

1 Thursday, 15 November 2018

2 (10.00 am)

3 MR SO YIU WAH, GABRIEL (on former affirmation in Punti)

4 Cross-examination by MR BOULDING

5 MR BOULDING: Good morning, sir. Good morning, Professor.

6 Good morning, Mr So. I'm acting for MTR and I would
7 like to ask you just one or two questions about
8 supervision of the works on site, if I may.

9 A. 明白。

10 Q. Yesterday, Mr Chow, who is counsel for the government,
11 referred you to a couple of photographs, and we need to
12 look at those.

13 Could you be shown D1/228.

14 Do you remember discussing that photograph with
15 Mr Chow?

16 A. 記得。

17 Q. Just to remind you of another photograph you were taken
18 to, could we go to D1, page 232.

19 Again, just to set the scene for our discussion, do
20 you remember being asked questions about that photograph
21 by Mr Chow?

22 A. 記得。

23 Q. The transcript records that Prof Hansford asked you
24 about the working hours of your supervision team, and
25 your answer was that you were working from 8 am to 6 pm.
26 Do you remember telling the good professor that?

1 A. 記得，正常嘅工作時間。

2 Q. Prof Hansford then pointed out to you, did he not, that
3 both of these photographs were taken on 22 September
4 2015, but after 6 pm; do you remember that?

5 A. 記得。

6 Q. At Day 18, page 157, lines 8 to 18, you explained, did
7 you not, that if overtime working was agreed with the
8 sub-contractor, Leighton's supervision would be arranged
9 to monitor the works; do you recall that?

10 A. 正確。

11 Q. Now, looking back at the photographs, if we may --
12 D1/228 and D1/232 -- I'm going to ask you whether or not
13 you can identify that area.

14 For that purpose, I would invite your attention to
15 a document at B5/2902.

16 I don't know, Mr So, whether you will have seen this
17 document before, but it's the EWL track slab
18 construction pour summary. Do you see that title across
19 the top?

20 A. 我睇到個summary。

21 Q. If we look at this document, we can see how IT works.
22 In the column on the left you've got the location; do
23 you see that?

24 A. 見到。

25 Q. Then we can forget folder number for the time being, but

1 then there's a reference to the bay number; do you see
2 that?

3 A. 見到。

4 Q. And all of the bays in each area of the EWL are
5 identified, are they not?

6 A. 係。

7 Q. Then we've got a column entitled, "Completion of
8 blinding", but for present purposes I don't think I need
9 to take you there.

10 But then do you see a column entitled, "Commencement
11 of rebar"?

12 A. 見到。

13 Q. Then "Completion of rebar" is the next column; do you
14 see that?

15 A. 見到。

16 Q. Then a "Concrete pour date"; do you see that, Mr So?

17 A. 見到。

18 Q. If we scroll down in this summary and we look at
19 area C1 -- do you see area 1 under the "Location"?

20 A. 見到。

21 Q. And when you look at area C1, bay 4, under the column
22 entitled "Bay no."-- do you see that?

23 A. 見到。

24 Q. Then if you would be kind enough to cast your eyes
25 across to the column entitled, "Commencement of

1 rebar" -- do you see that?

2 A. 見到。

3 Q. Do you see a commencement date of 14 September 2015?

4 A. 見到。

5 Q. Then if we go to "Completion of rebar" column, do you
6 see a completion date for rebar of 26 September 2015?

7 A. 見到。

8 Q. Then, finally, a concrete pour date of 29 September
9 2015; do you see that?

10 A. 見到。

11 Q. You can take it from me, Mr So, that this track slab
12 construction pour summary shows that the only bay, in
13 fact the only area, in the EWL track slab where rebar
14 work was going on on 22 September was area C1, bay 4.
15 Will you take that from me?

16 A. 係。

17 Q. Then if we go back to the photos -- D1/228 -- go to
18 D1/232, if you would be kind enough -- we can see there,
19 can we not, that the workers, who I don't think you were
20 able to identify, are carrying out rebar work; is that
21 correct?

22 A. 正確。

23 Q. In those circumstances, taking account of this EWL track
24 slab construction pour summary, the likelihood, the
25 strong likelihood, I suggest, is that this photograph,

1 on 22 September 2015, is showing work going on in
2 area C1, bay 4; that would be right, wouldn't it?

3 A. 應該係。

4 Q. Now, I wonder if you would be kind enough to look at
5 another document with me, please. We get this document
6 at bundle B5, SD6164.

7 So here we are. I don't suppose you will have seen
8 this document before, Mr So, but you will see it's got
9 the MTR logo on, and in the second part of the bar at
10 the top do you see that it says, "Site diary"?

11 A. 見到。

12 Q. And it's for contract no. 1112.

13 Then if we could look, please, at bundle B5, tab 45,
14 SD6166 -- so we are moving on a couple of pages -- and
15 just to get the date again, do you see in the top
16 right-hand corner that there's a reference to
17 22 September 2015?

18 A. 見到。

19 Q. Then if you'd be kind enough to scroll down so we can
20 see what's at the bottom of the page -- do you see a bar
21 at the bottom headed, "Remarks"?

22 A. 見到。

23 Q. And under the "Remarks" column, you can see, can you
24 not, that someone has written in a blue pen various
25 things concerning what was going on in parts of area C

1 of the EWL slab; do you see that?

2 A. 見到。

3 Q. For present purposes, I'm interested in area C1, bay 4,
4 because of the answers you've given me already.

5 Do you see there written, "3 concrete breaker until
6 19:00"; do you see that?

7 A. 見到。

8 Q. And then, "17 rebar fixer until 22:00"?

9 A. 見到。

10 Q. Then, "1 rigger & 1 carpenter until 23:00"; do you see
11 that?

12 A. 見到。

13 Q. And on the basis that this is recorded in MTR's site
14 diary for 22 September 2015, and signed off by various
15 inspectors of works -- do you see that, signed off by
16 Tony SH Tang, dated 22 September 2015, and endorsed by
17 the senior inspector of works, a Mr Pedro So.

18 We can see it's signed off, can we not, by a Mr Tony
19 Tang on 22 September 2015; do you see that?

20 A. 見到。

21 Q. He's an inspector of works; correct?

22 A. 係。

23 Q. On the basis that this work and indeed various other
24 works are recorded, but on the basis that the work for
25 C1, bay 4 is recorded here and signed off, I assume that

1 you would regard that as being agreed overtime; that
2 would be right, wouldn't it?

3 A. 根據呢個summary，係。

4 Q. So, if it was agreed overtime, do I understand that
5 Leighton's supervisors, Leighton's inspectors, would
6 have stayed on the site after 6 pm to supervise that
7 work and inspect it as necessary; would that be correct?

8 A. 如果係plan咗，係，絕對嘅，係。

9 Q. We can see, can we not, that Mr Tang has signed it on
10 22 September 2015, and can I suggest that it's
11 reasonable to infer from that that Mr Tony Tang would
12 have witnessed that work going on and indeed recorded
13 that fact or evidenced that fact by signing off this
14 document; is that the way you would understand it?

15 A. 可以。

16 Q. So, on that basis, it would also appear, would it not,
17 that MTR inspector of works, Mr Tony Tang, was on site,
18 certainly up until 23:00 hours on that day, because
19 that's when the rigger and the carpenter are recorded as
20 working until? Is that the way you'd understand that?

21 A. 我睇到個summary，係。

22 Q. I wonder whether I can put a document to you, Mr So --
23 and I do apologise, sir, in advance, because at the
24 moment this has not been disclosed but it's
25 a two-page email and I wonder whether I can hand it

1 around and of course disclose it and put it in the
2 bundle in the normal way.

3 CHAIRMAN: Yes, of course.

4 MR BOULDING: I'm much obliged. Thank you very much.

5 (Handed).

6 Do you have that document yet, Mr So?

7 A. No.

8 Q. Sorry. (Handed).

9 You will not have seen this document before, Mr So,
10 but do you see the heading, "Re: extended hours work on
11 22 September 2015". Do you see that?

12 A. 見到。

13 Q. Just for the record, we're talking, are we not, about
14 the very same day upon which the photographs D1/228 and
15 D1/232 were taken; correct?

16 A. 正確。

17 Q. It's an email from Mr Andy Wong to various persons.
18 Andy Wong, you will know, was an assistant inspector of
19 works who worked for MTR; that's correct, isn't it?

20 A. Andy Wong, 我唔記得嗰個名。

21 Q. Okay. He's coming to give evidence in due course, but
22 let's see how we go.

23 We can see, can we not, that the email goes to
24 a multitude of people, including a Tommy Leong. Did you
25 know that he was another inspector of works? Is that
26 someone you knew?

1 A. Tommy Leong, 我識。

2 Q. And also a Kobe Wong. Did you know Kobe Wong?

3 A. Kobe Wong, 我識。

4 Q. He's coming to give evidence, and he was, was he not,
5 an inspector of works; correct?

6 A. 冇錯。

7 Q. If we look at the date of the email, we can see that
8 it's sent on 22 September 2015; do you see that?

9 A. 見到。

10 Q. And at Hong Kong time 22:24:25?

11 A. 係, 冇錯。

12 Q. So it's pretty late in the day, is it not?

13 A. 冇錯。

14 Q. Then we've got a whole load of attachments which for
15 present purposes I don't need to go to with you, but do
16 you see that Andy Wong is saying:

17 "Dear all,

18 Attached please find photos for the captioned and
19 manpower summary as following".

20 Do you see that, Mr So?

21 A. 見到。

22 Q. Then there are, are there not, a whole load of areas
23 from contract 1112 which are referred to by Andy Wong?

24 A. 見到。

25 Q. But the part of the document that I'm interested in for

1 present purposes is that bit which starts at the top of
2 the second page. There, do you see a reference to
3 area C1-4?

4 A. 見到。

5 Q. And that of course is the same bay, bay 4, area C1, that
6 we've been discussing over the course of the last five
7 minutes or so, is it not?

8 A. 係。

9 Q. If we look below that, we can see, can we not, that Andy
10 Wong is recording the workers who were engaged working
11 on area C1, bay 4, from 6 o'clock in the evening to
12 10 o'clock in the evening; is that the way you
13 understand it?

14 A. 見到。

15 Q. Looking down -- I'm not going to go through them all --
16 but, for example, we can see that he's recording
17 18 steel fixers?

18 A. 見到。

19 Q. If we were to carry out a comparison between the content
20 of this document and the site diary, whilst there are
21 a couple of discrepancies --

22 COMMISSIONER HANSFORD: Can we blow up the corner of the
23 diary, please, on the screen.

24 MR BOULDING: Sorry, sir.

25 COMMISSIONER HANSFORD: It's not you.

1 That's it.

2 MR BOULDING: Broadly speaking, what I suggest to you,

3 Mr So, broadly speaking, is that what Andy is recording
4 agrees with what Tony Tang is recording. Andy Wong has
5 got 18 steel fixers, Tony Tang has 17 rebar fixers.

6 There are three labourers in Andy Wong's email, which

7 I take to be the three concrete breakers. Then we've

8 got some riggers, a mobile crane with an operator and

9 the crane lory -- that doesn't seem to appear in the

10 site diary -- and the activity, do you see that, "Steel

11 fixing of EWL slab and preparation works for

12 waterproofing, shift cable wheel"; do you see that,

13 Mr So?

14 A. 見到。

15 Q. So, again, and it must follow, for Andy Wong, an MTR

16 inspector of works to have recorded that at almost half

17 past ten on 22 September 2015, it must follow, mustn't

18 it, that he was there on site to see that and record it;

19 that must be right, mustn't it, Mr So?

20 A. 正常係。

21 MR BOULDING: Thank you very much, Mr So. I've got no

22 further questions.

23 Thank you, sir. Thank you, Professor.

24 CHAIRMAN: Thank you. Is there anybody else? No.

25 MR SHIEH: Mr Chairman, I have no re-examination, but there

26 is one point on the transcript which I would wish to

1 draw to your attention which the Commission may find
2 helpful.

3 The Commission may remember that yesterday, when
4 Mr Chow for the government was asking questions of this
5 witness, he referred to the hydro-jetting and the effect
6 of the hydro-jetting on the couplers, and there was
7 a discussion as to whether or not that would cause quite
8 a number of damaged couplers.

9 I have located the transcript reference. It may or
10 may not be that anything turns on it, but because the
11 point has been raised, I think it may be helpful for me
12 to just get the transcript reference on record.

13 Can I ask the Commission to look at the transcript
14 of Day 14, which is 8 November, page 61. At the
15 beginning, we could see at line 3 Prof Hansford raising
16 the question about the styrofoam being removed by the
17 hydro-jetting.

18 If I were to ask the Commission to look at
19 page 63 -- or in fact we can look at 62, line 4:

20 "First of all, how often, how frequent was
21 a concrete residue problem or issue?"

22 This is Joe Cheung's evidence.

23 "I would not spend a lot of time dwelling on that.
24 I would perform a quick visual inspection, then I would
25 inform Leighton to rectify couplers with residue
26 concrete or damaged couplers, and then I would proceed

1 the works to install the couplers.

2 Question: How frequently would that happen,
3 Mr Cheung?

4 Answer: This is part of the process. After the
5 hydro-jetting, the diaphragm wall would not be complete
6 or clean anyway. So I would inform Leighton to clean it
7 up anyway. So I would inform Leighton to clean it up
8 before we resume the works. So if there's a lot of
9 trash in your home, then I would have it cleaned before
10 I go inside.

11 Question: I understand that, Mr Cheung, but what
12 I was trying to get you to help us on was how frequent
13 the problem was. Was the concrete residue issue
14 something that happened all the time, very
15 occasionally ...?

16 Answer: From what I saw, it happened to only very
17 few couplers.

18 Question: Okay. Thank you. Who at Leighton would
19 you notify ...

20 Answer: The site foreman of the area ...

21 Question: So is it right that Leighton had
22 designated foremen and engineers for specific areas; is
23 that what you're saying?

24 Answer: Correct.

25 Question: So you would know who they were and you
26 would speak to either the foreman or the engineer for

1 that particular area where you had a problem?

2 Answer: Correct.

3 Question: Once you had notified them, how quickly
4 would they be able to clear the concrete residue?

5 Answer: They would do it very quickly, within
6 a day.

7 Question: Okay. The picture I've got, Mr Cheung,
8 is that if you've inspected -- if you have a long line
9 of couplers in a number of different rows of couplers,
10 you would say to Leighton or the foreman ... 'Look, in
11 this area, along this stretch, I think there are just
12 two or three couplers with concrete residue; could you
13 come and fix it'?

