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<p>1 Monday, 5 November 2018</p> <p>2 (10.02 am)</p> <p>3 MR POON CHUK HUNG, JASON (on former oath)</p> <p>4 (All answers given via simultaneous interpreter</p> <p>5 except where otherwise specified)</p> <p>6 Cross-examination by MR BOULDING (continued)</p> <p>7 MR BOULDING: Good morning, sir. Good morning, Professor</p> <p>8 And good morning, Mr Poon.</p> <p>9 A. (In English) Good morning.</p> <p>10 Q. Mr Poon, I would like to continue my discussions with</p> <p>11 you, if I may, and I'd like to talk with you about what</p> <p>12 you allege you told Aidan Rooney about the rebar</p> <p>13 cutting.</p> <p>14 A. (In English) Understand.</p> <p>15 Q. You'll know, won't you, that Aidan Rooney worked for</p> <p>16 MTR?</p> <p>17 A. (In English) Understand. Yes.</p> <p>18 Q. If you'd be kind enough to turn to your first witness</p> <p>19 statement. We can pick it up at paragraph 44 on</p> <p>20 page D22.</p> <p>21 A. (In English) Yes.</p> <p>22 Q. You say:</p> <p>23 "Probably due to Chinat's reporting of the incidents</p> <p>24 in August 2015 ..."</p> <p>25 Just pausing, we've discussed whether that actually</p>	<p>1 A. (In English) Yes.</p> <p>2 Q. 21 September?</p> <p>3 A. (In English) Yes.</p> <p>4 Q. And 28 September?</p> <p>5 A. (In English) Yes.</p> <p>6 Q. Looking down at your attendance, we can see, can we not,</p> <p>7 that you're only recorded as being present on two of the</p> <p>8 four Mondays; correct?</p> <p>9 A. (In English) Yes.</p> <p>10 Q. So it appears, for a start, does it not, that your</p> <p>11 suggestion that you met him on three occasions, three</p> <p>12 Mondays, is inconsistent with the Leighton record, is it</p> <p>13 not?</p> <p>14 A. Not correct.</p> <p>15 Q. Look at the record. It shows you were there on just two</p> <p>16 Mondays, doesn't it?</p> <p>17 A. That's according to the record, but in fact that wasn't</p> <p>18 the case.</p> <p>19 Q. Well, you must have been ghosting in and out again,</p> <p>20 Mr Poon, I suppose?</p> <p>21 A. I believe that record isn't reliable.</p> <p>22 Q. Well, any document which seems to contradict your</p> <p>23 version of events, Mr Poon, is described by you as being</p> <p>24 unreliable; that's right, isn't it?</p> <p>25 A. Not correct, because for this record our company also</p>
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<p>1 occurred and I don't want to go back over that.</p> <p>2 But reading on:</p> <p>3 "... I recall that Mr Aidan Rooney, the then general</p> <p>4 manager of MTRC, had asked me on 3 occasions in</p> <p>5 September 2015 if I or any other staff member of Chinat</p> <p>6 witnessed the practice of cutting the threaded rebars in</p> <p>7 the Hung Hom Station construction site. These questions</p> <p>8 were asked of me when both of us were participating in</p> <p>9 the joint site inspection on Monday mornings. On all</p> <p>10 occasions, I reported to him, that I saw and heard, that</p> <p>11 such practices were continuing."</p> <p>12 So you tell us that these discussions occurred on</p> <p>13 Monday mornings, do you not?</p> <p>14 A. (In English) Yes.</p> <p>15 Q. I wonder if we can just have a look at a document that</p> <p>16 we've looked at before, an old friend, C5720, and</p> <p>17 I understand that's in bundle C8. These are the</p> <p>18 Leighton records.</p> <p>19 If you go down to the penultimate entry on that</p> <p>20 first page, C5720, we see your name, do we not, Mr Poon?</p> <p>21 A. (In English) Yes.</p> <p>22 Q. Looking across the top, we can see that Mondays</p> <p>23 occurred, what, on 7 September?</p> <p>24 A. (In English) Yes.</p> <p>25 Q. 14 September?</p>	<p>1 had staff responsible for the sign-in and out situation</p> <p>2 and he would supplement a written statement, and in fact</p> <p>3 we also complained about the Leighton sign-in and out</p> <p>4 record being totally inconsistent with the true</p> <p>5 situation in relation to the employees going in and out,</p> <p>6 and we will be finding the relevant document in due</p> <p>7 course.</p> <p>8 Q. Okay. There we are. You say three, that says two, but</p> <p>9 I'll move on, and we will see what Mr Rooney says.</p> <p>10 I think we can pick this up in the MTR witness</p> <p>11 statement bundle. If we go, please, to -- it starts at</p> <p>12 B181, but for my purposes I would like to go to B216.</p> <p>13 A. Yes.</p> <p>14 Q. Presumably, you've had an opportunity to read what</p> <p>15 Mr Aidan Rooney says here, Mr Poon?</p> <p>16 A. Right. I roughly read through his statement.</p> <p>17 Q. Let's just see what he says, because he's coming to give</p> <p>18 evidence on oath in about two weeks' time.</p> <p>19 A. Yes.</p> <p>20 Q. Paragraph 113:</p> <p>21 "As stated in paragraph 70 above, I had no knowledge</p> <p>22 about the alleged defective steel works until they were</p> <p>23 first reported by Jason Poon to Leighton on 6 January</p> <p>24 2017."</p> <p>25 So he's saying that he didn't know anything about</p>

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<p>1 the defective steel until something, what, 18 months 2 after you say you told him? 3 A. (In English) Yes. 4 Q. Then he goes on: 5 "Prior to that, nobody raised any issues relating to 6 the alleged defective steel works during the meetings or 7 site visits that I attended or on ... other occasions." 8 Then 114: 9 "I did occasionally run into Jason Poon on site. 10 During those occasions when we met, Jason Poon did not 11 mention any issues about the alleged defective steel 12 works. On the few occasions that we talked, we 13 discussed the adequacy of the resources provided by 14 China Technology and performance issues in relation to 15 the safety and quality of China Technology's works." 16 Now, what Mr Rooney says there is correct, is it 17 not? It's correct? 18 A. Well, about Mr Rooney, I'd like to make it clear that it 19 was he who asked me on his own initiative, not from my 20 initiative -- I just answered his questions on the three 21 occasions, and that means he was already asking me. In 22 paragraph 114, what he said was right, but he omitted 23 the part about his questioning about the defective steel 24 works. He did refer to other matters such as resources, 25 safety, quality, and so on and so forth.</p>	<p>1 correct? 2 A. (In English) Yes. 3 Q. We can see what you say: 4 "Dear Joe, 5 During our review on progress photos and videos, we 6 found plenty of records concerning malpractice use of 7 coupler in this project SCL1112 observing as [below]". 8 Then in the first paragraph you make the point that 9 the malpractices were carried out by Leighton staff; do 10 you see that? 11 A. Yes. 12 Q. Then you make a couple of points in paragraphs 2 and 3 13 that I needn't take up with you, but the second 14 paragraph under number 3: 15 "We attach herewith two of the found photos taken at 16 18:18 to 18:19 of September 22, 2015 ..." 17 Just pausing there, according to paragraph 44 of 18 your witness statement, this is exactly the time when 19 you allege you told Mr Rooney about the existence of the 20 defective steel; correct? 21 A. Correct. 22 Q. Then, reading on: 23 "... showing two Leighton labour cut away the 24 threading section of the threaded lapping bars and 25 installed them onto the west shear face on the diaphragm</p>
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<p>1 Q. And that's omitted from Mr Rooney's statement because 2 you never had the discussion with him concerning 3 defective steel works that you refer to in paragraph 44 4 of your witness statement; that's correct, isn't it, 5 Mr Poon? 6 A. My statement is different from Mr Rooney's, but I recall 7 very clearly that Mr Rooney did ask me. 8 Q. And your statement is different from Mr Rooney's because 9 your statement is incorrect, is it not? 10 A. Disagree. 11 Q. If we can look at a document we've looked at before, but 12 it serves my purpose here -- if we could go, please, to 13 D234. 14 A. (In English) Yes. 15 Q. This is a document that you've been asked about before, 16 is it not, Mr Poon, by amongst others Mr Shieh; do you 17 remember that? Correct? 18 A. That's true. 19 Q. It's a document that you told the learned Commissioner 20 that you sent on 6 January to, amongst others, 21 Mr Zervaas; correct? 22 A. (In English) Yes. 23 Q. "Subject: Demand on structural safety assurance on 24 malpractice use of couplers". So we're talking here, 25 are we not, about the alleged defective steel works;</p>	<p>1 wall, while MTRC didn't discover such malpractice and 2 even unable to inspect the coupler installation due to 3 access problem. The pour had been poured without 4 finding on such malpractice finally." 5 So you're telling Joe there and Mr Zervaas, are you 6 not, that MTRC had not discovered this malpractice at 7 the time? That's what you're telling them? 8 A. (In English) Yes. 9 Q. Can I suggest to you, Mr Poon, that had you told 10 Mr Rooney three times in September of that malpractice, 11 what you would have stated in this email is, "Well, MTR 12 didn't discover the malpractice but of course I told 13 them"? That would have been the thing to do, would it 14 not, Mr Poon? 15 A. Indeed, my email didn't contain this sentence, but the 16 email stated the situation that can be shown on the 17 photos. 18 Q. Mr Poon -- 19 A. (In English) Yes. 20 Q. -- please concentrate upon my question. What I'm 21 suggesting to you is that if you had told Mr Rooney, not 22 once, not twice, not three times -- three times, in 23 September 2015, the very month that's being referred to 24 here, of the defective steel malpractice, it's something 25 that you would have referred to in this email, is it</p>

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<p>1 not?</p> <p>2 A. That email didn't mention. Indeed, it wasn't mentioned.</p> <p>3 But the reason the email was sent was because in October</p> <p>4 Anthony, who was originally very cooperative in</p> <p>5 discussing the remedial option, changed to a totally</p> <p>6 different stance, and that's why I turned to putting it</p> <p>7 down in writing.</p> <p>8 Q. I suggest that the email didn't mention your alleged</p> <p>9 conversations, three conversations, with Mr Rooney</p> <p>10 because, as Mr Rooney says, they did not occur; you</p> <p>11 didn't tell him about the defective steel work in August</p> <p>12 2015, did you, or September; correct?</p> <p>13 A. Disagree.</p> <p>14 Q. Can I ask you this: if the conversations had taken</p> <p>15 place, Mr Poon, why did you not write to MTR, drawing</p> <p>16 their attention to the defective steel work at the same</p> <p>17 time as you wrote to Mr Zervaas and Joe Tam in January</p> <p>18 2017? Why didn't you write to MTR saying, "Look, MTR,</p> <p>19 do you know this is going on"?</p> <p>20 A. We didn't have a direct commercial or agreement</p> <p>21 relationship with MTRC. So, during the whole contract</p> <p>22 period, we have never written to MTRC. Not until</p> <p>23 recently, when there was the honeycomb situation, did we</p> <p>24 actually write an email to MTRC.</p> <p>25 Q. I think we are going back where we were on Friday,</p>	<p>1 through his subordinate, a person called 'Raymond'."</p> <p>2 Now, again, have you seen what Mr Philco Wong has to</p> <p>3 say about your allegation, Mr Poon?</p> <p>4 A. No, I've not read it.</p> <p>5 Q. Let's have a little peek together, please, if we could.</p> <p>6 We need to pick it up at B150 in the first instance.</p> <p>7 A. (In English) Yes.</p> <p>8 Q. It's paragraphs 41 to 43 that I would invite your</p> <p>9 attention to. Here, Mr Philco Wong says:</p> <p>10 "I first knew about Mr Jason Poon in mid-2015. At</p> <p>11 that time, China Technology was a formwork</p> <p>12 sub-contractor in the South Island Line project ..."</p> <p>13 And that was correct; you were a formwork</p> <p>14 sub-contractor on the South Island Line?</p> <p>15 A. (In English) Yes.</p> <p>16 Q. Yes, that's right. I thought you would agree that.</p> <p>17 "... during which Mr Mark Cuzner (the general</p> <p>18 manager of SIL at the time) informed me that there were</p> <p>19 concerns that China Technology did not place sufficient</p> <p>20 resources into the performance of its tasks. As</p> <p>21 a result of these concerns, I attended a meeting with</p> <p>22 Mr Ken Wong (the project manager of SIL at the time) and</p> <p>23 Mr Jason Poon at the Kowloon Bay headquarters of MTR in</p> <p>24 June 2015."</p> <p>25 You remember that?</p>
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<p>1 Mr Poon, but what I suggest to you is that if this</p> <p>2 serious malpractice was going on, a malpractice, with</p> <p>3 safety considerations, the fact that you had no</p> <p>4 commercial relationship with MTRC gave you no excuse at</p> <p>5 all for failing to bring the malpractice to its</p> <p>6 attention. That's correct, isn't it; fair comment?</p> <p>7 A. (In English) Yes, this is fair comment.</p> <p>8 (Via interpreter) But I did talk to Mr Aidan Rooney</p> <p>9 and Mr Wong by phone.</p> <p>10 Q. There's an issue between us on that.</p> <p>11 Staying with conversations that you allegedly had at</p> <p>12 the time. If you would be kind enough to look at</p> <p>13 paragraph 48 of your witness statement. This is on D23.</p> <p>14 Here you are referring, are you not, to your contention</p> <p>15 that you reported to Mr Philco Wong the incidents that</p> <p>16 had occurred in August 2015 to Philco Wong on or about</p> <p>17 9 December 2016; correct?</p> <p>18 A. (In English) Yes.</p> <p>19 Q. Just to see exactly what you say:</p> <p>20 "On or about 9 December 2016, I reported the</p> <p>21 incidents in August 2015 to Mr Philco Wong, the then</p> <p>22 project director of MTRC. Mr Philco Wong said he would</p> <p>23 handle the matter. He expressly asked me not to be</p> <p>24 outspoken on this matter. He also asked me to keep him</p> <p>25 informed on the matter of the defective steel works</p>	<p>1 A. (In English) Remember, remember.</p> <p>2 (Via interpreter) Well, but the content of the</p> <p>3 discussion was not like that.</p> <p>4 Q. Well, Mr Philco Wong is coming along in due course to</p> <p>5 tell the learned Commissioner and the good professor</p> <p>6 that it was indeed the content, and I suggest to you</p> <p>7 that what Mr Philco Wong says here is in fact correct;</p> <p>8 that was the content of those discussions?</p> <p>9 A. In paragraph 41 --</p> <p>10 Q. Yes, paragraph 41.</p> <p>11 A. -- well, that was in mid-2015. I was called upon to</p> <p>12 have a meeting at the Kowloon Bay headquarters of MTRCL.</p> <p>13 That was a fact. That was about the progress of the</p> <p>14 Admiralty Station. That was also a fact. But nothing</p> <p>15 was mentioned about our company not placing sufficient</p> <p>16 resources. And they were asking our company,</p> <p>17 a sub-contractor, to report directly to MTRC, and that</p> <p>18 was quite strange because the MTRC normally doesn't have</p> <p>19 a relationship with its sub-contractor. How come the</p> <p>20 MTRC was asking us to have a meeting at the 29th floor?</p> <p>21 At that time, MTRC and the main contractor -- well, it's</p> <p>22 not related to this Inquiry.</p> <p>23 Q. It's not related to this Inquiry, but what I suggest to</p> <p>24 you is that they wanted a meeting with you, because, as</p> <p>25 Mr Philco Wong says, you had not placed sufficient</p>

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<p>1 resources into the performance of your tasks, and in 2 those circumstances they were concerned and they wanted 3 to know what you were going to do about it, didn't they? 4 A. No, that's not the case. 5 Q. Anyway, it says in paragraph 42: 6 "I did not hear from Mr Jason Poon after our meeting 7 with him in mid-2015 relating to the SIL project, until 8 one day in late 2016, my secretary told me that Mr Jason 9 Poon called my office ... and left a message for me that 10 he would like to speak with me." 11 That's correct, isn't it? You called his office and 12 left a message, "Please can I speak to him"; correct? 13 A. I used my office phone to communicate with Dr Wong, 14 using my fixed line in my office and connecting with his 15 fixed line, and I also used my mobile phone to call his 16 mobile phone. 17 Q. Okay. So I think you're agreeing with me; is that 18 correct? 19 A. Well, we have started out with calling his mobile phone 20 first. 21 Q. Okay. Then: 22 "I recall this happened in late 2016 because that 23 was the time when China Technology had completed its 24 works for contract 1112 ..." 25 That's correct, you had completed your works by</p>	<p>1 A. I received the telephone call from the office telephone, 2 and I also received Mr Wong calling me from his mobile 3 and also called him from my own mobile. It was not that 4 indirect, having to go through the secretary. 5 Q. Well, it sounds as though the secretary phoned you at 6 least once, but anyway, it's not the most important 7 point. 8 Mr Philco Wong goes on to say: 9 "I remember that Mr Jason Poon's message during that 10 telephone conversation was that Leighton had not paid 11 China Technology sufficiently, or at all ..." 12 You told him that, didn't you? 13 A. (In English) Yes, one of the -- 14 Q. You also asked him, as Mr Philco Wong says, did you not, 15 to step in to help resolve the issue; correct? 16 A. (In English) Yes. Yes. 17 Q. It's right, is it not, when Mr Philco Wong says that 18 you, Mr Poon, did not raise any allegations as regards 19 the cutting of steel bars? You didn't raise that matter 20 at all, did you? 21 A. Well, I mentioned this. I mentioned both matters, 22 cutting of the bars and also the money, payment. 23 Q. Well, Mr Philco Wong disputes that. 24 But it's right, is it not, that Mr Philco Wong told 25 you, Mr Poon, that he would ask his team to look into</p>
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<p>1 then, hadn't you, just about? 2 A. Not yet. Well, we were nearing the end. It was in 3 early February 2016 that we ended the work. So December 4 and January was the peak work period and we were bearing 5 the greatest pressure in those two months. That was in 6 December 2016 and January 2017, that was our toughest 7 time, because we needed to complete the work on 8 4 February 2017. 9 Q. And, as Mr Philco Wong says, "China Technology", at or 10 about that time, "would be in the process of finalising 11 the final account for China Technology's works"; 12 correct? 13 A. Yes, that was one of the items discussed, and we were 14 just saying that Leighton had not paid us. It's not 15 about finalising the final account. 16 Q. Then in paragraph 43, Philco Wong says: 17 "I knew that China Technology was involved in 18 contract 1112 and I also heard in general during the 19 communications meetings that there were concerns that 20 China Technology did not place sufficient resources into 21 the performance of its tasks. I therefore asked my 22 secretary to connect me with him." 23 That in fact occur, did it not? Mr Philco Wong's 24 secretary connected you up to a telephone conversation 25 with Philco Wong; do you remember that?</p>	<p>1 the payment issue; correct? 2 A. Well, he didn't mention team. He just mentioned 3 Raymond. But I can't remember the last name of Raymond, 4 but it seems that he's Raymond Au. 5 Q. Okay. Okay. 6 Then just to pick up Mr Philco Wong's further 7 evidence on this, because it may well turn out to be 8 an important point. If you could go to B13618. Are you 9 there? 10 A. (In English) Yes. 11 Q. Splendid. Perhaps we ought, to be fair to you, to start 12 at B13617. 13 A. (In English) Okay. 14 Q. You'll see that in paragraph 4, Mr Philco Wong is 15 referring, is he not, directly to paragraph 48 of your 16 statement, which we talked about together a few moments 17 ago; correct? 18 A. (In English) Yes. 19 Q. Then he says in paragraph 5: 20 "As stated in paragraphs 42 and 43 of my witness 21 statement" -- they're the paragraphs we've just looked 22 at, Mr Poon -- "I did have a telephone conversation with 23 Mr Poon in late 2016. However, as this telephone 24 conversation took place almost two years ago, I cannot 25 remember the precise date of that telephone</p>

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<p>1 conversation.</p> <p>2 6. As I have explained in my witness statement, my</p> <p>3 recollection of that telephone conversation with Mr Poon</p> <p>4 was that Mr Poon complained about payment issues his</p> <p>5 company had with Leighton."</p> <p>6 And you've been kind enough to agree that much with</p> <p>7 me.</p> <p>8 "That was why after my telephone conversation with</p> <p>9 Mr Poon, I called Mr Raymond Au from MTR's procurement</p> <p>10 and contracts department to follow up with Mr Poon on</p> <p>11 the commercial matters that Mr Poon raised with me in</p> <p>12 that telephone call."</p> <p>13 Then, pausing there, that's the same gentleman that</p> <p>14 you referred to in our discussions two or three minutes</p> <p>15 ago?</p> <p>16 A. (In English) Yes. Yes.</p> <p>17 Q. And we'll have to come there in due course.</p> <p>18 A. (In English) Okay.</p> <p>19 Q. Then 7:</p> <p>20 "As our telephone call took place almost two years</p> <p>21 ago, I cannot recall whether Mr Poon mentioned any</p> <p>22 specific quality issues regarding Leighton's works</p> <p>23 during our call. However, had Mr Poon mentioned any</p> <p>24 threaded bar cutting issues with me during that</p> <p>25 telephone call, I would have asked the project team</p>	<p>1 in relation to any bar cutting (if that was even raised</p> <p>2 by Mr Poon) during that telephone conversation. In</p> <p>3 fact, I do not recall having said any such words or</p> <p>4 words to that effect to him in that telephone</p> <p>5 conversation at all."</p> <p>6 A. Mmm.</p> <p>7 Q. What I've got to suggest to you, Mr Poon, is that</p> <p>8 Mr Philco Wong's recollection of his call with you is</p> <p>9 indeed accurate, is it not? There was no mention at all</p> <p>10 of threaded rebar cutting?</p> <p>11 A. Disagree.</p> <p>12 Q. Then of course I don't think we need to turn it up</p> <p>13 again, but I suggest, once again, that had you had such</p> <p>14 a conversation with Mr Philco Wong, it would have been</p> <p>15 obvious that the appropriate thing to do was to have</p> <p>16 referred to it in your email to Mr Zervaas dated</p> <p>17 6 January which we discussed a few moments ago. That</p> <p>18 would have been the correct thing to do, wouldn't it,</p> <p>19 Mr Poon?</p> <p>20 A. In fact, even for commercial email correspondence,</p> <p>21 I never mentioned my communication with Mr Philco Wong.</p> <p>22 In the email, I never put any of my contact with</p> <p>23 Mr Philco Wong in our communication, and Leighton had</p> <p>24 failed to pay wages on time since October 2016. Back</p> <p>25 then I hadn't considered approaching MTRC, but in</p>
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<p>1 (rather than Mr Raymond Au) to carry out investigation</p> <p>2 as Mr Raymond Au's role was to handle procurement and</p> <p>3 contracts issues rather than works quality-related</p> <p>4 issues. In any event, I would not simply have followed</p> <p>5 up on these types of quality issues with Mr Raymond Au,</p> <p>6 because I would have considered such allegations on</p> <p>7 cutting threaded bars as a serious matter."</p> <p>8 So, in short, Mr Philco Wong is saying there, is he</p> <p>9 not, Mr Poon, that you simply did not mention the matter</p> <p>10 of threaded bar cutting issues with him; that's what</p> <p>11 he's saying, isn't he?</p> <p>12 A. Disagree. This is what Philco Wong said but I disagree.</p> <p>13 Q. Okay. Then he says:</p> <p>14 "I also recall that my telephone conversation with</p> <p>15 Mr Poon was a very brief one."</p> <p>16 That's right, isn't it? It was a brief call?</p> <p>17 A. A few minutes.</p> <p>18 Q. And:</p> <p>19 "If Mr Poon did raise any such serious allegations</p> <p>20 on threaded bar cutting, that telephone call would have</p> <p>21 lasted much longer."</p> <p>22 Then 9:</p> <p>23 "As regards Mr Poon's contention that I told him</p> <p>24 'not to be outspoken', in view of that which was set out</p> <p>25 above, it is inconceivable that I said such words to him</p>	<p>1 December 2016, when discussions were going well in</p> <p>2 relation to remedial works about defective steel works,</p> <p>3 suddenly there was a change of attitude and that caused</p> <p>4 me to call him. Before that, there had been a long</p> <p>5 period of time when I had not contacted Mr Philco Wong</p> <p>6 by phone.</p> <p>7 Q. Well, there we are, Mr Poon. There's an issue between</p> <p>8 us on that, and in due course the learned Commissioner</p> <p>9 will have to resolve that.</p> <p>10 But going on to the final conversation --</p> <p>11 A. (In English) Okay.</p> <p>12 Q. -- I need to talk to you about, it is indeed</p> <p>13 a conversation with Mr Raymond Au, who we mentioned</p> <p>14 during the course of our discussions a few moments ago.</p> <p>15 You deal with this in paragraph 50 of your first</p> <p>16 statement.</p> <p>17 A. (In English) Yes.</p> <p>18 Q. Here you say -- this is D25:</p> <p>19 "Following the 6 January 2017 email, Raymond</p> <p>20 contacted me by telephone. Raymond asked me to 'stop</p> <p>21 pushing Leighton'."</p> <p>22 Now, first of all, it's right, is it not, that you</p> <p>23 have no note whatsoever of this alleged conversation;</p> <p>24 correct?</p> <p>25 A. No note, correct.</p>

