming to Australia.

“And we look forward to a positive response to the issues confronting Australian business in **China**,” Smith said.

It remains to be seen whether **China** picks up the gauntlet thrown down by Smith. The next formal meeting of the roundtable is in November as part of Australia’s hosting of the G20.

One.Tel signed off ONE way of looking at this week’s One.Tel settlement is that \$40m has been jagged out of the Murdoch and Packer interests, despite a NSW Supreme Court judge indicating that litigation pursued by the collapsed telco’s special purpose liquidator had little chance of success.

Were Lachlan Murdoch and James Packer, whose interests signed off on the settlement, effectively greenmailed?

And what about the role of litigation funding, with millions spent on a weak legal case that produced a paltry \$5m for creditors — an extra 1.5c in the dollar after the funders get their circa \$10m share and others line up for their cut.

Murdoch and Packer can of course look after themselves.

But this looks like another example of **commercial** litigation “strangling itself”, in the words of the recently retired chief justice of the Supreme Court of South Australia, John Doyle.

To be fair, it was SPL Stephen Parbery of PPB Advisory who injected some common sense into the proceedings, which started way back in 2007 after One.Tel’s 2001 collapse. Parbery took on the job in June 2012 after his predecessor was removed.

In February this year, he retained Arnold Bloch Leibler’s Leon “Mr Fixit” Zwier to try and negotiate a settlement.

The original SPL, Paul Weston, decided to pursue Murdoch and Packer in relation to the \$132m One.Tel rights issue, underwritten by News Corporation and Packer interests.

The capital raising was cancelled in May 2001 after it was discovered that One.Tel had far greater cash needs of \$240m-\$320m.

Weston sought \$244m from Murdoch and Packer, alleging that they breached their One.Tel directors’ duties by participating in **board** discussions on the rights issue, even though they abstained from voting. The SPL said at the time he had advice from three of the country’s leading barristers that his case had a good chance of success. But judge Paul Brereton said on Thursday the case had “very considerable risk”.

First there was never a concluded underwriting agreement; second, Murdoch and Packer were misled about One.Tel's financial position; third, they didn't vote on the rights issue; and fourth, the case could have failed because it wasn't brought within the six-year limitation period.

Murdoch and Packer will be relieved they've been spared a robust Supreme Court cross-examination. Meanwhile, Zwier, who has a reputation as a go-to litigator, has proved that he is a well-rounded individual, mediating a One.Tel settlement after his previous efforts with Centro and Bradken.

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