14 Answer: There would not be two or three couplers.

15 Question: How many? Just one?

16 Answer: How should I put it? After the hydro-jet
17 blasts opened the couplers, the caps were gone, and
18 usually there would be water and trash. As for the
19 number of damaged couplers, there were very few damaged
20 couplers; there were only two or three."

21 So I would take it that this was probably the
22 passage in the exchange that the Commission recollected
23 yesterday as showing that the effect of the
24 hydro-jetting was perhaps more merciful, because in
25 relation to the exchange yesterday, so that we complete
26 the record -- it was yesterday's transcript, page 143 --

1 in fact, page 142 at the bottom, line 22, and this is
2 Mr Chow asking:

3 "Mr So, my earlier question is whether you are aware
4 of the fact that after the couplers were exposed by way
5 of the hydro-demolition process, a significant number of
6 couplers were damaged?"

7 And then followed the exchange that took place
8 between the Commission and Mr Chow.

9 Then it carried on, and I think we can see
10 Mr Chairman remarking, at line 24:

11 "No, that's my firm recollection, that the hydro
12 system was much more merciful on couplers than the hand
13 system of hacking and chipping."

14 And Prof Hansford also confirmed that that was his
15 understanding. I hope I have referred the Commission to
16 the actual transcript of where Mr Joe Cheung gave that
17 evidence.

18 I hope that assists.

19 CHAIRMAN: It does. Thank you very much.

20 Questioning by THE COMMISSIONERS

21 COMMISSIONER HANSFORD: I have one question for Mr So.

22 Mr So, perhaps you can help me with something. In
23 your witness statement -- could we go to the witness
24 statement, paragraph 15; it's on C24110.

25 I don't know the Chinese page, of course. But in
26 paragraph 15, you are referring to Mr Chu's statement

1 and you are giving your comment regarding a green
2 grinding/cutting machine, and you say this was a very
3 common hand tool to be used on the project for
4 legitimate purposes; is that right? That's what you
5 say?

6 A. 冇錯，正確。

7 COMMISSIONER HANSFORD: Now, I can understand what a cutting
8 tool is used for, and we've seen examples of cutting
9 tools, battery-operated hand-saws. We have seen those.
10 But I don't know what a grinding machine would be
11 commonly used for, so can you help me by telling me what
12 a grinding machine would be used for on site, for
13 legitimate purposes?

14 A. 有幾個用法嘅，打磨機，佢如果換咗隻打磨碟，就可以做啲磨石屎或者做打磨
15 嘅工序，如果佢換咗隻cut碟，佢係絕對地可以攞嚟cut譬如可能tie bow、
16 一啲可能比較細啲啲叫“handrail”，50 mm diameter啲啲，即係呢啲
17 類型都做到嘅。

18 COMMISSIONER HANSFORD: So when would you use a grinder as
19 opposed to using a cutter? When would you use
20 a grinder?

21 I can understand that the cutting machine was quite
22 common, but sometimes, you're saying, you would use
23 a grinder. So when would you need to use a grinder
24 rather than a cutter?

25 A. 打磨機就係可能有啲石屎需要係做番個--可能有剪口，我哋需要磨番平個剪

1 □，嗰一段時間就會用打磨機。

2 COMMISSIONER HANSFORD: So are you telling me that a grinder
3 is for grinding concrete, whereas a cutter is for
4 cutting steel and maybe other materials? Is that what
5 you are telling me; a grinder is primarily for concrete?

6 A. 正確。

7 COMMISSIONER HANSFORD: Okay. That's useful. Thank you.

8 CHAIRMAN: Good. Thank you very much indeed, Mr So. Your
9 evidence is completed now. You can go. Thank you.

10 WITNESS: Thank you.

11 (The witness was released)

12 MR CHANG: Chairman and Professor, the next witness will be
13 Mr Chan Chi Ip.

14 Before he takes the stand, it might be useful to
15 show the Commission this document, the organisation
16 chart, so as to put Mr Chan on site as such.

17 If we can produce bundle C7, page 5535.

18 COMMISSIONER HANSFORD: What is the date of this one?

19 MR CHANG: This is as of 14 May 2015, as we can see from the
20 top-left corner.

21 COMMISSIONER HANSFORD: I can't yet, but okay, thank you.

22 MR CHANG: In fact this chart was put to Mr So yesterday,
23 when Mr Chow asked him questions.

24 If we can go to the left side of the chart, under
25 "Site manager", and if we can blow it up a bit, we can
26 see "Mr Gabriel So, general superintendent", and under

1 "HUH structure", "Chan Chi Ip, supervisor". That will
2 be the next witness. It's easy to identify him; he is
3 wearing pink.

4 CHAIRMAN: Thank you. Yes.

5 COMMISSIONER HANSFORD: Can I say, that was most useful, and
6 I know you've got a number of other witnesses. Will you
7 be doing the same, to help us pinpoint them in the
8 organisation chart?

9 MR CHANG: Yes.

10 MR PENNICOTT: We will now.

11 COMMISSIONER HANSFORD: You will now.

12 MR CHANG: So we have Mr Chan.

13 Good morning, Mr Chan. Please put your headphones
14 on and please take a seat.

15 We will be asking you questions in English, so
16 please wait for the interpretation through your
17 headphones.

18 WITNESS: 知道。

19 MR CHANG: For the record, can you state your full name to
20 the Commission?

21 WITNESS: 陳智業。

22 MR CHANG: Thank you. May the witness be shown bundle C27.

23 If Mr Chan can first take the affirmation.

24 MR CHAN CHI IP (affirmed in Puntì)

25 Examination-in-chief by MR CHANG

26 Q. C27/20667. The English version starts from 20670.

1 Mr Chan, before you is what we can see, Chan
2 Chi Ip's first witness statement. You can either look
3 at the screen or look at the hard copy.

4 A. 係。

5 Q. If you go all the way to C20669, there is a signature.
6 Can you confirm whether that's your signature?

7 A. 係。

8 Q. Is this your first witness statement for the purpose of
9 this Inquiry?

10 A. 係。

11 Q. If we can go to bundle C32/24057. The English version
12 starts from 24065.

13 Before you, you should see this document titled,
14 "Second witness statement of Chan Chi Ip", and if the
15 witness could be shown the same bundle, C32, page 24064,
16 again we can see a signature. On the top, under the
17 date, can you confirm whether that's your signature?

18 A. 係。

19 Q. Do you confirm this to be your second witness statement
20 for this Inquiry?

21 A. 係。

22 Q. Do you confirm both witness statements, the contents to
23 be true and accurate?

24 A. 係。

25 Q. Do you wish the Commission to accept the contents of

1 these two statements to be part of your evidence?

2 A. 係。

3 MR CHANG: Please remain seated. There might be questions
4 from lawyers around the room, starting from
5 Mr Pennicott.

6 Examination by MR PENNICOTT

7 MR PENNICOTT: Good morning, Mr Chan.

8 A. 早晨。

9 Q. As you have just been told, I'm one of the counsel to
10 the Commission and I'm going to ask you a few questions,
11 and then others may have some questions after that.
12 Also, the chairman and the professor may also have some
13 questions, and when we've all finished, if your counsel
14 feels it necessary or appropriate, they will ask some
15 further questions, if they think it's necessary.

16 Mr Chan, thank you very much, first of all, for
17 coming to give evidence this morning.

18 My understanding is you were a site supervisor on
19 the project from 2014 right through to July 2017; is
20 that correct?

21 A. 冇錯。

22 Q. You were specifically responsible, as I understand it,
23 for supervising areas C1, C2 and C3; is that correct?

24 A. 喺。

25 Q. That is in relation both to the EWL slab and the NSL

1 slab; is that right?

2 A. 喺。

3 Q. As a site supervisor, as I understand it, you, broadly
4 speaking, apart from breaks and lunch hours and so
5 forth, would essentially be on site all day?

6 A. 係。

7 Q. You tell us that you were not involved in any formal
8 inspection of the works, and as I understand it you
9 would have left the formal inspections to the
10 engineering team; is that correct?

11 A. 喺。

12 Q. And that engineering team, broadly speaking, comprised,
13 is this right, Mr Andy Ip, Mr Joe Leung, Mr Edward Mok
14 and Man Sze Ho; is that right?

15 A. 喺。

16 Q. So far as routine inspections are concerned or routine
17 supervision is concerned, what did you actually do in
18 terms of supervising the installation of the rebar?

19 A. 我每朝做完早操，跟住就會出去地盤，就會睇番就係話我上司講咗佢哋的判
20 頭，安排咗啲工人，帶幾多工人去做嗰樣嘢，會跟番嗰個進度去做，我哋就
21 每朝咁樣一路去睇住我個範圍，佢哋嗰啲判頭擺唔擺到咁嘅人去做番咁嘅嘢。

22 Q. But apart from identifying whether or not the right
23 number of workers were there for the sub-contractors,
24 did you actually watch them installing the rebar? Did
25 you get close to them, watch them screwing in the rebar

1 to couplers, for example? Did you actually see that
2 going on at close quarters?

3 A. 我行到嗰個位置，佢哋啲工人喺度做緊rebar，即係頭先你講嘅扭螺絲，我
4 見到佢有做緊，唔會長時間戩喺度，即係唔會長時間企喺度，睇咗佢有做緊，
5 有工人做緊，我就會繼續向第二個方向或者第二個判頭咁樣去繼續我個巡查。

6 Q. Yes. I appreciate there were perhaps at any one time
7 a number of sub-contractors working in any one area, and
8 you had to keep your eye on all of them. What sort of
9 percentage of time, approximately, do you think you
10 would spend watching over/supervising the Fang Sheung --
11 the rebar fixers?

12 A. 全日計呀？係咪全日計？

13 Q. Yes, just an ordinary day.

14 A. 我點樣同你講呢係？我行到去嗰個位置，可能會逗留十五至二十分鐘，或者
15 如果有問題，要幫啲工人解決或者有啲安全情況要做，我可能會逗留耐啲，
16 一至兩個鐘又唔定，所以我平均一日至少有一、兩個鐘以上會逗留喺嗰度。

17 Q. Right. So that's, what, 15-20 per cent of a day, of
18 that order?

19 A. 嗰百分之十五嘅二十時間係講緊每平均一個鐘去計數，唔係話淨係我企喺度
20 一個鐘、兩個鐘，我行去第二個位置、第二個地方去睇完，再第三個地方睇
21 完，又會返番轉頭會去再睇番，會重複咁樣去做呢個動作。

22 Q. All right. So am I right or am I wrong: given
23 an ordinary day, working from 8 o'clock to 6 o'clock,
24 you've got a number of sub-contractors working in
25 a particular area, and you might spend, am I right or

1 wrong, about 20 per cent of that day looking at the
2 rebar work, and the rest of the day looking at other
3 matters?

4 A. 至少係咁多時間，如果需要嘅話，會耐啲嘅，所以我會係將啲時間分配晒喺
5 我嘅範圍嘅判頭嘅地方做嘢嘢度。

6 Q. All right. Now, in area C1/C2/C3, where you were
7 supervising the sub-contractors' works, were you the
8 only supervisor in that area or were there more? From
9 Leightons, I mean.

10 A. 唔係。

11 Q. Let me put it again: were you the only supervisor in
12 areas C1, C2 and C3?

13 A. 唔係。

14 Q. How many were there?

15 A. 喺嗰個--我嘅意思係話喺我個區域裏面都會仲有其他嘅監工，唔係淨係我一
16 個。

17 Q. Right. How many supervisors were there in areas C1, C2
18 and C3?

19 A. 我而家記唔起有幾多個supervisor喺度，因為我所講嘅，我個意思係話係
20 睇第二樣嘢或者係譬如冇出泥，有個supervisor會跟住；另外即係有第二
21 樣個工程要做嘅，另外會有個supervisor喺度，所以喺我個範圍裏面都會
22 有其他管工喺度。

23 Q. All right. If a sub-contractor such as Fang Sheung was
24 required to work overtime, that is after 6 o'clock in
25 the evening, would you or any other supervisor stay

1 on site to supervise them and watch over them?

2 A. 我哋會同我上級講，講完之後，佢就會安排我哋是但一個，即係喺我個區域
3 或者其他工序嘅管工會留低。

4 Q. Right. So I think the answer to my question is "yes",
5 that if a sub-contractor was required to do overtime,
6 and work, say, until 10 o'clock at night, doing the
7 rebar fixing, Leightons would ensure there was
8 a supervisor on site during that period?

9 A. 㗎。

10 Q. Do you recall that you yourself supervised late into the
11 evening sometimes?

12 A. 過去係有試過。

13 Q. All right. Did it happen frequently?

14 A. 唔係太清楚記得，係有發生過嘅，因為有段時間係都好密下嘅。

15 Q. Okay. Mr Chan, are you familiar with a document called
16 the site supervision plan?

17 A. 我未--唔知，未見過，你講嗰個文件係咩嘢？

18 Q. Right. What about the quality supervision plan for --
19 specifically in relation to couplers and the
20 installation of rebar? Is that something you're
21 familiar with?

22 A. 我唔清楚。

23 Q. Right. I'd like to --

24 CHAIRMAN: Sorry, I do apologise. The answer was slightly
25 ambiguous. I think I know what he means. But "are you

1 aware", "I don't know" -- I think he means, "No, I'm not
2 aware of it", but I would rather that was made clear.

3 MR PENNICOTT: Yes. Let me put it again.

4 There's a document, Mr Chan, called a quality
5 supervision plan, and there is such a document that
6 specifically relates to the installation of couplers and
7 rebar. Is that a document that you are familiar with?

8 A. 有，冇接觸。

9 Q. There's a first time for everything, Mr Chan. Could
10 I ask you, please, to be shown first of all the site
11 supervision plan, which is at H10/4539.

12 At 4539, Mr Chan, is a document, a letter dated
13 3 August 2015, and I appreciate that it's not a letter
14 you will have seen before. It's from the MTR to the
15 Buildings Department; do you see that?

16 A. 我見到，我未見過。

17 Q. No, I appreciate that.

18 If you go down towards the bottom of the page, what
19 the MTR is submitting to the Buildings Department is,
20 amongst other things, a duly completed and signed site
21 supervision plan; do you see that?

