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<p>1 Friday, 26 October 2018</p> <p>2 (10.02 am)</p> <p>3 MR LI RUN CHAO (on former affirmation in Punti)</p> <p>4 (All answers given via simultaneous interpreter</p> <p>5 except where otherwise specified)</p> <p>6 Examination by MR PENNICOTT (continued)</p> <p>7 MR PENNICOTT: Good morning, sir. Unless there is anything</p> <p>8 anyone else wants to say, I was proposing to continue</p> <p>9 the cross-examination of Mr Li.</p> <p>10 Mr Li, good morning.</p> <p>11 A. Good morning.</p> <p>12 Q. Mr Li, when we finished last evening, I think we had</p> <p>13 reached the position, following some questions from me</p> <p>14 and also the Chairman, that you now accept that your</p> <p>15 first proper day of work at the Hung Hom Station site</p> <p>16 was 13 January 2016. Is that right, before we move on?</p> <p>17 A. I got home last night and I found an identity card of</p> <p>18 Leighton and it said "11 January" on it.</p> <p>19 Q. All right. Now, 11 January was a Monday; all right?</p> <p>20 A. I am not sure.</p> <p>21 Q. Take it from me, 11 January was a Monday.</p> <p>22 We know that you did your induction course on</p> <p>23 12 January. We saw the document yesterday. Do you</p> <p>24 agree with?</p> <p>25 A. Yes. For the Leighton's class, they don't have class</p>	<p>1 was my classmate who introduced me to Chinat to become</p> <p>2 a foreman. At the time, Leighton did not have the big</p> <p>3 or small classes every day for us to take. I remember</p> <p>4 it was earlier than 11 January that I was at Chinat,</p> <p>5 because there were no classes yet, so the company would</p> <p>6 not let me go on site to work.</p> <p>7 Why do I remember 11 January? Because on</p> <p>8 11 January, it was a Chinat colleague who drove me all</p> <p>9 the way to the -- to the Leighton place.</p> <p>10 Q. All right. But you clearly didn't sign in with any sort</p> <p>11 of card on 11 January, Mr Li? We can see the first</p> <p>12 sign-in record is on 13 January.</p> <p>13 A. Yes, because we didn't have the palm print yet, so at</p> <p>14 the time we could just sign in at gate 1, sign our</p> <p>15 signature.</p> <p>16 Q. And if you did the induction course on the 12th, Mr Li,</p> <p>17 we know from your evidence yesterday and evidence we've</p> <p>18 heard from previous witnesses, you were not allowed to</p> <p>19 work on the site until you had done that induction</p> <p>20 course, so it must follow the earliest you could have</p> <p>21 been on the site was either after the induction course</p> <p>22 on the 12th, although there's no record of that, or on</p> <p>23 the 13th, which I'm suggesting to you is the more likely</p> <p>24 position.</p> <p>25 A. I don't agree, because at the time, for the SCL link,</p>
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<p>1 every day.</p> <p>2 Q. And your first sign-in at the site was 13 January. We</p> <p>3 know that because we can look at C8/5769.</p> <p>4 Do you have that?</p> <p>5 A. Yes.</p> <p>6 Q. Mr Li, the last entry on the sheet on this page, we can</p> <p>7 see that the first sign-in record, so the first time you</p> <p>8 used the Leighton card, presumably, to sign in, was on</p> <p>9 13 January. Do you see that?</p> <p>10 A. Yes, I see it.</p> <p>11 Q. So, whilst the Leighton card might be dated 11 January</p> <p>12 -- in fact, do you have it? Have you brought it with</p> <p>13 you?</p> <p>14 A. Yes, I have it.</p> <p>15 Q. It has a validity from 11 January 2016 to 10 January</p> <p>16 2018, so it's a two-year card.</p> <p>17 Mr To's got it.</p> <p>18 MR TO: Thank you.</p> <p>19 MR PENNICOTT: So, Mr Li, I think we now know, perhaps,</p> <p>20 where your date of 11 January comes from. That is, it's</p> <p>21 the date that was on the card. Did you look at that</p> <p>22 card when you visited the police station and gave them</p> <p>23 your statement on 7 August 2018? Is that where the date</p> <p>24 of 11 January comes from?</p> <p>25 A. Well, at the time, because I graduated from CIC, so it</p>	<p>1 they were rushing to complete the works. My boss,</p> <p>2 Mr Poon, when he hired us you, we were taken to the site</p> <p>3 to familiarise ourselves for some time first and at the</p> <p>4 time there were no small classes, so I just signed in</p> <p>5 manually at the gate, to go into the site.</p> <p>6 Q. So are you saying that you worked on this site, this</p> <p>7 Leighton site, before you had done the induction course?</p> <p>8 A. Yes -- no, no. I worked at the office. I didn't go to</p> <p>9 the site. I was at the site office.</p> <p>10 Q. Right. That's probably good enough for my purposes. So</p> <p>11 you weren't at the site on the 11th, so you couldn't</p> <p>12 have seen any bar cutting going on on the 11th?</p> <p>13 A. In my evidence, I think I didn't say I saw the bar</p> <p>14 cutting on the 11th.</p> <p>15 Q. All right. I'll accept that. You could not have seen</p> <p>16 any bar cutting on the 12th, because that was the day</p> <p>17 that the concrete was poured and placed in area B4?</p> <p>18 A. I have to go back here. On 12 January, I took</p> <p>19 a half-day safety course, and then after the lunch</p> <p>20 meeting I immediately went to inspect the concreting.</p> <p>21 Perhaps where I saw the cutting took place -- well,</p> <p>22 I don't recall the exact location, but I did see someone</p> <p>23 cutting the threaded bars.</p> <p>24 Q. All right. Let me just show you a photograph, Mr Li.</p> <p>25 It's from the MTR's progress photographs, site progress</p>

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<p>1 photos. It's B5 -- this is only in the soft copy -- 2 44.2_12b. 3 These photographs, we can see, were taken on 4 12 January 2016; do you see that, Mr Li, in the 5 bottom-right corner? 6 A. Yes, I see it. 7 Q. At 7.29 in the morning; do you see that? 8 A. Yes, I see it. 9 Q. And if we go to the next photograph, please, here we are 10 slightly earlier in the morning, 7.22, on the same day, 11 12 January 2016, and can you confirm that we can see the 12 workers from Chinat starting to place and pour the 13 concrete? 14 A. At the time, in the morning, I was not at the site. 15 I was at the small class. It was at noon that I went to 16 the site. 17 Q. Okay. That being the case, when you had arrived at the 18 site at lunchtime, after the induction course, what you 19 would have seen is the continuation of this concrete 20 placing operation? 21 A. Yes. After the lunch meeting, I went over there and 22 they were still pouring concrete. 23 Q. Right. And on the following day, we know from the 24 MTRC's site diaries but we don't need to go there, the 25 concrete had been finished pouring about 10 or</p>	<p>1 finished on 9 December, so well before you arrived at 2 the site. 3 And if we go to the next page, 199 -- we can see it 4 on the screen -- the bay to the right of bay B4 is C1 5 bay 5, and that had been completed back in December as 6 well, before you arrived. 7 A. I was on site on 12 January. 8 Q. Yes, right. Mr Li, help us. You've said on a number of 9 occasions that you saw this cutting. Does this help you 10 in any way to identify where you saw this cutting going 11 on? 12 A. Honestly, I couldn't recall the exact location. 13 Q. Right. 14 Could I take you, please, back to your statement, at 15 D2/924. Even though you can't remember the exact 16 location, Mr Li, do you now accept that it was not in 17 area B, B4? 18 A. Honestly, I couldn't recall the exact location. 19 Q. So, at paragraph 10 of your witness statement, in the 20 fourth line, the sentence beginning: 21 "I saw two of the workers holding the steel threads, 22 which were about 2 metres long, with one worker at each 23 end. Then, two other workers held a hand-held 24 grinder/cutter approximately 40 centimetres by 25 20 centimetres in size, cutting the threaded rebars of</p>