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<p>1 Q. Even though, I suggest, it would have been an important 2 conversation so far as you and your company were 3 concerned? 4 A. I all along do not have the habit of taking notes during 5 conversations, and Raymond had a lot of communications 6 with me, not only about this. 7 Q. Well, there's a dispute over that, Mr Poon. 8 What I'm suggesting is that it is indeed remarkable 9 that you've got no notes whatsoever of any of these 10 important conversations. It would have been obvious, 11 wouldn't it, that they were the sort of conversations 12 that you ought to have recorded in writing if they 13 really took place; is that fair comment? 14 A. Not fair. In the construction industry, we do not sit 15 in the office. Most of the time, we are outside, 16 travelling, or at the site. I never have this habit of 17 taking notes about any conversation. I never have this 18 habit. 19 Q. And that's because these conversations simply did not 20 occur, or certainly did not occur in the sense that 21 you've described them. You didn't mention defective 22 steel works and you weren't told by Raymond Au to stop 23 pushing Leighton. He never said that, did he? 24 A. He did. Several months later, Raymond Au, still within 25 a few months, I do not recall when, he deliberately</p>	<p>1 in paragraph 3, Mr Au is saying -- 2 A. (In English) Yes. 3 Q. -- "I wish to set out my account of the matters 4 contended in paragraph 50 of Mr Poon's 1st witness 5 statement." 6 That's the paragraph we've just been discussing. 7 "Before I do so, I wish to state that I have never 8 met Mr Poon before and I only had one very short 9 telephone conversation with him as set out below." 10 That is correct, isn't it? He had never met you 11 before and he only had one very short telephone 12 conversation with you? 13 A. (In English) Yes, we never meet. We never meet. 14 (Via interpreter) However, we had more than one 15 conversation. Many conversations. 16 Q. And 4: 17 "As Dr Philco Wong mentioned in paragraph 44 of his 18 witness statement, Dr Wong called me in around late 2016 19 and asked me to follow up with Mr Poon on the 20 sub-contractor payments to China Technology Corporation 21 Ltd by the main contractor. I remember that this was in 22 December 2016 although I cannot remember when in 23 December 2016 Dr Wong called me. Dr Wong told me that 24 Mr Poon was complaining that China Technology was 25 underpaid by the main contractor."</p>
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<p>1 arranged for me to place a bid in relation to the 2 Exhibition Station in Wan Chai, under Leighton, in order 3 to relieve the tension between me and Leighton. It was 4 through Raymond's arrangement. Originally, my company 5 all along was included in the tenderers' list, but 6 because of our dispute with Leighton we were pulled out 7 from the list and eventually it was Raymond Au who put 8 us back on the list. 9 Q. That's all very interesting but nothing to do with what 10 I'm discussing with you at the moment, Mr Poon. 11 A. But that's fact. That's why I didn't put it in. 12 Q. That's no reason why, if Mr Raymond Au, as you allege, 13 had made the very important statement to you, 14 immediately after you have sent your email of 6 January 15 2017, "stop pushing Leighton". That's just the sort of 16 thing that you would have been expected to record in 17 a note, is it not, Mr Poon? 18 A. But I did not. I really do not have any habit of taking 19 down in writing any telephone conversation, including my 20 conversation with Mr Philco Wong or indeed any other 21 important subject. 22 Q. At least we agree it's important. 23 Let's move on to what Mr Au says. That's B13674. 24 A. Mm-hmm. 25 Q. I think we can pick it up at paragraph 3. Can you see</p>	<p>1 That indeed was one of your complaints at the time, 2 was it not? 3 A. Mmm, mmm, mmm. 4 Q. "He then gave me the mobile number of Mr Poon and asked 5 me to contact Mr Poon to find out what the problem was. 6 I then called Mr Poon's mobile number to follow up 7 on the matter. I introduced myself on the phone to him 8 and told him that Dr Wong asked me to phone him to find 9 out what issues he had with his payments from 10 Leightons." 11 You presumably recall Mr Au phoning you on your 12 mobile and saying words to you to that effect; correct? 13 A. The first time Mr Au called me, I don't remember which 14 phone was used, but indeed I had a conversation with 15 Mr Au on a mobile phone. Because I wasn't often in the 16 office, I really cannot recall. I do recall, however, 17 in fact, that many conversations I had with Mr Au were 18 on mobile phone. 19 Q. Well, Mr Au says he had one conversation with you -- 20 A. Not true. 21 Q. -- and in this conversation, you remember, do you not, 22 that he told you that Philco Wong had asked him to phone 23 you to find out what issues you had with your payments 24 from Leighton; do you remember him saying that to you? 25 A. That's right. About one of the subjects was about</p>

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<p>1 money.</p> <p>2 Q. Then:</p> <p>3 "His reply to me was very short and he just told me</p> <p>4 that there was no problem now and everything was</p> <p>5 resolved. The call then ended."</p> <p>6 That's correct, is it not? That's correct?</p> <p>7 A. Not correct. I remember -- in fact, we can check the</p> <p>8 phone record -- on 9 December, I used my mobile phone to</p> <p>9 call Dr Wong's mobile phone, and I remember mobile</p> <p>10 phones were used. I was at the Hong Kong-Zhuhai-Macau</p> <p>11 Bridge site and I therefore couldn't use the desk phone,</p> <p>12 and there were two points raised in the conversation.</p> <p>13 One was about payment, the other was about cutting of</p> <p>14 bars. Mr Au -- well, I remember that his reply was very</p> <p>15 swift. It was just within one or two hours, and then</p> <p>16 within one or two hours Leighton and myself had not</p> <p>17 resolved the commercial dispute, not yet.</p> <p>18 Q. I think we can skip the next paragraph and go to</p> <p>19 paragraph 7:</p> <p>20 "I am certain that Dr Wong did not mention any</p> <p>21 issues relating to the defective steel works in his</p> <p>22 telephone call to me."</p> <p>23 Then he goes on to describe the logic or otherwise</p> <p>24 of that position. But it's paragraph 8 I would like to</p> <p>25 come to:</p>	<p>1 numbers and you could see that there were lots of</p> <p>2 telephone calls between myself and Mr Au, definitely</p> <p>3 more than once.</p> <p>4 Q. No doubt if that's the case we'll hear about that in</p> <p>5 your re-examination, Mr Poon.</p> <p>6 Let's have a look at paragraph 93 of your statement.</p> <p>7 This is D38.</p> <p>8 A. (In English) Yes.</p> <p>9 Q. At this stage in your statement, I understand that</p> <p>10 you're talking about the MTR investigations; correct?</p> <p>11 A. (In English) Yes.</p> <p>12 Q. You say:</p> <p>13 "Representatives of the MTR inquired as to why I did</p> <p>14 not disclose matters in the weekly progress meetings."</p> <p>15 I'm told and I suggest to you that you were</p> <p>16 a regular attendee at the MTR weekly progress meetings;</p> <p>17 correct?</p> <p>18 A. Correct.</p> <p>19 Q. "I told the representatives of MTR that China</p> <p>20 Technology, unfortunately, was the only sub-contractor</p> <p>21 attending the meetings and was not a stakeholder of that</p> <p>22 stage of the project. Strictly speaking, the progress</p> <p>23 meetings was purely a matter between MTRC and Leighton.</p> <p>24 I told them that it would be difficult, if not</p> <p>25 impossible, for China Technology to raise such matters</p>
Page 26	Page 28
<p>1 "At paragraph 50 of Mr Poon's 1st witness statement,</p> <p>2 he alleges that I contacted him following an email dated</p> <p>3 6 January 2017 from Mr Poon to Mr Joe Tam of</p> <p>4 Leighton ..."</p> <p>5 That's the email we looked at five or ten minutes</p> <p>6 ago, Mr Poon. Do you remember that?</p> <p>7 A. Yes.</p> <p>8 Q. And that you ask him -- he asked -- and that he asked --</p> <p>9 "I asked him to 'stop pushing Leighton'", and as Mr Au</p> <p>10 says:</p> <p>11 "I deny such allegations. I neither contacted</p> <p>12 Mr Poon in 2017; nor asked him to 'stop pushing</p> <p>13 Leighton'."</p> <p>14 That's correct, isn't it, Mr Au did not contact you?</p> <p>15 A. Not correct.</p> <p>16 Q. And it's right, is it not, that his only conversation</p> <p>17 with you was the one he refers to in paragraph 5 above,</p> <p>18 which took place in late 2016; correct?</p> <p>19 A. Not correct.</p> <p>20 Q. That was the only conversation he had with you?</p> <p>21 A. Not correct. I provided my mobile phone record, the</p> <p>22 call record, in my bundle. But because of privacy</p> <p>23 requirements, the call record only shows the calls that</p> <p>24 I've made but not the numbers displayed when I receive</p> <p>25 the calls. But in fact you could check all the call</p>	<p>1 in the progress meetings."</p> <p>2 Now, by "such matters", you are referring once</p> <p>3 again, are you not, to the malpractice of cutting the</p> <p>4 threaded bars?</p> <p>5 A. Correct.</p> <p>6 Q. What I also suggest to you, Mr Poon, having witnessed</p> <p>7 your demeanour in the witness box over the course of the</p> <p>8 last four or five days, is that if that had occurred to</p> <p>9 the extent you say it had occurred, you are the sort of</p> <p>10 person who would have had no hesitation at all in</p> <p>11 raising that matter with MTR in the weekly progress</p> <p>12 meetings; that's correct, isn't it?</p> <p>13 A. Let me say, first of all, that for the weekly meetings,</p> <p>14 I did not participate in it at first. I recall it was</p> <p>15 not until October 2016 that I started participating in</p> <p>16 the weekly meetings. Before that, I had not</p> <p>17 participated. It was purely between MTR and Leighton.</p> <p>18 I participated only in October 2016, because for the</p> <p>19 degree 1 completion, it was originally scheduled to</p> <p>20 complete in January 2017, it was later revised to</p> <p>21 12 February 2017.</p> <p>22 Because of the immense pressure, I was asked to</p> <p>23 attend. But in fact I was only observing at the back,</p> <p>24 not sitting around the table, and when there were issues</p> <p>25 relating to my company, I had to listen to them. In</p>

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<p>1 relation to, say, more manpower needed at certain areas 2 and other interface issues, I had to be there to 3 listen -- but if you check the minutes of the meeting, 4 Chinat didn't say anything. 5 Q. That may well be right, but what I'm suggesting to you 6 is that whenever you started attending these meetings, 7 Mr Poon, had the alleged defective rebar cutting 8 occurred, as you say it had, you would have stated that 9 during the course of the meetings; that's correct, isn't 10 it, fair comment? 11 A. Well, for these meetings, these are not high-level 12 meetings. It's James Ho, senior construction engineer, 13 who was attending. It was not at the level of the 14 managers or the general managers. For senior 15 construction engineer and construction engineer level, 16 they do not know about the rebar cutting, and in October 17 2016 there was no cutting of rebars and we were at the 18 stage we were trying to resolve the matter. 19 Q. You're suggesting to the learned Commissioner that it 20 would be difficult if not impossible for China 21 Technology to raise the rebar cutting in the progress 22 meetings, and I am saying that that is simply 23 a non-credible statement. Had it been occurring as you 24 say, it would have been just the sort of thing that you 25 could and ought to have raised; that's fair comment,</p>	<p>1 You are now giving a completely different reason for 2 why you did not raise those matters, Mr Poon, but let's 3 move on because I have made my point and I would like to 4 ask you a question or two arising out of Mr Pennicott's 5 questioning of you -- 6 A. (In English) Okay. 7 Q. -- I think probably almost week or so ago. Do you 8 remember being asked by Mr Ian Pennicott about BOSA's 9 manual? 10 A. (In English) Manual? 11 Q. Yes. 12 A. (In English) Yes. 13 Q. And in particular the tolerance in terms of the amount 14 of thread that was visible outside the coupler; do you 15 remember? 16 A. (In English) Yes. 17 Q. He suggested to you that for a T40 rebar, that's 18 a 40 millimetre rebar -- 19 A. (In English) Yes. 20 Q. -- the tolerance for the external thread was 21 4 millimetres; do you remember him suggesting that? 22 A. (In English) Yes. Yes. 23 Q. That was for a type A coupler, that's what he was 24 suggesting; correct? 25 A. (In English) Yes.</p>
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<p>1 isn't it? 2 A. Not fair. For paragraph 93, that was in 13 June, I was 3 invited to the MTRC site office to assist in the 4 investigation. I was giving evidence as a witness. 5 Now, I was a witness, and the MTRC should be looking 6 into my evidence. What MTRC actually did was delete all 7 the remarks I made then and did not put my remarks into 8 the report. 9 Q. Mr Poon, I don't want to stop you if you are giving 10 relevant evidence, but you are not. You are running off 11 along a track of your own. 12 What I'm suggesting to you is there was absolutely 13 no reason at all why you could not have told MTR, if it 14 was really occurring, of the defective steel works in 15 the weekly progress meetings. 16 A. I did talk to MTRC, and if needed -- well, I was 17 actually escalating the matter to a high level, and 18 after I circulated to a senior level, there was no 19 reason for us to be talking about this at the junior 20 level of the meeting -- 21 Q. This is a different reason -- that's a different reason 22 from the reason you state in paragraph 93. You say: 23 "I told them that it would be difficult, if not 24 impossible, for China Technology to raise such matters 25 in the progress meetings."</p>	<p>1 Q. You said he was wrong; do you remember saying that? 2 A. (In English) Yes. 3 Q. Then, as a result of that, you told the learned 4 Commissioner and the good professor that you carried out 5 some lunchtime work, and you referred them to Mr Kobe 6 Wong's statement, Mr Kobe Wong being an MTR employee; do 7 you remember that? 8 A. (In English) Yes. 9 Q. You referred them to his statement at paragraph 28.3, 10 and we'll need to turn that up, just to remind ourselves 11 of what was said. 12 A. (In English) B427. 13 Q. B427. If I may be permitted to read from it again, 14 Mr Kobe Wong says: 15 "For the EWL slab rebar fixing works, for instance, 16 the workers of Fang Sheung Construction would normally 17 insert a type A rebar into a coupler by hand to ensure 18 proper alignment, and then use a pipe wrench to screw 19 the rebar fully into the coupler." 20 A. (In English) Yes. 21 Q. And you emphasised -- 22 A. (In English) "Fully". 23 Q. -- the word "fully". 24 A. (In English) "Fully". 25 Q. Then he goes on to say:</p>

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<p>1 "For the construction of the diaphragm walls, 2 Intrafor would do the same with the type B rebars and 3 couplers." 4 A. Mmm. 5 Q. We all have our favourite parts of the witness 6 statement, and if you would be kind enough to look at 7 paragraph 30, which you didn't draw the learned 8 Commissioner's attention to. 9 A. (In English) Yes. 10 Q. "When the inspector of works, assistant inspector of 11 works and I conducted site surveillance of the EWL slab 12 works, we would pay attention to whether the type A 13 splicing assemblies were within the tolerance of not 14 more than 1 to 1.5 full pitches of threading being 15 exposed, as per the footnote in the template record 16 sheet in appendix B to the QSP." 17 A. Mmm. 18 Q. That is indeed, is it not, the tolerance on the type A 19 couplers; correct? Correct, or do you want to look at 20 the footnote? 21 A. (In English) Yes. 22 Q. You're agreeing with me? 23 A. (In English) I agree with what -- 24 (Via interpreter) I saw what Kobe Wong said, wrote, 25 but I disagree with that.</p>	<p>1 thing is the table in 2658. The tolerance for T40 is 2 4mm. 3 Q. That's correct. That's what Mr Pennicott took you to. 4 A. And the pitch is also 4mm. So that means one round, not 5 more than one round. 6 Among the 13,000 pieces of documents, there were two 7 versions to this table. I can't remember exactly which 8 document. For this version, the pitch is 3.5, and the 9 tolerance is also 3.5; again, one round. That is 10 ductility coupler, type A, 1112 project. Just for this 11 table alone, there have been two versions. If this 12 version is correct, then the footnote to B2655, the two 13 asterisks, I have doubts on that. I don't know which 14 one to believe in. Anyway -- 15 Q. We disagree with you there, Mr Poon. 16 A. I respect Kobe Wong because he has a say on acceptance 17 under QSP, but I have doubts. 18 Q. Well, you have doubts, and what I suggest is that you've 19 no reason to have those doubts. 20 Just to conclude this -- 21 A. (Chinese spoken). 22 Q. -- if we go to page B2640 -- 23 A. We have looked at different versions from Leighton, MTRC 24 and the government, and we haven't seen the table shown 25 by Leighton.</p>
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<p>1 Q. You're still disagreeing with it? 2 A. You were talking about 1.5 round -- 6mm. 3 Q. Yes. 4 A. Well, 6mm was not shown in any QSP document. There are 5 two versions of QSP. Now, different people submitted 6 different QSP versions. 3.5 and 4mm were stated, but it 7 never went beyond 4. So 4mm was the pitch, which means 8 the tolerance should just be 1 at the maximum. It could 9 never be 1.5. 10 Q. Let's have a look at B2655, if we can. 11 A. (In English) Yes. 12 Q. I don't know whether that could be blown up a little 13 bit, and then go down to the footnotes, please. Do you 14 see the penultimate footnote, the double asterisk: 15 "Ensure that a maximum of between 1 to 1.5 full 16 pitch is visible after tightening is completed." 17 A. Mmm. 18 Q. And that, I suggest, supports what Mr Kobe Wong says in 19 paragraph 30 of his witness statement, does it not? 20 A. This -- well, for the entire QSP, there were at least 21 three discrepancies, as far as I can see. If you are 22 talking about ductility coupler, the B2658 -- 23 Q. I'm talking about type A splicing assembly. 24 A. We have to look at the tolerance. This is the way 25 engineers look at things. That's the first -- the first</p>	<p>1 Q. Then if we look at B2640 -- 2 A. (In English) Yes. 3 Q. -- we can see, can we not, that this was the quality 4 supervision plan, otherwise referred to as QSP -- 5 A. (In English) Yes. 6 Q. -- which was provided to government; correct? 7 A. (In English) Yes. 8 Q. On 12 August 2013; do you see that? 9 A. (In English) Yes. Yes. I saw it. 10 Q. Now, Mr Poon, you attempted to rely, when Mr Shieh was 11 discussing his case with you, his various propositions 12 with you, on the Prevention of Bribery Ordinance. 13 A. Mmm. 14 Q. Do you remember that? 15 A. (In English) Yes. 16 MR BOULDING: I'm not going to debate that with you, but 17 I will adopt Mr Shieh's cross-examination on that 18 particular point, and in due course make my submissions. 19 So thank you very much. 20 Thank you, sir. Thank you, Professor. 21 Questioning by THE COMMISSIONERS 22 CHAIRMAN: Thank you very much, Mr Boulding. 23 Mr Poon, on this question of corruption, I just have 24 a couple of matters to try to clarify your evidence. 25 A. (In English) Yes.</p>

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<p>1 CHAIRMAN: First, the question of who was doing the work 2 of -- we'll call it cutting of rebars; okay? 3 Would I be correct to say that you identified the 4 people who were doing the cutting by their working 5 clothes? 6 A. (In English) Yes. 7 CHAIRMAN: And that these working clothes, on all occasions 8 that you could tell, were Leighton clothes? 9 A. (In English) Yes. 10 CHAIRMAN: If somebody other than Leighton, for example 11 Fang Sheung, were also supplying their workers with 12 Leighton clothing, then that could mean that Fang Sheung 13 people may have been doing the cutting? 14 A. (In English) Yes. There is a doubt there. 15 CHAIRMAN: So you rely entirely on the working clothing that 16 you saw; yes? 17 A. (In English) Yes. 18 CHAIRMAN: Thank you. 19 The second issue is this. In your email of 20 6 January -- 21 A. (In English) Yes. 22 CHAIRMAN: -- this is the very first documentary evidence we 23 have of contacting Mr Zervaas, but I think calling him 24 Joe, in fact, which is the name of the person who was 25 copied the document -- that doesn't matter, that's just</p>	<p>1 CHAIRMAN: Okay. 2 A. At the time, about the email dated 6 January, it came 3 with a background. Anthony -- all along, I thought that 4 Anthony was open-minded, Anthony was willing to engage 5 in conversations, but all of a sudden he made 6 an about-turn and refused to admit such happenings of 7 an event. That's why an email was needed to convince 8 him that indeed that was what happened, that was what 9 truly happened. 10 Anthony eventually said that he was reported by -- 11 his subordinates reported to him that I was telling lies 12 and that cutting of rebars never happened, and at that 13 time I did not know about the NCRs issued to either 14 Leighton or Fang Sheung. 15 On the other hand, I would like to -- 16 CHAIRMAN: Sorry, just bear with me. I'm not taking into 17 account what you saw or didn't see. I'm just working on 18 the basis of what you say you saw at the moment; okay? 19 I'm not disputing it. 20 A. Mmm, mmm, mmm. 21 CHAIRMAN: It seems to me that in your email, you were 22 saying that what you had seen was the cutting of the 23 threads of rebars, when there were difficulties in 24 bringing about the installation of those rebars into the 25 couplers.</p>
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<p>1 an aside, to identify the document -- 2 A. Mmm. 3 CHAIRMAN: -- you appear to be saying that what you had 4 witnessed was the cutting of rebars, when there were 5 difficulties encountered in installing the rebars. So 6 in fact, to quote you here, you say: 7 "... it is quite normal that the embedded couplers 8 in the diaphragm wall were not able to accommodate the 9 correct installation of [the rebars, possibly by reason 10 of damage to the] internal threading or the tilted 11 embedment of the couplers ..." 12 Then you go on to say, in those circumstances, it 13 was normal for the Leighton workers or the people 14 wearing Leighton clothing to cut the threads. 15 A. (In English) Yes. 16 CHAIRMAN: This email of course was sent a good many months 17 after your witnessing of events? 18 A. (In English) Yes. 19 CHAIRMAN: Is that your evidence now, that what you saw was 20 a cutting of threads when there were difficulties in 21 bringing about installation -- 22 A. Mmm. 23 CHAIRMAN: -- or do you take your evidence further than 24 that? 25 A. (In English) Further.</p>	<p>1 A. Mmm. 2 CHAIRMAN: But it seems to me -- and you appear to have 3 accepted this -- that in your evidence you go somewhat 4 further and suggest that the cutting of rebar threads 5 was systematic and planned, not only when there were 6 difficulties in installation but when the question of 7 difficulty was not relevant; in other words, that it was 8 done not wholesale but it was done in a planned and 9 systematic way, even when there were no difficulties in 10 ensuring installation. 11 A. (In English) Yes. 12 CHAIRMAN: And it seems to be your evidence that the only 13 reason for this could be because there were corrupt 14 motives, cutting corners, either saving money by that 15 methodology or making money. 16 A. Mmm. 17 CHAIRMAN: But you have no direct evidence of this. 18 A. (In English) No. 19 CHAIRMAN: So this is, would it be correct to say, 20 speculation -- I don't mean that in a derogatory 21 sense -- it's an assessment by you based on what must 22 have been the case, in your view? 23 A. (In English) Yes. Especially after I reviewing the 24 photos and the case of NAT. 25 CHAIRMAN: "The case of NAT", that would be --</p>