22 A. 唔好意思，其實你講畀我聽，我就知，因為我英文程度好差，我睇唔明。

23 Q. Right. I hope this is being interpreted and translated
24 to you.

25 COMMISSIONER HANSFORD: It's the written copy.

26 MR PENNICOTT: I'm sorry. But all of that will be

1 interpreted to you.

2 The first box, under "Document", it says, "Duly
3 completed and signed site supervision plan", take it
4 from me. All right? Do you understand?

5 A. Okay.

6 Q. All right. Then if you would be good enough to go back
7 to 4539, at 4539, just under the first box, just over
8 halfway down the page, it says:

9 "The design of the excavation and lateral support
10 for area C3 ..."

11 Do you see that, area C3, so one of the areas you
12 were responsible for; do you see that?

13 A. 見到。

14 Q. Then if you go to 4543, we see the front sheet of the
15 site supervision plan; do you see that?

16 A. 見到。

17 Q. It's in various parts, and I only need to trouble you
18 with part 3 which is on 4548, where we can see at the
19 top of the page, "Part III -- supervision plan of the
20 registered contractor"; do you see that?

21 A. 見到。

22 Q. That's Leighton, the registered contractor?

23 A. 係。

24 Q. If you look in the box below, we see, three entries up
25 from the bottom, "T1 (alternative)" and then your name;

1 is that correct?

2 A. 喺。

3 Q. If you would be good enough, please, to go to
4 page 4555 -- this is an annex to the supervision plan,
5 as you can see in the top-right -- and again, three
6 entries up from the bottom, we see your name and your
7 signature; do you see that?

8 A. 見到。

9 Q. So you would have been asked to sign this document
10 presumably, Mr Chan, back in -- sometime in July/August
11 2015; do you recall?

12 A. 時間太長，呢個肯係我個簽名，我唔記得咗我自己係邊日簽。

13 Q. All right. And you don't remember being shown the whole
14 of this document and having it explained to you or
15 anything like that; would that be right?

16 A. 咁耐呢，我係唔記得咗佢有冇同我講，總之呢個簽名就係我簽，我有嗰個時間
17 嗰個印象。

18 Q. Right. So you have no recollection of this document
19 being translated to you and explained to you?

20 A. 係。

21 Q. If we could then go to the quality supervision plan, for
22 which these purposes we need H9, and if you could please
23 be shown page 4265.

24 Mr Chan, you can see here a document entitled,
25 "Quality supervision plan on enhanced site supervision

1 and independent audit checking ... for installation of
2 couplers"; do you see that?

3 A. 睇到。

4 Q. Is it a document you have seen before?

5 A. 冇。

6 Q. Let's see how far I can take this with you, Mr Chan. If
7 you go, please, to page 4267, towards the bottom, you
8 will see it says:

9 "The quality supervision is in addition to:

10 1. The site supervision plan 2009 submitted by the
11 registered contractor ..."

12 Do you see that?

13 A. 見到。

14 Q. Then over the page, at 4268, it says at the top, under
15 the "Assignment of quality control supervisors personnel
16 (from MTR [and the registered contractor])":

17 "The same technically competent persons (TCPs)
18 proposed in the site supervision plan of the works, that
19 submitted to Buildings Department ... will be
20 responsible for the quality control of the work."

21 Do you see that?

22 A. 睇到。

23 Q. And as you've seen, you were one of those technically
24 competent persons, ie a T1; do you recall?

25 A. 你講緊係而家你讀緊嗰度我係包括在內，係咪？

1 Q. What we read out before in the site supervision plan had
2 you listed as a T1; yes?

3 A. 係。

4 Q. All I'm suggesting to you is this says the same
5 technically competent persons -- ie the T5, K4 and you,
6 T1 -- are to be responsible for the quality control of
7 the coupler work.

8 A. 係。

9 Q. It goes on to say:

10 "Quality control supervisors (RC) and quality
11 control supervisors (MTRC) will be the quality control
12 supervisors. Quality control supervisors will
13 supervise" -- and I miss out some words -- "the
14 installation of the steel reinforcing bars to the
15 couplers."

16 Do you see that?

17 A. 睇到。

18 Q. Then if we go to page 4269, the next page, please, under
19 the heading, "Supervision on site works", it says this:

20 "Beside the site supervision system as stipulated in
21 the Code of Practice for Site Supervision, the following
22 additional inspection will be carried out."

23 Do you see that?

24 A. 睇到。

25 Q. Then it says:

1 "Supervision and inspection by RC on site --
2 installation works.

3 Quality control supervisors (registered contractor)
4 will [be] responsible to carry out full-time and
5 continuous supervision of the splicing assemblies
6 on site."

7 Mr Chan, was there full-time and continuous
8 supervision of the installation of the steel reinforcing
9 bars to the couplers on site in areas C1, C2 and C3?

10 A. 我每日都會去巡查同埋去睇佢哋去工作嘅，係有嘅。

11 Q. All right. So you regard approximately 20 per cent of
12 your time spent as fulfilling the requirement of
13 full-time and continuous supervision; is that your
14 position?

15 A. 頭先我答「係」。

16 Q. All right. Then it says, at (ii):

17 "Supervision and inspection will be recorded in the
18 record sheet (appendix C) ..."

19 Sir, I interpose. That's a typo. It should be
20 appendix B, which we may or may not look at.

21 CHAIRMAN: Okay.

22 MR PENNICOTT: "Supervision and inspection will be recorded
23 in the record sheet ..."

24 Did you record, Mr Chan, your supervision and
25 inspection on any record sheet so far as the
26 installation of steel reinforcing bars into the couplers

1 was concerned?

2 A. 你所講嘅表，我可唔可以睇睇係點樣㗎？我而家有印象。

3 Q. I believe, Mr Chan, it is the document at 4277. I'll
4 look at it with you, and do my best to try to explain my
5 understanding of it.

6 A. 好。

7 Q. All right. You've taken us to this. Is this a form,
8 something similar to this, that you've seen before?

9 A. 有。

10 CHAIRMAN: Sorry, I don't mean to cut across you.

11 MR PENNICOTT: Of course.

12 CHAIRMAN: Do you recall, on a daily basis, actually signing
13 some written record to confirm your supervision and
14 inspection that day?

15 A. 有。

16 MR PENNICOTT: All right. Can we just go back to where
17 I was. I won't go through that form with you; perhaps
18 I will look at it with somebody else, in the light of --

19 CHAIRMAN: Sorry, I didn't mean to stop you. I was just --

20 MR PENNICOTT: Not at all, sir. I don't think we are really
21 going to get anywhere with that document with this
22 witness, but we may with others.

23 CHAIRMAN: But sometimes you may just have a small notebook
24 you sign into and then that's translated into a more
25 formal document later.

1 MR PENNICOTT: That's what I'm coming back to now, because
2 if you go back to (ii) on page 4269, I had read the
3 words "Supervision and inspection will be recorded in
4 the record sheet", and we are passing on that for the
5 moment. Then it says:

6 "... and write into the inspection logbook by
7 quality control supervisors."

8 Mr Chan, did you ever make a record of your
9 supervision and inspection in any form of logbook?

10 A. 我係有嘅，工程師我唔知佢有冇。

11 Q. But you haven't personally?

12 A. 係。

13 Q. Then (iii) says:

14 "Checking includes length of thread and correct
15 connection of 2 bars with couplers. Criteria are
16 provided in appendix D."

17 Again, Mr Chan, did you personally involve yourself
18 in checking the length of the thread that was perhaps
19 showing once the rebar had been screwed into the
20 couplers?

21 A. 因為佢哋啲鐵到咗佢指定要裝嘅地方，我哋都會派啲車幫佢車去地盤，咁
22 每一個尺寸嘅--即係每一個size嘅鐵，我哋都要度清楚，唔可以調錯或者
23 放錯喺佢個區域嗰度，所以嗰度我都算係叫做check過佢啲長度。

24 Q. All right. I understand your answer, but let me try to
25 put the question in a slightly different form.

1 We know that the threaded rebar in certain areas
2 needed to be screwed into the couplers; do you
3 understand?

4 A. 明。

5 Q. We've had some evidence that when that process takes
6 place, it is permitted to have perhaps one or two
7 threads showing, even when the bar has been screwed in;
8 do you understand?

9 A. 可唔可以問多一次？

10 Q. I can. You've got a coupler and you're going to screw
11 a piece of threaded rebar into it, or Fang Sheung are;
12 do you understand?

13 A. 係。

14 Q. We have seen some evidence, and there are documents,
15 that permit perhaps one or two threads to be showing
16 even after the threaded rebar has been screwed in; do
17 you understand?

18 A. 明白，不過我有聽過話可以露一圈至兩圈，因為有港鐵嗰啲同我講過，如果
19 見到螺絲紋，就叫佢儘量搵泛迅啲工人擰番盡佢，擰番入去。

20 Q. All right. Now, did you concern yourself, you
21 personally concern yourself, on your supervision visits
22 and your inspection visits, with whether or not threads
23 were showing? Was that something you were interested
24 in?

25 A. 係呀，會睇㗎。

1 Q. You would? Good. But you weren't required by your
2 supervisors, your superiors, to make any written record
3 of those inspections?

4 A. 冇叫過。

5 Q. Okay. I'll leave others to take that up with you if
6 they wish.

7 Could we then put H9 away. Mr Chan, just on the
8 process of supervision and inspection, but not by
9 reference to any of those documents -- we've heard some
10 evidence which suggests that when Fang Sheung had done
11 a layer of rebar, an inspection would take place of the
12 connections of that rebar. Is that something you agree
13 with?

14 A. 係佢自己檢查定係你話我會檢查?

15 Q. By yourself or by the engineers or by MTRC; by somebody.

16 A. 有嘅。

17 Q. So I'm absolutely clear and there's no ambiguity, we
18 know that there are five or six layers of bottom rebar
19 in the EWL slab; do you understand?

20 A. 明白。

21 Q. There are five or six layers at the top of the EWL slab;
22 do you understand?

23 A. 明白。

24 Q. What I'm suggesting to you, my question is directed at
25 each -- just focus on the bottom five or six layers. My

1 question is directed at whether an inspection took place
2 of each layer within the bottom mat of rebar. Is your
3 answer yes, that there was such inspection of each
4 individual layer?

5 A. 係。

6 Q. Could I ask you, please, to be shown the witness
7 statement of Mr Kobe Wong of the MTRC, at B1/438.

8 CHAIRMAN: Sorry, could I just ask one thing. You said that
9 you would stay for a period of time, looking at the work
10 of one particular sub-contractor, and then you would
11 walk on to some other part of the site; is that right?

12 A. 喺。

13 CHAIRMAN: And you mentioned that there were other
14 supervisors, but you didn't say how many, on site?

15 A. 係。

16 CHAIRMAN: Were these supervisors doing the same sort of
17 work as you?

18 A. 佢唔係睇我嗰啲嘢。

19 MR PENNICOTT: They weren't looking at the things you were
20 looking at. What were they doing then? What was
21 different? What were they looking at?

22 A. 我可能誤解咗你頭先問嘅問題，我意思係話喺即係個地盤裏面係唔只我一個
23 監工，如果係睇我自己範圍要做，睇泛迅或者係喺我管轄範圍嘅嘢，係仲有
24 啲--我對落都仲有啲管工嘅，我係咁嘅意思。

25 Q. So you aren't talking about supervisors, if you like, at

1 your T1 level; you were talking about foremen working
2 for you? Is that right?

3 A. 係呀，即係喺我範圍裏面，我可能誤會咗你淨係問我T1，如果係淨係我睇我
4 個位置，T1係得我一個。

5 Q. Right.

6 A. 係咪咁嘅意思呀？

7 Q. What we're driving at, I think, Mr Chan, is just trying
8 to get a better understanding of the level of
9 supervision in any particular area. Now, you are the
10 site supervisor T1, areas C1, C2 and C3, and I think,
11 from what you've just said, you were the only site
12 supervisor for that area, and there would have been
13 other site supervisors in other areas; is that right?

14 A. 係。

15 Q. But there would be a number of foremen, part of your
16 team, who you would perhaps also rely upon for the
17 purposes of watching and supervising the rebar work?

18 A. 呢個係其中一樣，仲有其他嘢都係我哋分配一齊去做。

19 Q. So how many foremen are there for areas C1, C2 and C3?

20 A. 兩個。

21 CHAIRMAN: And would these foremen under your supervision
22 have to sign a logbook at the end of each day to show
23 what they had done?

24 A. 冇。

25 CHAIRMAN: Was there any specific system that you and your

1 two foremen employed as to how you moved around the
2 site, or was it just done on the basis of what was
3 happening, what was important and what was not? In
4 other words, it was at your discretion?

5 A. 我哋有紀錄嘅，如果我要吩咐下屬去做嘢，一係就用對講機，一係就用電話，
6 同佢哋安排去做啲乜嘢，就有紀錄。

7 CHAIRMAN: Okay. So you would decide during the course of
8 the day who went where?

9 A. 係呀，可以係咁講。

10 CHAIRMAN: All right. And you would be the one directing
11 your two foremen where they should conduct their
12 supervision?

13 A. 係。

14 MR PENNICOTT: Thank you, sir.

15 CHAIRMAN: Thank you.

16 COMMISSIONER HANSFORD: Sorry, just on that, did one of your
17 foremen look after rebar work full-time?

18 A. 佢哋都係同我一樣，都係會睇--睇呢度--即係喺呢個位置，紮鐵呢個位置逗
19 留一段時間睇一睇，睇下啲工人做嘢安唔安全，有冇啲通道、其他嘢，跟住就
20 會一路又係咁樣嚟我哋嘅做嘢範圍裏面一路去不斷循環咁去睇住，去跟住。

21 COMMISSIONER HANSFORD: Okay, in the same way that you did;
22 that's what you're telling us?

23 A. 係。

24 COMMISSIONER HANSFORD: Thank you.

25 MR PENNICOTT: Just to -- I was going to come back to the

1 layer-by-layer inspections a bit later, from a different
2 angle, but I'm actually going to deal with it now. So
3 park Mr Kobe Wong's witness statement for a couple of
4 minutes.