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<p>1 11 o'clock the previous evening, on the 12th, and on the 2 13th the curing process took place from then onwards in 3 area B4? 4 A. 11 o'clock in the morning or at night? 5 Q. 11 o'clock at night. The concreting finished about 6 11 o'clock at night. 7 A. We didn't stay that late, because I remember it was when 8 we started having dinner at night that I saw it. 9 Q. Saw what? 10 A. I saw people cutting the threaded bars. 11 Q. On that night, on the 12th? 12 A. Yes. 13 Q. Where did you see them, Mr Li? You couldn't have seen 14 them here. 15 A. At that time, it was near a welding area, but I couldn't 16 recall the exact location. 17 Q. Could you please be shown on the screen -- I think it's 18 B -- I don't have the file -- 24198. B17, maybe. 19 Mr Li, you can see here on the screen the area B4, 20 to the right; do you see that? 21 A. Yes, I see it. 22 Q. As I was putting to you yesterday, and we can see from 23 the figures that appear below, the concrete pour date is 24 12 January, which we've been looking at the photograph 25 in respect of. Bay B3, to the left of bay 4, had</p>	<p>1 the steel threads." 2 Now, is it that you cannot remember where you saw 3 that? 4 A. I could remember at the time, it was a welding area, 5 a welding area. 6 Q. Was it anywhere near a slab? 7 A. Honestly, I don't remember. 8 Q. I'm told that you said -- it was a welding area near the 9 I-beam; is that what you said, Mr Li, because it hasn't 10 come up on the transcript if that's what you did say? 11 A. Correct. 12 Q. So a welding area for I-beams; is that the way to put 13 it? 14 A. Yes, welding area with the presence of I-beams. 15 Q. Okay. With the presence of I-beams? I see. 16 CHAIRMAN: Could you assist me a second: I-beams, question 17 mark? 18 MR PENNICOTT: The witness can explain. 19 When you say "I-beams", can we go back to the 20 photograph and see whether that might help us. When you 21 say "I-beams", are you saying the welding area was in 22 an area where there were I-beams, or there were I-beams 23 being transported, laid, positioned? What are you 24 actually saying, Mr Li? 25 A. With the presence of I-beams.</p>

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<p>1 CHAIRMAN: Can you help me -- I don't know what an I-beam 2 is. That's the reason for my question. 3 A. Now you can see on the upper part of the photo there are 4 I-beams. 5 CHAIRMAN: Could you point to the spot, please. 6 A. The upper part, these are what we call I-beams 7 (indicating). The upper part. 8 CHAIRMAN: I see. Thank you very much. 9 MR PENNICOTT: So that's just illustrative of I-beams, but 10 you still can't recall which area you saw the cutting 11 going on, other than there were I-beams present? 12 A. That's right. 13 Q. In your witness statement you go on to say: 14 "At that time, I was approximately 10 metres away 15 from the workers and the Hung Hom ... site ..." 16 A. That's right. 17 Q. Can I ask a follow-up question this time: did you get 18 any closer than 10 metres? 19 A. Approximately, roughly. 20 Q. You never got any closer than 10 metres? 10 metres was 21 the closest you got; is that right? 22 A. That's right. 23 Q. Thank you. 24 You say, in paragraph 11 -- I will come back to 25 paragraph 10 in a moment:</p>	<p>1 into the couplers on the diaphragm wall after cutting 2 the threaded rebars." 3 Now, Mr Li, think very carefully about your 4 evidence. We know that this could not have been in 5 areas A, B or C of the EWL slab because all the 6 concreting had been done in those areas by 12 January, 7 as we have already discussed. So where do you say you 8 saw the workers screwing cut threaded rebars into the 9 diaphragm wall? 10 A. I recall at the time -- it was lunch, and at the time 11 the foreman of the concreting work took me over and 12 I saw it, but I don't know whether the area was A, B or 13 what. I don't remember. 14 Q. Let's just ask this. You started on 13 January in 15 earnest, possibly on 12 January. 16 A. 12 January. 17 Q. All right. How long after 12 January did this incident 18 happen? Have you any recollection of that? 19 A. I suppose it was during the concreting process that 20 I saw it, on 12 January. 21 Q. Mr Li, how could it possibly have been during the 22 process of the concrete placement? 23 A. I can confirm that I saw it during the concrete 24 placement. 25 CHAIRMAN: So they were putting rebars, reinforcement bars,</p>
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<p>1 "I could see them cutting the threaded rebars 2 clearly as the steel threads were dark brown in colour 3 whilst the threaded rebars were silver in colour. The 4 threaded rebars were approximately 10 centimetres long. 5 When they were cutting the threaded rebars, the workers 6 cut about 6 centimetres of it and allowing the remaining 7 4 centimetres to drop to the floor. That was the reason 8 why I could estimate the length of the threaded rebars 9 remaining on the steel threads." 10 Mr Li, is it your evidence that you could see all of 11 that very clearly from 10 metres away? 12 A. That's right. 13 Q. Which must be a distance, I would think, from you 14 probably nearly to the door; would that be about right? 15 Possibly not quite that far. 16 UNKNOWN SPEAKER: It's further. 17 MR PENNICOTT: Definitely further, yes. 18 A. A bit further, I think. 19 Q. A bit further? All right. 20 Did you think to take any photographs of this 21 incident, Mr Li? 22 A. No. 23 Q. Then, back to paragraph 10, at the top of page 925, you 24 say: 25 "I then saw the same workers screw the steel threads</p>	<p>1 or reinforcing bars, and screwing them into the 2 diaphragm wall when, at some other part of that 3 particular area, the concreting had already started and 4 was in progress; is that your evidence? 5 A. Can you repeat? 6 CHAIRMAN: Are you saying that you saw these bars which had 7 been cut being screwed into the diaphragm walls while 8 the concreting exercise was going on in the same area? 9 A. That's right, yes. Concrete was being poured and I saw, 10 perhaps not in area B, but it was close to the welding 11 area that concrete was being poured. 12 CHAIRMAN: How far away from you was the nearest part of the 13 concrete exercise when you saw this all happening? 14 I mean, looking at distances in the court, from where 15 you are. 16 A. To that corner (indicating). 17 MR PENNICOTT: The far corner, on the diagonal? 18 A. Right. 19 CHAIRMAN: That is how far? 10 metres? 20 MR PENNICOTT: 10, or 12 possibly. 21 CHAIRMAN: 10 to 12 metres. 22 MR PENNICOTT: Mr Li, I'm not going to spend too much more 23 time on this. I want to let somebody else have a go, if 24 they want. But it just seems very strange to me that we 25 know that all the rebar in bay B4 has been completed,</p>

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<p>1 it's been inspected, but not only that, it's now been 2 concreted -- that people would be in this vicinity, 3 threading rebar to a diaphragm wall, it just is 4 incredible, Mr Li, with respect. 5 If you told us it was in some completely different 6 part of the site, on the NSL perhaps, or somewhere else, 7 we could explore that, but I just don't understand what 8 you're saying you saw, and where, on 12 January. It 9 just makes no sense, Mr Li. 10 A. Well, at the time, I was in area B, where there was 11 concrete pouring, and yesterday I also said that in that 12 bay there was no concreting yet and threaded bars were 13 being cut. But for the exact location, I really cannot 14 recall. 15 Q. All right. Let's move on, Mr Li. 16 In paragraph 14 of your witness statement, that's at 17 D2/925, you say: 18 "In or about late January 2016, I was assigned to 19 work in the lower deck (ie NSL slab) of area HKC." 20 Do you see that? 21 A. Right. 22 Q. Thankfully, Mr Li, that makes sense, because in late 23 January 2016, on the NSL slab, there was indeed rebar 24 fixing and formwork being constructed in area HKC1 and 25 areas C1 and C2 of the NSL.</p>	<p>1 come out when the bars are cut. 2 Q. And the cutter that you saw on this occasion, was it the 3 same or similar cutter that you saw on the previous 4 occasion, back in January, the 12th, you say? 5 A. The same model, but I don't know whether it's exactly 6 the same one. 7 Q. Okay. You say again: 8 "At that time, I was approximately 10 metres away 9 from the workers ... [the light] was bright enough for 10 me to see clearly ... This time, they did not screw the 11 steel threads into the couplers on the diaphragm wall 12 after cutting the threaded rebars." 13 That's your evidence, you didn't see -- 14 A. Well, at the time I said I did not remember whether they 15 were screwed into the wall because at the time when 16 I was taking the statement by the police, I said I did 17 not remember. 18 Q. I agree. I was going to ask you about that in a moment. 19 Let's just get this one out of the way first. You say 20 here, in very clear terms, "they did not screw the steel 21 threads into the couplers on the diaphragm wall after 22 cutting the threaded rebars". Is that your evidence to 23 the Commission: they did not screw the steel threads 24 into the couplers? 25 A. I don't remember.</p>