Page 41	1 COMMISSIONER HANSFORD: What is "NAT"? 2 A. (In English) North Approach Tunnel. 3 COMMISSIONER HANSFORD: Thank you. 4 A. (In English) And there we have different people, 5 different sub-contractors. We have only a common 6 managerial staff from Leightons. 7 CHAIRMAN: Would it be correct, however, to say this, that 8 on your assessment, because this was not wholesale but 9 was nevertheless systematic and planned -- 10 A. (In English) Yes. 11 CHAIRMAN: -- your assessment is that about 5 per cent of 12 the installations would have been rendered inefficient 13 or -- 14 A. (In English) Problematic, problematic connections. 15 CHAIRMAN: -- problematic? And I know you've given this to 16 us already, but just so that I have an understanding, 17 you have come to this assessment of 5 per cent related 18 here only to cutting of threads. 19 A. (In English) Yes. 20 CHAIRMAN: On what form of mathematics? How have you come 21 to 5 per cent? 22 A. (In English) We have about 26 bays that I think cutting 23 exists on EWL slab, and each bay we have 30 to about 100 24 pieces cut. On average, we have 50 pieces of the 25 threads being cut and thread installed. So times	Page 43	1 CHAIRMAN: No, I appreciate that. That's your assessment, 2 not precise, of about how many couplers would have been 3 problematic, to use your term? 4 A. (In English) Yes. 5 CHAIRMAN: All right. It's just -- if you've got workers 6 who are told to install -- who are told to cut rebars, 7 even though there's no difficulty in making the 8 installation, just cut them systematically. I can 9 understand you saying, "Cut half of them" or "Cut 10 a quarter of them", but 5 per cent is a somewhat more 11 precise figure, is it not? You know, you are turning 12 around and saying, "Right, I want you to cut 5 per cent 13 of these." Because you can't say "Cut all of them" 14 because there's no connection at all then, and you can't 15 say -- and you're not suggesting anybody said to these 16 workers, "Cut half of them." 17 A. (In English) No. 18 CHAIRMAN: So how do they assess how many they should cut? 19 Surely the only way to assess is by looking at the wall 20 and saying, "We've got problems with these various 21 installations, and we've been told, 'Don't bother to 22 wash out, don't bother to report to Leightons and get 23 their specialist team to come in, just cut.'" 24 But that would bring you back again, would it not, 25 to the issue that the only time cutting took place was
Page 42	1 26 bays, equal to 1,300. 2 CHAIRMAN: All right. Then it would be 5 per cent because 3 you were aware of the total number of rebars that had to 4 be coupled? 5 A. (In English) Yes, about 26,000 announced by MTR. 6 CHAIRMAN: Now, was that number MTR's figure prior to 7 correction -- 8 A. (In English) I think so. 9 CHAIRMAN: -- or subsequent to correction? Because if 10 I remember correctly, subsequently they said, "Oh, yes, 11 there was a change in plan which reduced the number of 12 couplers we needed." 13 A. (In English) Because of the connection, the through-bar 14 on the top, that will be reduced for 2,000 pieces, so 15 altogether it should become downward to -- I heard the 16 figure is 23,500. 17 CHAIRMAN: All right. But -- it's not really directly 18 relevant -- your mathematical approach to assessment was 19 to take a figure of the installation of about 26,000? 20 A. (In English) Yes. 21 CHAIRMAN: And then your average of what would have been 22 faulty connections, and those two base figures bring you 23 to an assessment of about 5 per cent? 24 A. (In English) Yes, only a rough assessment, never 25 precise --	Page 44	1 when there was a potential difficulty in installation? 2 A. (In English) Mmm. The estimation is mainly based on the 3 informations that we observe, including the cut pieces 4 from floor, and the time that we observe the people 5 cutting it, and divided by the time per piece. It is 6 a relatively estimation by means of time, by means of 7 our visual evidence, et cetera. 8 CHAIRMAN: All right. Good. Thank you very much indeed. 9 That helps me. Thank you. 10 Cross-examination by MR KHAW 11 MR KHAW: Thank you, Mr Chairman. 12 Good morning. 13 A. (In English) Good morning. 14 Q. I act for the government. 15 A. (In English) I understand. 16 Q. Like the Commission of Inquiry, the government also 17 wants to get to the truth of what actually happened. 18 A. Mm-hmm. 19 Q. And hence I have a few matters that I wish to clarify 20 with you or perhaps gather further details from you. 21 A. (In English) Understand. 22 Q. And hopefully I can bring your cross-examination to 23 a relatively more peaceful end. 24 The first area I wish to very briefly go through 25 with you is perhaps a rather minor point, a relatively

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<p>1 straightforward point. 2 A. (In English) Okay. 3 Q. That is the email that you sent to the government -- 4 A. (In English) Yes. 5 Q. -- ie the Secretary for Transport and Housing. There 6 should be not much controversy regarding that particular 7 point. In fact both Mr Pennicott and Mr Shieh have also 8 referred you to that particular email. 9 A. (In English) Yes. 10 Q. But, as you may be aware -- or you may not be aware; 11 I can tell you now -- a few government officers have 12 made their witness statements for this particular 13 purpose. So, if there is not much controversy between 14 you and me on this point -- 15 A. (In English) I have no. 16 Q. -- and on certain conversations between you and the 17 government officers, then we may not be required to call 18 all the government officers to come -- 19 A. (In English) I agree, I fully agree. 20 Q. Just to save everyone's time. Just a few questions on 21 this, to complete the picture. 22 If we can first take a look at G3/2033. 23 A. (In English) Yes. 24 Q. That no doubt is the email that we have all seen, that 25 is the email dated 15 September --</p>	<p>1 If we can take a look at paragraph 9. 2 A. Mmm. 3 Q. In about the middle, can you see, "Hence, I made 4 a return call to Jason Poon"; do you see that? 5 A. (In English) Yes. 6 Q. "As far as I can remember, Jason Poon told me that the 7 issue was about the poor quality of couplers used in the 8 contract. He said he had asked Leighton to rectify the 9 problem but in vain." 10 A. (In English) Yes. 11 Q. "Jason Poon also said he did not approach Highways 12 Department or any government officers on this issue 13 until [your first email to the secretary]." 14 A. (In English) Yes. 15 Q. "He considered that it was his last resort before he 16 would approach the media. Jason Poon indicated that he 17 would welcome officers from the Highways Department with 18 professional knowledge to discuss the issue with him." 19 A. (In English) Agree, agree. 20 Q. Would you also agree that this is the gist of your 21 conversation? 22 A. (In English) Agree. 23 Q. Thank you. 24 Then there's also a conversation -- this is what 25 happened on 15 September. On 16 September, there was</p>
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<p>1 A. (In English) Yes. 2 Q. -- 2017 that you sent to the Secretary. 3 If we can take a look at one of the witness 4 statements filed by the government. G3/2056. 5 A. (In English) Yes, I got it. 6 Q. This is -- the English translation at 2056.1. 7 This is a witness statement from an assistant 8 clerical officer, Ms So, and in paragraph 4 she said: 9 "Shortly after lunch time, between 2 pm and 3 pm, on 10 15 September 2017, I received a phone call from ... 11 Mr Poon ... Mr Poon stated that he had sent an email 12 concerning the MTR and a contractor known as Leighton, 13 which was related to public safety issues, to the 14 officials of the THB on that day. He told me his mobile 15 phone number and requested the relevant officer to give 16 him a reply." 17 Would you agree that that basically summarises 18 your -- 19 A. (In English) Agree. 20 Q. -- conversation with Ms So? 21 Then if we can take a look at another witness 22 statement, G3/2026. 23 A. (In English) Yes. 24 Q. It's a statement from Mr Leung Sai Ho of Highways 25 Department.</p>	<p>1 a conversation between you -- 2 A. (In English) A lady. 3 Q. -- and a lady called Christie Wong. If we can have 4 a look at the relevant bit of her witness statement. 5 G3/2151. 6 A. (In English) Yes. 7 Q. Do you see 2151, paragraph 5? 8 A. (In English) Yes. 9 Q. Maybe we can just take a look at paragraph 6: 10 "On 16 September ..., I waited in Vincent Chu's 11 office ... but did not get any call from Jason Poon." 12 You realise that before that they had difficulties 13 in trying to get hold of you? 14 A. (In English) Understand. 15 Q. Then: 16 "I therefore called Jason Poon at around 0915 [in 17 the morning]. Over the phone, I stated that I was the 18 engineer responsible for the Hung Hom Station of the SCL 19 project and would like to discuss with him about the 20 issue and his concerns. However, Jason Poon stated that 21 he preferred discussing with Vincent Chu directly on 22 18 September 2017. Jason Poon also said that he would 23 be engaged in a meeting that morning but should be able 24 to call Vincent Chu at around 1100 hours on 18 September 25 2017. I subsequently emailed Jason Poon ... and</p>

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<p>1 recorded his preference to discuss with Vincent Chu ..."</p> <p>2 You also agree that this was the gist of your</p> <p>3 conversation with Ms Wong?</p> <p>4 A. (In English) Fully agree.</p> <p>5 Q. Thank you. If we can just complete the email chain</p> <p>6 here. If we can take a look at G3/2144.</p> <p>7 A. (In English) Yes. Got it.</p> <p>8 Q. Yes. 2144, at the bottom --</p> <p>9 A. (In English) Yes.</p> <p>10 Q. -- was an email from the government, Mr Vincent Chu to</p> <p>11 you, on 18 September at around 5.10 pm. It said, "tried</p> <p>12 to call you" but not available, et cetera.</p> <p>13 Then at the top there was another email, follow-up</p> <p>14 email, from you to Vincent Chu on the same day. It</p> <p>15 said:</p> <p>16 "As discussed on the phone ... you agreed to provide</p> <p>17 information of the issue by writing to us within</p> <p>18 an hour. Upon receiving the information, please note</p> <p>19 that we would follow up the issue accordingly."</p> <p>20 So you have no dispute --</p> <p>21 A. (In English) No dispute.</p> <p>22 Q. -- over these emails.</p> <p>23 Then finally, just one passage from Vincent Chu's</p> <p>24 witness statement. G3/2110.</p> <p>25 A. (In English) Yes.</p>	<p>1 perhaps also related to the questions just raised by the</p> <p>2 chairman, if I could ask you to take a look at the</p> <p>3 transcript, Day 7, page 86.</p> <p>4 A. (In English) Yes, got it.</p> <p>5 Q. 86, line 17, take a look.</p> <p>6 A. (In English) Yes.</p> <p>7 Q. That is a question raised by Mr Pennicott on Day 7.</p> <p>8 A. Mmm.</p> <p>9 Q. You see:</p> <p>10 "The problem we've got with your evidence, as we see</p> <p>11 it, I think, is that even before they've encountered any</p> <p>12 particular problem in any particular area, at any</p> <p>13 particular coupler, that it's all being cut before that</p> <p>14 happens, and there just doesn't seem any explanation as</p> <p>15 to why they would do it. There's simply no advantage to</p> <p>16 Fang Sheung, there's no advantage to Leighton, there's</p> <p>17 no advantage to MTRC. Who is gaining any advantage, and</p> <p>18 what is it, from this process?"</p> <p>19 Do you see that?</p> <p>20 A. (In English) Yes.</p> <p>21 Q. Then your answer is:</p> <p>22 "Definitely there is advantage for Fang Sheung."</p> <p>23 Then Mr Chairman followed up by asking:</p> <p>24 "What's the advantage for Fang Sheung?"</p> <p>25 Answer: To reduce the cost of labour" -- that is</p>
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<p>1 Q. This is a witness statement from Vincent Chu. At</p> <p>2 paragraph 12 he says:</p> <p>3 "On 18 September 2017, I called Jason Poon ... At</p> <p>4 1845 hours on the same day, I managed to contact Jason</p> <p>5 Poon by phone and he agreed to provide information of</p> <p>6 the 'issue' by writing within an hour."</p> <p>7 This is what Mr Vincent Chu said --</p> <p>8 A. (In English) Exactly.</p> <p>9 Q. -- and you agree; right?</p> <p>10 A. (In English) Yes.</p> <p>11 Q. Finally, do you remember what we call the "close file"</p> <p>12 email?</p> <p>13 A. (In English) Yes.</p> <p>14 Q. 2147.</p> <p>15 A. (In English) yes.</p> <p>16 Q. Where you asked the government to close the file because</p> <p>17 you believed that you had already brought this matter to</p> <p>18 an end.</p> <p>19 A. (In English) Yes.</p> <p>20 Q. Then you also express your acknowledgement in relation</p> <p>21 to the services provided by the government?</p> <p>22 A. (In English) Yes.</p> <p>23 Q. So, so far so good, so quite an amicable start that we</p> <p>24 have.</p> <p>25 Now, one area that I wish to explore with you, which</p>	<p>1 what we had to explore last Friday.</p> <p>2 A. (In English) Yes.</p> <p>3 Q. "And second, yes, there is no immediate and direct</p> <p>4 advantage to the corporation of Leightons, but on that</p> <p>5 level of superintendence, et cetera, they are achieving</p> <p>6 the [same] benefits on settling the things, the</p> <p>7 difficulties that they are encountering on site ..."</p> <p>8 Now, pausing here, if we can go down a little bit to</p> <p>9 around line 17, "And further" -- can you see that?</p> <p>10 A. (In English) Yes.</p> <p>11 Q. "... one further information that Leighton might not</p> <p>12 release to the Commission yet. At that particular</p> <p>13 moment, Leightons had encountered problems on fixing the</p> <p>14 threaded bars onto the couplers."</p> <p>15 Okay?</p> <p>16 A. (In English) Yes.</p> <p>17 Q. Pausing here, I believe perhaps some people in this room</p> <p>18 at that time might not be able to fully understand what</p> <p>19 you said. I say "some people" because I don't wish to</p> <p>20 admit that I am the only who was one not able to</p> <p>21 understand what you said at that time.</p> <p>22 Pausing here, can I just ask you to briefly describe</p> <p>23 what you meant by problems encountered by Leighton</p> <p>24 regarding fixing the threaded bars into the couplers?</p> <p>25 What were the exact problems that you were talking about</p>

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<p>1 at that point in time?</p> <p>2 A. (In English) I remember they have about four problems.</p> <p>3 The first problem is --</p> <p>4 CHAIRMAN: Sorry, are you happy to do it in English?</p> <p>5 I don't mind if you swap.</p> <p>6 A. (In English) Because I am just afraid the translation</p> <p>7 will become distorted.</p> <p>8 CHAIRMAN: Okay.</p> <p>9 A. (In English) The first problem is in regards the</p> <p>10 breaking methods. They are hacking away the concrete</p> <p>11 above the cut-off level. When the people hacking away</p> <p>12 the concrete, they are using held-free machines to hack</p> <p>13 it, in the beginning of time. Afterwards, it changed to</p> <p>14 water jet, but in the beginning they are using pneumatic</p> <p>15 hacking.</p> <p>16 The head of the coupler was damaged during the</p> <p>17 hacking, especially the first external few threads.</p> <p>18 Yes.</p> <p>19 Then the second point is they hacked too much. The</p> <p>20 coupler is about semi-exposed. It makes the coupler</p> <p>21 itself become undone from the original fixing of the</p> <p>22 embedded threaded bar. We saw some of the coupler even</p> <p>23 drop onto the floor, and therefore a hole, a big hole,</p> <p>24 was left on the diaphragm wall.</p> <p>25 Third, the third problem is one of the critical</p>	<p>1 hacking.</p> <p>2 Q. Stop here first. When did you first come to know about</p> <p>3 this problem that you just told us?</p> <p>4 A. (In English) About sometime in August. I can't really</p> <p>5 remember the exact time.</p> <p>6 Q. August ...?</p> <p>7 A. (In English) August 2015.</p> <p>8 Q. And that was around the time when, according to your</p> <p>9 evidence, you first witnessed the cutting of the</p> <p>10 threaded rebar?</p> <p>11 A. (In English) Yes.</p> <p>12 Q. If we can just move on to see your answer in the</p> <p>13 transcript.</p> <p>14 A. (In English) Okay.</p> <p>15 Q. What I don't quite understand is what you then said.</p> <p>16 You said:</p> <p>17 "Leighton is trying to get its sub-contractor to</p> <p>18 handle these special works ..."</p> <p>19 A. (In English) Yes.</p> <p>20 Q. First of all, what "special works" were you talking</p> <p>21 about here?</p> <p>22 A. (In English) To exchange the damaged coupler.</p> <p>23 Q. Right. Then you said:</p> <p>24 "... because at that particular moment Fang Sheung</p> <p>25 thinks, did opine, they are not responsible to handle</p>
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<p>1 problems. It's the coupler is not horizontally -- is</p> <p>2 not ideally horizontally aligned, and it tilted for</p> <p>3 certain angles. The tiltion itself makes the fixing of</p> <p>4 the bar become impossible. When the bar, when they turn</p> <p>5 the bar, the bar will crash with either the blinding</p> <p>6 concrete or the fixed layers of rebar.</p> <p>7 And the fourth problem is mainly due to the</p> <p>8 threadings. The threadings subsequently fixed to the</p> <p>9 couplers. There are some damage during transportation</p> <p>10 or handling of the threadings. Therefore, the threads</p> <p>11 are not easy to screw into the embedded couplers.</p> <p>12 MR KHAW: If I may just pause you here. You talk about</p> <p>13 couplers being damaged, and there were couplers above</p> <p>14 the cut-off level, above the hack-off level.</p> <p>15 A. (In English) Yes.</p> <p>16 Q. The first thing to clarify with you is: were there</p> <p>17 supposed to be couplers above the hack-off or the</p> <p>18 cut-off level?</p> <p>19 A. (In English) Should not, but the site actual situation</p> <p>20 is I suspect they are not following the original cut-off</p> <p>21 level to hack the concrete. I've spoken before, even in</p> <p>22 our records of photos showing it, they are shaping the</p> <p>23 diaphragm wall of 1.2 metres wide into a shapened shape</p> <p>24 (demonstrating). Therefore, the faces of coupler</p> <p>25 supposed below the cut-off level also subject to</p>	<p>1 that work difficulties."</p> <p>2 A. (In English) Yes.</p> <p>3 Q. What do you mean by "Fang Sheung not responsible to</p> <p>4 handle that work difficulties"?</p> <p>5 A. (In English) Because I also heard, on that particular</p> <p>6 moment, I remember I had received a document named</p> <p>7 schedule of coupler, et cetera, which is a document in</p> <p>8 Microsoft Excel format, recording the quantities of</p> <p>9 couplers in the diaphragm wall. That document was given</p> <p>10 by a QS, quantity surveyor of Leightons, to me directly.</p> <p>11 He said he received an instruction from his supervisor,</p> <p>12 asking Chinat also to price on exchange of the</p> <p>13 problematic couplers. However, the detailed method,</p> <p>14 et cetera, is not finalised yet.</p> <p>15 He also said because the works originally is</p> <p>16 belonged to Fang Sheung, but Fang Sheung complained the</p> <p>17 difficulties was not generated by them and they have no</p> <p>18 contract liability to handle these such difficulties.</p> <p>19 Q. So can you tell us who is the person from Leighton who</p> <p>20 told you about this?</p> <p>21 A. (In English) I can't remember. The QS, maybe a young</p> <p>22 boy who left Leighton for a long time already.</p> <p>23 Q. Then if we go back to the transcript. You said</p> <p>24 Fang Sheung were not responsible, and then "I got the</p> <p>25 coupler schedule at that particular moment."</p>

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<p>1 So you were told by one quantity surveyor of 2 Leighton that Fang Sheung would not be responsible for 3 these problems? 4 A. (In English) Yes. 5 Q. So, according to your knowledge, who was eventually 6 required to carry out the works? 7 A. (In English) I remember, and in also my vision, 8 Leightons. 9 Q. Their own people, or they hired another group of 10 sub-contractors to carry out the work? 11 A. (In English) During the time between August 2015 and 12 middle, I mean June, 2016, there is changes. First of 13 all, Leighton have some direct labours, and Leighton 14 also have some daywork labour. They are mixing 15 together. We cannot identify them. We can only 16 identify this group of people by their clothing, because 17 they have their own special Leighton clothing. 18 In the beginning of time, especially until the month 19 of September or October, they are dressing in the 20 Leighton orange, blue and yellow shirts, to undertake 21 the process of cutting and installation. We then 22 observe Leighton had changed and concentrate this kind 23 of works to few people. They are all either wearing red 24 or blue shirt of banksmen or riggers. 25 Q. Just to follow up on what you said. When you said it</p>	<p>1 the period of engagement? 2 Q. The period where extra labour was engaged. 3 A. (In English) From our beginning, it means May 2015 until 4 the end of the project -- until we left in September 5 2017. 6 Q. Right. So, during that period of time, there were both 7 Fang Sheung's workers and also Leighton's direct 8 labourers or daytime labourers who actually dealt with 9 the bar fixing work? 10 A. (In English) Yes. 11 Q. Thank you. 12 CHAIRMAN: Could I ask you: were you able to ascertain how 13 they worked in complement to each other, how they worked 14 together? 15 A. (In English) They are working together not only on the 16 coupler installations. The coupler installation is in 17 layers. If they are too advanced to install earlier -- 18 the subsequent layers, it would obstruct the rebar fixer 19 to lay the intermediate layers of the main bars. So 20 they have to work together. 21 Secondly, I understand due to the contract scope 22 Leighton is responsible for the horizontal and vertical 23 transportation of the rebar, I mean the bent rebar, into 24 this box of fixing. Therefore Leighton always maintains 25 certain quantity of labour, mixed in Fang Sheung teams,</p>
<p>Page 58</p> <p>1 was probably Leighton's direct labour or their, what do 2 you call it, daywork labour? 3 A. (In English) Daywork labour. Daywork labour means they 4 engaged the labour from a third party. 5 Q. From outside? 6 A. (In English) Yes. 7 Q. And when you said Leighton had its own labour or hired 8 extra labour to deal with such "difficulties" -- 9 A. (In English) Yes. 10 Q. -- when did such labourers come to the site to deal with 11 the difficulties; do you know? 12 A. (In English) Even earlier than us. We are engaged at 13 late May, and must at least start our works in July, and 14 when I visit the site even on March 2015, when 15 I tendering the works, I already observed Leighton have 16 a lot of people working on these areas. 17 Q. So how long did that process take, I mean the process 18 that we had Leighton's labourers who came to the site to 19 deal with the difficulties; how long did that take? 20 A. (In English) Not really a long time, because Leighton 21 have another works, to clean the soil, to deal with the 22 excavation, et cetera, so they are overlapping with this 23 kind of -- 24 Q. Until when, approximately, can you tell us? 25 A. (In English) You mean the particular cutting or you mean</p>	<p>Page 60</p> <p>1 to assist for moving, transportation of the cut and bent 2 materials. 3 CHAIRMAN: There's some evidence which we may come across 4 I think, that if Fang Sheung had problems, shall we say, 5 a coupler full of drying concrete, they didn't do the 6 work themselves, they reported to Leighton, Leighton 7 brought in an expert team, you might call it, and they 8 used water to wash out and oil or whatever, and then 9 they either handed it back to Fang Sheung to properly 10 install, or did that installation themselves; I'm not 11 sure. 12 What that seems to suggest, if that evidence comes 13 up to proof, is that Leightons always had some people in 14 reserve to come in and deal with installation 15 difficulties. Is it possible that what you saw was no 16 more than a regular fire-fighting team, if I can call it 17 that, who waited and, when there were difficulties, 18 received a report and then dealt with the difficulties? 19 So you may have seen them cutting, pulling out, even 20 leaving a damaged coupler on the floor, while it went to 21 get a new one? 22 A. (In English) Yes, you are correct. The speculation is 23 one of the alternatives. The only difference is or only 24 critical point is originally they are working quite 25 open, in normal working hours, and they are using</p>