5 You explained to us, Mr Chan --

6 MR SHIEH: Excuse me, there was one small point of
7 translation. I think the witness actually said
8 "不斷循環". I wonder whether that can be translated,
9 "不斷循環咁樣巡". It was during the course of his answer
10 that is currently translated as "they would walk along
11 or around work areas", but my suggestion is that he said
12 something to the effect of they would continuously patrol
13 and circulate around that area. I wonder whether that
14 would be an acceptable form of translation?

15 I don't know how that sort of thing would be
16 resolved, because the Chinese is "不斷咁循環",
17 I remember.

18 INTERPRETER: The Chinese is ...?

19 CHAIRMAN: Yes, the Chinese is, as put forward by Mr Shieh?

20 COMMISSIONER HANSFORD: Perhaps Mr Shieh could say the
21 Chinese again.

22 MR SHIEH: 不斷循環。

23 I wonder whether this witness can be ask the same
24 question and then he can re-put his answer, perhaps.

25 CHAIRMAN: All right. Did you say earlier that they would

1 walk around the site and keep circulating?

2 A. 係。

3 CHAIRMAN: All right. Perhaps, if you wish -- they would
4 walk around the site, they would circulate; would you
5 give them specific instructions as to what in particular
6 they were to check on at any given time?

7 A. 會㗎，我會吩咐佢哋如果--舉個例子，紮鐵，佢哋喺度紮緊鐵個陣時，要望
8 下佢哋，睇下佢哋做嘢嘅位置安唔安全同埋佢哋做嘢嘢，睇一睇下佢哋的螺
9 絲扭晒未、啲鐵擺得夠唔夠、啲地下佢哋有冇放啲雜物，方便我哋係預早
10 清理，唔好畀佢紮鐵個陣時越紮越多而清唔到，我哋都會吩咐佢做呢啲監督。

11 MR PENNICOTT: I was going to go back to the question of the
12 layer-by-layer inspections that we discussed earlier,
13 just a short while ago, Mr Chan. You agree with me that
14 inspections would take place on a layer-by-layer basis.
15 Who would actually do those inspections?

16 A. 我好多時都會見到嘅，啲工程師每日都會出嚟，就會約埋呢個地鐵嘅監督人員
17 定時--即係個時間我就有話定，就會見到喺我哋嘅紮鐵範圍，佢哋都會喺度睇，
18 佢哋睇完之後，佢就會去睇第二樣嘢，我相信個陣時佢已經喺度睇緊所謂嘅一
19 浸、一浸，佢唔會長時間會企喺度睇住佢紮一浸，跟住再紮第二浸，佢一扭咗
20 螺絲頭，睇一睇咗佢啲嘢，跟住之後可能同我哋同一樣嘢，佢都要去睇第二
21 個位置、睇第二樣嘢。到佢要排啲鐵，排好晒，跟住之後佢可能會上第三浸，
22 或者可能會隔一段時間，佢會再返嚟睇個陣時，如果佢係上咗第三浸嘅，佢哋
23 就會繼續睇，如果未上完嘅，又去睇番第二樣嘢，我哋都係同一個做法嘅形式。

24 Q. Right. That's very helpful. So you actually witnessed

1 what you understood to be this layer-by-layer inspection
2 process by Leighton's engineers and the MTRC inspector
3 of works?

4 A. 冇錯。

5 Q. Thank you.

6 Right, back to Mr Kobe Wong and his witness
7 statement. That's at B1/417. I understand, Mr Chan,
8 that this is a witness statement, Mr Kobe Wong's witness
9 statement, that you have seen and have had interpreted
10 to you, because you make some comments on it in your
11 second witness statement. Do you understand? Do you
12 remember?

13 A. 明白，記得。

14 Q. If we could first look, please, at page 438. At
15 page 438, Mr Kobe Wong of the MTRC deals with a number
16 of incidents relating to cut threaded rebar. Do you
17 recall, Mr Chan?

18 A. 佢喺佢嗰份嘢嗰度講咗，我落我個陳述書，佢係咁樣講。

19 Q. What he does -- and I want to just look at the first and
20 the third incidents, because this is where he indicates
21 that he spoke to you in relation to those incidents.
22 Now, the first incident he deals with starting at
23 paragraph 68 of his witness statement. I'm not going to
24 trouble you by reading all that out, but he says that
25 the first incident happened in or around August or
26 September 2015, and he concludes that that incident was

1 most likely to have taken place in area C1-1 or C1-2,
2 and those are areas for which you were responsible,
3 Mr Chan; I think we agree on that?

4 A. 係。

5 Q. What Mr Wong says at paragraph 70 is:

6 "During this first incident, I noticed one or two
7 non-compliant threaded rebars ... on the ground, at
8 a time when there were rebar fixing works in progress in
9 the area."

10 Then he describes what he saw, and at paragraph 71
11 he says this:

12 "I immediately contacted Leighton's site supervisor,
13 Mr Chan Chi Yip ..."

14 Now, I appreciate there's a typo there because
15 I don't think your name has a Y in its English spelling.

16 "... and asked what was the deal with the threaded
17 rebars. Mr Chan Chi Ip assured me that he would resolve
18 the problem immediately."

19 Mr Chan, do you have any recollection of that
20 conversation with Mr Wong?

21 A. 我唔記得喇，因為我其實每一日同Kobe Wong通電話、現場撞到，一日都有
22 好多次，所以你而家叫我肯定個日子，我喺陳述書度答咗，我真係唔肯定，
23 佢一定係有搵過我，我唔肯定係幾時、幾月、幾日。

24 Q. Do you remember having a conversation with Mr Wong about
25 threaded rebars having been cut?

1 A. 我唔記得，不過我印象係有聽過Kobe Wong搵我，就係話泛迅啲紐紋螺絲鐵
2 扭唔晒，要我搵番泛迅啲打理去跟進，呢啲咁嘅印象我係有，都係嗰句，我
3 真係唔知道嗰個時間、日子係幾時，呢個情況係有，有聽過嘅。

4 Q. There are two separate issues here, Mr Chan. There's
5 a conversation about threaded rebar that had been cut,
6 on the one hand, and as I understand your evidence
7 a conversation about threaded rebar that had not
8 properly been screwed into the couplers.

9 You accept, as I understand it, that you had
10 a conversation about the second category, that is rebar
11 having not been properly screwed in; is that right?

12 A. 係。

13 Q. But you have no recollection about a conversation
14 concerning threaded rebar that had been cut?

15 A. 係。

16 Q. All right.

17 Then could I ask you, please, to be shown
18 paragraph 77 of Mr Wong's witness statement. Mr Chan,
19 this third incident, as he calls it, is the one that
20 many of us in this room are familiar with. It's the one
21 that gave rise to NCR157.

22 My understanding is, Mr Chan, you have no
23 recollection or knowledge of being involved with NCR157;
24 is that right?

25 A. 係。

1 Q. All right. But, however, Mr Wong, in his witness
2 statement, describes the circumstances in which he says
3 this third incident arose, and at paragraph 81 of his
4 witness statement he says:

5 "In the late afternoon" -- and that is of
6 15 December 2015 -- "I phoned Leighton's Mr Chan Chi Ip
7 and asked him to deal with the problem."

8 Pausing there, do you recall having a conversation
9 at around about this time with Mr Wong, when he informed
10 you of another problem with threaded rebar having been
11 cut?

12 A. 我唔記得。

13 Q. Do you deny having such a conversation, or is it
14 a question of you just can't remember?

15 A. 我係唔記得有呢個對話。

16 Q. All right. Back to paragraph 81.

17 CHAIRMAN: I'm just wondering, an opportune moment, when you
18 are ready.

19 MR PENNICOTT: Yes, sir. Let me just finish this point, if
20 I may.

21 CHAIRMAN: Of course.

22 MR PENNICOTT: I'm halfway through it.

23 He goes on to say in paragraph 81:

24 "I also asked Mr Wong ..."

25 Now, I'm not sure whether he means "Mr Chan", but
26 I'm going to assume for the moment that's what he means.

1 "I also asked Mr Chan" -- let's assume that's what
2 he means -- "to remain on site and oversee the
3 rectification works."

4 Do you have any recollection of being on site on
5 15 December 2015 and overseeing some rectification works
6 to the rebar?

7 MR BOULDING: Sir, I wonder why my learned friend is
8 suggesting that "Mr Wong" is a reference to Mr Chan,
9 because if you look at the third incident which starts
10 in paragraph 77, one can see that Mr Wong is referred to
11 several times, and of course Mr Kobe Wong is coming to
12 give evidence in due course, but it seems to follow, in
13 my submission, that asking Mr Wong to remain on site and
14 oversee the rectification works would be a perfectly
15 normal thing to do.

16 MR PENNICOTT: Sir, I hear what my learned friend says. All
17 I've got to work with is paragraph 81. The two
18 sentences, when read together:

19 "In the late afternoon, I phoned Leighton's Mr Chan
20 and asked him to deal with the problem. I also
21 asked ... to remain on site and oversee the
22 rectification works."

23 I just don't want to miss the opportunity --
24 Mr Boulding may well be right, but --

25 CHAIRMAN: Just to clarify, I'm happy.

26 MR PENNICOTT: I would ask the general question: Mr Chan, do

1 you have any recollection of being on site on
2 15 December, overseeing or watching any remedial works
3 to the rebar?

4 A. 我唔記得。

5 MR PENNICOTT: All right.

6 Sir, I do have a few more questions, but perhaps
7 this would be an appropriate moment.

8 CHAIRMAN: Good. 15 minutes. Thank you.

9 (11.42 am)

10 (A short adjournment)

11 (12.01 pm)

12 MR PENNICOTT: Mr Chan, could I just begin asking you a few
13 more questions.

14 A. 可以。

15 Q. I would like you, as it were, to spin forward in time to
16 January 2017.

17 In January 2017, I don't know whether you know this,
18 but a Mr Stephen Lumb, who I understand to be head of
19 engineering at Leighton -- do you know him?

20 A. 我唔識。

21 Q. He carried out a review and investigation into
22 allegations of rebar having been cut. I don't know
23 whether you are aware of that?

24 A. 我唔知道。

25 Q. Can I assume, therefore, that Mr Lumb, during the course

1 of his review and investigation, did not interview you?

2 A. 冇。

3 Q. Okay. Could I then ask you, please, to go to your
4 second witness statement, which is at C32/24057 in the
5 Chinese, 24065 in the English.

6 If you please could be shown paragraph 20, that's
7 certainly 24070 in the English, that's where, Mr Chan,
8 you deal with Mr Kobe Wong's statement that we were
9 discussing before the break. Do you understand?

10 A. 明。

11 Q. In paragraph 21 you say:

12 "In response to ... Mr Wong's statement regarding
13 the five incidents ... I note that", then you say:

14 "(a) I do not recall the five alleged incidents;

15 (b) I do not recall receiving complaints from Kobe
16 Wong regarding his identification of rebars with
17 shortened threaded ends as I communicated with a lot of
18 people regularly every day".

19 And we've discussed those points already.

20 Then you say this:

21 "I recall that I received complaints from Kobe Wong
22 that he had identified damaged couplers and required me
23 to instruct Fang Sheung's workers to undertake
24 rectification work."

25 Pausing there. Mr Chan, did you yourself witness
26 damaged couplers?

1 A. 唔係，係Kobe Wong話畀我聽有損毀咗一啲螺絲帽，叫我搵番泛迅啲打理
2 去跟番，更正番。

3 Q. Before you -- and I'm coming to the question of
4 rectification in a moment -- took steps to have
5 rectification work carried out, did you yourself not go
6 and look at and inspect the damaged couplers that
7 Mr Wong had advised you of?

8 A. 佢指呢件事嘅時候，我而家記唔到我係自己有冇去過，記唔番，因為太耐喇
9 時間。

10 Q. So you're not able to help us with the type of damage
11 that had been caused to the couplers; is that right?

12 A. 冇錯。

13 Q. All right. You say -- as I read just now:

14 "... and required me to instruct Fang Sheung's
15 workers to undertake rectification work."

16 Mr Chan, I'm slightly puzzled by that, because we
17 have heard evidence from certainly Fang Sheung that it
18 was not their responsibility to carry out rectification
19 works to damaged couplers. Their responsibility was
20 simply to fix and install the rebar, and it was for you,
21 Leighton, to carry out any required rectification works.

22 Do you agree with that?

23 A. 同意。

24 Q. So do you agree, therefore, that you would not have
25 instructed Fang Sheung to undertake rectification work,

1 and that that part of your statement is inaccurate?

2 A. 我嗰個落呢個陳述書嗰陣時嗰個諗法係講緊係叫泛迅啲打理去跟進，嗰個可能
3 個意思冇咁詳細，我係想係話叫泛迅嘅打理去跟進，就係話叫佢即係再扭啲鐵
4 再扭入去，睇下可唔可以去跟進番做到扭番入去coupler嗰個動作，我嘅意思
5 係咁，不過就有咁詳細話寫到好似而家咁樣同你哋解釋嘅咁詳細。

6 CHAIRMAN: Sorry, were you not told the nature of the
7 damage? Were you not told the nature of the damage that
8 had been identified and that required rectification?

9 A. 其實如果地鐵佢哋嗰個監督搵我，話畀我聽咩嘢情況，我都會去同番呢個打理
10 交帶番，跟住做番，如果--佢哋如果係有啲問題都係解決唔到，佢會再搵番我，
11 我只會係咁嘅意思，明唔明，主席？

12 CHAIRMAN: Sorry, I have a little difficulty with that. Do
13 you have any actual memory of what you were told about
14 the damage to the couplers?

15 A. 我係以為佢哋同我講話啲螺絲係扭唔晒、扭唔入，跟住同我講番，叫我搵番
16 呢個泛迅嘅人去跟進番，我係認為係呢種咁嘅嘢，我所以就喺陳述書裏面就
17 答呢個問題咁樣，所以我會搵番泛迅嘅人去跟進番。

18 MR PENNICOTT: All right. Then at subparagraph (d), just
19 pursuing this a little bit further, Mr Chan, you say
20 this:

21 "I recall instructing the sub-contractors' workers
22 to undertake the rectification work ..."