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<p>1 Were you working in any particular area of the NSL? 2 You tell us it was area HKC, so would it have been area 3 HKC1, where we think we can see the rebar work and 4 formwork was being constructed? 5 A. I don't recall the specific area. I just recall I was 6 in HKC. 7 Q. In relation to this particular incident, you say: 8 "On one day (which I could not recollect the exact 9 date of such) I saw five to six workers in uniform 10 (although I could not recall which company it was) 11 cutting threaded rebars at the conjunction of area HKC 12 and area A." 13 Could I just add, presumably, "at the NSL", is what 14 you mean, at the NSL? 15 A. That's right. 16 Q. You say again: 17 "I saw two of the workers holding the steel threads, 18 which was about 2 metres long, with one worker at each 19 end. Then, two other workers held a hand-held 20 grinder/cutter approximately 40 by 20 centimetres in 21 size, cutting the threaded rebars of the steel threads." 22 Pausing there, because I forgot to ask you last 23 time, can you describe the grinder/cutter to us, please? 24 A. Red in colour, with some sort of a disc or flying disc 25 or wheel on both sides, and some squeaky noise would</p>	<p>1 Q. Well, it's pretty clear, Mr Li. You have signed up to 2 this statement, you have made an affirmation, and it's 3 quite clear you say, "This time, they did not screw the 4 steel threads into the couplers". Why are you now 5 saying you cannot remember? 6 A. That's not correct. At the time, in the statement, 7 I said I do not remember whether after cutting the bars 8 they screwed the threads into the wall. 9 Q. I agree, Mr Li, that when you gave your statement to the 10 police, you said, "I cannot remember whether they had 11 screwed the rebars that had been cut into the couplers 12 at the platform." 13 That's at bundle D1/754.3 in the English, 14 paragraph 10. D1/752 in the Chinese version. 15 So, on 7 August, when your police statement was 16 taken, you say you can't remember whether they had 17 screwed the rebars into the couplers. In your witness 18 statement, dated 19 September, you say they didn't. So 19 which is it? 20 A. I didn't notice. 21 Q. You didn't notice? So you didn't see them screwing the 22 cut rebar into the couplers? 23 A. Right. 24 Q. Thank you. 25 You have made mention of your police statement, and</p>

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<p>1 I have referred you to one part of it. Could we just 2 very quickly look at it, Mr Li. It starts at 3 page D1/750 in the Chinese version; D1/754.1 in the 4 English version. I want to go to 754.2 in the English 5 version, paragraph 7, please.</p> <p>6 I'm going to have one more go at this, Mr Li, by 7 reference to what you say in paragraph 7. You repeat -- 8 or you say to the police what you've told the 9 Commission, that you worked at the upper deck of area B 10 since 11 January -- I'm not going over all that again, 11 "there was a day (exact date forgotten) when only myself 12 as the foreman and the concrete-pouring workers of China 13 Tech were required to work overtime at night, as I was 14 then responsible for supervising the concrete-pouring 15 work at the connecting platform connecting being area B 16 and area C."</p> <p>17 Now, that's on one view, Mr Li, a new point. So we 18 are now talking about the connection, as I understand 19 it, between area B and area C. Is that right?</p> <p>20 A. At the time, I might have referred to this area in my 21 statement, and I might have remembered wrong.</p> <p>22 Q. I'm just trying to work out what you say: 23 "... I was then responsible for supervising the 24 concrete-pouring work at the connecting platform 25 connecting area B and area C."</p>	<p>1 "At that time the couplers in the connecting 2 platform connecting area B and area C had already been 3 covered by concrete ..."</p> <p>4 Let's pause there. Which couplers are you referring 5 to in that sentence, Mr Li?</p> <p>6 A. Because area B and C, as you asked just now, they have 7 different bay areas, and I was referred to the areas 8 covered by concrete, next to where they were pouring 9 concrete, when the concrete had already been poured.</p> <p>10 Let me put it another way. The concrete that was 11 poured was so wet and it was covered and I couldn't see 12 what was going on under the covered area.</p> <p>13 Q. Mr Li, we know -- we have looked at it -- that the 14 area C1 had been concreted in December. We know that 15 the concrete in area B4 took place on 12 January. What 16 concrete pouring are you talking about after 12 January?</p> <p>17 A. After 12 January?</p> <p>18 Q. Where?</p> <p>19 A. After 12 January, I can't remember.</p> <p>20 MR PENNICOTT: Sir, I have no further questions.</p> <p>21 Cross-examination by MS CHONG</p> <p>22 MS CHONG: Chairman, I have a few questions. 23 Mr Li, in your witness statement, paragraph 5.3, 24 D923, you said you could not recall whether Fang Sheung 25 workers -- I represent Fang Sheung.</p>
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<p>1 First of all, do you accept that that's a correct 2 translation of what you said in Chinese?</p> <p>3 A. It is correct.</p> <p>4 Q. So what does it actually mean? Can you describe to us 5 what you were doing, Mr Li?</p> <p>6 A. At the time, Mr Poon instructed me to go look at areas B 7 and C, supervise the concrete-pouring work. He also 8 told me that there were people cutting the threaded bars 9 at that area and told me to pay attention to it. So, 10 during the concrete-pouring work, I had walked over 11 there to take a look.</p> <p>12 Q. But, you see, the problem I've got, Mr Li, is that the 13 concrete, we know, in area B, was finished on 14 12 January, so I can't understand what further 15 concrete-pouring work you say you were supervising 16 thereafter, in this area. You might be right and I'm 17 missing something, but please explain.</p> <p>18 A. Let me put it this way. On 12 January, area B and 19 area C, as you have said, bay 4 and bay 5, they were 20 pouring concrete and on that day I had taken a look, and 21 at the time I saw -- but I don't know what the location 22 was -- there was welding going on, I saw people cutting 23 the bars.</p> <p>24 Q. Going back to paragraph 7 of your police statement, the 25 next sentence, you say this:</p>	<p>1 A. Yes.</p> <p>2 Q. And you in that paragraph say that you cannot remember 3 what kind of uniform -- you cannot recall whether 4 workers of Fang Sheung wore any particular type of 5 uniform.</p> <p>6 Now, that was because they did not wear any uniform 7 and they were in their own casual clothes all the time; 8 is that correct?</p> <p>9 A. Could you ask the question again?</p> <p>10 Q. Yes. In paragraph 5.3, you said that you could not 11 recall whether workers of Fang Sheung wore any 12 particular type of uniform. You said so because 13 Fang Sheung workers did not wear uniform; they all the 14 time were in their own casual clothes?</p> <p>15 A. I didn't say that they were wearing casual clothes all 16 the time. I just said I could not recall what kind of 17 uniforms Fang Sheung workers wore.</p> <p>18 Q. Are you saying that they indeed wore uniform bearing the 19 logo of Fang Sheung?</p> <p>20 A. I cannot recall.</p> <p>21 Q. In terms of work sequence on the site, it is after 22 Fang Sheung finished their bar fixing work, and their 23 work had been approved by Leighton, then your company 24 would move in to pour concrete; is that the case?</p> <p>25 A. Correct.</p>

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<p>1 Q. So, by the time your company were doing the 2 concrete-pouring work on the site, all workers of 3 Fang Sheung would be out of that site; is it correct? 4 A. Correct. 5 Q. Now, regarding the first instance of bar cutting that 6 you stated in your witness statement, may I refer you to 7 paragraph 9 of your witness statement. You said that on 8 a day in January 2016, at a lunch meeting, your boss, 9 Mr Poon, talked about threaded bars cutting in area B, 10 and asked you to pay attention as to whether any workers 11 were cutting the threaded rebars in area B there. 12 Now, in paragraph 10, you said this: at that night, 13 after Mr Poon mentioned the bar cutting to you, on the 14 same night you saw this bar cutting again. Was that the 15 case? 16 A. Yes, on 12 January. 17 Q. And you spent five to ten minutes on that night 18 observing this bar cutting, as you stated in 19 paragraph 12; and then, on the following day, you 20 reported this incident to Mr Poon. That is stated in 21 paragraph 13. 22 Now, my question is -- and just now you also told 23 this Commission that the reason that you had to go to 24 area B is because Mr Poon asked you to pay attention, to 25 see whether any person were cutting threaded rebars</p>	<p>1 were going on. 2 Q. So he told you to confirm whether this kind of incident, 3 that means bar cutting, was going on; is that the case? 4 A. Yes. 5 Q. Did he ask you to take photos? 6 A. He told me to avoid confrontation, so if people were 7 staring at me then I shouldn't take pictures, so 8 I didn't take pictures. 9 Q. Now, you were standing 10 minutes away from the workers, 10 right, when you observed it? 11 CHAIRMAN: 10 metres. 12 MS CHONG: 10 metres away. 13 A. Yes. 14 Q. And there were no confrontations from them at that time, 15 when you observed them; right? 16 A. Because -- it's very simple. If you are working on 17 a construction site and you take pictures of people, 18 people will find that strange. In the Leighton site, if 19 there are confrontations, people will be removed from 20 the site. So we avoid confrontation. 21 Q. Yes. Please turn to page D753, the police statement you 22 gave to the police. 23 May I suggest to you that, as a foreman, it is part 24 of your daily work to take photos of the construction 25 side. That is stated in paragraph 14 of your statement.</p>