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<p>1 grinding machines, therefore a lot of sparks fly, 2 et cetera, would be visualised, and subsequently they 3 changed to the intersection time between the day shift 4 and night shift and even working in night-time for this 5 cutting and installation exercise, and using the band 6 saw, the electrical band saw, so there is no sparking 7 appear. The sound is still high. 8 CHAIRMAN: All right. I don't want to put words into your 9 mouth, but what you're saying is that what you saw could 10 have been nothing more than the fire-fighting team of 11 Leighton workers who came in to deal with difficult 12 installations at the request of Fang Sheung? 13 A. (In English) Maybe. Maybe. 14 CHAIRMAN: But you don't think that's the case, you can't 15 put it higher than that, because, number one, this 16 fire-fighting team started to do its work at the 17 intersection period late in the afternoons, into the 18 evenings, and/or started to use a particular type of 19 machinery which didn't throw off sparks and was 20 therefore less likely to attract attention? 21 A. (In English) Yes. 22 CHAIRMAN: But you don't put it any higher than that. So 23 what you might have seen, in fact, if those matters can 24 be explained, is nothing more than the regular work of 25 the Leighton team moving in to deal with problematic</p>	<p>1 methods of dealing with the problems were being employed 2 and were being employed at a time of the working day 3 that suggested covert activity? 4 A. (In English) Yes. Yes. Exactly. 5 CHAIRMAN: But if these things could be explained as being 6 normal and in good faith, then you would accept that 7 what you may have seen may have been quite regular and 8 proper activity? 9 A. (In English) Yes, if explanation is coming out, yes. 10 CHAIRMAN: It's been suggested -- we've gone on a little 11 longer -- but thank you very much. We will have 12 a 15-minute adjournment. 13 (11.46 am) 14 (A short adjournment) 15 (12.05 pm) 16 MR KHAW: Just to perhaps let us better understand what you 17 told us before the morning break -- 18 A. (In English) Okay. 19 Q. -- regarding how, according to the evidence, the 20 couplers were damaged. Do you remember you talked about 21 the cut-off level -- 22 A. (In English) Cut-off level. 23 Q. -- et cetera. 24 If I can ask you to take a look at one of the 25 photographs that you provided, D1/232.</p>
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<p>1 installations? 2 A. (In English) Mmm. One further point. 3 CHAIRMAN: Sorry, would you agree that may be the case? 4 A. (In English) I agree your point. That may be the case. 5 One further point is if it involves Leightons, then 6 it becomes a higher level of handling. No one will use 7 an unaforsigned (?) and unapproved method to deal with 8 such kind of difficulties. 9 CHAIRMAN: I do apologise, I don't understand that. 10 COMMISSIONER HANSFORD: I don't understand that either. 11 A. (In English) If Leighton have a fire-fighting team and 12 there is a sub-contractor, for example Fang Sheung 13 asking Leightons to handle the difficulties, because 14 they are not responsible for, then the practice of 15 Leightons will be orient on approved methods, a proper 16 way to deal with the above difficulties, instead of 17 cutting or using unaforsigned (?) method or hidden 18 method to deal with the difficulties. 19 CHAIRMAN: All right. I understand. So what you are saying 20 is you accept that there may well have been a team of 21 Leighton workers who were called in by Fang Sheung to 22 repair damaged couplers and the like, and to make good 23 for installation, and that would have been quite regular 24 and quite proper. But although you can't be definite, 25 your concern is that, to you, it appeared that improper</p>	<p>1 According to your evidence, this picture shows 2 workers, according to you, are cutting rebars. 3 A. Mmm. 4 Q. For avoidance of any doubt or confusion, the two workers 5 were working on rebars, and then we can see that that 6 particular layer, that obviously is the rebars on the 7 slab; right? 8 A. (In English) Yes. Yes. 9 Q. So that picture cannot show what you describe as the 10 couplers being damaged, I mean the couplers on the top 11 level, ie the cut-off level or near the cut-off level, 12 being damaged; right? 13 A. (In English) Yes. 14 Q. Is there any picture that you have supplied to the 15 Commission which can show what you just described 16 regarding the damaged couplers near the cut-off level? 17 A. (In English) We may refer to photo D594. It is on the 18 phases that the east diaphragm wall panel EH19 and EH20, 19 which is the very beginning of fixing the rebar onto the 20 slab. 21 We can see on the very bottom layer of the 22 couplers -- 23 CHAIRMAN: Sorry, just so that again I understand it -- 24 A. (In English) Okay. 25 CHAIRMAN: -- my understanding would be that the metal floor</p>

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<p>1 that you look at is in fact temporary works; is that 2 right? So the greenish-grey floor that takes up the 3 bottom third of this photograph is the metal flooring 4 that's put in as a temporary works while the slab is put 5 together? 6 A. (In English) Yes. The greenish-brown or greenish-black, 7 et cetera, is plywood. 8 COMMISSIONER HANSFORD: That's the formwork? 9 A. (In English) Formwork. 10 COMMISSIONER HANSFORD: Installed by China Technology? 11 A. (In English) Yes. Exactly. 12 CHAIRMAN: Sorry, give me that again. 13 COMMISSIONER HANSFORD: That is the formwork. What you are 14 calling the flooring is the formwork. 15 CHAIRMAN: So that's going to contain the concrete? 16 A. (In English) Yes. 17 CHAIRMAN: Thank you. You've put in the formwork and then 18 they start to put in -- 19 A. (In English) The rebar. 20 CHAIRMAN: -- the rebars? Thank you very much. 21 A. (In English) You can see, along the bottom layer of the 22 couplers, for example in this section, I mean in the 23 central but intend to the left sections, you can see 24 some of the bars -- we already enlarge the photo, so we 25 can see, on the right-hand side, the threaded bar</p>	<p>1 CHAIRMAN: And also, where necessary, to bring about certain 2 shaping to enable easier connection? 3 A. (In English) It is one of the requirements as a shear 4 key. 5 CHAIRMAN: Okay. 6 A. (In English) To increase the shear performance between 7 the new slab and the interface of the diaphragm wall. 8 CHAIRMAN: Thank you. 9 A. (In English) But unluckily, the levels of the bottom 10 layers of the couplers has actually deviated from what 11 we have to build. In the left-hand side of the photos, 12 we can see the coupler is just sitting on top of our 13 formwork, and they had, they did try to fix the 14 threading, threaded bar onto the couplers but 15 unsuccessful. Therefore, they left the threaded bar 16 just beside the coupler. 17 We can see the reasons on the right-hand side. Even 18 though if you isolate to see the couplers, you cannot 19 see the tiltion of the coupler. 20 CHAIRMAN: I appreciate that, but again returning to 21 an observation I made a while ago, that a photograph is 22 a moment in the history, and looking at the overall 23 thing, we can see that a lot have not yet been put in. 24 A. (In English) Yes. 25 CHAIRMAN: But is that not because this photograph</p>
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<p>1 already successfully install onto the couplers. 2 CHAIRMAN: Yes. 3 A. (In English) On the left-hand side, you can see they are 4 not, and the couplers is located in a very lower level 5 that's touching the formwork, which is an entirely 6 different scenario than the right-hand side. The 7 right-hand side, we have about, say, 70mm to 100mm 8 above -- I mean the coupler, above the formwork. We can 9 also see -- the rebar is T40, the diameter of the rebar 10 is T40 -- we can also see the rebar, after installation, 11 there is a tiltion angle. They are not truly horizontal 12 fixing onto the couplers. 13 CHAIRMAN: Fine. Just so you can help me again -- I have 14 now been educated as to my metal floor is in fact 15 formwork, and thank you, I understand that. Then if we 16 go to the top half, that's the diaphragm wall. 17 A. (In English) Yes. 18 CHAIRMAN: And when you speak earlier about using pickaxes 19 or whatever the term you used to chip away at this, 20 you're talking about the sort of chipping away that we 21 see here? 22 A. (In English) Yes. 23 CHAIRMAN: And that's done in order to expose the couplers 24 so that there can be installation? 25 A. (In English) Exactly, exactly.</p>	<p>1 catches -- or could it not be that this photograph 2 catches -- 3 A. (In English) Maybe. 4 CHAIRMAN: -- us mid-work, so to speak, so some are in, some 5 are not in? 6 A. (In English) Definitely, it is in a mid-work -- 7 CHAIRMAN: A work in progress? 8 A. (In English) Work in progress. But generally you can 9 see the couplers on the right-hand side have a distance 10 with the formworks, but on the left-hand side the 11 coupler is touching the formworks. 12 CHAIRMAN: We appreciate that, but does that make any real 13 difference, if you can still screw them in? 14 A. (In English) You can see the tiltion of the installed 15 bar, the tilted angle of the installed bar. The tiltion 16 itself makes the bar, when they are screwing in, they 17 have to be working in a cone shape (demonstrating). 18 So, if the coupler is too low that the cone shape, 19 the cone operation, is obstructing by the floor, then it 20 becomes unfeasible. 21 CHAIRMAN: Thank you. 22 A. (In English) We can also observe from this picture the 23 big holes on the wall, I mean on the diaphragm wall, 24 that some of the couplers were already dropped down. 25 COMMISSIONER HANSFORD: Sorry, before we go to that, can</p>

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<p>1 I just go back.</p> <p>2 A. (In English) Okay.</p> <p>3 COMMISSIONER HANSFORD: On the transcript it's [draft] 71.1,</p> <p>4 lines 3, 4 and 5. I don't understand that sentence</p> <p>5 that's currently in the transcript. It says:</p> <p>6 "So if the coupler is too low, that the cone shape,</p> <p>7 the cone operation, is obstructing by the floor, it</p> <p>8 becomes invisible."</p> <p>9 I don't understand that.</p> <p>10 CHAIRMAN: If you want to go back to Cantonese, if you feel</p> <p>11 happier to explain that concept.</p> <p>12 COMMISSIONER HANSFORD: I just need a proper sentence there</p> <p>13 I don't understand what's being said.</p> <p>14 A. (In English) For example ...</p> <p>15 (Via interpreter) Well, this is a thread to be</p> <p>16 screwed onto the coupler, say for example. If the</p> <p>17 threaded sections are properly screwed -- if the</p> <p>18 couplers have been properly installed, then the threaded</p> <p>19 bars will be screwed horizontally. But if the coupler</p> <p>20 is really tilted towards an angle, then that has to</p> <p>21 happen. Then, say for the formwork underneath, there</p> <p>22 will be some collision. So this is what I mean by the</p> <p>23 cone-shaped operation. In other words, the coupler is</p> <p>24 tilting.</p> <p>25 COMMISSIONER HANSFORD: I understand entirely. I didn't</p>	<p>1 them, and so, in doing that sort of work, you're also</p> <p>2 going to see the vertical rebars already in the</p> <p>3 diaphragm wall?</p> <p>4 A. (In English) Yes.</p> <p>5 CHAIRMAN: And that would be, would it not, a perfectly</p> <p>6 normal, everyday expectation in any form of engineering</p> <p>7 work where you are securing a slab against a diaphragm</p> <p>8 wall?</p> <p>9 A. (In English) No. Along the diaphragm wall, we have ...</p> <p>10 (Via interpreter) We have some shear key positions</p> <p>11 in the plan. When there are shear key locations, the</p> <p>12 entire coupler has to be exposed. So we have to chisel</p> <p>13 deeper than what we were doing in EH19, and that is to</p> <p>14 say the entire bar has to be exposed, and Chinat, at the</p> <p>15 shear key location, we have to paint light blue and that</p> <p>16 is a protective layer. In normal circumstances, at</p> <p>17 locations without the shear key, the coupler has to be</p> <p>18 exposed.</p> <p>19 Now, what we mean by exposing it, it doesn't mean</p> <p>20 that we will be exposing a major part of this coupler;</p> <p>21 only the head of the coupler will be exposed, just that</p> <p>22 part. If too much is exposed, that means the coupler</p> <p>23 can be loosened.</p> <p>24 CHAIRMAN: I appreciate that.</p> <p>25 A. So this photo shows that the couplers have been exposed</p>
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<p>1 understand what was invisible. You said it was</p> <p>2 invisible. What do you mean?</p> <p>3 A. (In English) Sorry. Because I don't have the</p> <p>4 transcript.</p> <p>5 CHAIRMAN: Sorry, do you recall --</p> <p>6 COMMISSIONER HANSFORD: It's a very simple question. It's</p> <p>7 just that a few lines previously you talked about the</p> <p>8 cone shape. I understand the cone shape, and you said</p> <p>9 it would be invisible. I don't know what was invisible.</p> <p>10 MR KHAW: Professor, according to what I heard, it could be</p> <p>11 the use -- not "invisible", it is "unfeasible".</p> <p>12 COMMISSIONER HANSFORD: Ah, "unfeasible".</p> <p>13 CHAIRMAN: "Not feasible".</p> <p>14 COMMISSIONER HANSFORD: "Not feasible", not "invisible".</p> <p>15 Thank you. Now I understand. Thank you very much,</p> <p>16 Mr Khaw.</p> <p>17 CHAIRMAN: Mr Poon, just to assist me again, it would be</p> <p>18 correct, would it not, that this line that runs right</p> <p>19 across the photograph, and that shows that people have</p> <p>20 been chipping away at the diaphragm wall, that would run</p> <p>21 all the way along, would it not, in order -- that's the</p> <p>22 area where you're going to secure the platform?</p> <p>23 A. (In English) Yes.</p> <p>24 CHAIRMAN: So couplers are going to be exposed, because you</p> <p>25 can't install the reinforcing bars unless you expose</p>	<p>1 too much. Some of the couplers have fallen down. You</p> <p>2 see big holes here and there, especially in the middle</p> <p>3 part where there is red paint, a number of couplers have</p> <p>4 fallen down already. Say, for example, "EH19", under</p> <p>5 that word, the parts with the red paint, the whole line</p> <p>6 of couplers have fallen down.</p> <p>7 COMMISSIONER HANSFORD: Mr Poon, I think the chairman has</p> <p>8 already mentioned that, of course, this is work in</p> <p>9 progress. This is not the completed installation prior</p> <p>10 to concreting.</p> <p>11 A. (In English) I understand. Yes.</p> <p>12 COMMISSIONER HANSFORD: This is work in progress; is that</p> <p>13 correct?</p> <p>14 A. (In English) Agree.</p> <p>15 MR PENNICOTT: Sir, before Mr Khaw continues, I went back to</p> <p>16 have a word with the MTRC just now because this is</p> <p>17 a genuine request for information because I just don't</p> <p>18 understand what's going on in this photograph, for this</p> <p>19 reason. We can see that it's EH19 and EH20, if the</p> <p>20 photograph -- if you come out a bit.</p> <p>21 CHAIRMAN: Yes.</p> <p>22 MR PENNICOTT: EH19 and EH20 are in area A, and in fact this</p> <p>23 is bay 1 of area A. Bay 1 of area A was the first in</p> <p>24 time to be concreted. It was concreted on 16 May 2015.</p> <p>25 This photograph is 22 September 2015. I just don't</p>

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<p>1 understand, and this is a genuine request for 2 information from one or more of the parties as to what 3 this photograph is showing, where it was actually taken. 4 Was it inside the diaphragm wall, outside the diaphragm 5 wall? At the moment, I just can't understand how, if we 6 are told, area A, bay 1, which includes EH19 and EH20, 7 was concreted on 16 May, four months before this 8 photograph was taken, I just don't understand it. 9 I don't know whether anybody from MTRC/Leightons can 10 possibly explain to us -- this is not for you, 11 Mr Poon -- this photograph, because at the moment, I'm 12 afraid I'm completely lost with it. 13 I understand what Mr Poon has been saying about it 14 and I have no problem with that. It's just the 15 orientation of it. Is it really showing the slab or is 16 it something else? 17 CHAIRMAN: I appreciate that. That is critical -- 18 MR PENNICOTT: I'm not in any sense seeking to alter 19 anything Mr Poon has said about the photograph. 20 CHAIRMAN: I appreciate that. I think Mr Poon was asked to 21 go to a photograph that might illustrate the type of 22 problems that could be encountered, and he has used 23 that -- 24 MR PENNICOTT: Yes, and I have no problem with that. 25 CHAIRMAN: But on the other hand, you are quite right, if in</p>	<p>1 MR KHAW: Thank you. Just since we are still on this 2 question regarding the reasons for the difficulties, if 3 I may ask you to take a look at what you said in the 4 police statement: D1/821.2. The Chinese version appears 5 at D820. 6 A. (In English) Yes. 7 Q. Paragraph 4 -- this perhaps is the only information 8 I could find in all your witness statements trying to 9 describe the problems that you identified, correct me if 10 I am wrong. But let's take a look -- 11 A. (In English) Okay. 12 Q. -- at this part first. You said: 13 "Below are several situations which would damage the 14 couplers, making it not possible for the threaded ends 15 of rebars to be screwed into such couplers". 16 A. Yes. 17 Q. "(1) At the time of concrete pouring, the protective 18 caps of the couplers detached from the couplers, and 19 concrete flowed inside the inner sleeve of couplers." 20 A. Yes. 21 Q. This is a problem other than the problem that you just 22 described; right? 23 A. (In English) Yes. 24 Q. That's a separate problem; right? 25 A. Mmm.</p>
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<p>1 fact this illustrative photograph has in-built into it 2 what appears to be a very fundamental contradiction ... 3 MR PENNICOTT: As I say, I don't want to cut across anything 4 Mr Poon has said about what he says this illustrates, 5 that's fine, he has given his evidence about that, I've 6 no problem with that. It's just a genuine request for 7 somebody to try to explain what appears on the face of 8 it to be something of a discrepancy. 9 COMMISSIONER HANSFORD: That would be helpful. 10 MR PENNICOTT: I don't suppose Mr Khaw would like to help. 11 WITNESS: Can I answer? 12 CHAIRMAN: Yes. 13 A. There are three slabs in area A: EWL track slab. In 14 fact the concreting finished in May and June and then we 15 went down to work on the middle level, and then we went 16 to the NSL level. So this slab was in the middle level, 17 if I remember correctly. 18 COMMISSIONER HANSFORD: I believe Mr Edward Mok's evidence 19 will tell us where he thinks photographs are. Is that 20 not the case? 21 MR PENNICOTT: There are one or two witnesses who deal with 22 these photographs, yes. 23 CHAIRMAN: Yes. Perhaps we will rest on that at the moment. 24 Thank you. 25 Mr Khaw.</p>	<p>1 Q. Now let's look at (2): 2 "Jackhammers/pneumatic breakers used by workers for 3 carrying out the work process of chiselling concrete 4 also hit the inner threads of the couplers, making them 5 to deform." 6 That perhaps relates to the problems that you just 7 described; right? 8 A. (In English) Yes. 9 Q. "(3) At the time of rebar fixing, there is a deviation 10 in the orientation of the rebar to be connected to 11 coupler, or at the time of concrete pouring, concrete 12 hit the rebar ... deviating the orientation of rebar, 13 thus causing difficulty in screwing ..." 14 Now, insofar as the concrete bit is concerned, that 15 relates to (1); right? 16 A. (In English) Yes. 17 Q. So that's just a repetition of (1). And the first part 18 of (3) -- 19 A. Mm-hmm. 20 Q. -- if you look at (3): 21 "At the time of rebar fixing, there is a deviation 22 in the orientation of the rebar to be connected ..." 23 What do you mean by that? 24 A. (In English) The tiltion. 25 Q. That also relates to the problem that you just</p>

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<p>1 described?</p> <p>2 A. (In English) Yes.</p> <p>3 Q. So that is relevant to (2); is that correct? So (3) is</p> <p>4 in fact a repetition of just (1) and (2); right?</p> <p>5 A. (In English) No, no, no.</p> <p>6 (Via interpreter) For (3), when there is concreting</p> <p>7 at the diaphragm wall -- we are talking about a cage, it</p> <p>8 will move a bit, and as a result -- the coupler was</p> <p>9 properly installed, but then, because of the movement of</p> <p>10 the cage, the tiltion angle of the coupler has resulted.</p> <p>11 So this is about point (3).</p> <p>12 So, because of the concrete pouring, it has tilted</p> <p>13 the coupler, so as a result the screwing-in cannot be</p> <p>14 done properly.</p> <p>15 CHAIRMAN: Yes, I think we understand -- and thank you for</p> <p>16 putting that in -- that there are a number of dynamics</p> <p>17 in play which can damage the coupler, which can</p> <p>18 disorientate the difficulties facing its orientation.</p> <p>19 We understand those difficulties.</p> <p>20 The question is, as we understand it, how you deal</p> <p>21 with it, and what you need to do is to ensure that these</p> <p>22 difficulties are fixed and that the reinforcing bars are</p> <p>23 properly connected then to each of the couplers.</p> <p>24 A. (In English) Yes, exactly.</p> <p>25 CHAIRMAN: And you are saying that what you saw, you</p>	<p>1 along ..."</p> <p>2 A. Mmm.</p> <p>3 Q. So, pausing here, you talk about changes to plans</p> <p>4 on site.</p> <p>5 A. Mmm.</p> <p>6 Q. Did you personally actually see the drawings?</p> <p>7 A. Yes, I did.</p> <p>8 Q. Were you actually aware of the changes in the drawings?</p> <p>9 A. Yes.</p> <p>10 Q. Who told you about these changes, or who told you -- or</p> <p>11 who gave you these drawings?</p> <p>12 A. According to our contract, there were attachments in</p> <p>13 relation to the track slab and the diaphragm wall and</p> <p>14 the interface. It's in C12/606 drawing. I remember</p> <p>15 I also attached it as well.</p> <p>16 I'm sorry, not C12, not the bundle. It's the Chinat</p> <p>17 drawings. It is attached to page D671. Yes, that's the</p> <p>18 one.</p> <p>19 I noticed in particular the following. In fact</p> <p>20 there is a general concept entailed in this drawing.</p> <p>21 This is taken from our contract. During the works, this</p> <p>22 drawing had been constantly updated and revised, but we</p> <p>23 never received the official revised version. On the</p> <p>24 drawing, we could see some general concepts. For</p> <p>25 example, if we could move to the left side of the</p>
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<p>1 believe, constituted on occasions an improper method,</p> <p>2 which was cutting the rebar threads and just placing the</p> <p>3 cut rebar either against the coupler or close to the</p> <p>4 coupler --</p> <p>5 A. (In English) Yes.</p> <p>6 CHAIRMAN: -- or threading it in only with one or two</p> <p>7 threads?</p> <p>8 A. (In English) Yes.</p> <p>9 CHAIRMAN: Thank you.</p> <p>10 MR KHAW: I will move to another topic. Regarding the issue</p> <p>11 that has been raised by various parties in the openings,</p> <p>12 that's the change in design, if we can take a look at</p> <p>13 your evidence in transcript Day 7, at page 141.</p> <p>14 A. (In English) Okay. Got it.</p> <p>15 Q. Page 141, line 6 --</p> <p>16 A. (In English) Yes.</p> <p>17 Q. -- can you see, "There were Leighton staff" there?</p> <p>18 A. (In English) Yes.</p> <p>19 Q. "There were Leighton staff who told me, that is after we</p> <p>20 started work, RDO and BD were hammering Leighton because</p> <p>21 they did not follow the plans to do work. That's why I</p> <p>22 kept seeing that there were changes to plans on site. I</p> <p>23 noticed changes made to drawings. It's just that at the</p> <p>24 time I misunderstood it to be remedial measures for</p> <p>25 changing those plans. That's what I thought all</p>	<p>1 drawing, we can see the three sections relating to</p> <p>2 section F1, F2 and F3.</p> <p>3 As far as we were concerned, just on the face of it,</p> <p>4 there is a very direct idea. Above the three sections,</p> <p>5 you can see a shadowed box, and that's the cut-off</p> <p>6 level, the part of the diaphragm wall that had to be</p> <p>7 chiselled off. It's quite blurry here. 2.84 refers to</p> <p>8 the top level of the track slab and that is the cut-off</p> <p>9 level.</p> <p>10 This diagram is very blurry but it is 2.84, whereas</p> <p>11 on the site I saw something totally different. I saw</p> <p>12 that the cut-off level of the diaphragm wall was lower,</p> <p>13 and that's what I often see at the site because although</p> <p>14 I'm not responsible for bar fixing, we do have a very</p> <p>15 strong concept in mind, that the structural arrangements</p> <p>16 for the EWL track slab, it should be connected to the</p> <p>17 cut-off level of the diaphragm wall, but that's not what</p> <p>18 happened at the site, and that is why I notice</p> <p>19 a difference.</p> <p>20 Q. Let's move on a little bit. I believe Mr Pennicott then</p> <p>21 asked you, if you take a look at line 20:</p> <p>22 "Mr Poon, are you sure that you haven't got things</p> <p>23 slightly confused in your own mind? Because we've</p> <p>24 touched on this a couple of times already today, that</p> <p>25 Leighton and the MTR certainly did alter the design of</p>