23 Pausing there, which sub-contractor or
24 sub-contractors are you referring to?

1 A. 佢應該係講緊如果要搵番啲工人去打番啲混凝土石屎，會搵番呢個螺絲帽
2 出嚟，我就會搵番啲咁嘅做打石嘅，即係打石屎嘅分判商，啲代工去做
3 番呢個做法，去換番個螺絲帽。

4 Q. So not Fang Sheung but somebody who was doing the
5 concrete breaking works?

6 A. 係呀，打石屎呢，我哋係有個代工嘅判頭，會畀人，我哋會去打啲石屎
7 嘅，就唔係泛迅做。

8 Q. Right. Indeed you go on to say:

9 "... including to use an electric concrete breaker
10 to remove the concrete around the damaged couplers and
11 replace them with new couplers."

12 Mr Chan, do you have a recollection of that type of
13 rectification work taking place?

14 A. 呢個工程係有做過嘅，不過邊個位置同埋幾時，我唔係記得太清楚喇已經。

15 Q. Do you have any recollection of how often this type of
16 rectification work would have taken place?

17 A. 如果淨係單一係淨係搵個螺絲帽，打番啲石屎出嚟嘅，唔多。

18 Q. So it would happen occasionally, is that right; is that
19 what you are telling us?

20 A. 我記憶裏面係。

21 Q. All right.

22 You say at subparagraph (e):

23 "Whenever I received complaints regarding defective
24 works, I always instructed the sub-contractor to perform
25 the necessary rectification work."

1 In that subparagraph, are you limiting your evidence
2 to the rebar work or is it a much more general sort of
3 statement that you're making there?

4 A. 我係講緊係有其他嘅投訴，我都會去搵啲判頭或者啲代工會去跟進番，去
5 做番。

6 Q. Mr Chan, let me ask you a rather more direct question:
7 do you have any recollection of rectification works
8 taking place that involved drilling a hole into the
9 diaphragm wall, perhaps nearby to a coupler, resin
10 having been injected into the drilled hole, and a rebar
11 then placed into the hole, sometimes known as a dowel
12 bar? Do you have any recollection of that type of
13 rectification work having taken place?

14 A. 我印象有嘅，係我哋啲工程師話畀我聽，跟住會有做過，不過係我會搵啲--
15 即係嗰個分判商嘅打石啲師傅會去鑽嗰個窿，去做呢樣嘢，有印象，不過
16 位置唔確定喺邊度。

17 Q. All right. Did you actually personally witness that
18 type of rectification taking place?

19 A. 應該係有嘅。

20 Q. Okay. Again, can I ask you, do you have any
21 recollection as to how often or how frequent that type
22 of rectification work was required?

23 A. 唔係經常，一定唔係經常。

24 Q. Not often. Occasionally?

25 A. 記唔到有幾多，我只可以話畀你聽有做過，有印象。

1 Q. Okay. As I understand your evidence, if that type of
2 rectification work was necessary, it would be the
3 engineering team that would take the decision about the
4 type of rectification work; is that right?

5 A. 我哋啲工程師話畀我聽就會係，我就會跟佢嗰個指示去做。

6 Q. Right. Do you know whether any record was kept of where
7 the dowel bar type of rectification work took place?

8 A. 我有，工程師有冇，我有了解過。

9 Q. Right. You personally are unaware of any record; is
10 that the position?

11 A. 係。

12 Q. Mr Chan, this is a slight stab in the dark, but could
13 you please be shown C27/20368. If we could first of all
14 focus on the top photograph, the two workers kneeling
15 down; do you see that?

16 Have you seen this photograph before, Mr Chan?

17 There's no reason why you should have done, but have you
18 seen it before?

19 A. 冇。

20 Q. Do you recognise either of the two workers in the
21 photograph?

22 A. 睇唔到樣。

23 Q. Okay. If we can focus on the bottom photograph, please.
24 Again, it's difficult to see full faces, as it were, but
25 is there anybody you recognise in this photograph?

1 A. 着綠色衫港鐵嗰個係Andy Wong。

2 Q. So that's the person nearest to the camera?

3 A. 冇錯。

4 Q. Anybody else?

5 A. 嗰啲應該係紮鐵師傅。

6 Q. Right. There's nobody you can identify by name, apart
7 from Mr Wong?

8 A. 冇錯。

9 MR PENNICOTT: Sir, I have no further questions.

10 Thank you very much, Mr Chan. Just wait there;
11 somebody else may have some questions for you.

12 WITNESS: 知道。

13 MR TO: No questions from China Technology.

14 MR CHOW: Mr Chairman, I have a few questions for Mr Chan.

15 CHAIRMAN: Thank you.

16 Cross-examination by MR CHOW

17 MR CHOW: Good morning, Mr Chan.

18 A. 早晨。

19 Q. I represent the government and I have a few questions
20 for you. In fact, a lot of my questions that I intended
21 to explore with you have been covered by my learned
22 friend Mr Pennicott, counsel acting for the Commission.
23 So what I intended to do is just to supplement a few
24 more questions in respect of a number of different
25 areas.

1 A. 清楚。

2 Q. If it may look a bit disorganised, please forgive me.

3 The first area I would like to ask is in relation to
4 the supervision of the actual installation of the
5 couplers by the steel fixers. This morning, you have
6 explained to us that, as a site supervisor, you have two
7 to three foremen working under you, responsible for the
8 inspection or the supervision of the steel fixing work.
9 Do you recall that?

10 A. 佢哋係有份去幫手睇，同埋仲有其他判頭嘅工程、現場環境嘅嘢，佢哋都要
11 睇嘅，唔係淨係一樣嘢。

12 Q. Am I right to say that insofar as you, as a site
13 supervisor, and your foremen working under you, you were
14 not only looking after the steel fixing work but a lot
15 of other works as well; is that correct?

16 A. 冇錯。

17 Q. And when you carry out your supervision work on site,
18 am I right to say that your main focus would be on the
19 progress and safety on site, rather than quality?

20 A. 可以咁講，因為我哋好多時禮頓我哋自己個標準，確保工人喺一個安全環境
21 裏面做嘢都係好重要，我哋最主要都係睇安全好緊要，睇得好緊。

22 Q. Other than you yourself and your foremen, was there any
23 other site supervisor who would monitor or supervise the
24 steel fixing work in your area, C1 to C3?

25 A. 冇嘍喇，我哋嗰個區域就係我哋幾個。

1 Q. Regarding the supervision of works carried out after
2 normal working hours, that is the overtime work, before
3 you -- now, I understand from the evidence of Mr So and
4 also your evidence earlier, if there is any planned
5 overtime work, then the site supervision team would
6 ensure that there would be someone from the site
7 supervision team staying behind to monitor the overtime
8 work; do you recall that?

9 A. 記得。

10 Q. But on those days when there was no planned overtime
11 work, before you get off work, would you have a habit of
12 going out to have a look at the area for which you are
13 responsible, to make sure that all the workers from the
14 sub-contractor have left, or would you just leave site
15 at 6 pm sharp?

16 A. 唔會6點鐘咁準時，我哋收工嘅時間，都會睇下有冇工人喺我自己嘅位置留低
17 嘅，另外嘅即係隔離組或者隔離地區有冇呢個咁嘅overtime，我就唔清楚，
18 你係咪確保收工嗰段時間個site係一個人都有呢，我確保唔到。

19 CHAIRMAN: Could I ask this: what would happen if, when
20 6 o'clock came, you were aware of three or four men from
21 one of the sub-contractors still working? What would
22 you do?

23 A. 我會問下佢我冇收過要加班嗰啲嘢，我問下佢會喺度做啲乜嘢，或者會搵佢
24 嘅打理。

25 INTERPRETER: The final part was not clear.

1 CHAIRMAN: So you would tell them that you had not received
2 any order for overtime work, and what else would you do,
3 if anything?

4 A. 我會問番佢哋啲打理點解仲會有人喺度做緊嘢，如果佢哋加班工作，佢要通
5 知我哋啲環保嗰個同事，佢要有申請，佢哋先至可以開工㗎嘛。

6 CHAIRMAN: All right. So effectively you would tell them
7 that they would have to finish their work?

8 A. 會㗎，咁樣佢哋啲打理如果有嗰個合理嘅嗰個通知，我就會叫佢「喂，你搵
9 番你哋公司嘅打理，如果有安排，你唔需要喺呢度做嘢喇。」

10 MR CHOW: Mr Chan, so these workers staying behind without
11 proper authorisation beforehand, has it ever really
12 happened before? Have you come across an actual
13 situation like that?

14 A. 如果喺我自己嘅範圍，我真係冇乜印象，同理我可以話畀你聽嗰個--即係而
15 家成個地盤嚟計，到我行番去寫字樓收工，就話我個位置冇加班，嗰個地盤
16 都會仲有--係有人喺度嘅，我唔可以確定話畀你聽嗰啲人喺邊個位置或者嗰
17 啲工人喺邊度，我--即係意思係我想話畀你聽，喺我收工或者我個範圍裏面，
18 如果係冇人，而個地盤又冇人行來行去，都會有呢啲咁嘅情況出現，我意思
19 係想講。

20 Q. The next area I would like to further explore with you
21 is in relation to the inspection of the steel fixing
22 work by the engineer from the engineering team.

23 This morning, you also mentioned that there would be
24 engineers carrying out inspection of the coupling works,
25 together with inspectors from MTRC; do you recall that?

1 A. 記得。

2 Q. On the basis of your -- now, we know that you yourself
3 and members of your team basically work outside the site
4 office. You watch the works being carried out by
5 various sub-contractors and workers; right?

6 A. 冇錯。

7 Q. From your recollection, your colleagues, the engineers
8 from the engineering team, would they spend, like you,
9 most of the time going around different areas of the
10 site, inspecting the quality of the work, or would they
11 spend a lot more time inside the site office?

12 A. 出面地盤如果需要嘅話，佢哋都會出嚟，時間嗰度，我真係定唔到話畀你聽
13 有幾耐時間喺嗰個地盤度、有幾多時間喺寫字樓度，我計唔到畀你。

14 Q. But are you able to give us an approximate -- do you
15 have a general impression as to as compared with your
16 team, would your colleague from the engineering team
17 spend less time outside the site office? Would you be
18 able to give a general impression or an estimate on the
19 basis of your general impression?

20 A. 係講緊啲工程師出嚟嘅時間大概有幾多，係咪呀？

21 Q. Correct.

22 A. 好多時啲工程師喺呢個八點半或者九點打後，我哋已經會見到啲工程師
23 會出嚟㗎喇，佢哋會喺佢自己嘅管轄範圍，即係我哋嗰個--或者我嗰個範圍，
24 佢都會逗留，就係話有冇嘢要睇、有冇嘢要佢跟，又或者佢有冇約咗啲MTR
25 嗰啲監督去睇嘢，佢哋就會出嚟㗎喇。做到佢啲嘢做完，可能有時11點鐘，

1 佢哋就會返寫字樓，到到晏晝可能兩點後、三點，佢哋又會再出嚟，會再
2 夾，我差唔多去到收工時間喇，我只可以畀到咁多呢個咁嘅推測你。

3 Q. On the question of whether the reinforcing bar has been
4 inspected layer by layer -- do you recall that part of
5 the discussion between you and Mr Pennicott this
6 morning?

7 A. 記得。

8 Q. Perhaps it is appropriate for me to remind you of what
9 your answer was. In the transcript at [draft]
10 page 43 -- okay, I understand that that cannot be put on
11 the screen -- can I just read out the transcript of this
12 morning, starting at [draft] page 43, line 4, where the
13 question from Mr Pennicott was:

14 "I was going to go back to the question of the
15 layer-by-layer inspections that we discussed earlier,
16 just a short while ago, Mr Chan. You agree with me that
17 inspections would take place on a layer-by-layer basis.
18 Who would actually do those inspections?"

19 Your answer was:

20 "I often saw engineers on a daily basis, and
21 together with the MTRC's inspectors they would carry out
22 periodic inspections. The time was not fixed. They
23 would carry out inspections of the steel fixing works,
24 and after that they would look at something else, and
25 I believe at that time they were doing the
26 layer-by-layer inspection. They would not stay here for

1 long time looking at the fixing works, they would check
2 whether the bars were screwed in and then they would
3 move on to another area or another aspect. After the
4 bars are fixed, another layer might be installed or
5 a third layer might be installed, and the inspectors
6 would come back after some time to see whether the third
7 layer is installed.

8 So this is our approach."

9 Do you recall that?

10 A. 記得。

11 Q. My understanding of your answer is that the engineer
12 doing his inspection of the quality of, for example, the
13 coupling works, they did not stay there and look at how
14 various rebar was screwed into the couplers. They would
15 wait until certain quantity of the threaded rebar had
16 been screwed into the couplers, then they would come
17 back to look at the product. Was that the position?

18 A. 冇錯，如果佢喺度睇緊嗰段時間，嗰一浸嘅所有螺絲鐵係未扭晒嘅，佢哋就會
19 去睇第二樣嘢，到有時間佢會再返轉頭睇番嗰陣時，要睇下佢係咪真係扭晒，
20 佢先去做一次，認真咁去睇晒所有螺絲帽，先至係再去睇第二層嘅。

21 Q. So am I right to say that on a hypothetical situation,
22 if the threaded part of a reinforcement had been cut
23 short, the engineer would not be able to pick this up
24 during their inspection? Would you agree with me?

25 A. 我--呢樣嘢呢啲假設，我唔敢--我唔知點答你。

1 Q. Okay.

2 CHAIRMAN: Well, let me pursue that a little bit, if I may.

3 I am a steel fixer. I may not look like it, but
4 I am for the purposes of the next few minutes; all
5 right? I'm in my Leighton's uniform or not -- I'm
6 bare-chested, we'll assume that. It's not a nice sight
7 but there we go.

8 I and the people I'm working with, we have some
9 difficulty screwing in a rebar to a coupler, because we
10 discover there is some concrete residue and maybe the
11 coupler is a little bit off-angle. Okay?

12 A. 你問我? 係咪意思咁...

13 CHAIRMAN: No, I'm telling you at the moment.

14 Now, I decide that the best way of dealing with this
15 problem is to get a cutter and cut the threads of the
16 rebar short, so that I don't have to screw in all the
17 threads but just maybe one or two threads. That's what
18 I decide to do. Okay? You just have to acknowledge
19 this at the moment.

20 A. 跟到。

21 CHAIRMAN: So I get a cutter and I cut the thread off one of
22 the reinforced steel bars. Then myself and whoever is
23 assisting me, we then screw in maybe just the two
24 threads that are left, to make it look as if it's been
25 properly put in. Okay?