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<p>1 there. So my question is: why didn't you take photos 2 when you were observing them during those five to ten 3 minutes? 4 CHAIRMAN: Sorry, you may be quite correct; I may have 5 a mitemory here. But did Mr Poon ask this witness to 6 go to that particular area for the specific purpose of 7 seeing if there was any cutting of rebars, or was it the 8 case that he went there for some other purpose and 9 Mr Poon said, "While you are there, keep an eye out for 10 cutting"? 11 MS CHONG: Mr Chairman, maybe I will just clarify with him 12 on this point. 13 CHAIRMAN: All right. 14 MS CHONG: During the lunch meeting, Mr Poon indeed told you 15 to pay attention as to whether workers were cutting the 16 threaded rebars; was that the case? 17 A. Yes. 18 Q. On that night, the purpose that you went to this area B, 19 was it to see whether any bar cutting was happening 20 there or to do other things? 21 A. Because that night I was going to monitor the pouring of 22 concrete connecting areas B and C, so I was supervising 23 the pouring of concrete and Mr Poon instructed me that 24 he had seen the incidents and he told me to see 25 whether -- to confirm whether these kinds of incidents</p>	<p>1 A. That is correct. 2 Q. So it is not uncommon for people like you, foremen, to 3 take photos on the site; is that correct? 4 A. Because the pictures we take are of our own company's -- 5 our formwork, our concrete pouring, we take photos of 6 our own work. Other people's work is not our 7 responsibility, so we avoid taking pictures of other 8 people's work. 9 Q. But on this occasion you were there to observe and to 10 confirm whether there was any bar cutting, as instructed 11 by your boss; is it the case? 12 A. Yes. Mr Poon instructed me to go take a look. 13 Q. Yet you did not see fit to take any photos during those 14 five to ten minutes of observation; is that the case? 15 A. That is correct. 16 Q. At that time, you had your mobile phones or camera with 17 you; right? 18 A. Yes. 19 Q. And likewise, on the second incident that is stated in 20 paragraph 16, on that occasion you did not take any 21 photos? 22 A. That is correct. 23 MS CHONG: I have no further questions. 24 CHAIRMAN: Thank you. 25 MR WILKEN: Mr Commissioner and Professor, permission to ask</p>

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<p>1 a few questions.</p> <p>2 CHAIRMAN: Of course.</p> <p>3 MR PENNICOTT: On behalf of Leighton.</p> <p>4 MR WILKEN: Thank you very much, Mr Pennicott.</p> <p>5 Cross-examination by MR WILKEN</p> <p>6 Q. Mr Li, you are on affirmation, so I'm going to give you</p> <p>7 a choice. You can either accept here and now that the</p> <p>8 first incident you describe did not happen -- that's</p> <p>9 your first choice, in which case we can make this a lot</p> <p>10 quicker and I won't have to call you a liar -- or you</p> <p>11 can persist in this allegation that the first incident</p> <p>12 happened. It's up to you. Which one?</p> <p>13 A. I did observe people cutting bars.</p> <p>14 Q. On what you now say is 12 January?</p> <p>15 A. Yes.</p> <p>16 Q. So you persist in that lie?</p> <p>17 A. I did not lie.</p> <p>18 Q. Very well. You are on affirmation. Your lawyers will</p> <p>19 have told you the peril of lying on affirmation -- have</p> <p>20 they?</p> <p>21 A. I understand.</p> <p>22 Q. Okay. Let's start with two pieces of evidence you gave</p> <p>23 yesterday. Can you be shown page 124, lines 9 to 10 of</p> <p>24 the transcript, please. For fairness to the witness,</p> <p>25 can we just show him the question just above it, please.</p>	<p>1 Q. Very well. This is being published elsewhere -- you do</p> <p>2 know that, don't you? You are speaking to the public</p> <p>3 and the police now. You know that?</p> <p>4 A. I understand.</p> <p>5 Q. Very well.</p> <p>6 The next piece of evidence. Page 125, lines 2 to 3,</p> <p>7 please. Again, in answer to a question from</p> <p>8 Mr Pennicott:</p> <p>9 "The day after the area B, bay 4 to 5, had been</p> <p>10 concreted?</p> <p>11 Answer: At that time, I was told that the concrete</p> <p>12 had not been poured."</p> <p>13 Who told you?</p> <p>14 A. Can you ask the question again?</p> <p>15 Q. Yes. Mr Pennicott asked you:</p> <p>16 "The day after the area B, bay 4 to 5, had been</p> <p>17 concreted?</p> <p>18 Answer: At that time, I was told that the concrete</p> <p>19 had not been poured."</p> <p>20 Who told you?</p> <p>21 A. Now, because yesterday I didn't really know where the B4</p> <p>22 and B5 that was referred to was at. Because from my</p> <p>23 recollection, I went to the connection between area B</p> <p>24 and C, so I honestly do not know where bay 4 and 5 were.</p> <p>25 Q. You said yesterday you did know where they were, and you</p>
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<p>1 Here I'm going to read it so you can have it</p> <p>2 translated. Mr Pennicott asked you:</p> <p>3 "So where do you say precisely that you saw this</p> <p>4 rebar fixing going on? Are you sure it was area B and</p> <p>5 not somewhere else?</p> <p>6 Answer: It's area B, because before" -- and we are</p> <p>7 going to talk about the word "before" -- there was</p> <p>8 a place where we do the welding. It's there."</p> <p>9 "Before" must refer to before 11 or 12 January;</p> <p>10 that's correct, isn't it?</p> <p>11 A. 11 and 12 January -- prior to that, as I said, before</p> <p>12 the small class, I had been working at the China</p> <p>13 Technology offices. My classmates referred me to work</p> <p>14 at China Technology.</p> <p>15 Q. You were not on site before, even on your own evidence,</p> <p>16 11 January; that's correct, isn't it?</p> <p>17 A. Sometimes my classmates would take me in secretly to</p> <p>18 take a look, but I wasn't there working.</p> <p>19 Q. Classmates from China Tech?</p> <p>20 A. No, my classmates that I went to school together with,</p> <p>21 but they also had worked for China Tech previously.</p> <p>22 Q. So, in breach of site security, health and safety, and</p> <p>23 all the regulations, you were taken secretly onto site;</p> <p>24 is that your evidence?</p> <p>25 A. Yes.</p>	<p>1 corrected Mr Pennicott on this fact. That is on the</p> <p>2 transcript. You were also told by the Chairman of the</p> <p>3 dangers of coming back the next day and of seeking to</p> <p>4 improve your evidence. I am trying to get to the truth</p> <p>5 here, and I'm suggesting to you that you are not helping</p> <p>6 me do that. What do you say?</p> <p>7 A. I still don't get your question.</p> <p>8 Q. Very well.</p> <p>9 Today, you said that you saw bar cutting at lunch on</p> <p>10 12 January. Do you remember giving that evidence?</p> <p>11 A. Yes, I remember that.</p> <p>12 Q. Could I take you to your witness statement, please: D2,</p> <p>13 page 924, paragraph 9:</p> <p>14 "On a day in January ..."</p> <p>15 That's how paragraph 9 starts, and then:</p> <p>16 "At that night after Mr Poon ..."</p> <p>17 So, in your statement, you are nowhere near as</p> <p>18 specific as you now are; correct?</p> <p>19 A. You mean about area B?</p> <p>20 Q. No, I mean about the date. Your evidence in your</p> <p>21 statement is that "On a day in January", and it's at</p> <p>22 night. Your evidence now is lunch, 12 January. They're</p> <p>23 not the same, are they?</p> <p>24 A. Because that day, you mentioned area B, the last bay --</p> <p>25 you said that the concrete pouring was on 12 January.</p>