<p style="text-align: right;">Page 81</p> <p>1 the rebar in significant areas of the east diaphragm 2 wall -- we know that; all right? -- by reducing the 3 level of the concrete, exposing some of the rebar that 4 was there; yes? You understand that? You understand 5 what I am talking about? 6 Answer: Perhaps I know more than you do. 7 Question: I'm sure you do. 8 Answer: I did." 9 That is what I would like to explore a bit with you: 10 "Question: It depends what subject we're talking 11 about of course, Mr Poon. But anyway, leaving that 12 aside. So we've got this reduction of the concrete 13 level along large sections of the east diaphragm wall. 14 You know what I'm talking about. And I'm just concerned 15 that what you were actually seeing was the removal of 16 some of that rebar at the top that was in the diaphragm 17 wall, the couplers, and so forth, that were no longer 18 necessary because they were having through-bars. I 19 mean, is that what you were witnessing? Is that what 20 you were confusing? 21 Then you quite adamantly say: 22 "No. No. 23 Now, Leighton and MTR have been packaging this story 24 and the Commission has been listening to this story. 25 It's a story.</p>	<p style="text-align: right;">Page 83</p> <p>1 If we can just take a look at D607 -- in fact, let's 2 take a look at the phenomenon. At the time, I did have 3 doubts because in my mind, for the lapping bars, they 4 must not be placed casually. We must place them in low 5 tensile zones. And for this location, as I understand, 6 there is still the OTE structure above. 7 In the picture, we can see somebody squatting here, 8 and that is the man I'm pointing at. Above him, to his 9 right, there is a cantilever slab. The cantilever is 10 used to support the OTE structure above. That is the 11 ventilation shaft. And the phenomenon that I saw was 12 that the bars should not be placed near the light blue 13 part where the diaphragm wall is. If we chisel off and 14 reduce the diaphragm wall, then the MTR's version is 15 right. We should use the through-bars all the way to 16 the waterproof face which is white in colour. And here, 17 this picture shows the failure of the bar reaching the 18 end of the slab. They basically stop at the diaphragm 19 wall. 20 For D609 -- 21 COMMISSIONER HANSFORD: Sorry, do we know where that 22 photograph was taken? 23 A. From the date, we can find out. I reckon at the time it 24 was C2-6. There were two areas at the time in this 25 status, respectively C2-3 and C2-6. But from the</p>
<p style="text-align: right;">Page 82</p> <p>1 Fabrication. 2 Question: Sorry, what is a fabrication, Mr Poon?" 3 Then you talk about Intrafor, they only poured five 4 panels of concrete, et cetera. Then 143:3 is important: 5 "From my recollection on site, I did not see any 6 special circumstances, because if there were special 7 circumstances, I would have seen it. I have sharp eyes. 8 It's like just now there were nine panels out of ten. 9 Then just now you said Leighton and MTRC knew about 10 it, it's because they changed the plans for a better 11 design, and so they made the diaphragm walls lower. So, 12 for the couplers originally on top, they were replaced 13 by a continuous bar so there would be better strength 14 and better performance and a better structure. But in 15 reality that's not the case." 16 "That's not the case", you said. 17 A. Mmm. 18 Q. Can you tell us why? First of all, do you agree or 19 disagree that the connections were eventually made by 20 the use of through-bars without couplers? 21 A. I did notice that for couplers that were supposed to be 22 there originally, they had been removed, because I saw 23 piles of couplers on the floor, and I also noticed it 24 wasn't a through-bar and that really brought me to my 25 concern.</p>	<p style="text-align: right;">Page 84</p> <p>1 drawings, I mean from the photos, we see the round 2 column and that the place is really close to a bright, 3 open area. I reckon that is C2-6. 4 Then in D609, that's about the same date, from the 5 morning to the time we knocked off, about seven hours 6 later, we can see here, this location (indicating), that 7 is the left-most of D607, and the situation it became by 8 the time we knocked off. 9 In D609, it shows the left-most of the white 10 waterproof face, this part (indicating). You can see 11 the formwork that appears here (indicating). We see the 12 white waterproof surface ready for bar fixing. And when 13 we took the picture from this position, we could just 14 see the diaphragm wall, that is this part (indicating), 15 D609, the lower part of D609. 16 We see two rows of bars in light blue, one at the 17 bottom-most of the photo, the other almost in the middle 18 of the photo. That's the position of the 1.2 metre 19 diaphragm wall level. And we can see -- in D609, we 20 have through-bars, about. 300 metres, you see the lap 21 or the lapping. Then, for the shorter bar down there 22 (indicating), that's the bar fixing works; we see in 23 D607 they stop on the retaining wall. 24 Then for the bars at the EWL track slab, there is 25 a starter bar there, so I can be sure that this is not</p>

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<p>1 the through-bar referred to by MTRC. Actually, the bar 2 has been broken up. 3 So there shouldn't be a short bar here, if we did 4 have the through-bar. The through-bar should extend all 5 the way from here to the very end. 6 So that's why I said that this is a story told by 7 MTRC. 8 MR KHAW: So you were raising this query as to whether 9 actually through-bars were used for the connections; 10 that was your query? 11 A. Back then, I queried whether we could have lapping of 12 the bars here. If the lapping was approved, it had to 13 be staggered laps. So one lap at the back, the other at 14 the front; you could not be lapping the bars at the same 15 cross-section. This is about the Code of Practice for 16 Structural Use of Concrete 2004 version; section 8.7 has 17 set requirements on bar fixing. 18 CHAIRMAN: So are you saying -- just to help me again -- 19 that in this photograph, D609, at the bottom of the 20 photograph, you're looking at the cut-down top of 21 a diaphragm wall? 22 A. (In English) Yes. 23 CHAIRMAN: And what should be lying on top of it, if this is 24 a correct section, are the through-bars? 25 A. (In English) Yes.</p>	<p>1 Q. Can I just try to clarify this with you. You said you 2 saw somebody cutting the threaded rebars using machines, 3 et cetera. 4 A. Mmm. 5 Q. Let's not talk about which particular machine for the 6 time being. The cutting incident was carried out at the 7 top of the reinforcement of the slab or the bottom of 8 the reinforcement of the slab; can you tell us? 9 A. I didn't have sufficient information back then to judge. 10 Q. So you can't tell, right? 11 A. (In English) Can't tell. 12 Q. If we can take a look at a photograph at D1/232. 13 A. (In English) Yes. 14 Q. Can you tell us which part of this photograph shows 15 a diaphragm wall? 16 A. (In English) This one (indicating). 17 Q. Then we can see, I think, the concreted area here? 18 (Indicating). 19 A. (In English) Yes. 20 Q. On the left of this photograph? 21 A. (In English) Yes. 22 Q. Can you tell us what this is, according to your 23 knowledge? 24 A. This is the adjacent bay of the EWL track slab. 25 Q. Then we can see there's a void area in between. Is that</p>
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<p>1 CHAIRMAN: If this is the correct section, because the 2 through a-bars weren't everywhere. 3 A. Mmm. 4 CHAIRMAN: And you are saying that some of them are not 5 going right the way through. 6 A. (In English) All of them. 7 CHAIRMAN: All of them are not? 8 A. (In English) All of them. 9 MR KHAW: All right. We will certainly explore this with 10 Leighton and MTR later. 11 If I may go back to the two incidents, according to 12 your evidence, where you said you actually witnessed the 13 cutting of the rebars. 14 A. (In English) Yes. 15 Q. I believe that appears in two paragraphs in your witness 16 statement, paragraphs 30 and 39. If we can just give 17 you the page reference. D19 -- 18 A. (In English) I got it. D21. 19 Q. Then 39, it's about the site inspection that was carried 20 out, and during the inspection you were with Mr So and 21 Mr Rodgers? 22 A. (In English) Yes. 23 Q. If we could go back to paragraph 30 first, in relation 24 to the incident in mid-August; right? 25 A. (In English) Yes.</p>	<p>1 where the air duct appears? 2 A. Yes. You can see this is on the east side, because you 3 see this concrete line is running like that. In other 4 words, this track slab has this concrete line 5 (indicating), and the east side has a cantilever 6 structure. This is where it is. 7 Q. Back to the question regarding the cutting machine. You 8 remember when you were being cross-examined by Mr Shieh? 9 A. (In English) Yes. 10 Q. You were referred to certain information and then you 11 said you were told by one of the foremen of Leighton 12 that they would need to buy a new cutting machine for 13 the purpose of speeding up the process; right? 14 A. Mmm, mmm, mmm. 15 Q. Can you recall who was the foreman who told you about 16 this? 17 A. I can't remember. I shortlisted two possible foremen, 18 but I couldn't remember exactly which one. 19 Q. Can you tell us who were these two that you have 20 shortlisted? 21 A. I can't remember their names. One is something like K. 22 They are both responsible for area C. They are the 23 foremen there. I can't remember their names. One had 24 been redeployed to supervise some other works relating 25 to excavation, and the other one is the young guy who</p>

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<p>1 actually sort of works under him.</p> <p>2 Q. You can't recall the names; right?</p> <p>3 A. No, I can't remember the names of these two foremen.</p> <p>4 Q. Finally, I would like to just very briefly ask you to</p> <p>5 take a look at B17, page 14268, which is about the</p> <p>6 honeycombing problems that have been referred to.</p> <p>7 A. (In English) Yes.</p> <p>8 Q. Just very briefly, when did you first become aware of</p> <p>9 the honeycombing problems?</p> <p>10 A. On 31 August 2018, I heard about it at some news</p> <p>11 reports.</p> <p>12 Q. That was the first time you were aware of this?</p> <p>13 A. (In English) First time.</p> <p>14 Q. Yes?</p> <p>15 A. I have tried to work on some defects related to those</p> <p>16 happening in February to September 2017. I saw these</p> <p>17 photos in August 2018.</p> <p>18 Q. If we talk about the honeycombing problems in general,</p> <p>19 you were first aware of this problem and then you had to</p> <p>20 rectify it; right?</p> <p>21 A. (In English) Yes.</p> <p>22 Q. You were first aware of this problem in 2017?</p> <p>23 A. (In English) Yes.</p> <p>24 Q. Approximately when?</p> <p>25 A. From February to September I handled this.</p>	<p>1 Q. All right. Now, obviously, we can see from these</p> <p>2 pictures, which are apparently taken in 2018, that the</p> <p>3 problems still exist?</p> <p>4 A. I have reservations. We will be submitting</p> <p>5 an additional witness statement on that. I will not be</p> <p>6 too long-winded here. For the situation shown on the</p> <p>7 photos -- actually, previous to these photos, we have</p> <p>8 some layout plans, and these photos, compared to our own</p> <p>9 work photos, and the MTRC's photos on B44.3, they look</p> <p>10 different. There wasn't any honeycomb in those other</p> <p>11 photos, but in these photos the honeycomb situation was</p> <p>12 so serious that the bars were exposed. Well, these</p> <p>13 photos are different.</p> <p>14 So, in relation to our own photo and MTRC's photos,</p> <p>15 we tried to find this particular location, and we will</p> <p>16 see what the situation is like from 2016 to September</p> <p>17 2017, and we will try to look at the situation in August</p> <p>18 2018.</p> <p>19 Q. So, just to put it fairly, according to what you said,</p> <p>20 there are still disputes as to who should be responsible</p> <p>21 for what in relation to the honeycombing problems?</p> <p>22 A. There are two levels. One aspect here is whether these</p> <p>23 honeycombs do exist here, or they are deliberately</p> <p>24 chiselling away the concrete and trying to come up with</p> <p>25 an excuse. This is one assumption. The other scenario</p>
<p>Page 90</p> <p>1 Q. Then you were responsible for doing the rectification</p> <p>2 works; correct?</p> <p>3 A. If it was our responsibility -- well, several other</p> <p>4 parties were also involved. It's not just us.</p> <p>5 Q. Who else was responsible for carrying out the</p> <p>6 rectification works?</p> <p>7 A. I think Leighton had to take away the soil from our</p> <p>8 area, so a lot of the concrete had some soil at the</p> <p>9 bottom. So whether it's the repair work and chiselling</p> <p>10 work, it was done by Leighton. Then in some of the</p> <p>11 cases we found that the iron bars were -- didn't come</p> <p>12 with any gap, so, as a result, the concrete could not go</p> <p>13 all the way down to the bottom. So it's not our</p> <p>14 responsibility.</p> <p>15 Q. Did you actually liaise with people in Leighton as to</p> <p>16 who should be responsible for what? Did you?</p> <p>17 A. Well, we work at several levels. I would not be</p> <p>18 involved in the frontline work. At the frontline, there</p> <p>19 were two to three foremen responsible for working</p> <p>20 together with Leighton and MTRC. Then, at the</p> <p>21 frontline, they will try to assign or apportion the</p> <p>22 responsibility.</p> <p>23 After Leighton came up with a list, then I would</p> <p>24 take a look. So once or twice every week, I would meet</p> <p>25 with Joe Tam and go through each and every item.</p>	<p>Page 92</p> <p>1 is whether there is indeed a defect, honeycombing.</p> <p>2 Q. So did you liaise with MTR or Leighton as to what should</p> <p>3 be done in order to ascertain the cause or to map out</p> <p>4 what rectification works would need to be done?</p> <p>5 A. Yes, I did. On 31 August, when we learned about it in</p> <p>6 the evening news, we immediately sent email to Leighton,</p> <p>7 requesting site access for inspection. At that time, we</p> <p>8 hadn't viewed these photos. We only heard about this</p> <p>9 phenomenon. According to the secretary, there are three</p> <p>10 phenomenon. One is honeycombing. The other, is</p> <p>11 according to him, exposure of rebars. And the third,</p> <p>12 according to the secretary, concrete spalling.</p> <p>13 To our understanding, when we exited the site, there</p> <p>14 was no such thing, but of course there could be</p> <p>15 something hidden in relation to Leighton; it wouldn't be</p> <p>16 a surprise. But at the bottom of the EWL track slab we</p> <p>17 saw that the installations had by and large been</p> <p>18 completed, and we only exited the site at that stage.</p> <p>19 Why is it that they went back to allege that there</p> <p>20 were concrete problems? We had doubts and we requested</p> <p>21 site access for inspection. Leighton refused. We</p> <p>22 liaised with the MTRC and the government for help. The</p> <p>23 government couldn't play any role over this matter</p> <p>24 because the government could not intervene as it was not</p> <p>25 privy to the contract. So it seemed that we talked to</p>

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<p>1 MTRC and according to MTRC, they would not object to us 2 accessing the site, but the decision lies with Leighton. 3 Up to now, we still haven't had the opportunity to 4 access the site. We couldn't see what's happening at 5 the site. We can only rely on photographic records, and 6 also B44.3, the records provided by MTRC, in order to 7 find out the cause of the situation. 8 Q. You mean the contemporaneous photo records? 9 A. Right. 10 MR KHAW: Thank you. I have no further questions. 11 CHAIRMAN: Good. That's an ideal time for the luncheon 12 adjournment. One hour and 15 minutes. Thank you very 13 much. 14 (1.02 pm) 15 (The luncheon adjournment) 16 (2.15 pm) 17 Further examination by MR PENNICOTT 18 MR PENNICOTT: Sir, good afternoon. Two things. Firstly, 19 I understand Mr Khaw wishes to ask another question of 20 the witness. Secondly, and I don't know which order you 21 want to go in, Mr Wilken is going to offer us some 22 assistance regarding one of the photographs that we 23 looked at this morning. 24 CHAIRMAN: Thank you very much. 25 MR PENNICOTT: So perhaps Mr Khaw should go first.</p>	<p>1 Answer: That's what I thought at first, but when 2 I started work, because it's daywork, and then I found 3 my workers also hacked the capping zone, the top of the 4 diaphragm wall." 5 A. (In English) Yes. 6 Q. Just pausing here. Initially you were under the 7 impression that the work included in this quotation, ie 8 the additional work, was simply for the face of the 9 diaphragm wall and not the actually hacking off of the 10 diaphragm wall; right? 11 A. (In English) Yes. 12 Q. So, eventually, were you or was your company responsible 13 for doing this hacking-off work, the actual hacking-off 14 work? 15 A. Yes, we did so for about ten days. 16 Q. Do you remember approximately when? 17 A. For this quotation, I think ten days after this 18 quotation. 19 Q. This quotation I remember was I think issued in August 20 2015? 21 A. (In English) Yes, exactly. 22 Q. So around that time? 23 A. (In English) Yes. 24 Q. Okay. With this in mind, I would like you to take 25 a look at another part of your transcript, on the same</p>
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<p>1 CHAIRMAN: Yes. 2 MR KHAW: Perhaps one tends to be forgetful when one is 3 hungry, which unfortunately is what happened to me 4 before lunch. 5 Just on the quotation that I believe you have been 6 referred to, regarding the quotation for additional 7 work -- you understand? 8 A. (In English) Yes. 9 Q. We have seen the quotation and perhaps we can take 10 a look at what you said in the transcript on that 11 particular point. That is Day 7, page 126, line 20, 12 where there's a question from Mr Pennicott: 13 "Sorry, Mr Poon, D1/825." 14 A. (In English) Yes. 15 Q. You can take it from me that that is the quotation. 16 "That's the quotation that you gave; is that right? 17 Answer: Correct. 18 Question: As I understand it, this was for, if you 19 like, the face of the diaphragm wall that you were 20 quoting for? 21 Answer: Yes. 22 Question: This had nothing to do with the removal 23 of the concrete at the top of the diaphragm wall; this 24 was just for the face of the diaphragm wall, is that 25 right?</p>	<p>1 day, Day 7, page 144. 2 A. (In English) Yes, got it. 3 Q. If you can have a look at the first paragraph, 4 "Secondly" -- do you see that? 5 A. (In English) Yes. 6 Q. "Secondly, I even saw gridline 45 to 48, east side, 7 there was someone putting a code in the diaphragm wall 8 and the rebar stopped before the diaphragm wall. I also 9 saw that when the diaphragm wall was chiselled, there 10 was not a proper cut-off level. Of course the cut-off 11 level should be 2.84." 12 I believe you somehow covered that earlier in your 13 evidence. 14 A. (In English) Yes. 15 Q. Then: 16 "If someone reduced it by 600 or 700 to accommodate 17 the seven to 11 layers or five to seven layers of rebar, 18 then it makes sense, but that's not what I saw." 19 Pausing here, you referred to what you saw. Now, 20 was it at the time when your company was doing the 21 hacking-off work? 22 A. (In English) The wrong message come from the English 23 translation of the words in the fourth sentence of 24 "code". 25 Q. "Code", yes.</p>

<p>Page 97</p> <p>1 A. I'm using a Cantonese "(Chinese spoken)", a bent bar. 2 Q. Yes. That was what I was trying to clarify with you 3 again. So "code" here means -- 4 A. (In English) Should be a bent bar, L-shaped, bent bar. 5 Q. Bent bar, right. 6 CHAIRMAN: And the word is "bent", B-E-N-T? 7 MR KHAW: Yes. 8 A. (In English) Yes. 9 Q. Then if we can continue: 10 "It's like people sharpening a pencil. If you cut 11 a cross-section, sometimes the diaphragm wall became 12 an A-shape." 13 I don't quite understand what you said here. I want 14 you to clarify. So what did you see when you were 15 referring to this A-shaped diaphragm wall? 16 Q. We can imagine the diaphragm wall is 1.2 metres wide. 17 It's continuous. And we see that if we cut this 18 section, I see that they try to make this sharp like 19 this, like an A. 20 A. (In English) Shaped, in section. 21 (Via interpreter) It's like sharpened. 22 Q. And what's wrong with that? 23 A. Then, for the remaining rebar or coupler, they will be 24 hanging loose, that is what's left of it, and it will 25 easily fall off; they will easily become loosened.</p>	<p>Page 99</p> <p>1 east diaphragm wall -- 2 A. (In English) Yes. 3 Q. -- which part of the east diaphragm wall was affected by 4 what you just described to us? 5 A. (In English) Maybe we call it sections. Better to see 6 in a section. 7 Q. Yes. 8 A. (In English) I will call a drawing to show the sections. 9 Is it okay? H350, we start from that drawing. 10 Wrong drawing. 11 Q. Maybe you can take a look at bundle C. 12 A. (In English) Okay. 13 Q. C34/26494, and also 26495. Would they be able to help 14 you refer to any particular sections? 15 A. (In English) Yes, it's helpful. On 26494, in the lower 16 left corner, we have a type 1 section. 17 Q. Yes. 18 A. The grey part is the diaphragm wall. At the top of the 19 grey area, there was the dots, that's the hacked-off 20 area, the additional hacked-off area. Then to the 21 right, "3,000", that is the 3 metre EWL track slab; 22 that's the one. And to the left, that's actually the 23 1 metre cantilever slab. So that's the EWL cantilever 24 slab. 25 So from what I see, where the grey part is, that</p>
<p>Page 98</p> <p>1 Q. When you are refer to the A shape, were you referring to 2 this shape in the context of the concreted area or what? 3 A. (In English) The top, the capping zone of the diaphragm 4 wall. Or it is not really an A, but it is two chamfers 5 (demonstrating). 6 COMMISSIONER HANSFORD: It's tapered from both sides? 7 A. (In English) Tapered. 8 COMMISSIONER HANSFORD: Thank you. 9 MR KHAW: So did the A shape that you just described affect 10 any of the reinforcement or any part of the structure? 11 A. The way I think about it -- the design originally is for 12 the diaphragm wall to be like this, and then the slab 13 would touch it here, would connect here, and the shear 14 face is perpendicular. Now what they do is they make 15 the diaphragm wall lower, and it becomes like a tapered 16 shape. Therefore the track slab will run on top. So 17 the A shape becomes just a joint that holds up the EWL 18 track slab. It's a totally different concept in terms 19 of structure. 20 Q. So you mean that is a deviation from the original 21 design? 22 A. Yes. I notice there are two major deviations. One is 23 on the structural arrangement. The other is the RC 24 detail. In other words, the layout of the rebars. 25 Q. You are talking about -- if we are talking about the</p>	<p>Page 100</p> <p>1 part has been tapered off. I wonder if that description 2 helps. 3 CHAIRMAN: All right. Tapered off by whom? 4 A. (In English) By Leighton staff. 5 CHAIRMAN: By Leighton staff? 6 A. (In English) By another Leighton sub-contractor who 7 chiselled the ... 8 CHAIRMAN: Was it, in your opinion, at that time, in 9 accordance with the plans, to taper off in this way? 10 A. (In English) No. No. 11 COMMISSIONER HANSFORD: Can I just ask here, Mr Poon: so 12 what I'm seeing here on the type 1 section is that the 13 top of the section should be completely removed, the 14 concrete should be completely removed, for 450 to 15 550 millimetres? 16 A. (In English) Yes, approximately. Mm-hmm. 17 COMMISSIONER HANSFORD: And I think what you're saying -- 18 well, tell me have I got this correct -- you are saying 19 rather than all of that being removed, it was left as 20 an A shape, it was left tapered, so parts were removed 21 at the sides but the middle still went up to the top 22 level? Is that what you are saying? 23 A. They didn't reach 2.84 at the cut-off level. It should 24 be positive 2.84 at the top level. 25 COMMISSIONER HANSFORD: Okay. So what you are saying is the</p>

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<p>1 top level was removed down below the 2.84?</p> <p>2 A. (In English) Yes.</p> <p>3 COMMISSIONER HANSFORD: But the full width of the diaphragm</p> <p>4 wall was not taken down --</p> <p>5 A. (In English) Yes.</p> <p>6 COMMISSIONER HANSFORD: -- to the 450; it was left tapered</p> <p>7 in the middle? Is that the evidence?</p> <p>8 A. (In English) Yes.</p> <p>9 COMMISSIONER HANSFORD: Thank you.</p> <p>10 A. And most unique was that the bars or the metal part was</p> <p>11 not exposed because theoretically, if you sharpen it or</p> <p>12 taper down the two sides of the diaphragm wall, the</p> <p>13 faces of the metal components should be exposed.</p> <p>14 COMMISSIONER HANSFORD: Sorry, I don't understand that</p> <p>15 sentence.</p> <p>16 A. Well, I had -- when I studied the diaphragm wall plans,</p> <p>17 it was built up to a level of 2.84. That was the</p> <p>18 original cut-off level, 2.84. And theoretically, when</p> <p>19 you do anything, you should see a lot of metal exposed.</p> <p>20 There should be a lot of bars exposed. So, if you</p> <p>21 remove the concrete, all the bars should be exposed.</p> <p>22 But after they tapered it off, I didn't see a lot of</p> <p>23 bars.</p> <p>24 COMMISSIONER HANSFORD: Okay. Thank you.</p> <p>25 MR KHAW: And if we are talking about the sharpened part of</p>	<p>1 Q. Perhaps a last issue that I wish to explore with you.</p> <p>2 If we can take a look at the transcript, Day 8.</p> <p>3 A. (In English) Yes.</p> <p>4 Q. Page 60, at the top of page 60 --</p> <p>5 A. (In English) Yes.</p> <p>6 Q. -- you remember the chairman was asking you regarding</p> <p>7 the percentage, and then there was just one answer from</p> <p>8 you that I wish to discuss with you. That is line 4.</p> <p>9 You said:</p> <p>10 "Well, the drilled holes, that is something I heard</p> <p>11 about. I haven't read all the documents. Just Leighton</p> <p>12 alone, where they submitted an NCR to Intrafor, they</p> <p>13 mentioned in one area they had missed some -- there were</p> <p>14 some 200-plus pieces of couplers that were missing.</p> <p>15 That's just one NCR."</p> <p>16 A. (In English) Yes.</p> <p>17 Q. Now, here you said that's what you heard, and you went</p> <p>18 on to say, "I haven't read all the documents." Now,</p> <p>19 first of all, did you actually see any workers carrying</p> <p>20 out the drilling works on the site?</p> <p>21 A. (In English) Yes. Yes.</p> <p>22 Q. When was that?</p> <p>23 A. (In English) A whole period of time. From August 2015</p> <p>24 to I think July, et cetera, of 2016, including EWL and</p> <p>25 NSL.</p>
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<p>1 the diaphragm wall that you just mentioned, before</p> <p>2 concrete was poured, was this rectified, before concrete</p> <p>3 was poured?</p> <p>4 A. (In English) No. No. No.</p> <p>5 Q. All right.</p> <p>6 CHAIRMAN: But you were the one doing the pouring?</p> <p>7 A. (In English) Yes.</p> <p>8 CHAIRMAN: And were you happy to pour, even though there had</p> <p>9 not been rectification?</p> <p>10 A. (In English) Not really.</p> <p>11 (Via interpreter) I did ask them why was it in such</p> <p>12 a state, and they said it was the version made after the</p> <p>13 plans had been changed.</p> <p>14 COMMISSIONER HANSFORD: Sorry, who's the "they"?</p> <p>15 A. Andy Ip.</p> <p>16 COMMISSIONER HANSFORD: Which party?</p> <p>17 A. (In English) Leighton.</p> <p>18 MR KHAW: Just one final -- perhaps I will go back to my</p> <p>19 earlier question. The sharpened part of the diaphragm</p> <p>20 wall, did it only occur to one part of the diaphragm</p> <p>21 wall, or it applied to various parts of the diaphragm</p> <p>22 wall?</p> <p>23 A. Well, I notice that from the gridline, from 24 all the</p> <p>24 way to 49, that's on the east, they all had similar</p> <p>25 scenarios. It's all on the east side.</p>	<p>1 Q. At which particular area?</p> <p>2 A. (In English) All. All areas.</p> <p>3 Q. Now, in your evidence earlier today, ie before lunch,</p> <p>4 I believe you told us a few incidents where there were</p> <p>5 problems with the couplers.</p> <p>6 A. Mmm.</p> <p>7 Q. I think the second incident that you talked about, if</p> <p>8 I can just retrieve the transcript of this: [draft] page</p> <p>9 56, line 1:</p> <p>10 "The coupler is about semi-exposed. It makes the</p> <p>11 coupler itself become undone from the original fixing of</p> <p>12 the embedded threaded bar. We saw some of the coupler</p> <p>13 even drop onto the floor, and therefore a hole, a big</p> <p>14 hole, was left on the diaphragm wall."</p> <p>15 I would like to clarify with you on this. This</p> <p>16 incident on page 56 that we've just seen, is it the same</p> <p>17 incident or different incident, if we go back to page 60</p> <p>18 of the transcript for Day 8 that we have just discussed?</p> <p>19 A. (In English) Different. Different.</p> <p>20 Q. So the incident you told us this morning was not covered</p> <p>21 by this NCR?</p> <p>22 A. The holes we were talking about this morning, they were</p> <p>23 of a diameter of 80/90mm. You could see clearly with</p> <p>24 the naked eye that it was 80 or 90 millimetres, and</p> <p>25 a drill hole only has a diameter of 50 or</p>