26 A. 跟到。

1 CHAIRMAN: Now, this happens, perhaps, in the middle of the
2 day, when the engineers are back in the office.

3 Thinking about that, do you think that what I have
4 suggested to you would in fact have been possible, or
5 are you of the view that you or one of your engineers or
6 one of your foremen would definitely have seen that and
7 stopped it?

8 Remembering how much site you have to cover,
9 remembering that you are walking around, would what
10 I have suggested been possible?

11 A. 如果喺我哋見唔到佢嘅情況，有呢啲嘅可能性，我唔擔保有，如果我哋又見
12 到有啲咁嘅情況，我哋一定會制止佢，同埋搵佢個打理，我都會向我上司，
13 話畀佢聽有啲咁嘅情況，一定要報。

14 CHAIRMAN: Yes, I appreciate that. This is not in any way
15 a question that is indicating that you weren't doing
16 your job. What I want to find out is do you think it
17 would have been possible for me to wait until you had
18 wandered off and maybe there was nobody else there and
19 then to have cut the threads and said to my fellow
20 workmen, "Right, let's screw this in before anybody
21 comes back"? Would that have been possible?

22 A. 我相信都會有可能，會有呢啲咁嘅人。

23 CHAIRMAN: Thank you very much.

24 MR CHOW: Mr Chan, I would like to take you to a document
25 which Mr Pennicott has already taken you to. It's the

1 quality supervision plan. Bundle H9, starting at
2 page 4265, please.

3 This morning, Mr Pennicott has taken you to some of
4 the provisions, and what I'm going to do is to take you
5 to other provisions that may be relevant.

6 Can I ask you to go to page 4267, please.

7 CHAIRMAN: Could I ask -- it's a matter that Prof Hansford
8 has raised -- of course, these guidelines are in
9 English, and it appears that Mr Chan is not conversant
10 or not able to read English, and of course it puts him
11 at a disadvantage.

12 I'm not talking about now, I'm talking about at the
13 time, were these documents in Chinese characters?

14 MR PENNICOTT: Sir, I thought but I will be correct me if
15 I am wrong -- I thought I did ask Mr Chan whether at any
16 time these documents would have been translated to him,
17 explained to him.

18 CHAIRMAN: You probably did and I have a short memory on
19 that. My apologies.

20 MR CHEUK: You did ask.

21 MR PENNICOTT: I think I did ask, but I can't remember what
22 the answer was.

23 MR CHOW: Neither do I.

24 COMMISSIONER HANSFORD: But I think the supplemental
25 question is: would these documents have been in Chinese
26 on site?

1 MR PENNICOTT: Would there have been Chinese versions?

2 COMMISSIONER HANSFORD: Yes.

3 MR PENNICOTT: That I certainly didn't ask, I confess.

4 Perhaps Mr Chow would like to ask.

5 MR CHOW: Yes.

6 Mr Chan, before I move on, can I ask you whether
7 there is a Chinese version of the quality supervision
8 plan on site, to enable the workers who are not
9 conversant in English to be able to know the content of
10 this document?

11 A. 我真係唔清楚。

12 Q. On site, have you ever seen documents related to quality
13 supervision?

14 A. 喺地盤，冇。

15 Q. Mr Chan, just now, when I intended to take you to
16 page 4267, the relevant provisions that I intended to
17 show to you is paragraph 1(a) and (b). Perhaps I will
18 just read it out for the benefit of the Commission,
19 because the question that I'm going to ask would be
20 related to that.

21 COMMISSIONER HANSFORD: Before you do, can I just check that
22 Mr Chan can read this? Can you read these paragraphs
23 (a) and (b)? You can't?

24 A. 唔識英文。

25 MR CHOW: Perhaps it's easier for me to read it out so it
26 can be translated.

1 COMMISSIONER HANSFORD: So you need to read it out? Okay.

2 Thank you.

3 MR CHOW: "Prior to the application of consent, a quality
4 supervision plan under the MTRC and registered
5 contractor stream is required to be submitted to BD for
6 the commencement of the mechanical coupler works. The
7 quality supervision plan should include the following
8 details:

9 (a) Assignment of quality control supervisors from
10 the MTRC and the registered contractor to supervise the
11 manufacturing process of the connecting ends of the
12 steel reinforcing bars, and the installation of the
13 steel reinforcing bars to the couplers.

14 (b) The frequency of the quality supervision should
15 be full supervision by the registered contractor of the
16 mechanical couplers works, and by MTRC a supervision of
17 more than or equal to 20 per cent of the splicing
18 assemblies.

19 The minimum qualification and experience of the
20 quality control supervisors are to be the same as grade
21 T3 (TCP), as stipulated in the Code of Practice for Site
22 Supervision."

23 Mr Chan, am I right, without disrespect, at the time
24 of the construction of the EWL slab, you were proposed
25 by Leighton as a grade T1 supervisor?

26 A. 係。

1 Q. As far as I understand, a T3 grade supervisor would be
2 more qualified and more experienced; am I correct?

3 A. 係。

4 Q. So you, at the time of the construction of the EWL slab,
5 would not be the designated quality control supervisor
6 for the purpose of this quality supervision plan;
7 am I correct?

8 A. 係，聽你咁講，係，因為你話有地鐵，有T3，有我，可唔可以咁樣講呀？

9 Q. From reading the document, it appears to us that
10 Leighton, as the main contractor, also has to designate
11 a specific person with an appropriate qualification and
12 experience equivalent to a T3 grade TCP, to fulfil the
13 requirement of -- inspection requirement by a quality
14 control supervisor, and you were not that person at the
15 time, were you?

16 A. 你嘅意思係咪就係話我等同於T3呀？

17 Q. No, that's not what I meant. Perhaps I can put it
18 another way around. Do you know there is a T3 -- or
19 a TCP with a grade T3 qualification and experience
20 designated by Leighton to do the inspection or
21 supervision of the coupling works?

22 CHAIRMAN: Sorry, I've got -- are you aware that there's
23 a direction that there should be a T3 person, or were
24 you at the time aware of the fact that there was in fact
25 a T3 person on site working with you?

26 MR CHOW: The latter one, yes.

1 CHAIRMAN: Were you aware, when you were working on site as
2 a supervisor, that there was, working with you, a T3
3 grade supervisor?

4 A. 喺工程師嗰啲團隊度係有個T3，我知嘅。

5 CHAIRMAN: All right. So that person was one of the
6 engineering team, it was not, obviously, you and nor
7 your two foremen?

8 A. 冇錯。

9 CHAIRMAN: All right.

10 MR CHOW: Thank you, Mr Chairman.

11 CHAIRMAN: So would you agree that your job was not related
12 and focused absolutely on the quality of the work, but
13 it was more to do -- but it was primarily safety,
14 cleaning up the rubbish, housekeeping that is, and
15 making sure the right materials got to the right place
16 on site. That is logistics. Those were your primary
17 jobs, in addition to which you had to keep a lookout,
18 for example, that the threads were being put in
19 properly?

20 A. 頭先主席所講嗰啲，全部我哋都要做，係，冇錯。

21 CHAIRMAN: All right.

22 MR CHOW: Mr Chan, I would like to move on to another topic.

23 Mr Jason Poon of China Technology has produced a few
24 photos to the Commission, and I would like to show you
25 one of them. Bundle D1, page 228, please.

26 I would also like to show you another photo at

1 page 232. I wonder whether we can put the two photos
2 side by side.

3 CHAIRMAN: I think if one of them has to be at an angle it
4 doesn't matter.

5 MR CHOW: It doesn't matter then.

6 Mr Chan, this morning, Mr Gabriel So has been shown
7 these two photos --

8 COMMISSIONER HANSFORD: I think you need to wait until we've
9 got the photos on the screen.

10 CHAIRMAN: Don't worry if one photograph is the wrong way
11 up. We can still see what we're meant to see.

12 MR CHOW: If there's any problem putting two photos side by
13 side, I'm happy with having one at a time.

14 CHAIRMAN: All right. Let's do that.

15 COMMISSIONER HANSFORD: Let's have one at a time.

16 CHAIRMAN: There we go. Well done.

17 MR CHOW: Thank you.

18 Mr Chan, these are the two photos which have been
19 shown to various witnesses before, so all of us are very
20 familiar with these two photos.

21 At the bottom of the photos, you can see the time.
22 At least it appears that these two photos were taken on
23 22 September 2015; do you see that?

24 A. 見到。

25 Q. This morning, counsel for MTRC, Mr Boulding, produced
26 further document regarding the site diaries, and

1 Mr Boulding has established with Mr Gabriel So that as
2 at 22 September 2015, the only steel fixing work being
3 carried out would be in area C3-1.

4 MR PENNICOTT: C1-4.

5 COMMISSIONER HANSFORD: C1-4.

6 MR CHOW: C1, bay 4. Thank you.

7 Do you accept that?

8 CHAIRMAN: I rather like what Mr Boulding's expression is,
9 which is "you can take that from me", because he really
10 can't comment on his own memory, and then you can, on
11 that premise, advance.

12 MR CHOW: All right. Thank you.

13 So you can take it from me that on that day, the
14 only steel fixing work being carried out on site would
15 be in area C1-4. This morning Mr Boulding also showed
16 a site diary indicating that there were overtime work
17 carried out by the steel fixers on that day.

18 A. 睇到，今朝我見到嗰啲相嗰啲咁嘅日子，我有睇到嘅，係。

19 Q. Am I right to say that on that basis, either you
20 yourself or your foremen would have stayed behind to
21 monitor the steel fixing work after 6 pm?

22 A. 根據佢今朝睇嗰份嘢，應該係會有嘅。

23 Q. So, by looking at the photos, would you be able to tell
24 us who these workers worked for at that time?

25 A. 照相睇，佢哋係似紮鐵工人。

26 Q. If you look at the photo at page 228 -- can we blow up

1 this photo, 228, please -- can you tell from the photo

2 what was that particular worker doing at the time?

3 A. 你放大咗，睇到。

4 Q. According to your experience, what was this worker doing
5 at the time?

6 A. 佢而家係cut緊個鐵頭。

7 Q. The threaded part of the rebar; is that right?

8 A. 係，喺相嗰度見到。

9 Q. So do you know why he did that?

10 A. 我唔清楚。

11 Q. Do you think that would be wrongful?

12 A. 喺相嗰度，係呀。

13 Q. Do you think, if you were there or your foremen were
14 there, they would have stopped this particular worker
15 from doing what it appears that he was doing; right?

16 A. 我會話畀佢聽，一定會。I would tell him, definitely.

17 Q. Do you have any recollection of an incident like that
18 happening on that day?

19 A. 唔記得。

20 Q. If it was your foremen who was supervising the work at
21 that point, would he have reported to you?

22 A. 我相信你而家--佢呢啲相，正如頭先主席舉個例子，佢可能已經喺我哋管工
23 唔喺度，佢做呢個咁嘅動作，係唔出奇。

24 MR CHOW: Mr Chairman, I think this is a convenient moment
25 to have the lunch break.

1 CHAIRMAN: Yes, certainly. Thank you very much.

2 Mr Chan, we are going to have the lunch break now,
3 but you're still giving your evidence and you do have to
4 return after lunch. We are going to start again at
5 2.15; okay?

6 I tell everybody this, not just you: because you are
7 in the middle of giving your evidence, you are not
8 entitled to discuss your evidence with anybody else.
9 Okay? So if people want to go up and say, "How did it
10 go, what did you say?", you have to answer that, "Sorry,
11 I'm under strict instructions that I cannot discuss my
12 evidence in any way until it is completed", and
13 hopefully you will complete it this afternoon. Okay?

14 WITNESS: 明白, 清楚。

15 CHAIRMAN: Thank you.

16 (1.04 pm)

17 (The luncheon adjournment)

18 (2.16 pm)

19 MR CHOW: Good afternoon, Mr Chairman and Professor.

20 Good afternoon, Mr Chan.

21 A. 午安。

22 Q. Can I ask you to look at another photo, at bundle C1,
23 page 40.

24 CHAIRMAN: Sorry, could I just say one thing very, very
25 quickly -- it's my habit to do it -- I was having coffee
26 with Prof Hansford, and Mr Coleman came by. We asked

1 how he was and we had a brief discussion in a public
2 area. All right? Just in case that should ever arise.
3 It was at our invitation. Nothing of course was said
4 about the Inquiry.

5 Yes, please continue.

6 MR CHOW: Mr Chan -- is the photo available? Yes. Can
7 I ask you to look at this photo.

8 A. 睇到。

9 Q. Have you ever seen this electric cutter on site?

10 A. 有。

11 Q. Do you know who this cutter belongs to?

12 A. 我估應該係泛迅。

13 Q. You mentioned earlier that you have seen this cutter
14 before on site. From your recollection, what did
15 Fang Sheung, assuming Fang Sheung was the owner -- what
16 did Fang Sheung do with this cutter on site?

17 A. 佢哋有時就係話開始準備紮鐵，又或者佢哋所謂嘅「賴水」，即係師傅鐵，
18 比較幼少少啲，佢要個尺寸，佢就會用呢啲鋸嚟去割，需要嘅長度，佢哋
19 會咪會用呢啲鋸嚟割囉。

20 Q. So that's all that this particular cutter was put to use
21 at the time; right?

22 A. 我見過，係。

23 Q. So you have never seen this cutter being used to cut the
24 threaded part of a rebar, have you?

25 A. 係。

1 Q. Now I would like to move on to the last subject matter,
2 which is about the several incidents of bar cutting
3 between September and December of 2015.

4 Your evidence earlier was that you have no
5 recollection of any of those incidents; do you recall
6 that?

7 A. 喺陳述書係講過。

8 Q. How about as of today: do you have any recollection of
9 having been informed of any of these incidents that
10 happened back in 2015?

11 A. 頭先你畀嗰幅相我睇，跟住之後放大，佢喺度cut嗰個螺絲紋嘅鐵，我見到。

12 Q. Mr Chan, back in 2015 and 2016, was there anyone who
13 requested you to tighten your control of supervision of
14 the steel fixing work on site?

15 A. 我唔記得。

16 Q. How about asking you to watch out for unauthorised
17 cutting of the threaded part of rebar on site? Have you
18 received such request back in 2015 or early 2016?

19 A. 我唔記得喇，太耐。

20 Q. Mr Chan, obviously, at the time when you prepared your
21 witness statements, you would have been informed of all
22 these incidents; right?