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<p>1 That's what you told me yesterday. Because I was there 2 on site on that day, so that's why I remember it's 3 12 January. That's how I can answer your question. 4 Q. I'm asking you a very simple question. In your 5 statement, you say, on a day in January, at night you 6 saw cutting. Now you say it's lunch on 12 January. 7 They are not the same, are they? 8 A. Because in the police statement, at the end, I did 9 supplement the information. I said it was at lunch 10 meeting on that day when concrete was poured, I was 11 told -- that's what I said. 12 Q. You were told that by whom? 13 A. Mr Poon. 14 Q. I thought so. Has Mr Poon told you to say anything 15 else? 16 A. What, say what? 17 Q. I've asked you a question: has Mr Poon told you to say 18 anything else, for example to the police? 19 A. Why would it be that Mr Poon asked me to say something 20 to the police? 21 Q. That's the question I'll be asking Mr Poon in due 22 course. 23 Now, on the pouring of concrete on the 12th, I want 24 to take you to a series -- 25 CHAIRMAN: Sorry, can I just -- please forgive me if I'm</p>	<p>1 be taken, please, to C33/24903. 2 Now, is it up on your screen? 3 A. Yes, I see it. 4 Q. Is this a document that you've ever seen? 5 A. No. 6 Q. It's a concrete test report, and you will see -- I'm 7 going to take you through it -- the left-hand top box: 8 "Date sampled: 12 January 2016." 9 "Casting location: Bay B4 and bay 5 at OTE slab." 10 So that tells you where it is. 11 "Time water added on date of mixing: 06:41." 12 So this tells you that at 06:41 on 12 January, 13 concrete was being poured and tested in bay 4 and 5; do 14 you agree with that? 15 A. I was at the small class at the time; I'm not sure. 16 Q. I thought you might say that. The small class ended at 17 lunchtime, didn't it? 18 A. It went up to about 11 am. 19 Q. Very well. Can we go to 24928. 12:16 the same day, 20 concrete is being poured and tested in bays 4 and 5; do 21 you agree? 22 A. Yes, I could see "12:16". 23 Q. The next page, please. 12:58 the same day; do you 24 agree? 25 A. Yes, I can see the time.</p>
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<p>1 overbearing on this, but perhaps the answer from the 2 witness could be revisited at some stage that suits you, 3 because it's ambiguous as to whether he's saying 4 "Mr Poon told me at that lunch meeting to go and look at 5 the concrete", or whether "Mr Poon told me yesterday or 6 at some subsequent time." 7 MR WILKEN: I'm grateful. 8 CHAIRMAN: That's all I raise. Thank you. 9 MR WILKEN: Sir, I will deal with that now. 10 Mr Li, you heard the chairman's question to me; yes? 11 Did you hear it? Was it translated for you? 12 A. I didn't quite get it entirely. 13 Q. The Chairman wishes me to clarify with you now whether 14 you saw the incident at lunch on the 12th or whether 15 Mr Poon told you to go and look for the incident at 16 lunch on the 12th. Which is correct? 17 A. On 12 January he told me to take a look at lunch -- he 18 told me at lunch to take a look. 19 Q. Ah. So at lunchtime Mr Poon told you to take a look? 20 A. Correct. 21 Q. And then you took a look? 22 A. Yes. 23 MR WILKEN: Sir, does that suffice? 24 CHAIRMAN: Thank you. 25 MR WILKEN: I want to now take you to some records. Can you</p>	<p>1 Q. The next page. 13:33 the same day; do you agree? 2 A. Yes, I see it. 3 MR WILKEN: Sir, I can take him through each one or I can 4 just take him to the end. It's a matter for the 5 Commission. 6 CHAIRMAN: The end. 7 MR WILKEN: I am grateful, sir. 8 24938. This is the last one for that day, and it 9 shows the concrete has been poured at 17:05; do you 10 agree? 11 A. I can see the date. 12 Q. Do you accept, therefore, that concrete was being poured 13 in areas B4 and B5 throughout the whole of 12 January? 14 A. That I really am not sure. 15 Q. Well, I've shown you the documents. Are you saying the 16 documents are false? 17 A. No, I didn't say that. 18 Q. So the documents show that concrete was being poured 19 throughout the whole day; correct? 20 A. Yes. 21 Q. Now, if concrete is being poured throughout the whole 22 day, people cannot work on rebar; correct? 23 A. That's why I said earlier on there was concrete pouring 24 and I saw it. I wasn't saying that people were pouring 25 concrete and doing the bar fixing at the same time on</p>

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<p>1 the site.</p> <p>2 Q. I'm afraid, Mr Li, I just don't understand your</p> <p>3 evidence. You say, in your statement, that on the</p> <p>4 night -- which you now say is 12 January -- you saw</p> <p>5 people cutting rebar, screwing it into the couplers, in</p> <p>6 area B. Is that your evidence or isn't it?</p> <p>7 A. Yes.</p> <p>8 Q. That's your evidence? I'm saying that is absolutely</p> <p>9 impossible, because the area had been concreted. You</p> <p>10 accept it had been concreted, don't you?</p> <p>11 A. On 12 January it was being poured.</p> <p>12 Q. Yes. So how can people be cutting rebar and inserting</p> <p>13 the threaded ends into couplers that night in area B?</p> <p>14 Please tell me.</p> <p>15 A. That's why I was saying, when concrete was being poured</p> <p>16 in area B -- as I said in my witness statement, you</p> <p>17 know -- because at the time I couldn't distinguish the</p> <p>18 different areas. Now -- I saw it in the vicinity of</p> <p>19 where concrete was poured, near the welding area.</p> <p>20 That's what I said.</p> <p>21 Q. Where you were told the welding area had been or you had</p> <p>22 snuck on to the site in secret, in breach of all</p> <p>23 regulations, to see; that's your case, isn't it?</p> <p>24 A. On 12 January, I already took the small class; I could</p> <p>25 go into the site. At the time, there was the concrete</p>	<p>1 CHAIRMAN: Can I ask you, just for clarification -- the form</p> <p>2 says, "Time water added on date of mixing" -- that,</p> <p>3 I take it, is an indication that concrete is being</p> <p>4 poured, water is being put together, and as in Bob the</p> <p>5 Builder, everything is turning around and coming out; is</p> <p>6 that right?</p> <p>7 MR WILKEN: Sir, that is my understanding.</p> <p>8 CHAIRMAN: Thank you very much. So we are not showing</p> <p>9 a settled concrete. It's the concrete in action being</p> <p>10 poured at that time?</p> <p>11 MR WILKEN: Correct, sir. This is Mr Boulding's document so</p> <p>12 he will correct me if I've got this wrong, but the</p> <p>13 concrete is mixed, it's poured, it's then cured, you</p> <p>14 allow it to set a bit, and then you test it for its</p> <p>15 strength.</p> <p>16 CHAIRMAN: Yes.</p> <p>17 MR WILKEN: So what you are doing is looking at, okay, it's</p> <p>18 been X hours since it was poured -- Mr Khaw agrees with</p> <p>19 me, apparently -- it's been X hours since it was poured</p> <p>20 and therefore the test is this.</p> <p>21 CHAIRMAN: Good. I have that now. Thank you very much.</p> <p>22 MR PENNICOTT: Sir, we're not sure that's entirely right.</p> <p>23 It's right up to a point but -- I did put this to the</p> <p>24 witness earlier and perhaps we ought to try to get it</p> <p>25 clarified. My understanding is in fact the concrete</p>
<p>Page 34</p> <p>1 foreman that led me there, because I was new to the site</p> <p>2 I couldn't tell which area is which at the time.</p> <p>3 MR TO: May I say something, Chairman and Commissioner?</p> <p>4 I think maybe it would be best actually to put him to</p> <p>5 the very last in terms of the pouring, the date and the</p> <p>6 time.</p> <p>7 MR WILKEN: This is the very last.</p> <p>8 MR TO: So the last time is 17:05 --</p> <p>9 MR WILKEN: 17:05. Area B4/B5 is the last casting -- hang</p> <p>10 on, somebody is shaking their head; have I got this</p> <p>11 wrong? The translation.</p> <p>12 Area B4/B5, as Mr Pennicott put to the witness</p> <p>13 yesterday, is the last concrete pour on the east west</p> <p>14 slab.</p> <p>15 MR TO: In terms of the time, is it 5.05?</p> <p>16 MR WILKEN: 5.05.</p> <p>17 MR TO: That means it's totally complete?</p> <p>18 MR WILKEN: Yes. The Chairman asked me to take him to the</p> <p>19 last one in the interests of expediency, so that is what</p> <p>20 I did.</p> <p>21 You can tell it's the last one because if you go to</p> <p>22 the next document, you see we go back in time, in</p> <p>23 area C1, and it's sampled on 30 May.</p> <p>24 MR TO: Thank you.</p> <p>25 MR WILKEN: I'm grateful.</p>	<p>Page 36</p> <p>1 pouring went on until about 10 to 11 o'clock at night.</p> <p>2 MR TO: That's what I thought.</p> <p>3 MR PENNICOTT: You get that from the MTR site diary, which</p> <p>4 I don't think we've got in hard copy, but the reference</p> <p>5 is B5/45_13_site diaries.</p> <p>6 CHAIRMAN: We can clarify this.</p> <p>7 MR PENNICOTT: This is up on the screen now. Not that one,</p> <p>8 the other one.</p> <p>9 CHAIRMAN: On the form, I wasn't sure whether we are talking</p> <p>10 about concrete is now poured, it's settled, it's been</p> <p>11 tested as to integrity, and the okay has been given, or</p> <p>12 whether this was the beginning of what I call the Bob</p> <p>13 the Builder action. I'm not 100 per cent sure. We can</p> <p>14 clarify that later.</p> <p>15 I'd rather do it by being educated by the body of</p> <p>16 intellect I have in front of me rather than through the</p> <p>17 mouth of the witness, because that will take much</p> <p>18 longer.</p> <p>19 MR WILKEN: Sir, I'm grateful, and I notice that the</p> <p>20 Commissioner is smiling wryly at me, so he clearly ...</p> <p>21 COMMISSIONER HANSFORD: Only because I have a little</p> <p>22 experience in this area.</p> <p>23 MR WILKEN: I'm always willing to be corrected and I thank</p> <p>24 Mr Pennicott for --</p> <p>25 MR KHAW: Just in response to Mr Wilken's point earlier, we</p>