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<p>1 60 millimetres. So the diameter of the holes are 2 totally different. 3 CHAIRMAN: All right. And the bigger ones are for couplers? 4 A. (In English) Bigger ones is undoing of the couplers. 5 CHAIRMAN: Yes, the coupler has fallen out or become 6 dislodged and been taken out. And the smaller one? 7 A. (In English) The smaller one is post-drill. I think at 8 that moment it is a proper way to rectify the defective 9 couplers. 10 CHAIRMAN: You rectified it by drilling -- 11 A. (In English) At that moment, I think it is a proper 12 method to rectify the problematic couplers' connections, 13 by means of drilling holes, using RE500 to chemically 14 grout the dowel bar. 15 However, I am now thinking different, because of the 16 requirement of ductility. 17 MR KHAW: Mr Poon, all along, our understanding regarding 18 the alleged problems with the couplers, they appeared in 19 the EWL slab? 20 A. (In English) Mmm. Actually, no. 21 Q. Is that right? 22 A. (In English) I think from the beginning of the mass 23 media until the very beginning of this Commission, I can 24 observe everyone has this opinion that the problematic 25 condition is only orient on EWL track slab. But we are</p>	<p>1 obviously not a structural engineer. 2 Before lunch, we were taken to D1/594, a photograph 3 which caused much confusion and puzzlement. We think 4 we've found out where this is -- we think. We think it 5 is the eastern D-wall connection, bay 1, NSL mezzanine 6 area A. 7 Our reasoning for that is as follows. There was 8 an NCR for this. It's in B5, the TS folder, the 9 technical submission folder, page 258, if that can be 10 pulled up. Hopefully it's on the system somewhere. 11 MR PENNICOTT: It is. 12 MR WILKEN: It's not on my screen yet. 13 COMMISSIONER HANSFORD: Nor mine. 14 MR WILKEN: It's the first technical submission, the big 15 folder at the top with the disc -- that's the one -- and 16 it is 258. The fourth one down. Scroll down to 258, 17 please. You will see here "Details of non-conformance", 18 it gives you the area, NSL mezzanine level in area A, 19 "Exceedance of vertical tolerance by 1mm to 400mm was 20 observed ..." 21 If you scroll down, "post-drill methodology" and 22 "LCAL records", so this would be remediated as per TQ. 23 Then the reason why we think it's this area, if you 24 go to 271 -- 25 COMMISSIONER HANSFORD: Sorry, Mr Wilken, a TQ?</p>
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<p>1 not at this vision. China Technology is seeing 2 different area have different problems and overlapping 3 problems, including NSL, including the mid slab of 4 area A, which is also talking about the slab connecting 5 to the diaphragm wall by couplers originally. 6 MR KHAW: I have no further questions, but before I sit down 7 perhaps just one clarification regarding what 8 I mentioned this morning when I first went through the 9 emails and also conversations between Mr Poon and the 10 government officers. I made a suggestion that if there 11 is no controversy between us and Mr Poon, then it may 12 not be necessary to call all the government officers to 13 give evidence. That is only my suggestion. Of course 14 it's subject to what the Commission thinks at the end of 15 the day, and we will abide by that direction. 16 MR PENNICOTT: Sir, obviously we will look at that, if I may 17 say so, very helpful passage of cross-examination by 18 Mr Khaw. 19 CHAIRMAN: Yes. 20 MR PENNICOTT: We will certainly look at that and advise the 21 government accordingly. 22 MR WILKEN: Sir, one point of clarification from me, and 23 this may be -- I stress no more than "may be" -- 24 an example of the risks of unheralded forays into the 25 technical evidence with this particular witness, who is</p>	<p>1 MR WILKEN: Technical query. 2 COMMISSIONER HANSFORD: Thank you. 3 MR WILKEN: You will see this looks remarkably like D1 -- as 4 it's got "EH19" sprayed on the wall, I hope. 5 MR PENNICOTT: Wrong page. 6 MR WILKEN: I'm grateful to Mr Pennicott. Does he have 7 another a better reference. 8 WITNESS: It's EH9. 9 MR WILKEN: I agree. We can try it the other way, which is 10 from Fang Sheung's records -- we will try to track down 11 a precise photograph. We can get it the other way, from 12 Fang Sheung's records, at E5/1336. 13 You see here this is a photograph taken on 14 22 September 2015, which is why I noticed it over the 15 weekend. You will see it looks very like the previous 16 photograph, and you will see there: 17 "Discovered problem with hole-drilling and starter 18 bar installation. 19 Could not proceed with steel fixing work. 20 Leighton carried out rectification of hole-drilling 21 and starter bar installation work." 22 So those appear to us to dovetail. 23 COMMISSIONER HANSFORD: Mr Wilken, what you are telling us, 24 I think, is it appears that this situation that Mr Poon 25 drew our attention to is covered by a non-conformance</p>

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<p>1 report, and that remedial action was agreed, which was 2 the drilling of dowel bars in this location. 3 MR WILKEN: That's our current understanding, yes. 4 COMMISSIONER HANSFORD: Thank you. 5 MR WILKEN: Sir, unless I can assist further. 6 CHAIRMAN: No. Thank you. 7 Re-examination by MR TO 8 MR TO: Chairman and Commissioner, good afternoon. 9 Good afternoon, Mr Poon. I'm going to re-examine 10 you on a few questions, if I may. 11 Remember on Day 7, if you go to page 108 of the 12 transcript. 13 A. (In English) Yes. Got it. 14 Q. Look at line 25 -- can you see that? 15 A. (In English) Yes. 16 Q. Mr Pennicott was asking you something about Leighton's 17 check-in and also check-out time document; do you 18 remember that? 19 A. (In English) Yes. 20 Q. Before I show you the check-in/check-out time document, 21 which is C8/5720, I'd like to ask you a few questions, 22 if I may, just for clarification. 23 A. (In English) Okay. 24 Q. Can you explain to us what is the process of going into 25 a construction site in Leighton?</p>	<p>1 yet this is the first page, and there's a cover page, 2 also you don't see the month there. It just stated the 3 period. 4 That should be the last page of the large document, 5 that one. 6 COMMISSIONER HANSFORD: Sorry, I thought I saw a period with 7 dates. 8 MR PENNICOTT: Sir, if you go to page 12, go down 12 pages 9 from 5713. Stop there. Go up one page. 10 COMMISSIONER HANSFORD: Yes. 11 MR PENNICOTT: There it is, at the end, bottom left-hand 12 corner. 13 COMMISSIONER HANSFORD: Yes. That's what I got. 14 A. Fine. Okay. That's the first one. 15 Usually the month we see is actually on the top 16 here. Right here, we could have seen it (indicating). 17 That's the first point. 18 Second point, for this document, it's about fact, 19 I believe, the record of the electronic sign-in and out 20 system at the entrance. But then initially, especially, 21 they never recorded all our sign-ins and sign-outs. The 22 way I would see it, if they say here, if the person came 23 in, that person should have come in, but if it says here 24 that person did not come in, it's not necessarily the 25 case, because the worker could sign in manually, so</p>
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<p>1 MR PENNICOTT: This construction site? 2 MR TO: In this construction site. 3 A. (In English) Okay. 4 (Via interpreter) First of all, the person needs to 5 have a green card and a worker's registration card. So 6 both cards are statutory requirements. 7 Then, for Leighton's site, they said they have big 8 or small classes for Leighton, but actually you don't 9 need to have those classes, you can still get in, 10 because every gate there is a sign-in book. Either you 11 have the green card or the worker's registration card, 12 together with your identity card, then they could sign 13 in at the security post. 14 Q. Okay. Can I take you to C8/5720. 15 A. (In English) Okay. 16 Q. What can you tell us from this diagram or this monthly 17 employee report? 18 A. This is the document we see all the time. Every month 19 or every half-month, Leighton would give us this report. 20 I find it strange because I remember there should be 21 a month on this document but I read the first page of 22 this 12-page document, there is not a month there. This 23 is page 8 of 12, but if we go back eight pages, you will 24 see the beginning of this report but still we don't see 25 a month there. There is not the month there, not here,</p>	<p>1 therefore it's not recorded in the electronic system and 2 that's why it's not shown on this table. 3 Thirdly, I recall very well, for this electronic 4 record, it could be amended, because initially it 5 happened that some of our people had to sign in and out 6 so they had to change it, but eventually there are too 7 many such entries, it's difficult to locate them, so 8 they didn't do that anymore. 9 But at the early stage of the site, because there's 10 not yet a steady workforce, so even for our staff not 11 all of them used the card or checked in through the 12 electronic system, even if they have taken the small and 13 large classes. So they should be able to log in 14 electronically but they may not do so. Then on the 15 first day, when they got the card, they could still use 16 the card and the turnstile would work but usually it 17 wouldn't show on the record. 18 So that's more or less the explanation about this 19 table. 20 MR TO: Is there anything else in this diagram you can tell 21 us, anything further? 22 A. For this table, for the last few columns here, they are 23 computed electronically or automatically. So that 24 should more or less match the entries. 25 Q. Remember someone asked a question about the colour of</p>

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<p>1 this diagram?</p> <p>2 A. Yes, I remember that.</p> <p>3 Q. So can you tell us something about the colour?</p> <p>4 A. Many asked about it. I talked about the last four</p> <p>5 columns particularly, for example, "Work day", let's say</p> <p>6 I use my own record, entries.</p> <p>7 Q. Can you maybe focus on just your record.</p> <p>8 A. Yes. For my record, let me say this again, for</p> <p>9 weekdays, that is how often I signed in and out</p> <p>10 electronically, 9.5 days in total, but for those where</p> <p>11 there are entries, I counted 15.5 days, more or less.</p> <p>12 So that's a far cry from 9.5.</p> <p>13 But let's look up one row, 5711, Po Cheuk Yin, their</p> <p>14 work day total is nine, but let's count the entries --</p> <p>15 nine, it's very accurate. You could look at the row</p> <p>16 below me, that is the last entry, Pun Pradip, three work</p> <p>17 days, and there were three entries.</p> <p>18 Q. Can you focus on -- remember I asked you the question --</p> <p>19 the colour?</p> <p>20 A. Colour. I thought all along that red meant being late</p> <p>21 or leaving early. So, for the second-last or the</p> <p>22 third-last, that means late or early, those columns,</p> <p>23 then the relevant hours should show there, the</p> <p>24 applicable hours should show there.</p> <p>25 For me, there were three late entries, late by ten</p>	<p>1 Hung Hom site."</p> <p>2 A. (In English) Yes.</p> <p>3 Q. Your answer is "Yes". The next question:</p> <p>4 "In fact, there's no record of you all signing in</p> <p>5 for September 2017.</p> <p>6 Answer: I won't repeat that point."</p> <p>7 I'm not going to go on. Do you see that?</p> <p>8 A. Mmm.</p> <p>9 Q. But can you tell us, by looking back at that diagram,</p> <p>10 C8/6172, is there any sign-in/sign-out of your name?</p> <p>11 A. No, no.</p> <p>12 Q. Can you tell us something about that?</p> <p>13 A. Because I did not use the card. I did not punch --</p> <p>14 I didn't use that palm print device to go inside.</p> <p>15 I went through the D5 gate which is the vehicular</p> <p>16 access.</p> <p>17 Q. So, in a way, you went in there through another sort of</p> <p>18 entry point?</p> <p>19 A. It's next to the sign-in/sign-out device and I could go</p> <p>20 through the vehicular access. I parked my car inside</p> <p>21 the site. That's why I didn't have to go through this</p> <p>22 process.</p> <p>23 Q. Let's move on. In terms of the transcript, Day 8,</p> <p>24 page 134.</p> <p>25 A. (In English) Yes.</p>
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<p>1 minutes, one minute, on the 9th and the 15th, one hour</p> <p>2 and five minutes' late respectively. But then in the</p> <p>3 "Late" column it's 76 minutes in total. What I find</p> <p>4 strange is that either these records have been tampered</p> <p>5 with, otherwise it could have been that inconsistent.</p> <p>6 You can look at 12 September for me, I arrived at</p> <p>7 9.13; on 18 September, I arrived at 1506 or I just</p> <p>8 signed in at 1506, but still there's not a red colour</p> <p>9 there.</p> <p>10 So if you just look at it, it seems that this</p> <p>11 automated system had some problems.</p> <p>12 Q. Mr Poon, the reason I'm asking you this question is</p> <p>13 because three persons of -- my learned friends asked you</p> <p>14 this question.</p> <p>15 Let's move on. If you go to C8/6172, this was</p> <p>16 basically mentioned in Day 9 of the transcript,</p> <p>17 page 121, paragraph 11.</p> <p>18 A. Yes.</p> <p>19 Q. You can see that diagram there. C8/6172.</p> <p>20 A. Yes, I see it.</p> <p>21 Q. Let's take you to the transcript, Day 9, page 121,</p> <p>22 line 11. Can you see that?</p> <p>23 A. Yes, I see it.</p> <p>24 Q. I will just read it out to you. It's line 11:</p> <p>25 "Can you look at C8/6172. This is in/out record for</p>	<p>1 Q. Just reading this out to you, on line -- I will just</p> <p>2 read, for example, line 2:</p> <p>3 "My question was, if it was unreliable, what use</p> <p>4 does it have for the purpose of preparing your payroll?"</p> <p>5 Answer: One of the documents."</p> <p>6 A. Hmm.</p> <p>7 Q. What does that mean?</p> <p>8 A. Because when our company prepared the payroll, prepares</p> <p>9 the payroll, we would put the sign-in/sign-out records</p> <p>10 into the Excel spreadsheet for doing the computation.</p> <p>11 So in a Microsoft Excel spreadsheet, we would work out</p> <p>12 the payroll. If someone arrives late or leaves early,</p> <p>13 there may be deduction of wages, but if the worker is</p> <p>14 late within 15 minutes or leaves early within</p> <p>15 15 minutes, we won't deduct wages.</p> <p>16 So all this would be reflected in the Excel</p> <p>17 spreadsheet. That's why we need accurate sign-in and</p> <p>18 sign-out records of workers. Every time when we receive</p> <p>19 this report, our account clerk would input all the data</p> <p>20 into the Excel spreadsheet, and then the clerk would ask</p> <p>21 the relevant foreman or ganger and ask whether they have</p> <p>22 any missed sign-in or out records, and if so, if any</p> <p>23 records missing, we could only say 8 am or 6 pm, then</p> <p>24 there's no way we could tell accurately whether the</p> <p>25 person arrived late or left early.</p>

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<p>1 That's why we want these the records to be more 2 complete. During the peak period, the records were more 3 complete, they would help us compute the payroll. 4 That's why we said this is one of the documents we 5 relied on for doing the payroll, but we do not rely on 6 this document alone; we have our own Excel spreadsheet. 7 Q. How many other documents do you have to rely on? 8 A. Mostly the foreman, after we type in the Excel 9 spreadsheet, they will match the figures with the 10 worker, they will fill out the information. Sometimes 11 we also look at our WhatsApp discussion chart, how many 12 people worked overtime, how many people stayed late, and 13 we can match up our records. 14 Q. Okay. I will move on. 15 If you go to the transcript, Day 7, page 64 -- can 16 we start at 63. 17 A. (In English) Okay. 18 Q. This is where the chairman asked some questions. I will 19 just read it out to you, at page 63, line 24: 20 "... 'I've seen people not putting into couplers but 21 just cutting these things.' Why would you have then 22 said, 'Wow, this is something I've got to remember, this 23 is serious, this could be damaging and I must pursue the 24 matter further?' 25 Answer: My company does bar bending as well. We</p>	<p>1 Your next answer was: 2 "At Hung Hom Station we saw all of a sudden there 3 was no supervision at all, it seems, and we thought it 4 was strange." 5 What are you implying here or what do you mean? 6 A. Because in Hong Kong, the installation with couplers, it 7 has to be done under inspection. So you won't see just 8 one worker doing that work. They will be the owner's 9 representative or engineers supervising the people doing 10 the coupling work. So you won't have workers doing it 11 unsupervised. So that is the one reason why I found it 12 strange. 13 Q. Okay. Let's move on. Let's go to the transcript on 14 Day 7, page 55, line 9. 15 A. (In English) Yes. 16 Q. I will just read it out to you: 17 "So what he's reporting is, 'I've just seen some 18 people cutting some bars, I don't know why but I've seen 19 them cutting bars.' There could be an entirely sensible 20 reason for doing that. I mean, why would you have even 21 taken any notice of that? Is it because cutting of bars 22 was strictly prohibited? Is it because there was some 23 else that led you to be suspicious?" 24 I'm not going to read the whole lot. Your answer is 25 at the very bottom, I'm trying to look at, the very last</p>
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<p>1 have about \$60 million worth of bar bending business. 2 It's far more than what this other sub-contractor is 3 doing. If we handle couplers in Hong Kong, we will 4 watch it all the time. The bars must be screwed in 5 100 per cent under inspection and we have to use 6 a torque." 7 So my question is: what do you mean by the last 8 sentence? 9 A. Because this is the Buildings Department. They have one 10 of the conditions stipulated to the use of couplers in 11 construction sites, they must not -- it might not be 12 100 per cent inserted, it might be 50 per cent or even 13 less than that. But typically in Hong Kong, regarding 14 couplers, we have stringent requirements. So whoever is 15 the owner or the employer, they have to represent the 16 engineers and they require that under inspection they 17 have to be screwed in 100 per cent. In our company, we 18 have a torque meter and we will use the torque meter, 19 and we know that the torque is sufficient, otherwise it 20 there would be disagreement regarding how much it has 21 been inserted and whether it was sufficient. 22 Q. So let's move down a bit, in terms of the chairman said 23 something else. At line 10: 24 "I appreciate that, but we're not talking couplers 25 here. We're talking about the bars."</p>	<p>1 line -- you said: 2 "This is a very important issue to me. In 3 Hong Kong, that is not our standard." 4 What you are implying here? What do you mean? 5 A. Let me -- I had said, starting from line 9 all the way 6 to line 5, on page 55 of the transcript, cutting bars -- 7 I was referring to cutting the threaded sections, where 8 there's a thread. Now, in Hong Kong, cutting the 9 threaded sections, even for a person who just joined the 10 industry, they would know that it is not possible 11 because the thread design is an integral part of the 12 design. So anybody who changes that, they are 13 destroying the coupler connection method. So I feel 14 that is totally unacceptable. 15 Q. Okay. I will move on to the next point. 16 You have been actually -- I will go to page 79 of 17 Day 7 of the transcript, line 5. 18 A. (In English) Yes. 19 Q. Your answer is: 20 "Yes. In my statement, and at the investigation 21 carried out by the MTRC held on 13 July, I think there 22 was a sentence taken away. The MTRC should have told 23 what I had told them back then. The MTRC know this. 24 I was talking about corruption. Leighton -- we have 25 Karl Speed here --"</p>

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<p>1 So what are you saying there, and also, before you 2 continue to say anything, just look at the date. Is 3 this date -- 4 A. (In English) Should be 13 June. 5 Q. June 13? 6 A. (In English) On line 6. 7 Q. Can you tell us what you mean by this? 8 A. Because on 13 June, in their investigation meeting, 9 I had explained the corruption going on in the 10 construction sites, and that is exactly what MTRC asked 11 at the end, why they were cutting the stuff, and I had 12 given an explanation. 13 Q. Thank you for that. 14 Can I show the Chairman and the Commissioner 15 a document B3082. 16 MR PENNICOTT: It's in B5. 17 MR TO: Chairman and Commissioner, this is 13 June 2018. 18 This is the interview schedule by which the witness 19 attended the MTRC meeting. 20 Can I take you to a document called G1803. This is 21 a written note of the meeting, and if you go to G1806, 22 you see at the very -- in terms of item Q at the bottom, 23 question, the very last one: 24 "Any information that you think MTRC should know?" 25 And there are two points:</p>	<p>1 A. (In English) Yes. 2 Q. Your answer at line 19 on page 153, you said: 3 "The cutting of rebar evidence is concrete, it's not 4 flimsy. We see from photos, from the bars screwed in, 5 there is concrete evidence, solid evidence. Also, for 6 the NCR issued by MTRC to Leighton, this is solid 7 evidence. 8 Chairman: Sorry, a mental block for a moment. 9 What's an NCR again? 10 Mr Shieh: Non-conformance report. 11 Chairman: Thank you." 12 So why mention NCR in here? 13 A. Because at the time we were talking about cutting bars, 14 was it as Leighton described, where I had exaggerated or 15 made it up. I said all the incidents observed by our 16 company, we had solid evidence to back it up. I notice 17 that in document C20, in Leighton's C1 bundle, C20, the 18 MTR had issued an NCR to Leighton and it correlated with 19 our observation. That is, there was cutting of bars, 20 they had screwed in the bars, they had chiselled out; 21 they had pretended that the bars were being installed. 22 Q. Okay. Can I take the Chairman and the Commissioner to 23 a document called 4121. Chairman and Commissioner, this 24 is a document called "Non-conformance report", it's 25 number 157.</p>
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<p>1 "It is the Leighton's staff doing the sub-con work." 2 And the second point is: 3 "Corruption is serious on site." 4 And the meeting concluded at 10.30 pm on 13 June. 5 Okay, we will move on. 6 A. (In English) Okay. 7 Q. Can I take you to Day 9 of the transcript. 8 A. (In English) Yes. 9 Q. Page 18. 10 A. (In English) Yes. 11 Q. You were asked some questions. I will just read from -- 12 an easy one -- I will just read from maybe line 16: 13 "The subject matter is whether there is any planned, 14 systematic cutting, Mr Poon; correct? 15 Answer: Of Leighton? 16 Question: Whether there is any planned or 17 systematic cutting of rebars. 18 Answer: Okay." 19 So what are you trying to convey here? 20 A. (In English) Yes. I mean "yes". 21 Q. So you are saying "yes"? 22 A. Mmm. 23 Q. Okay. Now, you mentioned certain things about NCR, also 24 the transcript on Day 9, page 154 -- maybe go to 153 25 first.</p>	<p>1 If you go to the next page, at 4122, you will see 2 here, "Details of defective work: 3 Threaded bars at 3 metre thickness EWL slab ... 4 hadn't screwed", and I'm not going to read the whole 5 thing but it says it hadn't been screwed in. This was 6 rectified and it was rectified on 18 December 2015. 7 Okay, we will move on. Remember you were shown 8 a document called C8000? 9 MR WILKEN: Sorry, sir, I think there's some confusion in 10 the rows as to whether there are any questions here or 11 whether we are just having documents read into the 12 transcript. 13 MR TO: Okay. So the question is, Mr Poon, what do you make 14 of this document? 15 MR PENNICOTT: I'm not sure that's right. I was just about 16 to leap to my feet before Mr Wilken did. If you've got 17 a specific question to ask about a particular document, 18 please ask it, but we can't just have it, as we are 19 having, "What do you say about this" or "Would you like 20 to comment?" Let's have a specific question. 21 MR TO: No problem. I'll move on. 22 In terms of the confidentiality agreement, in the 23 transcript, Day 7, page 3, in line 14. 24 A. (In English) Yes. 25 Q. "When I spoke to the media or the public about this</p>