23 A. 喺傳媒，我答嗰個陳述書，我喺傳媒嗰度聽到而家發生呢件事。

24 Q. You would agree with me that cutting of the threaded end
25 of a bar would be a very serious non-conformance; do you

1 agree?

2 A. 同意。

3 Q. Having learned about this, have you made any enquiry
4 with your colleagues in the engineering team as to why
5 the site supervision team was not notified at the time?

6 CHAIRMAN: Sorry, notified of ...?

7 MR CHOW: Of the bar cutting incidents.

8 MR CHANG: It might be useful if the witness can be directed
9 at which time frame. Maybe if it was put to him as to
10 whether he made any enquiry, because there is no
11 specific time frame highlighted in the question.

12 CHAIRMAN: I don't think it helps us particularly to know
13 whether this witness actually went out and actively made
14 enquiries about that matter.

15 MR CHOW: Very well, Mr Chairman. Then I have no more
16 questions. Thank you.

17 CHAIRMAN: Good.

18 MR CHOW: Thank you for your patience, Mr Chan.

19 MR CHANG: There is no re-examination.

20 CHAIRMAN: Good.

21 Thank you very much, Mr Chan. Your evidence is
22 completed. You can go now. Thank you for your help.

23 WITNESS: 好，唔該，thank you。

24 (The witness was released)

25 MR SHIEH: The next witness is Mr Joe Tam.

26 For the Commission's information, if one wants to

1 look at the relevant organisation chart, it can be found
2 in bundle C7, page 5535. That is the organisation chart
3 as of 14 May 2015. If the Commission wants to look for
4 Mr Tam -- if one takes Mr Plummer as the midway point,
5 he is somewhere to the right of Mr Plummer, and between
6 Mr Rawsthorne and Ms Emily Pin, if you move down, you
7 will see Mr Joe Tam.

8 At the next page, C7/5536 --

9 COMMISSIONER HANSFORD: Sorry, just before you -- can we go
10 back, please. With Mr Joe Tam reporting to?

11 Mr Rawsthorne. Thank you.

12 MR SHIEH: If we move to the next page, 5536, this time he
13 is actually -- if we take Mr Plummer as the midpoint,
14 move down, we see Mr Rawsthorne and Ms Emily Pin, and if
15 we move to the right, further down to the right, we can
16 also see Mr Joe Tam.

17 That places Mr Tam on --

18 MR PENNICOTT: That's the December one, is it?

19 MR SHIEH: Yes. I've shown May 2015 and then December 2015.

20 COMMISSIONER HANSFORD: Okay.

21 MR SHIEH: Mr Tam --

22 WITNESS: Yes.

23 MR SHIEH: -- welcome and good afternoon.

24 MR TAM CHI MING, JOE (affirmed in Puntì)

25 Examination-in-chief by MR SHIEH

26 Q. Thank you, Mr Tam. Can you look at bundle C27,

1 page 20611.

2 A. 係。

3 Q. 20611 is the front page of your first witness statement.

4 Do you see that, Mr Tam?

5 A. 睇到。

6 Q. Then can you turn to page 20615. Can you see, above

7 your name, there appears to be a signature?

8 A. 睇到。

9 Q. That is your signature; correct?

10 A. 係。

11 Q. Can we now turn to bundle C34, page 25592. This is your

12 second witness statement; correct?

13 A. 係。

14 Q. And you signed it at page 25593; do you see that?

15 A. 係。

16 Q. Mr Tam, do you put forward the content of these two

17 witness statements as your evidence in this Commission

18 of Inquiry?

19 A. 係。

20 Q. Thank you. Please remain seated. Lawyers for other

21 parties will be asking you some questions and then

22 the Commissioner and the Chairman may also have

23 questions for you. Do you understand?

24 A. 明白。

25 Q. Then, after all that, I may have some follow-up

1 questions for you.

2 A. 知道。

3 Q. Can I remind you, when you give your answers, please
4 speak up and into the microphone, because we are
5 recording everything into a written transcript, and
6 simply nodding or making a gesture will not be captured
7 by the transcript, so you have to speak out in words.
8 Understand?

9 A. 明白。

10 MR SHIEH: Thank you. Please remain seated while you are
11 questioned by other parties.

12 WITNESS: 知道，係，唔該。

13 Examination by MR PENNICOTT

14 MR PENNICOTT: Good afternoon, Mr Tam.

15 A. 你好，午安。

16 Q. My name is Pennicott, I'm one of the counsel to the
17 Commission, and I'll be asking you some questions first
18 and then others may follow, as Mr Shieh has just
19 explained. Thank you very much for coming to give
20 evidence this afternoon to the Commission.

21 Mr Tam, may I first of all just make sure
22 I understand the areas for which you were responsible at
23 each of the time periods that I'm interested in.

24 First of all, throughout your involvement with this
25 project, I understand that you were a construction

1 manager?

2 A. 係。

3 Q. You started work on the project on 5 January 2015?

4 A. 係。

5 Q. As I understand it, from 5 January 2015 to March 2016,
6 you were the construction manager responsible for the
7 South Approach Tunnel and the North Approach Tunnel; is
8 that correct?

9 A. 應該係4月尾呀去到。

10 Q. 2016?

11 A. 係。

12 Q. Because you say in your witness statement, at
13 paragraph 4, that you worked on the EWL slab and the NSL
14 slab from April 2016 to July 2017. So you are now
15 telling us that it was the end of April 2016 that you
16 switched; is that correct?

17 A. 係。

18 Q. So, for one of the critical periods that we are
19 interested in in the Inquiry, Mr Tam, that is from
20 approximately August 2015 to December 2015, for that
21 period, five-month period, you would not have been
22 involved with area B or area C; you would have still
23 been responsible for the SAT and the NAT, at that time,
24 during that period?

25 A. 係，係。

1 Q. Then, so far as the EWL and NSL slabs are concerned, you
2 were the construction manager for those areas up to July
3 2017?

4 A. 係。

5 Q. Then I think you say you were transferred off to another
6 project?

7 A. 係。

8 Q. Okay. Now, could I ask you, please, to look at
9 paragraph 11 of your witness statement.

10 A. 係。

11 Q. Where you say, under the heading "Allegations that the
12 threaded ends were cut off rebars":

13 "I learnt subsequently from reviewing an email dated
14 7 April 2016 ... of one occasion on 15 December 2015
15 when rebars with the threaded ends cut off were
16 identified in area C of the EWL slab."

17 Then you make reference to a non-conformance report.
18 Do you see that, Mr Tam?

19 A. 睇到，睇到。

20 Q. You, as I understand it, from what we've just discussed,
21 had no personal knowledge or involvement with that NCR
22 which we know was dated in December 2015?

23 A. 係。

24 Q. You only came to hear about it during a process, as
25 I understand it, of a review that was carried out into

1 NCRs that had not been closed out; is that right?

2 A. 係。

3 Q. Okay. In that case, I don't need to take you to the
4 email which explains all of that.

5 But can I ask you this general question: presumably,
6 you are familiar with Leighton's non-conformance report
7 process, in general terms?

8 A. 應該知道啲, 係。

9 Q. And is it correct that when a non-conformance report is
10 issued, there is a process by which Leighton requires it
11 to be closed out and finished; is that right?

12 A. 係, 係, 係需要close咗file, 做完咗件事佢, 係。

13 Q. Yes. Who would normally be the person ultimately
14 responsible for closing out an NCR, or would it depend
15 upon who issued the NCR in the first place?

16 A. 我諗係視乎嗰個工作係邊個負責或者嗰個地方係邊個去做, 咁唔係話邊個發
17 出就要邊個去close out, 呢個就唔係一定嘅。

18 Q. Right. It's the person who is ultimately responsible
19 for the area in which the non-conformance -- to which
20 the non-conformance report relates?

21 A. 係, 一般係咁樣。

22 Q. Thank you very much.

23 Could I then ask you, please, to look at
24 paragraphs 14 through to 18 of your witness statement,
25 where you are dealing with, as we can see from the

1 heading above paragraph 14, "Allegations by Joe Cheung
2 of Fang Sheung"; do you see that, Mr Tam?

3 A. 睇到，係。

4 Q. You say:

5 "I have been told that in the course of the MTRC
6 interview, part of its investigation into these matters,
7 Joe Cheung made comments which suggested that
8 Fang Sheung had cut part of the threaded ends off rebars
9 with longer threaded ends to fit them into couplers that
10 were designed for rebars with shorter threaded ends.

11 Joe Cheung never made any such comments or
12 allegations to me during our regular communication in
13 the course of carrying out the project.

14 Both the rebars with the longer threaded ends and
15 shorter threaded ends are the same diameter and can both
16 be screwed into the same type of couplers. The only
17 difference is that the threaded section is longer to
18 prevent the hook at the end of the rebar from hitting
19 the adjacent rebar when the latter rebar was being
20 screwed into the coupler."

21 Now, Mr Tam, first of all, can you just explain what
22 you mean by that last sentence? I'm afraid I just don't
23 quite follow it:

24 "... the threaded section is longer to prevent the
25 hook at the end of the rebar from hitting the adjacent
26 rebar ..."

1 Can you explain that, please?

2 A. 可以嘅，例如我呢隻係呢個有個coupler喺度 (demonstrating with
3 fingers)，呢一隻就係正常啲嘢，如果我扭啲時 (demonstrating)，就
4 後面都會轉㗎嘛，係咪？但係如果長啲牙啲嘢，let' s say，有個曲，有
5 個bend喺度，我碰埋去囉嗰，因為長嘅關--因為個牙長嘅關係，個coupler
6 就可以扭晒過嚟去支新啲支度，跟住再扭番過去 (demonstrating)，就可以
7 防止呢支個bend係轉動，唔使轉動支鐵，而扭好個coupler，就咁扭個
8 coupler而可以完成個工作，呢個就係長牙同埋短牙啲個分別。你明唔明我講？

9 Q. I think so. You're talking about the hook at, as it
10 were, the other end of the bar?

11 A. That other -- yeah, other end of the bar, it's not talking
12 about the thread.

13 Q. So the length of the thread may affect where that hook,
14 and the amount you screw it into the coupler may affect
15 where that hook ends up; is that the point?

16 CHAIRMAN: No, I think isn't it --

17 A. 唔係，唔係。

18 CHAIRMAN: -- when you turn it, the hook at the end may hit
19 against something, and then you can't turn?

20 A. 係。

21 CHAIRMAN: So instead of Mohammed coming to the mountain,
22 it's the other way around, and then you have a situation
23 where: don't turn the bar, turn the coupler?

24 A. Yes. Exactly right.

25 COMMISSIONER HANSFORD: I don't follow that. I do

1 understand, Mr Tam, how type B couplers work. I do
2 understand about how you move the coupler onto the long
3 thread of a type B bar and you don't have to then move
4 that type B bar. But I don't understand how it would
5 work in the situation you're talking about.

6 Can you just explain it again, just go through it
7 again for me. That would be helpful. Just use your
8 fingers again and explain to me how it really works.

9 A. 個實際操作，就呢度解釋其實唔係點解我要用長或者點解要用短，我就其實
10 解釋緊就係話長嘅作用係愛嚟做防止嗰個bend去轉動，就唔係話呢個case
11 係需要用長定係需要用短嘅type A定type B嘅coupler，你明我講咩嘢嘛？

12 COMMISSIONER HANSFORD: I do, but I think it depends where
13 the coupling is made. Maybe I'll just hold that thought
14 and see if it comes up later. It's not straightforward.

15 MR PENNICOTT: No. I think I understand the point but we'll
16 have another look at it, Mr Tam, if we need to.

17 COMMISSIONER HANSFORD: Okay.

18 MR PENNICOTT: However, I want to go on to paragraph 17 of
19 your witness statement --

20 A. 係。

21 Q. -- which raises what might be regarded as a new sort of
22 point. You say this:

23 "If a rebar with longer threaded ends was screwed
24 into a coupler, the only issue is that it would have
25 a more of the threaded end exposed out of the coupler."

1 We understand that.

2 "This would make it look like it was not properly
3 screwed into the couplers. However", you say, "in that
4 situation, the sub-contractor could simply notify
5 Leighton that it was using a rebar with longer threaded
6 ends, so that Leighton knew more of the threads would
7 stick out of the coupler when it was fully connected."

8 I guess the question on that, Mr Tam, is this.
9 Would Leighton, and perhaps more importantly the MTRC,
10 have allowed the sub-contractor to get away with what
11 you describe in your paragraph 17?

12 A. 唔係，我諗我解釋番第17段，點解我寫呢個嘅目的其實最主要就係解釋
13 type A同埋type B嘅coupler嘅分別，既然係type B係可以有個長啲嘅
14 牙，即係其實當你完成咗成件工作之後，其實你都會係暴露咗出嚟喇其實，
15 其實你就冇乜--其實呢個係可以做嘅做法囉，基本上係，因為你嗰支--你駁
16 咗就駁咗，無論你後面有冇個hook，你都係其實consider係要駁住之嘛，
17 你明我講...

18 Q. I follow you, but I don't quite understand what you mean
19 by paragraph 17. You are addressing Mr Joe Cheung's
20 scenario where a type B thread is shortened, essentially
21 to convert it into a type A thread. That's the scenario
22 you're addressing?

23 A. Yes, 係。

24 Q. What you seem to be saying is that it would be
25 permissible not to cut the type B thread but to use the

1 type B threaded rebar into a type A coupler, which
2 necessarily would mean you had quite a large amount of
3 thread showing, and that that would have been acceptable
4 to Leighton, had they been told by Fang Sheung that it
5 would have been done -- that had been done. Is that
6 what you're saying to us?

7 A. 係。

8 Q. And do you think that would have been acceptable to the
9 MTRC?

10 A. 係。

11 Q. Right.

12 COMMISSIONER HANSFORD: Sorry, Mr Pennicott, the reason I'm
13 looking quizzically at you, which I know the transcript
14 can't pick up, is I'm very clear about what's the
15 difference between a type A bar and a type B bar, but
16 I'm not clear about the difference between a type A
17 coupler and a type B coupler, because in my
18 understanding, the actual coupler part, the collar, is
19 identical.