Page 37	1 would like to just point out that there would be a time 2 gap between the time regarding water added to the mixer 3 and the pouring. 4 COMMISSIONER HANSFORD: Yes. 5 MR WILKEN: I am grateful to Mr Khaw. 6 MR PENNICOTT: Sir, the MTR site diary is now up on the 7 screen. If we can magnify the left-hand side slightly, 8 please -- if I may sit down -- and if you can go up, 9 please -- stop. There. Magnify that piece, please. Do 10 you see the item 5 there, and I think from the top we 11 know this is 12 January: 12 "Casting concrete for EWL slab bay 4 and 5, area B. 13 Extended working hours by 1 no. concrete pump truck 14 until 21:00 hours by 1 no. concrete pump truck 13 15 concreter 2 banksman until [11 o'clock] 23:00 hours." 16 That's our understanding, that the concrete pouring 17 went on through the evening up until quite late at 18 night. 19 COMMISSIONER HANSFORD: Mr Wilken, could I just 20 understand -- I think what you were showing us were the 21 test records. 22 MR WILKEN: Correct, sir. 23 COMMISSIONER HANSFORD: And indeed, I don't think every 24 batch is tested. So I think what you showed us was the 25 last test.	Page 39	1 area B on 12 January; correct? 2 A. Because I truly couldn't tell the different bays and 3 areas. Perhaps I was referring to area B, but it could 4 mean the vicinity. I really cannot recall the exact 5 locations. 6 Q. But area B is the last area to be concreted. Therefore, 7 they cannot be working on rebar anywhere close to 8 area B; correct? 9 A. I remember, at the time, there were some descending 10 steps around area B. You need to take a few steps down 11 before you reach area B. That's what I recall. 12 Q. Well, I've asked you the questions. We have your 13 answers, such as they are. I will move on. 14 Turning to the second incident in your witness 15 statement -- can you be shown D2/926, paragraph 17. 16 Here, you say: 17 "I did not mention this matter to anyone at that 18 time." 19 Do you see that? 20 A. Yes, true, that's right. 21 Q. So you didn't tell Mr Poon at that time about the 22 incident; correct? 23 A. That's right. About the second incident, I didn't tell 24 him. 25 Q. Even though he had asked you to look out for rebar
Page 38	1 MR WILKEN: Yes. 2 COMMISSIONER HANSFORD: But indeed concrete would have 3 continued, as Mr Pennicott has just showed us, through 4 to 10 o'clock at night. 5 So I think what we've been shown is the time of the 6 last batch that was actually tested. 7 MR WILKEN: You and Mr Pennicott are both right as to the 8 extent of pouring, and I was wrong as to the extent of 9 pouring, but I was basing it on the tests. 10 COMMISSIONER HANSFORD: Yes, and I think we need to be a bit 11 careful that we are referring to batches that were 12 tested, not batches that continued afterwards, batches 13 that indeed were not tested, because indeed there is no 14 doubt a sampling requirement in the specification and 15 not every single batch is required to be tested. 16 MR WILKEN: Sir, yes. 17 COMMISSIONER HANSFORD: Thank you. 18 MR TO: Mr Chairman and Commissioner, we concur with what 19 you said and that's what we were trying to clarify. 20 CHAIRMAN: Thank you. 21 MR WILKEN: Mr Li, if we may return to your evidence. 22 So the concrete is poured throughout the whole of 23 12 January; do you agree with that? 24 A. Agree. 25 Q. Therefore, you cannot see people working on rebar in	Page 40	1 cutting? 2 A. That was the second occasion. At the junction of HKC 3 and area A, I didn't tell Mr Poon. In the previous 4 paragraph about the incident, it was Mr Poon who asked 5 me to go there and have a look. Two separate matters. 6 Q. But Mr Poon has told you he has a concern about rebar 7 cutting; correct? 8 A. Yes. It was from that day on -- I heard that at the 9 lunch meeting on 12 January, but afterwards I hadn't 10 heard him saying this again. 11 Q. So this is still in January, according to your evidence, 12 isn't it? 13 A. Right. 14 Q. So, in the same month as Mr Poon tells you to go and 15 look for rebar cutting, you see another incident of 16 rebar cutting, and you don't tell him; correct? 17 A. Correct. 18 Q. And you don't take photographs? 19 A. Correct. 20 Q. That's not credible, is it? Your boss tells you in 21 January there is an issue with rebar cutting. You go 22 and look for it, and you have another incident, and you 23 don't tell him. That's not credible, is it? 24 A. I disagree, because these incidents occurred on 25 different dates. Say I told you to do something on

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<p>1 a certain date, it doesn't mean that after some time 2 I were still to do the same thing. We just receive 3 orders to do something. 4 Q. Yes, you do -- 5 CHAIRMAN: Sorry. It must have been clear to you that 6 Mr Poon was concerned about a course of conduct being 7 carried out by whoever was bending and twisting and 8 inserting the reinforcing bars; is that right? 9 A. Right. 10 CHAIRMAN: And he was concerned because it was not the right 11 thing to do, and may affect safety; would that be right? 12 Was that your understanding? 13 A. Well, in fact, I had no idea at the time. I was asked 14 to do it, so I did it. 15 CHAIRMAN: But you knew he was talking about an ongoing 16 course of activity that bothered him. Now, the question 17 is, when you saw it happening again, why did you not 18 then say to yourself, "This is what is troubling 19 Mr Poon. I should take a photograph of it", or, if 20 that's a bit confrontational, "I should at least tell 21 him immediately"? 22 A. Because indeed I wasn't asked by him, I didn't tell him. 23 CHAIRMAN: You mean to say you have to be given instructions 24 every single day, and any instructions that last longer 25 than a day you don't take any notice of? It just seems</p>	<p>1 A. Correct. 2 Q. On the second occasion, you can't remember who was 3 cutting rebar; correct? 4 A. Correct. 5 Q. Or who they worked for? 6 A. Correct. 7 Q. One final topic, Mr Li. Could you please go to your 8 witness statement: D2, page 924, paragraphs 10 to 12. 9 I'd like you to read them -- can you read English, or 10 shall I read them out? 11 A. Can you just read it out and have it translated? 12 Q. Yes: 13 "At that night after Mr Poon mentioned the matter at 14 the lunch meeting, I saw five to six workers without 15 upper clothing cutting the threaded rebars in area B. 16 Because the workers were not wearing any uniforms at the 17 time, I could not identify their affiliations." 18 COURT REPORTER: Excuse me, you are reading much too fast 19 for it to be translated. 20 MR WILKEN: Okay. I'm trying to cut to the chase. 21 "At that night after Mr Poon mentioned the matter at 22 the lunch meeting, I saw five to six workers without 23 upper clothing cutting the threaded rebars in area B. 24 Because the workers were not wearing any uniforms at the 25 time, I could not identify their affiliations. I saw</p>
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<p>1 to me -- you are a intelligent person, you are qualified 2 in construction -- surely you must realise that there 3 are certain general instructions given that will last 4 for the whole period of your attendance on site. "Keep 5 a lookout for this type of activity because it is 6 worrying me." 7 A. At the time he told me to go and have a look, I couldn't 8 understand what he was thinking. 9 CHAIRMAN: So, in other words, would it be right to say that 10 you weren't too sure what you were looking for? 11 A. He just told me that somebody -- I mean, he heard that 12 somebody was cutting bars near the area, and I was asked 13 to go and have a look, and I did, and I did see somebody 14 cutting rebars and I went back to tell him. That's it. 15 CHAIRMAN: But you don't know why that would be wrong, you 16 don't know why those particular rebars were being cut? 17 A. You can put it this way. 18 CHAIRMAN: Thank you very much. My apologies for 19 interrupting. 20 MR WILKEN: No, sir, you've actually cut short some of my 21 questions, which is always useful. 22 On the first occasion, you could not tell who was 23 cutting rebar, could you? 24 A. No. 25 Q. Or who they worked for?</p>	<p>1 two of the workers holding the steel threads, which were 2 about 2 metres long, with one worker at each end. Then, 3 two other workers held a hand-held grinder/cutter 4 approximately 40 by 20 centimetres in size, cutting the 5 threaded rebars of the steel threads. At that time, 6 I was approximately 10 metres away from the workers and 7 the Hung Hom ... construction site lighting was bright 8 enough for me to observe clearly what they were doing. 9 I then saw the same workers screw the steel threads into 10 the couplers on the diaphragm wall ... I saw them 11 cutting about 6 threaded rebars." 12 Can we then move forward, in paragraph 11: 13 "The threaded rebars were approximately 10 14 centimetres long. When they were cutting the threaded 15 rebar, the works cut about 6 centimetres of it and 16 allowing the remaining 4 centimetres to drop to the 17 floor ... 18 I took about 5 to 10 minutes to observe them." 19 Can we now go to paragraph 14. 20 MR TO: Sorry, there's a mistake in the translation. When 21 you were reading paragraph 11, there was no "5 to 10 22 minutes". 23 MR WILKEN: Paragraph 12: 24 "I took about 5 to 10 minutes to observe them." 25 Can we go to 15, please:</p>