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<p>1 case, my principle has always been to tell the truth." 2 A. Mmm. 3 Q. My question is: you have signed a confidentiality 4 agreement? 5 A. (In English) Yes. 6 Q. By signing a confidentiality agreement, how can you tell 7 the media the truth? 8 A. What I meant is what came out from my mouth was all the 9 truth, but if it is because of the confidentiality 10 agreement, I'm bound in any way, then I just wouldn't 11 say it at all. 12 CHAIRMAN: Sorry, I don't understand that. I've got a bit 13 of a problem with that. 14 A. At the time, I was bound by the confidentiality 15 agreement, so for every topic or for everything that 16 I knew, I wouldn't just say it all to the public. 17 I would only speak on issues already known to the 18 public, especially issues already interpreted or 19 incidents interpreted by MTRCL, and I would only speak 20 the truth when I speak. 21 CHAIRMAN: All right. Thank you. 22 MR TO: Let's turn to the document C8000. This is 23 a document that's been mentioned quite a lot of times. 24 A. (In English) Oh, confidential, okay. 25 Yes.</p>	<p>1 Q. I want to ask you a question relating to this document. 2 Last week, you mentioned that this document was signed 3 because certain agreements were made? 4 A. (In English) Yes. 5 Q. Could you tell us what agreements were made? I can 6 refer you to the transcript if you want to. 7 A. No need. No need. I don't think I did say it in that 8 much details. 9 For that particular meeting, there were many 10 agreements, written agreements or oral agreements. The 11 first one was the 1112 final account. For the amount of 12 the final account, it was far bigger than the amount 13 I signed for. There was another oral agreement. 14 Anthony and Karl Speed promised that for the Liantang 15 project, they would pay the difference to us, because 16 for the Hung Hom project, they said it's already in the 17 red, it's not possible to put any more money into it. 18 For the Liantang project, because they were making some 19 changes, so there's a chance that there could be more 20 money put into it, and then they could make up for the 21 loss our company suffered in the Hung Hom project. And 22 on that day there was something more contentious, that 23 is for the Liantang project, on 11 November 2016, there 24 was a fatal accident, a fatal incident, and between me 25 and Karl Speed, that's a subject where we differed</p>
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<p>1 Q. Mr Poon, when was this document executed? 2 A. 18 September 2017. 3 Q. If you go to C8003. 4 A. Yes. 5 Q. If you see the line "Executed as an agreement on", it's 6 blank? 7 A. Yes, I see it. Yes, it's blank. 8 Q. Why is that? 9 A. Because, at the time -- first of all, this document was 10 not yet completed, because Leighton undertook that they 11 would send me an email to protect Chinat, and 12 specifically that means Chinat bears no responsibility 13 in this case. Secondly, they wanted my wife to go and 14 sign it as well. So, therefore, the date has not been 15 fixed at that point. 16 In fact, when we were signing this agreement, we did 17 have some discussion first or arguments even. 18 Q. Who signed it the last, this agreement? 19 A. I was the person to sign on that day, at around 20 7-something pm. For my wife, she went a few days later; 21 I couldn't recall exactly how many days later. As for 22 Karl Speed -- and they didn't sign at the time. They 23 signed later than us. I don't know when they actually 24 signed it. But after this document was all signed and 25 given to us, it was October already.</p>	<p>1 greatly in opinion, and at the end, on 18 September, we 2 still could not reach any consensus. 3 Then, afterwards, we talked about Chinat leaving the 4 site. By that time, there was already not much left for 5 Chinat to do, because the renovation was going on, 6 electrical and mechanical services were being installed, 7 that is for the Hung Hom site. But there were still 8 some minor defects and MTRCL has still not accepted the 9 work. So at that meeting it was confirmed that we could 10 arrange to leave the site, but whatever is left, 11 Leighton would take care of that, because we don't see 12 any new work. As a matter of fact, many of the sites 13 were covered by the E&M services or refurbishment. 14 Also, when we signed the confidentiality agreement, 15 originally the whole case should have been included in 16 the content. For example, there should be certain 17 clauses to waive or give indemnity to Chinat, Leighton 18 would take up the responsibility, but at the end it was 19 not in this agreement, and then Anthony promised to send 20 me an email to resolve the matter but at the end he 21 didn't to that either. 22 Q. But in the end you signed that agreement anyway? 23 A. Yes, I signed it. 24 Q. Why? 25 A. Because at the time, the atmosphere was much better.</p>

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<p>1 Most importantly, I felt Leighton could be trusted.</p> <p>2 Now, on the Saturday before the Monday meeting, we went</p> <p>3 to the site, I took them to the site, in fact the</p> <p>4 diaphragm wall was all exposed. They haven't yet poured</p> <p>5 concrete in again, so there's nothing to block the</p> <p>6 diaphragm wall. Especially for the EWL track slab, it's</p> <p>7 all exposed on the outside. So it's very easy to drill</p> <p>8 holes and put in the steel dowels. It's not a major</p> <p>9 process. And so I thought Karl Speed and Anthony</p> <p>10 promised to do so, I didn't think they would go back on</p> <p>11 their word because it was at such a high level. And if</p> <p>12 the remedy was done, the issue would have been resolved.</p> <p>13 At the time, I received a wrong message, that is BD</p> <p>14 has already approved all the amended plans. Afterwards,</p> <p>15 I received a bundle, and when I read the bundles only</p> <p>16 then I realised it was not the case. At the time,</p> <p>17 during the works, I knew the plans were changed all the</p> <p>18 time. They said it was because of the requirements of</p> <p>19 BD, and I thought since BD spoke up and then they</p> <p>20 changed the plans and then they did the works, so in</p> <p>21 theory they should have satisfied the BD requirements</p> <p>22 for approval, and then, by September 2017, we were told</p> <p>23 that that's not a problem, BD has already given all the</p> <p>24 approval in writing, but it is only when I read the</p> <p>25 bundle I found out the approval was only for the ELS,</p>	<p>1 more, the QS told me. So I see -- what I saw was that</p> <p>2 Fang Sheung didn't have to use their own workers to do</p> <p>3 the work. Fang Sheung didn't have to work under their</p> <p>4 contract obligations. Someone else did the work for</p> <p>5 Fang Sheung and they didn't have to pay for the cost, so</p> <p>6 that's why they benefited directly from that.</p> <p>7 Q. Okay. Then if you go to page 88 of Day 7 again, of the</p> <p>8 transcript.</p> <p>9 A. (In English) Yes.</p> <p>10 Q. The chairman asked you a question. He says at line 17:</p> <p>11 "... have you ever sat down with anybody who's</p> <p>12 an executive in Leightons and had a heart-to-heart</p> <p>13 conversation in which you have received a confession</p> <p>14 that this type of corruption goes on?</p> <p>15 Answer: Yes. Malcolm, Malcolm Plummer."</p> <p>16 So my question is: what kind of conversation did you</p> <p>17 have with Mr Malcolm Plummer?</p> <p>18 A. At the time, we just went to the site not long ago, just</p> <p>19 for a few months, and I was a bit disappointed.</p> <p>20 Especially for the Hung Hom site, this corruption</p> <p>21 problem was widespread and it seemed all natural, and</p> <p>22 Malcolm at the time felt the same. Then he said it's</p> <p>23 a continuous problem for 903, 904, there is nothing he</p> <p>24 could do immediately. 903, 904, that means for the</p> <p>25 Leighton team for the Hung Hom Station site, for the</p>
<p>Page 130</p> <p>1 the excavation and lateral support system, and also the</p> <p>2 completion of the diaphragm wall. The approval is not</p> <p>3 for the EWL track slab. That's all.</p> <p>4 Q. I just want to take you to Day 7 of the transcript,</p> <p>5 page 86, line 24.</p> <p>6 A. (In English) Yes.</p> <p>7 Q. Certain individuals in this room, some of them got it</p> <p>8 and some of them didn't get it. You said -- someone</p> <p>9 asked the question:</p> <p>10 "Who is gaining any advantage, and what is it, from</p> <p>11 this process?</p> <p>12 Answer: Definitely there is advantage for</p> <p>13 Fang Sheung."</p> <p>14 A. Mmm.</p> <p>15 Q. Okay? I'm not going to read the rest. What do you mean</p> <p>16 by advantage of the process?</p> <p>17 A. Someone did the work on behalf of Fang Sheung. Whatever</p> <p>18 the intention was, say the intention was that for the</p> <p>19 threaded section it was difficult to do the connection,</p> <p>20 and it was not something that should have been dealt</p> <p>21 with within the work scope of Fang Sheung, and then</p> <p>22 Leighton found someone to do it for Fang Sheung, then</p> <p>23 naturally of course Leighton should not pay Fang Sheung,</p> <p>24 because it's by measurement, pre-measurement.</p> <p>25 But from what I knew, Fang Sheung ended up getting</p>	<p>Page 132</p> <p>1 management team, that's the project before that, that is</p> <p>2 the two sites for the South Island Line of the MTRCL.</p> <p>3 Q. So in terms of Malcolm Plummer, how many types of</p> <p>4 conversations did you have with him relating to this</p> <p>5 matter?</p> <p>6 A. Several, perhaps, because at the time he saw or he</p> <p>7 noticed too that there were some people who deliberately</p> <p>8 tried to force Chinat to listen to them, and he brought</p> <p>9 me there and asked how we should deal with it. He asked</p> <p>10 for my advice and I said I would stand firm, "We won't</p> <p>11 do it", I said.</p> <p>12 Q. And what did Mr Plummer do afterwards?</p> <p>13 CHAIRMAN: Sorry, you won't do what?</p> <p>14 A. (In English) Corruption.</p> <p>15 MR TO: So what did Mr Plummer do afterwards?</p> <p>16 A. (In English) "Take care of yourself."</p> <p>17 Q. Who said that?</p> <p>18 A. (In English) Malcolm Plummer.</p> <p>19 Q. "Take care of yourself", what does that mean?</p> <p>20 A. That means I just have to handle this myself, and in</p> <p>21 fact not long after, another management team member was</p> <p>22 chased away by MTRCL and it was much easier for me.</p> <p>23 Q. Okay. Let's move on. Mr Pennicott mentioned a few</p> <p>24 things about the gap in reporting. It's in Day 8 --</p> <p>25 I will just go straight to that -- page 20 of the</p>

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<p>1 transcript, line 6.</p> <p>2 A. (In English) Yes.</p> <p>3 Q. I will just read it out:</p> <p>4 "Why did you wait nine months to send a chaser?</p> <p>5 Answer: Because, on 15 September -- actually, since</p> <p>6 the beginning of September, the work for which we were</p> <p>7 responsible was also completed, and that included the</p> <p>8 rectification. Now, actually, at the time, I already</p> <p>9 left the site myself. At the time, I think there was</p> <p>10 one foreman with a few or up to ten people on site,</p> <p>11 that's what's left. So it's almost time that we had to</p> <p>12 leave altogether."</p> <p>13 You haven't answered Mr Pennicott's question, have</p> <p>14 you?</p> <p>15 A. On 6 January 2017, when we issued the first written</p> <p>16 complaint, we did not forward a copy to MTRCL. We just</p> <p>17 wrote to Leighton. But then Raymond from MTRCL notified</p> <p>18 me and said we should not pressure Leighton; they would</p> <p>19 come up with a solution.</p> <p>20 So, from my personal perspective, Raymond -- at the</p> <p>21 time, I knew he was one of the key people that</p> <p>22 communicated with Philco, and I thought that they would</p> <p>23 come up with a solution, and I had total confidence in</p> <p>24 MTRCL. I also said that I need to give them time.</p> <p>25 But eight months down the road, when works were</p>	<p>1 this email? What would you like to say about that?</p> <p>2 MR PENNICOTT: He's just answered that one. We've had that</p> <p>3 one already.</p> <p>4 A. I don't need to elaborate. I already gave</p> <p>5 an elaboration.</p> <p>6 MR TO: Okay, so you don't want to say anything further.</p> <p>7 Now, yesterday you were pretty strong about showing</p> <p>8 us a document relating to B2 or B5. Remember that</p> <p>9 document?</p> <p>10 A. Yes, I recall, a 15 June MTR report.</p> <p>11 Q. Mr Boulding did read out certain paragraphs of that</p> <p>12 report; am I correct in saying that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you have anything you want to say further about this?</p> <p>15 MR BOULDING: Sir, that's not re-examination.</p> <p>16 MR TO: Okay, I will rephrase it.</p> <p>17 Mr Poon, the question last week was: you didn't tell</p> <p>18 MTRC. You did not tell MTRC. Someone else told MTRC,</p> <p>19 according to this report.</p> <p>20 CHAIRMAN: Sorry, I'm just not sure which ...</p> <p>21 MR TO: Maybe I'll take you to the paragraph.</p> <p>22 CHAIRMAN: Yes, thank you. B5.</p> <p>23 MR TO: Give me one second. If you look at the top of B5,</p> <p>24 sir, I'll just read it out:</p> <p>25 "Based on the recollections of all the current and</p>
<p style="text-align: right;">Page 134</p> <p>1 completed, we had to leave the site, I noticed that the</p> <p>2 situation wasn't resolved. I started to contact</p> <p>3 Anthony. Aside from the commercial discussions, aside</p> <p>4 from the disputes over who was responsible for what</p> <p>5 remedial works, I also mentioned whether this situation</p> <p>6 was resolved, and at the time Anthony's attitude, he was</p> <p>7 willing to discuss, and by 15 September he was not</p> <p>8 willing to discuss, and I recall that he said he was in</p> <p>9 Macau and he was not going to talk over the phone and he</p> <p>10 told me to go to the office to take up the matter.</p> <p>11 I thought it was time to deal with this, to resolve</p> <p>12 the issue. That's why, between 6 January and</p> <p>13 15 September, it was some eight months before we raised</p> <p>14 the issue again.</p> <p>15 Q. If you go to C7987, that's one of your famous emails.</p> <p>16 A. Yes.</p> <p>17 Q. If you look at the very top of that email, and you've</p> <p>18 been shown previously this email, you say:</p> <p>19 "Dear Anthony,</p> <p>20 It's already 8 months after our report on the</p> <p>21 captioned concerns on structural safety."</p> <p>22 A. Mmm.</p> <p>23 Q. A few days last week, you were asked questions relating</p> <p>24 to why wait eight months, and why issue this email and</p> <p>25 also why not any other correspondence whatsoever before</p>	<p style="text-align: right;">Page 136</p> <p>1 ex-MTRCL staff members interviewed, none of them</p> <p>2 actually witnessed the threaded sections of the</p> <p>3 reinforcement steel bars being cut. However, two</p> <p>4 members of site staff recall either seeing themselves or</p> <p>5 having reported to them evidence that such cutting had</p> <p>6 taken place, such as a gap between a threaded steel bar</p> <p>7 and a coupler connection to the cut ends of threaded</p> <p>8 steel bars."</p> <p>9 So my question is, if these colleagues from MTRC</p> <p>10 said you mentioned this, why not practically state your</p> <p>11 name or even the company there? Why would they say</p> <p>12 "reported to them"?</p> <p>13 MR PENNICOTT: Sir, this witness can't answer that question.</p> <p>14 Only the MTRC can answer that.</p> <p>15 MR TO: Okay. I will move on then.</p> <p>16 Now, in terms of Day 8 of the transcript --</p> <p>17 CHAIRMAN: But, sorry, that document -- I may have a poor</p> <p>18 memory of it, but that document, when you read it as</p> <p>19 a whole, seems to be talking about MTRC personnel,</p> <p>20 doesn't it?</p> <p>21 MR PENNICOTT: That part of it, certainly, yes.</p> <p>22 MR TO: Sorry about that.</p> <p>23 Day 8, page 32.</p> <p>24 A. Yes.</p> <p>25 Q. At line 8, the chairman said:</p>

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1 "But in broad terms, you're referring to 30,000
2 defective connections into diaphragm walls or other
3 walls or other connections?
4 Answer: In the whole project. I'm saying in the
5 whole project.
6 Chairman: All right. Between couplers and rebars?
7 Answer: Yes.
8 Chairman: Right. So you worked out with your own
9 arithmetic that there must be at least 30,000 --
10 Answer: (In English) Yes, I think so.
11 Chairman: -- such suspect --
12 Answer: Questionable."
13 What does "questionable" --
14 A. (In English) "Questionable" means I'm not 100 per cent
15 certain these 30,000 pieces of connections are problem.
16 But they are questionable to me, with reasonable doubts
17 that they are defective connections.
18 Q. Okay. I'll just move on.
19 In terms of -- there's a letter you were shown,
20 C7984.
21 A. Yes.
22 Q. At Day 8 of the transcript, which we don't need to refer
23 to, there were questions about why insert paragraphs 7
24 and 8, because remember you said you split them, in
25 terms of commercial and other things. Why include them?

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1 A. I had wanted to separate the commercial and technical
2 aspects, but by September 2017 I was in a rush to vacate
3 the site and we were going to start work on the Hong
4 Kong-Zhuhai-Macau Bridge, so I wanted to resolve these
5 issues. So some of issues were mixed up.
6 Q. Okay. I have another one. In terms of C8006.
7 Maybe finish this one and we'll have a tea break,
8 Chairman?
9 CHAIRMAN: Yes, certainly.
10 MR TO: This email --
11 WITNESS: (In English) If not too long, maybe we can defer
12 the tea break so I can go?
13 CHAIRMAN: Is it a long question?
14 MR TO: Not a long question.
15 CHAIRMAN: All right. We'll have this question.
16 MR TO: C8006. This is the famous email you wrote to the
17 Transport Bureau?
18 A. Yes.
19 Q. So this is dated 18 September?
20 A. Yes.
21 Q. If you look at it, the second line of this email, you
22 say:
23 "... reached satisfactory understanding and full
24 clarification ..."
25 MR PENNICOTT: The second line.

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1 MR TO: The second line.
2 A. (In English) Okay. Yes.
3 Q. Why did you issue this email?
4 A. I mentioned that before: because Leighton promised that
5 they would undertake to remedy using the dowel method to
6 deal with the cutting of threaded bars. So this
7 technical issue of cutting the bars, I thought that
8 would be resolved and I had discussed a few technical
9 issues with the government.
10 Q. Just this last question. You wrote a letter to Frank
11 Chan, an email, saying there are problems, and
12 subsequently you wrote another letter to Mr Leung,
13 saying there's no problems. Wouldn't that create
14 a controversy in terms of, one, you say there's problems
15 and subsequently you say there was no problems?
16 CHAIRMAN: Sorry, you have to help me again. Put it into
17 context.
18 MR TO: Put in context, if he wrote a letter to Frank Chan
19 saying there were problems, and subsequently very
20 briefly he wrote another letter to Mr Leung saying there
21 are no problems now.
22 CHAIRMAN: I have fallen behind on this. We probably need
23 the tea break.
24 MR TO: All right. I will come back to it.
25 CHAIRMAN: I think Mr Poon probably also needs the tea

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1 break. 15 minutes.
2 (3.43 pm)
3 (A short adjournment)
4 (3.58 pm)
5 MR TO: Chairman and Commissioner, I'll be quick.
6 CHAIRMAN: Yes.
7 MR TO: Let's move to the transcript of Day 8, page 90.
8 A. (In English) Yes.
9 Q. Have you got that, Mr Poon? If you look at line 2 --
10 this question was asked this morning as well:
11 "In March 2018, you sent an invoice to Leighton for
12 approximately \$14 million."
13 I will move to page 91, line 20.
14 A. (In English) Yes.
15 Q. "It was never paid. It was a typical Leighton
16 practice."
17 What do you mean by that?
18 A. On page 90, there's mention of \$14 million, that's for
19 the 18 September agreement, for some of the materials or
20 frames, Leighton should return them to us, but after six
21 months, Leighton never made good its promise.
22 Then for page 91, line 20, Leighton never paid us.
23 Why did I say it was a typical Leighton practice?
24 Because Leighton actually stole our frames. Or
25 I shouldn't say Leighton; Leighton made the arrangement

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<p>1 or Leighton allowed someone else to take the frames and 2 materials of ours and move them from the Hung Hom 3 Station site, put them in a car and send them away. We 4 called the police, we tried to negotiate with Leighton, 5 but we got nowhere. 6 Q. To move on, if you go to C40. Rather than show you the 7 exhibit, I'll just show you the diagram. C1/40. 8 A. (In English) Okay. 9 Q. You were shown last week, and this was mentioned a few 10 times, this cutter. 11 A. (In English) Yes. 12 Q. You said it was a hydraulic cutter and someone said it 13 is a different type of cutter. Is this the type of 14 cutter that you saw? 15 A. The one that generates sparks wasn't this one. The 16 second occasion was this one. 17 Q. So, from this diagram, what can you see from the 18 diagram? 19 A. Mr Hansford described this as band saw and I saw it on 20 a chain. It was placed on a completed bar works 21 surface. 22 Q. Anything else you want to say about this diagram? 23 MR PENNICOTT: Well, no. 24 A. No. 25 MR TO: We move on quickly to Day 9, page 90.</p>	<p>1 I could collect payment, and second Leighton was also 2 assured that I was willing to complete the works and 3 I was going to comply with the milestone payment and 4 start the works. 5 6 million of that, that should be part of the 6 reimbursement, and I recall Leighton did not pay up, and 7 by 4 January we had stopped work altogether; we did not 8 work -- our staff had arrived on the site but we were 9 not willing to work, and Leighton wrote us a letter and 10 said that they had already a \$6 million cheque and we 11 had to go and collect. 12 So, when I went to their office, Anthony told me 13 there were one or two conditions, and one of the 14 conditions -- aside from the two conditions, there was 15 another basis of understanding that we had to start 16 work, continue production. Another condition was we 17 should not make any reference to the cutting of bars 18 because in December, that is a month prior, Anthony said 19 that the company's position or the company's line was 20 they would not admit to this incident and regarding the 21 fatality in Liantang, the fatal case, we were to 22 cooperate. 23 There were two partners in Liantang, China 24 Technology and another company called FEWA. They were 25 compliant regarding the Karl Speed's requirements. But</p>
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<p>1 A. (In English) Yes. 2 Q. There were a few questions asked of you on this and you 3 mentioned something about this this morning. 4 I will just read from line 9: 5 "The next box, you say: 6 'In fact, Leighton had imposed 2 conditions 7 precedent -- first, Poon must stay silent on the 8 defective steel [bars]; and second, Poon must cooperate 9 with Leighton concerning the Liantang fatal accident.' 10 What I suggest to you is there was no such 11 additional conditions precedent accompanying the offer 12 of 6 million. Do you accept that? 13 Answer: I don't agree." 14 Then you don't really explain anything further. 15 What do you mean by that? 16 A. Well, the 6 million, starting in October 2016, there was 17 a shortfall of funds from Leighton, and Leighton wanted 18 us to sit down together. We wanted to go through the 19 accounting books with our different commercial 20 departments. And by the beginning of December 2016, 21 both sides had already audited the books and agreed that 22 Leighton was owing us 17-plus million. So I pressured 23 Leighton that they had to start paying up. And between 24 10 and 12 December we signed up a milestone payment 25 agreement. It was beneficial to both parties. First,</p>	<p>1 I saw a different scenario. China Technology was trying 2 to list at the time, and if we were too cooperative in 3 the fatality, we might not be able to list forever. 4 So regarding the fatal incident, I insisted that we 5 should find out the truth, we should not cover up the 6 incident, and at the time Leighton also -- they were 7 very clear about that -- any instructions to my staff, 8 especially instructions from China Technology to 9 Liantang, all the only evidence -- should not talk about 10 behavioural issues and I think there was another 11 condition. And on this point I recall I had responded 12 by email, after hearing that condition, and I told the 13 site staff -- I told them to make improvements, and 14 I included those points, and these points, I did not 15 agree to them. That is I was not willing to instruct my 16 workers, when they gave evidence, to tell them what they 17 could say or not say. 18 Q. Okay, Mr Poon. I just have a few more questions and I'm 19 going to finish. 20 In terms of transcript Day 10, page 143. 21 A. Yes. 22 Q. Mr Boulding, my learned friend said -- he just basically 23 said, at the top, line 1: 24 "And you had witnessed that. Why were you concerned 25 about alerting them?"</p>

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1 Basically, you said:
 2 "Actually, if you take pictures of people in the
 3 construction site, you'll get your phone thrashed.
 4 Question: Oh, well.
 5 Chairman: Sorry, 'you get thrown' or 'phone'?"
 6 So what are you trying to say here?
 7 CHAIRMAN: I think it's obvious, isn't it, from just reading
 8 it? In other words, if you take a blatant photograph of
 9 one of the workers, he may not view that with kindness
 10 and may take your telephone and break it?
 11 MR PENNICOTT: Indeed.
 12 CHAIRMAN: Or bash it.
 13 A. (In English) Yes, exactly.
 14 MR TO: Okay. Thank you. Move on.
 15 This morning you were taken to a document called
 16 B13674. That's from the MTR, Raymond Au. Do you
 17 remember seeing this?
 18 A. (In English) Yes.
 19 Q. I will take you to paragraph 3. Mr Au said, at the very
 20 last line:
 21 "... and I only had one very short telephone
 22 conversation with him as set out below."
 23 And you answered this morning that is not correct.
 24 A. Mmm.
 25 Q. Can I show you another document which you mentioned this

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1 morning. D722.
 2 A. (In English) Yes.
 3 Q. If you go to the next page, D723 --
 4 A. (In English) Yes.
 5 Q. -- first of all, can you tell us what these documents
 6 are?
 7 A. (In English) D723 to 726 ...
 8 (Via interpreter) These are my requests to the phone
 9 service provider. I asked them to provide a phone call
 10 record. And D722, I asked my office secretary to look
 11 up Dr Philco Wong, and our phone records with
 12 Mr Raymond Au. These are our phone records. At the end
 13 of "722", those are Dr Philco Wong's mobile phone
 14 conversations. At the end of "733", those are
 15 Mr Raymond Au's phone calls.
 16 So we have some initials. "PW" stands for Philco
 17 Wong and "R" stands for Raymond. I forgot what his last
 18 name was so we don't have the "A". And we see Raymond
 19 in 2017, 6 January all the way to 15 September, I had
 20 a total of eight phone conversations with Raymond, and
 21 these were connected calls, so I did not include the
 22 phone rings, also did not include the office calls
 23 because we don't have records for that. We only have
 24 records for mobile phone calling mobile phones.
 25 Q. Okay. So 722 is a summary?

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1 COMMISSIONER HANSFORD: Sorry, before we move from there,
 2 some of them are about three seconds or four seconds; is
 3 that right?
 4 A. Yes.
 5 COMMISSIONER HANSFORD: You can't say much in three or four
 6 seconds, or I can't.
 7 A. Because it hung up because of the poor connection.
 8 MR TO: So this is a summary -- D722?
 9 A. (In English) Yes.
 10 Q. So we move on. If you go to D723.
 11 A. (In English) Yes.
 12 Q. So you've written at the bottom there, "PW", so that's
 13 Philco Wong?
 14 A. Yes. On 9 October, on D723 to the left-most, there's
 15 a handwritten blue "PW" initial, that was 12 September,
 16 5.25 in the afternoon.
 17 Q. Can you turn to D724.
 18 A. On 724 to the left-most, we have in blue, we have "R",
 19 those are the phone calls with Raymond.
 20 Q. Okay. And if you go to D725.
 21 A. It's the same. On the left-hand side, we see phone
 22 calls to Raymond.
 23 Q. Lastly, D726.
 24 A. On 726, on the left-hand side, we have one entry,
 25 a phone call with Raymond. And I repeat, I only

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1 recalled their mobile phones. The office numbers, the
 2 office numbers changed, so I didn't highlight the other
 3 office numbers.
 4 Q. Okay. My last two questions. One is Mr Richard Khaw
 5 asked you a question this morning about honeycombing,
 6 and one of the words you mentioned was "has
 7 reservation".
 8 A. Yes.
 9 Q. Why reservation?
 10 A. The significant reservation and the principle that
 11 I stick to is that it is difficult to fathom out how
 12 much threaded bars was cut, which location was the
 13 threaded bar cut, and how widespread the threaded bars
 14 were cut.
 15 But I think the evidence points to the concrete
 16 structure. The incident I observed was when we left
 17 site in 2017 and in May 2018, we needed to find our
 18 framework on the site and at the time there was
 19 a superintendent from Leighton, his name is Jayden, he
 20 allowed us on the site to go look for the framework, and
 21 we took a series of pictures. The scenario we observed
 22 was that in the middle of 2016 all the way to September
 23 2017, the photographs -- what you can identify from the
 24 photographs, the concrete defects, they had been
 25 remedied, and subsequently, by September 2017 all the

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1 way to May 2018, we could clearly see that the
 2 ventilation shafts, the E&M, the fire safety equipment,
 3 or even the false ceilings, all that had been installed.
 4 And I had the impression, an immediate impression, why,
 5 in January 2016, when roughly all the works in
 6 areas B/C, the EWL track slab work was completed, some
 7 three years had transpired and -- maybe two and a half
 8 years rather, and by August 2016 Leighton or MTRCL had
 9 discovered some defects.
 10 The reason was that, in August 2016, even the E&M
 11 works had already been installed. So even if they
 12 wanted to go look at the concrete, it was very hard to
 13 identify.
 14 So based on the Atkins report or the CEEK report, we
 15 can see from the bundles that the alleged honeycomb
 16 locations or the alleged concrete defects locations, and
 17 we had compared that to our own photograph records and
 18 there were no honeycombs. There was no visible concrete
 19 defects. There were isolated areas where there were
 20 some stains, some mud stains. But then why would there
 21 be instructions asking for the concrete to be chipped
 22 away?
 23 And when we took a look at the pictures, we were
 24 shocked, because all the metal bars were exposed after
 25 the concrete was chipped away, and up till now I cannot

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1 find an explanation for that. So, if we have such
 2 a severe concrete defect -- so between February and
 3 September 2017, there was no way that we couldn't have
 4 discovered that during inspection, during a large
 5 inspection. If you are talking about small parts, that
 6 might be the case, but for such a large, widespread
 7 area, there's no way you couldn't have discovered that.
 8 Now, in fact, MTRCL and Leighton, the pictures, we
 9 see all the concrete has been chipped away and all the
 10 metal bars are exposed, everything is exposed, and the
 11 impression it gives is that it's a very exaggerated
 12 scenario and I have doubts.
 13 Q. Okay. Mr Khaw also asked you a question as to who else
 14 was responsible and you did not respond. Why?
 15 CHAIRMAN: Responsible for ...?
 16 MR TO: For this kind of repair/maintenance related to the
 17 honeycomb.
 18 A. (Chinese spoken).
 19 CHAIRMAN: Just, if it's possible, a simple/quick answer
 20 would be good, mainly because I don't lose my track on
 21 these matters.
 22 A. The simplest way to put it is this. I saw what is now
 23 shown in the photos. Sometimes, because the steel were
 24 too close to each other so the concrete couldn't go
 25 through, that's a possibility. Another case seems to be

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1 just a mud stain and Leighton cleaned the mud stain.
 2 Because Leighton did not clear the mud, that's why some
 3 mud was stuck at the ceiling. After Leighton cleared
 4 the mud, some of the concrete were chipped away. I do
 5 not rule out that there could be some honeycomb hidden
 6 there, it could be our responsibility. But in any case,
 7 I went to look at the site and I saw -- I could only
 8 judge by taking a site inspection myself and compare it
 9 to the photos, but when I got there, it doesn't mean
 10 that it would be entirely the responsibility of Chinat.
 11 I won't rule it out. If it is our responsibility, we
 12 will take responsibility. But I can see from the photos
 13 there could be various possibilities.
 14 MR TO: Mr Chairman, just one last question. Maybe I will
 15 get permission for this. It goes towards his
 16 credibility. Before I put it to him, I was going to ask
 17 him the key thing is whether he has any criminal
 18 convictions or bind-overs.
 19 CHAIRMAN: He's already given a statement and in that
 20 statement he says, as I understand it, that he's a man
 21 of good character and the rest of it. Nobody has
 22 suggested that he is not a man of good character, and
 23 unless you want to prove otherwise, which I doubt, then
 24 I don't see we need to visit it.
 25 MR TO: Thank you. Unless I can be of further assistance,

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1 that's my re-examination.
 2 CHAIRMAN: No. Thank you very much.
 3 MR BOULDING: Sir, just before my learned friend sits down,
 4 could I just ask for D723 to be put up on the screen
 5 again. It may well be I've missed something. This is
 6 152 of the transcript today, it's [draft] line 4:
 7 "Answer: Yes. On 9 October, on D723 to the
 8 left-most, there's a handwritten blue 'PW' initial, that
 9 was 12 September, 5.25 in the afternoon.
 10 WITNESS: This is 9 December.
 11 MR BOULDING: Thank you.
 12 MR TO: Thank you for clarification.
 13 Questioning by THE COMMISSIONERS
 14 COMMISSIONER HANSFORD: Thank you, Chairman.
 15 I have one question, Mr Poon, regarding your own
 16 supervisors, supervisors employed by Chinat.
 17 A. Yes.
 18 COMMISSIONER HANSFORD: Do you have any minimum levels of
 19 training or qualifications or experience that you
 20 require before you appoint assistant foremen, foremen or
 21 superintendents?
 22 A. For assistant foreman, no, there is no such requirement.
 23 For assistant foreman, I want mostly that person to be
 24 honest and hard working. For foremen, superintendents,
 25 engineers, and so on, they must all go by their

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<p>1 qualifications, and some actually were poached from the 2 main contractor. Some from poached from Leighton, 3 actually. 4 COMMISSIONER HANSFORD: Just following on from that, to 5 promote from assistant foreman to foreman, do you have 6 any required -- 7 A. (In English) Yes. 8 COMMISSIONER HANSFORD: Qualifications or experience or 9 training? 10 A. For A4 level people, I require them to study, so they 11 could get certificates or higher certificates before 12 I would promote them. In other words they must reach at 13 least a T1 level on the supervision plan. That's the 14 Hong Kong system. So they must reach at least a T1 15 standard before I would promote them. 16 COMMISSIONER HANSFORD: Thank you. 17 MR PENNICOTT: Right, sir. Unless anyone else wants to ask 18 Mr Poon anything, that's it. 19 CHAIRMAN: No. Mr Poon, I think the marathon is complete. 20 All right? You may of course be required to come back 21 to answer a question or two, if some new issue comes up, 22 but for the time being you are excused, and thank you 23 very much for your attendance. 24 WITNESS: (In English) Thank you really very much. 25 (The witness was released)</p>	<p>1 give evidence to the Commission. We do apologise for 2 having kept you waiting. 3 Mr Chui, you have prepared one mercifully short 4 witness statement for us and you are about to be given 5 a copy of it. It's at bundle I, page 21, in the English 6 version, translation, and at I19 in the Chinese. 7 You are looking at the Chinese version, I think; is 8 that right? 9 A. Yes, correct. Correct. 10 Q. This is a witness statement you made on 21 September 11 2018; is that right? 12 A. Correct. 13 Q. Is that your signature we see on page I20? 14 A. Correct. 15 Q. Mr Chui, can you confirm that you wish to adopt the 16 contents of this statement as your evidence to the 17 Commission? 18 A. Yes. 19 Q. Mr Chui, I understand that you are 20 a director/shareholder/owner of Hung Choi; is that 21 right? 22 A. Correct. 23 Q. You've been in operation, in business, for about 24 11 years as Hung Choi? 25 A. Yes.</p>
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<p>1 MR PENNICOTT: Sir, perhaps we could have a clear-up of the 2 desk. 3 CHAIRMAN: Yes. 4 MR PENNICOTT: I see we've got 35 minutes. We have Mr Chui, 5 who is, you may recall, from Hung Choi. He's been here 6 all day, or certainly all afternoon. I'm not planning 7 to be very long with him. I've got a few questions but 8 not very many. Unless somebody behind me is going to 9 tell me they've got lots of questions and we can't 10 finish him tonight, I would certainly propose that we 11 call him now and try to deal with him in the next half 12 an hour or so. 13 CHAIRMAN: I think so. He has been waiting for a while. 14 MR PENNICOTT: I don't really want to trouble him to come 15 back tomorrow morning if we can avoid it. In that case, 16 perhaps somebody can locate Mr Chui. 17 Sir, as you recall, this is going to be retracing 18 our steps a bit back to the diaphragm wall. 19 Mr Chui, could you state your full name, please? 20 WITNESS: Chui Tim Choi. 21 MR CHUI TIM CHOI (affirmed in Puntì) 22 (All answers given via simultaneous interpreter 23 except where otherwise specified) 24 Examination by MR PENNICOTT 25 MR PENNICOTT: Mr Chui, thank you very much for coming to</p>	<p>1 Q. What you do, your business, is bar bending and fixing; 2 that's your primary business, is that right? 3 A. Yes, bar bending and so on. 4 Q. Yes. Are you a qualified bar bender/fixer yourself, 5 Mr Chui? 6 A. Yes, correct. I've been in this trade for at least 7 30 years. 8 Q. Right. About the same time as I've been a lawyer, 9 Mr Chui. Plenty of experience, Mr Chui. 10 Now, Mr Chui, help me with this. With regard to 11 this project, we know that you were sub-contracted to 12 Intrafor? 13 A. Yes. 14 Q. Can you tell us: you yourself, personally, did you spend 15 most of your time, when your company was carrying out 16 the bar bending works, the fabrication of the cages, at 17 the site? 18 A. No, not really, because I have other sites. For this 19 site, I left it to staff. His surname is Wong. He's 20 responsible for all the Hung Hom site works. 21 Q. Yes, we've heard from Mr Wong already; it seems like 22 a long time ago. Mr Chui, how much of your time did you 23 spend at the site, approximately? 24 A. Usually, when there were meetings, then we would be 25 asked to go on site to talk about progress and then</p>

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1 I would go to the site.
2 Q. Mr Chui, are you generally familiar with the process of
3 fabricating the rebar cages that you did for Intrafor
4 under your sub-contract?
5 A. Yes, I know that.
6 Q. Right. Mr Chui, can you ask you this: we know that as
7 part of the fabrication of the cages, you had to fix
8 couplers, as we call them, onto the rebar cages, so that
9 when the diaphragm walls were concreted, subsequently
10 the couplers would be exposed so that somebody else
11 could come along and screw in the rebar into the
12 couplers; do you understand me?
13 A. Yes, I heard what you said.
14 Q. Now, when you are fixing the couplers in that sense --
15 and I'm not talking about the couplers that fix one
16 rebar cage to the next, I'm talking about the couplers
17 that come out the side -- we know that you put a red cap
18 on the end of the coupler; would that be right?
19 A. Are you talking about the threaded head that is reserved
20 for future coupling?
21 Q. Yes, I am.
22 A. As far as I understand, there was some red plastic tape
23 wrapping the head just so that it wouldn't be damaged.
24 That was the purpose.
25 Q. Yes, understood. Apart from that red cap or red tape,

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1 protective covering, is there any other form of
2 protection of those couplers to prevent them getting
3 damaged, or is the red tape or the red cap the extent of
4 the protection?
5 A. Before the concreting, we preserve the head, and we also
6 have polystyrene to cover the threads, and we have
7 a covering to prevent it being disturbed by concrete.
8 Q. Right. Perhaps I could just make sure I've got this.
9 You've got the red tape or red cap, then you have some
10 polystyrene covering. Precisely where is that? What is
11 it actually covering; the whole of the coupler, part of
12 the coupler?
13 A. The whole threaded section. It would cover the whole --
14 all the threads. So however big the rebar cage was, we
15 would have to cover it up.
16 Q. All right. And have you yourself -- we know that the
17 sub-contractor that did the rebar fixing for the slab,
18 ie the sub-contractor was screwing in the rebar into the
19 couplers that you had put into the cages or onto the
20 cages, was Fang Sheung. Do you know Fang Sheung? Have
21 you heard of them?
22 A. I don't know them.
23 Q. Okay. They were the rebar fixers for the slab, so they
24 were responsible for getting the rebar and screwing the
25 rebar into the couplers that you had provided. Take it

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1 from me.
2 Have you personally done that sort of work?
3 A. No. In my recollection, I haven't done that kind of
4 work.
5 Q. So you specialise in the rebar cages and the like for
6 diaphragm walls; is that right?
7 A. We also do bar work. It also includes the diaphragm
8 wall.
9 Q. Right. But you've got no experience of actually
10 screwing rebar of maybe 4 or 6 metres in length into
11 couplers?
12 A. You are talking about installing, screwing them in;
13 right?
14 Q. Yes.
15 A. Yes, I did screw it in. It's very easy to screw it into
16 the coupler.
17 Q. Maybe I'm not making myself clear. I know that you
18 didn't in this contract, because Fang Sheung did the
19 work, screw 6 metre lengths of rebar with a threaded end
20 into the coupler, not on this contract. I just wondered
21 if you'd had any experience of that type of work
22 yourself. I think you told me no but perhaps I didn't
23 make myself clear.
24 A. I have done that kind of work in the past, but not what
25 you described just now. I have done that kind of work

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1 on other sites.
2 Q. Okay. What I wanted to ask you, Mr Chui, was whether
3 you had any experience of screwing, let's say, a 6 metre
4 length of rebar into a type A coupler, and if so you
5 could help us with how long that would normally take, to
6 do one piece of rebar?
7 A. I have not done that personally. My staff might have.
8 Q. All right. Mr Chui, help us with this. Going back to
9 the couplers and the protection that you mentioned, can
10 you think of ways in which those couplers might --
11 "might" -- become damaged?
12 A. How it would be damaged?
13 Q. Yes.
14 A. It's hard to say. It has a covering. Unless the
15 covering is missing, let's say you have a machine to
16 damage it, then it might be damaged. But I think the
17 possibility is slim.
18 Q. Okay. Were you aware of how the couplers that you had
19 provided were actually exposed on the wall? Did you
20 know how that exposure took place; any knowledge of
21 that?
22 A. What do you mean by the coupler being exposed? Could
23 you elaborate?
24 Q. Sure. You provided the cage. It's got a coupler on.
25 What then happens is the diaphragm wall is concreted,

<p style="text-align: right;">Page 161</p> <p>1 and my understanding is that the coupler is essentially 2 covered in concrete. Albeit not very thick, but it's 3 covered in concrete. So in order to get access to the 4 couplers, they have to be exposed in some way, and I'm 5 just asking you if you know the way in which they were 6 exposed, what methods were used. 7 A. I don't know. I'm not in contact with that work. 8 MR PENNICOTT: All right. Thank you very much, Mr Chui. 9 I have no further questions. 10 MR JAT: Sir, one clarification. I think the witness, when 11 he talked about using the polystyrene to cover the 12 coupler, he did say covering, I think the witness did 13 say 5 millimetre boards for the covering. That was not 14 in the transcript? 15 A. The polystyrene would be very thick. It's more than 16 5 millimetres. In my recollection, it's some 17 30 millimetres of polystyrene, and there's also 18 a 5 millimetre board that covers the polystyrene. 19 COMMISSIONER HANSFORD: Sorry, could I just understand: is 20 the polystyrene between the coupler and the face of the 21 diaphragm wall, or is the polystyrene inside the 22 coupler, protecting the threads on the inside? Where is 23 the polystyrene? 24 A. It covers the reserved coupler. The reserved coupler 25 has, let's say, 1 metre. Then the polystyrene has to be</p>	<p style="text-align: right;">Page 163</p> <p>1 wrapping some tape or putting a plastic cap on them, but 2 you also put polystyrene and cardboard in order to block 3 out concrete and things like that causing damage? 4 A. Yes. That's what the contract requires, that's the work 5 we have to perform. 6 CHAIRMAN: Thank you. 7 MR SO: Sir, just a couple of very, very short questions, if 8 I may. 9 CHAIRMAN: Yes. 10 Cross-examination by MR SO 11 MR SO: Mr Chui, you told this Commission just now, when you 12 were asked by my learned friend Mr Pennicott, that your 13 company also does other rebar fixing works? 14 A. Yes. 15 Q. In the 30 years you were in the profession, did you 16 experience any situation where the threaded ends of the 17 rebars have to be cut? 18 A. I have never done that. 19 MR SO: Thank you. No further questions. 20 MS CHONG: I have no questions. 21 MR WILKEN: No questions for this witness either. 22 MR BOULDING: None from me, sir. 23 CHAIRMAN: Mr Khaw? 24 MR KHAW: No questions from me. 25 CHAIRMAN: Thank you.</p>
<p style="text-align: right;">Page 162</p> <p>1 1 metre. It's not just covering the threaded head. 2 They might have a lot of threaded heads. It is a large 3 covering, and then on top of that there's a board, and 4 on the sides we have some clips to ensure there's extra 5 protection, that it won't be splashed by concrete. 6 COMMISSIONER HANSFORD: I see. So if there are a number of 7 couplers, multiple couplers, there's then one board over 8 the top of the couplers; is that what you are saying? 9 A. Yes, correct. 10 CHAIRMAN: So would it follow -- I know it's not part of 11 your work, but once you have installed the diaphragm 12 walls in this way, if anyone now wanted to gain access 13 to the couplers, they would have to chip away some 14 concrete, and then move away the cardboard and 15 polystyrene protections? 16 A. Yes. After the bar bending work, that is the next batch 17 of work that has to be done. It's not our work. 18 CHAIRMAN: All right. Once they have done that, then they 19 are going to see the actual couplers themselves covered 20 in red plastic or red tape? 21 A. As you said, if they remove the boards, they would see 22 that. They would see the couplers and they have plastic 23 covers, plastic caps. 24 CHAIRMAN: Good. So the protection that you put in place to 25 try to prevent couplers being damaged is not only by</p>	<p style="text-align: right;">Page 164</p> <p>1 COMMISSIONER HANSFORD: I have one question, if I may. 2 CHAIRMAN: Yes. 3 Questioning by THE COMMISSIONERS 4 COMMISSIONER HANSFORD: When you are fixing the couplers to 5 the reinforcement, how do you ensure the correct 6 alignment for those couplers? How do you ensure they 7 are perpendicular to the diaphragm wall and that they're 8 not at a different alignment either vertically or 9 horizontally? How do you keep them in the correct 10 alignment? 11 A. I'll go by the drawings, so at which location, where we 12 put the coupler, we will do it, and then we would tie it 13 tight with tie wires. 14 COMMISSIONER HANSFORD: Right. It wasn't my question how do 15 you make sure they are in the right location. 16 I understand you follow the drawing. My question is 17 more about the alignment. How do you stop them from 18 moving sideways or up or down? How do you keep them in 19 the correct alignment? Once they are in the right 20 position, how do you fix them so they don't move? 21 A. Yes, that's why I said my workers would tie them tight, 22 because usually their locations would be marked and so 23 for every coupler, we would tie it tight. That is 24 before concreting, they would check it all before 25 concreting is done. It's to make sure it doesn't move.</p>

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<p>1 Because if the couplers are moving they would tell us 2 and ask us to tie them tight and we would do it again. 3 After concreting, if the couplers become deformed or 4 whatever, then I wouldn't know, but that is before that, 5 we would definitely tie them tightly. Of course, there 6 would be someone supervising that. 7 COMMISSIONER HANSFORD: Thank you. So is it part of the 8 supervision to check that they are tight? 9 A. Definitely. Definitely. They would probably shake it 10 or move it. They would check it, always. Otherwise, 11 they would make us do it again, if it's not good enough. 12 COMMISSIONER HANSFORD: Thank you. 13 CHAIRMAN: Yes. Thank you very much indeed. That's all we 14 need to receive from you. You've been of great 15 assistance. Thank you for your patience today. We 16 don't need to keep you any longer. Thank you. 17 (The witness was released) 18 Yes. 19 MR PENNICOTT: Sir, I see it's 4.46. The next two witnesses 20 will be from Fang Sheung, so I suggest we perhaps start 21 with them and have a clean run in the morning. 22 CHAIRMAN: Certainly. That sounds sensible. 23 MR PENNICOTT: Because we are going to have to have musical 24 chairs anyway. 25 CHAIRMAN: Yes, of course. Thank you very much. Then we</p>	<p>1 INDEX 2 PAGE 3 MR POON CHUK HUNG, JASON (on former oath)1 4 Cross-examination by MR BOULDING1 (continued) 5 Questioning by THE COMMISSIONERS36 6 Cross-examination by MR KHAW44 7 Further examination by MR PENNICOTT93 8 Re-examination by MR TO109 9 Questioning by THE COMMISSIONERS152 10 (The witness was released)153 11 MR CHUI TIM CHOI (affirmed in Punt)154 12 Examination by MR PENNICOTT154 13 Cross-examination by MR SO163 14 Questioning by THE COMMISSIONERS164 15 (The witness was released)165 16 17 18 19 20 21 22 23 24 25</p>
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<p>1 are adjourned until tomorrow morning at 10 am. 2 MR PENNICOTT: Thank you, sir. 3 (4.46 pm) 4 (The hearing adjourned until 10.00 am the following day) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	