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<p>1 "On one day ... I saw [again, that's my 2 interpolation] five to six workers in uniform (although 3 I could not recall which company it was) ..." 4 Can we move on: 5 "I saw two of the workers [my interpolation again] 6 holding the steel threads, which was about 2 metres long 7 ... Then, two other workers held a hand-held 8 grinder/cutter approximately 40 by 20 centimetres in 9 size ... [again] I was approximately 10 metres away from 10 the workers ..." 11 Then paragraph 17: 12 "I took about 5 to 10 minutes to observe them." 13 Okay, that's your evidence? 14 A. Correct. 15 Q. So both times there are five to six workers; correct? 16 A. Correct. 17 Q. You are the same distance away, 10 metres; correct? 18 A. Correct. 19 Q. You observe a 40 by 20 centimetre grinder; correct? 20 A. Correct. 21 Q. Both times you stay five to ten minutes watching; 22 correct? 23 A. Correct. 24 Q. Both were at night; correct? 25 A. The second incident happened in the morning. The second</p>	<p>1 A. Correct. 2 Q. So the overall length of rebar is 6 metres. You are 3 10 metres away from the cutting of rebar on both 4 occasions; correct? 5 A. That's right. 6 Q. On a construction site; correct? 7 A. Yes. 8 Q. And you can tell, from 10 metres, that they cut 9 6 centimetres of a 6-metre rebar; that's your evidence, 10 isn't it? 11 A. Right. 12 Q. There is no possible way, I'm going to suggest to you, 13 that you can tell someone has cut 6 centimetres of 14 a 6-metre rebar from 10 metres at night. 15 A. That's why I said "approximately". 16 Q. So is it 4 centimetres? 17 A. I really cannot recall. 18 Q. You cannot recall? 19 These two incidents didn't happen, did they? 20 A. I disagree. 21 Q. Someone told you to tell this story to the police, 22 didn't they? 23 A. Nobody. 24 Q. And that's why we are all here, isn't it, because 25 someone told you to tell this story to the police?</p>
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<p>1 time I saw them -- well, according to the police 2 statement, it was in the morning. 3 Q. According to the police statement? I see. 4 This is your witness statement; correct? 5 A. But this witness statement is not [alleged 6 mistranslation] the same as the one taken by the police. 7 Q. That is correct, isn't it? Which one is correct, the 8 statement you gave to the Commission or what you told 9 the police? 10 A. But I remember, indeed, I saw them the second time in 11 the morning. 12 Q. I asked a question: which statement is correct, this one 13 or the one you gave to the police? 14 A. I really cannot answer you this question. 15 Q. Oh. Are you therefore saying that this statement, which 16 you have affirmed to the Commission, is not correct? 17 A. Because all along, when I was reading, I was reading 18 from that statement that was taken from me at the police 19 station, in Chinese. 20 Q. I know it's in Chinese. Indeed, you say there -- and 21 it's D2/929, paragraph 7 in the Chinese, or D1/752.2/7 22 in the English -- that the overall length of rebar, and 23 we'll see now whether my learned junior has managed to 24 teach me a little Cantonese, was (Chinese spoken), which 25 is 6 metres; correct?</p>	<p>1 A. Can you ask the question again? 2 Q. Yes. Why we are all here at this Inquiry is because 3 someone told you to tell this story to the police? 4 A. Who told me to tell this story to the police? 5 Q. I don't know. That's what I'm trying to find out. 6 A. Well, this is what I personally saw. Nobody told me to 7 tell any story. 8 Q. You didn't see it. You can't have seen it, because it 9 didn't happen, at least in relation to 12 January; 10 correct? 11 A. I disagree. That's how you put it. 12 MR WILKEN: I have no further questions, Chairman and 13 Commissioner. 14 CHAIRMAN: Thank you very much. I'm wondering -- I didn't 15 want to break earlier but I think it's an opportune 16 moment for a ten-minute break. 17 MR PENNICOTT: Yes, sir. Thank you. 18 (11.38 am) 19 (A short adjournment) 20 (11.55 am) 21 MR PENNICOTT: Before Mr To goes, I'm sorry, again, at this 22 morning's transcript at [draft] page 47, the word, yes, 23 again, "not" is there when it shouldn't be. Mr Wilken's 24 question was: 25 "According to the police statement? I see.</p>

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<p>1 This is your witness statement; correct?"</p> <p>2 And then the answer was:</p> <p>3 "But this witness statement is not the same as the</p> <p>4 one taken by the police."</p> <p>5 In fact the answer was, I am told, that this witness</p> <p>6 statement is the same as the one taken by the police.</p> <p>7 So again rather important.</p> <p>8 CHAIRMAN: All right. We will leave that with Mr Wilken.</p> <p>9 He can consider his position, as to whether he wants to</p> <p>10 explore that a bit further or not.</p> <p>11 MR WILKEN: Mr Pennicott explored this yesterday and I don't</p> <p>12 wish to burden the Commission with anything that he</p> <p>13 didn't do yesterday in relation to the relationship</p> <p>14 between the witness statement and the police statement.</p> <p>15 CHAIRMAN: Thank you.</p> <p>16 MR TO: Mr Chairman and Commissioner, I'm just seeking</p> <p>17 permission to see whether this would clarify matters in</p> <p>18 terms of some photographs. I know these haven't been</p> <p>19 tendered, but to give you an indication, for example,</p> <p>20 that concrete was not poured as stated on the 12th but</p> <p>21 on the 14th or even after.</p> <p>22 CHAIRMAN: That's quite important new evidence, I think.</p> <p>23 MR PENNICOTT: Sir, it is indeed. I haven't seen it, not</p> <p>24 been given it, not aware of it and I don't suppose</p> <p>25 anybody else is. If it's anything, it might be</p>	<p>1 Sir, as you are aware, the Commission has been</p> <p>2 given, by China Technology, a small selection of further</p> <p>3 photographs, currently four in total. They have been</p> <p>4 distributed to all the other involved parties to have</p> <p>5 a look at, in the short time it's been available.</p> <p>6 They are photographs, it appears on their face, and</p> <p>7 taking them at face value, that could be potentially</p> <p>8 relevant to some of the issues with which you are</p> <p>9 concerned and which we have been debating with the</p> <p>10 current witness over the last day or so.</p> <p>11 However, these photographs in their current form,</p> <p>12 cannot on any basis, in my submission, be put to this</p> <p>13 witness in re-examination, bearing as they do various</p> <p>14 comments which simply could not be allowed to be shown</p> <p>15 to the witness before he was asked any questions about</p> <p>16 them.</p> <p>17 Perhaps more importantly, it would appear that there</p> <p>18 are some serious questions to be addressed about the</p> <p>19 provenance of these photographs, why it is only now that</p> <p>20 they are being produced, let alone the provenance of the</p> <p>21 various comments that have been put on the photographs</p> <p>22 and indeed whether the dates are genuine.</p> <p>23 That being the case, it seems to us that, at the</p> <p>24 very least, these photographs need to be made the</p> <p>25 subject matter of a witness statement, to be proved, so</p>
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<p>1 a re-examination issue, but of course if it's brand-new</p> <p>2 material --</p> <p>3 CHAIRMAN: If it's brand-new material, I don't want it</p> <p>4 coming in at the very end and then we all have to</p> <p>5 revisit it.</p> <p>6 I tell you what I'm going to do. Thank you very</p> <p>7 much, Mr To. I'm going to adjourn for five or</p> <p>8 six minutes, because I think this is something that</p> <p>9 counsel for the Commission should have a look at, in</p> <p>10 your position essentially neutral to the issues but</p> <p>11 enquiring to try to find the truth.</p> <p>12 MR PENNICOTT: Yes.</p> <p>13 CHAIRMAN: And we can look at that and then other counsel</p> <p>14 can be informed as well, insofar as you think is</p> <p>15 necessary, so that nobody is caught unawares. Would</p> <p>16 that be all right? I will just give you, shall we say,</p> <p>17 ten minutes?</p> <p>18 MR PENNICOTT: Very well.</p> <p>19 MR TO: Much appreciated, Chairman and Commissioner.</p> <p>20 CHAIRMAN: Thank you.</p> <p>21 (11.58 am)</p> <p>22 (A short adjournment)</p> <p>23 (12.44 pm)</p> <p>24 MR PENNICOTT: Sir, thank you very much for the indulgence</p> <p>25 of the last half an hour or so.</p>	<p>1 that they can be cross-examined to. I may have more</p> <p>2 questions for this witness and other witnesses arising</p> <p>3 out of these photographs, as indeed may other counsel</p> <p>4 for other parties.</p> <p>5 Sir, in those circumstances, what I reluctantly</p> <p>6 suggest is that we will have to adjourn now until Monday</p> <p>7 morning. In the meantime, if China Technology wish to</p> <p>8 put these photographs in, as they seem to be very keen</p> <p>9 to do, at the very least we will need a witness</p> <p>10 statement I assume from Mr Poon, but I may be wrong</p> <p>11 about that, speaking to these photographs and explaining</p> <p>12 them as best he can.</p> <p>13 Sir, that will also give the other involved parties</p> <p>14 an opportunity to, I imagine, consider their own</p> <p>15 material and go back to their own photographs, perhaps,</p> <p>16 on this particular period at the beginning of January</p> <p>17 2016.</p> <p>18 Sir, it's not a course that I wanted to take. It's</p> <p>19 unsatisfactory because we are in the middle of</p> <p>20 cross-examination of a witness, Mr Li, with Mr Boulding</p> <p>21 and Mr Khaw still to cross-examine, but as I say it may</p> <p>22 be that both myself and Mr Wilken, and indeed Ms Chong,</p> <p>23 may want to go back to this witness with regard to these</p> <p>24 photographs.</p> <p>25 Sir, in those circumstances, as I say, I think we</p>

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<p>1 need time, other parties need time. I don't think it 2 would be a good idea to bring back in, or bring in, 3 rather, a new witness, when we are essentially partway 4 through the current witness. 5 Sir, in those circumstances, reluctantly, as I say, 6 I believe we will need to adjourn until Monday morning. 7 CHAIRMAN: Yes. Thank you. 8 MR TO: Mr Chairman and Commissioner, we do apologise for 9 this, because those instructing me just told me, about 10 the break time. We were only just aware of those 11 photographs by then. 12 CHAIRMAN: Yes. As far as the photographs, I think four in 13 number, yes, that have been brought to our attention 14 this morning, potentially, and on their face, they could 15 be of very real importance to this Inquiry. 16 However, they need to be put before the Commission, 17 as Mr Pennicott has said, in a coherent way, properly 18 explained, and in addition to which the other parties to 19 the proceedings who may be affected by what these 20 photographs potentially may say do need time to consider 21 their positions. In the result, I think that to merely 22 adjourn for the afternoon and start again tomorrow 23 morning on Saturday, for example, is not feasible. 24 I think, in fairness, the weekend has to be given for 25 this, and we will therefore adjourn this Commission</p>	<p>1 and also the original digital version of these 2 photographs. We've requested that. As I understand it, 3 there's no resistance to provision of those items, and 4 we would ask those to be provided immediately. 5 MR TO: Mr Chairman Mr Commissioner, we will try our best to 6 liaise with the client to get those digital and also 7 meta tag photos for the Commission as well as my learned 8 friends. 9 CHAIRMAN: It would help I think if you were to liaise also 10 with Mr Pennicott. I'm not saying that in order to 11 exclude other parties, but Mr Pennicott is counsel for 12 the Commission, he has the backup of his solicitors. If 13 you can liaise with him as to what is available and in 14 what form, over the weekend, hopefully, then I can be 15 kept informed by Mr Pennicott in turn, so that the 16 Commission knows where it stands Monday morning. 17 MR PENNICOTT: Yes, sir. Of course, when we receive this 18 material, it will be passed on to the other involved 19 parties as quickly as we possibly can. 20 CHAIRMAN: I was about to say. Obviously you are the point 21 of communication and onward communication, both to the 22 Commission and to the other parties, who are of course 23 entitled to be advised immediately too. 24 MR PENNICOTT: Yes, sir, and they will be. 25 MR WILKEN: Apologies for popping up again, sir. In</p>
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<p>1 until Monday morning at 10 am. 2 I would merely wish to encourage any parties who 3 have new evidence arising out of the current evidence or 4 arising independently to ensure, please, that such 5 matters are brought before this Commission as soon as 6 possible and are put before the Commission in the normal 7 way, that is supported by affidavit evidence. 8 MR WILKEN: Sir, a request from Leighton, if we may. As you 9 are aware, we have already requested metadata in 10 relation to existing photos, and the devices. 11 CHAIRMAN: Yes. 12 MR WILKEN: We would reiterate that request in relation to 13 these photos, not least because -- and I must put this 14 on the record now -- having taken an initial look, one 15 of them looks like a Facebook page, and the date stamps 16 do not appear to us to be date stamps, they appear to be 17 file names. As we all know, you right-click on the 18 file, you can change its name. 19 So we would wish to see the metadata. So we request 20 soft copies and the phones. 21 Thank you, sir. 22 MR PENNICOTT: Sir, that's a request that has been made 23 already to China Technology. That is, a double request: 24 first of all, the originals of the soft copies, and we 25 want not screenshots, as these photographs appear to be,</p>	<p>1 relation to China Technology trying its best, Leighton's 2 position is that will not do. We must have the 3 metadata. 4 CHAIRMAN: Yes. I confess, just as I wasn't too sure about 5 concrete pouring, I don't profess to great expertise on 6 the issue of metadata. I can't say to Mr To that you 7 must do this or that. I think it's best that I leave it 8 that your concerns as to immediacy are understood, and 9 insofar as is possible they should be met. But it may 10 simply not technically be possible. 11 MR WILKEN: I'm grateful, sir. The position is simply this. 12 When you take a photograph with any form of digital 13 equipment, the machinery stamps data on it. 14 CHAIRMAN: Yes. 15 MR WILKEN: It stamps the date, time, and with a mobile 16 phone occasionally the GPS location, and so therefore 17 you know when it was taken, possibly where, and 18 certainly by what. That, we would suggest, is relevant 19 evidence. 20 CHAIRMAN: That's, on its face, at least -- absent some high 21 expertise -- is decisive as to provenance? 22 MR WILKEN: We submit at the very lowest it would be very 23 useful for this Commission to see that information. 24 CHAIRMAN: All right. Good. 25 MR TO: Mr Chairman, I will try my best endeavours to do so</p>

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<p>1 but I --</p> <p>2 CHAIRMAN: All right. Yes. Good. Thank you very much.</p> <p>3 Monday morning, 10 o'clock.</p> <p>4 MR PENNICOTT: Sir, do you wish to have a word with the</p> <p>5 witness to explain the position or would you like us to?</p> <p>6 CHAIRMAN: I apologise. Where is the witness?</p> <p>7 MR PENNICOTT: We thought it would be best to not have him</p> <p>8 here for that discussion.</p> <p>9 CHAIRMAN: Of course. That's quite right, he shouldn't be</p> <p>10 here.</p> <p>11 (In the presence of the witness)</p> <p>12 Mr Li, thank you very much for waiting. Certain</p> <p>13 matters have been brought to the attention of the</p> <p>14 Commission which may have some bearing on your</p> <p>15 testimony. These matters need to be considered over the</p> <p>16 weekend and analysed, and accordingly the Commission is</p> <p>17 adjourning this hearing until Monday morning.</p> <p>18 You are in the middle of your evidence. You remain</p> <p>19 under your affirmation, and you will regrettably have to</p> <p>20 return on Monday morning. Do you understand that?</p> <p>21 WITNESS: Yes, I do.</p> <p>22 CHAIRMAN: Good. I would also just reiterate what I said</p> <p>23 yesterday evening. That is that while you are in the</p> <p>24 position of being in the middle of giving evidence, you</p> <p>25 are not allowed, in law, to discuss your evidence, its</p>	<p>1 INDEX</p> <p>2 PAGE</p> <p>3 MR LI RUN CHAO (on former affirmation in Punti)1</p> <p>4 Examination by MR PENNICOTT (continued)1</p> <p>5 Cross-examination by MS CHONG19</p> <p>6 Cross-examination by MR WILKEN25</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 merits or otherwise, with any other party, and that</p> <p>2 includes your own lawyers. Do you understand that, if</p> <p>3 you have lawyers?</p> <p>4 WITNESS: I understand.</p> <p>5 CHAIRMAN: Good. Thank you very much.</p> <p>6 MR PENNICOTT: Thank you, sir.</p> <p>7 CHAIRMAN: Monday morning, 10 am.</p> <p>8 (12.57 pm)</p> <p>9 (The hearing adjourned until 10.00 am</p> <p>10 on Monday, 29 October 2018)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	