20 MR PENNICOTT: The collar is identical, sir.

21 COMMISSIONER HANSFORD: But I think in your question you
22 implied --

23 MR PENNICOTT: Sorry, I said type A. It should be type A or
24 type B coupler.

25 COMMISSIONER HANSFORD: In fact they are the same thing?

26 MR PENNICOTT: Yes, they are the same thing.

1 COMMISSIONER HANSFORD: Now I understand.

2 MR PENNICOTT: Of course, if it was -- that's right. You've
3 understood.

4 COMMISSIONER HANSFORD: I have understood.

5 MR PENNICOTT: So, Mr Tam, that is your answer, as
6 I understand it, to Mr Cheung's scenario about cutting
7 the type B threaded rebar, that you could have just used
8 the type B and had a greater length of thread showing,
9 provided that was something that was communicated to
10 Leighton?

11 A. 係。

12 Q. All right.

13 Could I ask you this question, please, Mr Tam.

14 Could you please be shown an email at C12/7923.

15 Do you see that email, Mr Tam?

16 A. 睇到。

17 Q. You refer to it in your witness statement. It's
18 an email that we've looked at a number of times over the
19 last few weeks, sent by Mr Poon of China Technology to
20 Mr Zervaas and copied to you?

21 A. 係。

22 Q. Indeed, it says copied to you, but in fact it starts,
23 "Dear Joe"; do you see that?

24 A. 係，見到。

25 Q. The only question I really want to ask you about,

1 Mr Tam, is: how come you got involved in this? What's
2 the background to your involvement in this email? Why
3 would Mr Poon be sending it to you, or at least copying
4 it to you?

5 A. 我諗你正話都提到，我係喺2016年4月尾開始就係做嗰個HUIH，可能就係嗰
6 段時間之後我同佢比較多接觸或者我係負責嗰個地方，所以因為呢個原因，
7 佢就CC埋畀我，可能係呢個原--即係我諗最主要係呢個原因。有冇其他特
8 別嘅原因就唔清楚喇，我估就係因為呢個。

9 Q. Were you having a significant amount of contact with
10 Mr Poon, Mr Tam, in the lead-up to this email?

11 A. 係，係。

12 Q. Were you involved in the commercial negotiations that
13 preceded this email, back in December?

14 A. 冇。

15 Q. What was the nature of your involvement -- discussion
16 with Mr Poon in, let's say, the last quarter of 2016?

17 A. 傾工程進度、人手同埋因--我都要去assess佢個payment嘅其實都，有時
18 都要，咁所以都會係佢問我個progress of payment係究竟係點，有時。

19 Q. Okay. So that would explain, at least in part, why you
20 were copied in on this email?

21 A. 可能係，係。

22 Q. But, as I understand it, what you say is that having
23 seen, no doubt, this email, you left it to Mr Zervaas to
24 follow it up?

25 A. 係。

1 Q. And you had no subsequent involvement in any further
2 commercial discussions with Mr Poon?

3 A. 係。

4 MR PENNICOTT: Sir, I have no further questions. I don't
5 know if anyone else does.

6 CHAIRMAN: Good. Thank you very much.

7 The next -- has there been an agreed order?

8 MR TO: Chairman and Commissioner, I just have a few
9 questions to ask, if that's okay.

10 CHAIRMAN: Certainly.

11 Cross-examination by MR TO

12 MR TO: Mr Tam, I represent China Technology. My name is
13 Christopher To.

14 Can I take you to your witness statement, C20611.
15 In particular, Mr Tam, can I take you to paragraph 7.

16 Mr Tam, one of your duties is to walk around the
17 site with MTRC colleagues. Were there any other
18 sub-contractors walking around at the same time?

19 A. 你意思係幾時嘅巡查? 你話係咪講緊係同Aidan嘅巡查定係講緊同邊個嘅
20 巡查? Sorry, 我唔係好清楚你條問題。

21 Q. If you look at paragraph 7, Mr Tam, you have site walks
22 on Mondays and Thursdays.

23 A. 係, 係, 係。

24 Q. So on Mondays or Thursdays, do you walk with Mr Aidan
25 Rooney plus other sub-contractors, or you just walk with

1 Mr Aidan Rooney alone?

2 A. 我諗睇情況，因為有時Aidan佢會要求某啲特定、指定嘅分判商一齊參與
3 嗰個巡查，至於TM Lee嗰個，其實好通常都會有好多嘅，有部分嘅，應該
4 係咁，最主要都係一啲E&M嘅分判商一齊行，就有乜--基本上係--如果喺
5 我記憶之中，係應該有civil嘅分判商行，如果喺TM Lee個walk。

6 Q. In terms of Jason Poon, did he walk on Mondays?

7 A. 有出現過，有出現過。

8 Q. Often or a few times?

9 A. 早期，即係我啱啱喺嗰度有出現嗰陣時，即係我意思係4月--16年4月嗰時，
10 我見過嗰度會多啲出現嘅，跟住隨後就有出現，你話至於係咪每一次都有出
11 現或者咗幾多次，呢個就已經唔記得喇，呢個就。

12 Q. I understand. Can I move you to paragraph 9 of your
13 witness statement, Mr Tam. The first line, Mr Tam, it
14 says:

15 "I would talk to Jason Poon every day or every two
16 days."

17 Do you talk to him on the phone, in person, or how
18 do you communicate with him?

19 A. 有好多唔同嘅途徑，我相信係有打電話、面對面、WhatsApp都有。

20 Q. In terms of WhatsApp, telephone or face to face, how
21 often is face to face?

22 A. 幾頻密呀？都--普通頻密啲，我唔知點樣可以quantify到幾頻密呢...

23 Q. On site?

24 A. 喺地盤度，你意思係？

1 Q. Yes.

2 A. 地盤，有時喺寫字樓，係。

3 Q. Okay. Another question, on paragraph 21. In your
4 statement -- I will just read it out to you, Mr Tam:

5 "I recall Stephen Lumb (head of engineering) and his
6 team coming to site to conduct an investigation, but
7 I do not recall the results."

8 I am going to ask you two questions. Have you seen
9 Mr Stephen Lumb's two reports? If you haven't, I can
10 show them to you.

11 A. 我有見過報告。

12 Q. I will not show you the reports then.

13 The second question is: were you involved in any way
14 or form in terms of the investigations leading to these
15 reports?

16 A. 冇。

17 COMMISSIONER HANSFORD: Sorry, Mr To, I'm a little bit
18 confused. The transcript says, "Have you seen these
19 reports? If not, I can show them to you", and he said,
20 "No", and you said, "In that case I will not show them
21 to you."

22 MR TO: Okay. Maybe I will rephrase the question,
23 Mr Commissioner. Thank you.

24 COMMISSIONER HANSFORD: Or have I misunderstood what you
25 said?

26 MR TO: I was going to show him the reports, but I was going

1 to ask him whether he has actually seen the reports.

2 COMMISSIONER HANSFORD: Right. I'll leave it to you. I was
3 just confused by the transcript.

4 MR TO: Mr Tam, have you seen Mr Stephen Lumb's reports, two
5 reports?

6 A. 冇。

7 Q. Thank you.

8 My last question, Mr Tam, is -- there's a document
9 called non-conformance reports. Are you familiar with
10 those, NCRs?

11 A. 我知道有呢樣報告，係。

12 Q. In your time during -- in the construction site of this
13 project, how many NCRs have been issued?

14 A. 唔知，冇統計過。

15 Q. Are you familiar with 157, NCR157?

16 A. 呢排我諗聽到好多，係。

17 Q. Have you seen the report yourself?

18 A. 呢件事發生咗，隨後，好後嘅事，即係近排，係，咁見過。

19 Q. But not after it was released, in December?

20 A. 係呀，...

21 Q. Did you see it in December?

22 COMMISSIONER HANSFORD: Sorry, which December are we --

23 MR TO: December 2015.

24 A. 我諗我之前答過，就係話2015年12月嗰時佢出咗，因為唔係我負責嘅位置，
25 就算出咗，我都有去睇，隨後而家喇，近排喇，因為我哋有好多嘢去翻查啲

1 紀錄嗰時我有見過。

2 Q. "Recently" means October/November of this year?

3 A. 係，今年喇，係。

4 MR TO: Okay. Mr Tam, thank you very much.

5 Cross-examination by MR KHAW

6 MR KHAW: Mr Tam, I'm acting for the government and I have
7 a few questions for you.

8 Earlier on, in response to Mr Pennicott's question,
9 you told us that you started to work in respect of the
10 EWL slab and NSL slab from April 2016. Do you remember
11 that?

12 A. 係，係，4月尾。

13 Q. So you took over the work from Mr Gary Chow; is that
14 correct?

15 A. 係。

16 Q. If I can take you to have a look at your witness
17 statement, paragraph 7. Again, I would like to know
18 more about the site walks that you mentioned there.

19 You talk about the site walks carried out by you and
20 sometimes with Mr Aidan Rooney, with Mr TM Lee,
21 et cetera.

22 First of all, I would like to know, in respect of
23 each of these site walks, apart from you yourself, who
24 else from Leighton took part in these site walks.

25 A. 有Ian，有PD，有時都會有OM，同埋就算我係一個--其中一個

1 construction manager, 去到唔同地方, 都有其他唔同嘅同事, 都會
2 去參與。

3 Q. Sorry, what is an OM?

4 A. Operations.

5 Q. Oh, operations manager. Thank you.

6 What did these site walks cover? What did you do,
7 in general, during these site walks?

8 A. 會檢查--會睇下個工程進度, 同埋睇下有啲咩嘢困難遇到, 有時會大家搵個
9 方法去解決, 或者一啲施工上嘅安排。

10 Q. Did you ever attend any site walk with Fang Sheung?

11 A. 你意思係喺呢一個walk裏面呀, 定係喺其他嘅唔同嘅場合嘅walk嗰度呀?
12 後者?

13 Q. Let's talk about these site walks first.

14 A. 哦, 好。都有時喇, 有時都會同泛迅, 有時都同中科。

15 Q. Thank you.

16 Then, in paragraph 7, you also talked about some
17 occasional non-scheduled inspection site walks with MTR
18 inspectors. Can you tell us more about these
19 non-scheduled site walks?

20 A. 我諗呢個occasional non-scheduled嘅意思係, 即係冇係一個好
21 regular嘅schedule, 可能有時一齊「喂, 嗰度有啲問題喎。」或者
22 「嗰度有啲嘢要快啲去做喎。」咁樣, 一齊出去睇點樣去做或者有啲點樣
23 安排, 或者個先後次序啲啲咁嘅嘢, 最主要係。

24 Q. So those were sort of ad hoc site walks, to deal with

1 particular problems which arose at a particular point in
2 time; is that right?

3 A. 可以咁講。

4 Q. So, again, in relation to these ad hoc site walks, apart
5 from you yourself, were you accompanied by other people
6 from Leighton to attend these ad hoc site walks?

7 A. 我諗睇情況，如果我可以解決到或者我知道個背後或者知道個詳情嘅，我自
8 己去喇，係咪？如果有啲我需要有同事嘅協助的話，我都會邀請埋其他同事
9 去，其實冇一概而論話一定有、一定有。

10 Q. Were you ever, in any of these site walks, whether
11 scheduled or non-scheduled, aware of any difficulties in
12 the coupling works?

13 A. 唔知。

14 Q. Thank you.

15 I understand that since you are an engineer, you
16 worked for the construction engineering team of
17 Leighton?

18 A. 係。

19 Q. We tried to understand the difference between inspection
20 and supervision carried out by different teams,
21 yesterday and also today. You confirm that supervision
22 work in general was carried out by the site supervision
23 team, not your team; is that correct?

24 A. 係。

25 Q. So your team would be responsible for inspection after

1 certain works were done at certain hold points; would
2 that be correct?

3 A. 係。

4 Q. As a construction manager, just as a matter of common
5 sense, I would take it that your main duty was to ensure
6 that all construction and installation activities were
7 carried out in accordance with the required
8 specifications and plans?

9 A. 係。

10 Q. And the other main duty of your job was to identify any
11 defects or problems that could be found on site; would
12 you agree?

13 A. 我唔明白你後者--「困難」我明白，「錯漏」即係咩嘢意思呀？

14 Q. Maybe we can just focus on defects.

15 A. 我唔明白你「錯漏」咩嘢意思，即係「搵下有冇錯漏」即係？

16 Q. Fair enough. Just in general, one of your main job
17 activities was to identify whether there were any
18 defects that would be found on site; is that correct?
19 Through the inspection process.

20 A. Sorry, 我都唔係好完全掌握你條問題，係所有錯漏由我去搵咩，定係你話
21 當我巡查嗰時，我要見到--我見到有錯漏要去提出咩，你係講緊後者？

22 Q. Yes. As a construction engineer, you would be
23 responsible --

24 A. 係。

25 Q. -- for carrying out inspection of the construction

1 works; do you agree?

2 A. 唔係全部都由我去巡查。唔好意思，我有啲混淆。

3 Q. I understand that you would not be responsible for
4 everything. I totally understand that. You would be
5 working with your team members -- you would be working
6 as a team to do the inspection. That I perfectly
7 understand. I'm not saying that all responsibilities
8 fall on you yourself.

9 A. Okay, 明白。

10 Q. So, when your team --

11 A. 係。

12 Q. -- was trying to discharge did its duties, one of the
13 main responsibilities of your team was to identify
14 whether there were any defects in the construction works
15 or activities; would you agree?

16 A. 係。

17 Q. If there were defects found or if there were what we
18 call non-conformance issues, then would your team be
19 responsible for mapping out rectification works that
20 would be required?

21 A. 係。

22 Q. Am I correct in saying that whenever there was an NCR
23 which would need to be issued, presumably your team
24 would be notified of that NCR?

25 A. 係。

1 Q. Your team would normally be notified of an NCR when it
2 was issued; is that right?

3 A. 我諗發出之前或者喺附近嘅時間已經我諗都會知㗎喇，其實都，正常情況之
4 下唔--係。

5 Q. May I ask whether, at the time when you were working in
6 respect of the EWL slab and NSL slab, ie from April 2016
7 to July 2017, during that period were you aware of the
8 requirements under the QSP?

9 A. 唔熟悉，係。

10 Q. Did anyone ever mention QSP to you?

11 A. 冇印象。

12 Q. Shall we take a look? It's H9/4249. If we can take
13 a look at 4269.

14 This is one part of the QSP in relation to the
15 installation of couplers. You can see from paragraph 5
16 that this is a heading in relation to "Supervision on
17 site works", and paragraph 1 deals with "Supervision and
18 inspection by RC [ie Leighton] on site -- installation
19 works", and then paragraph 2 deals with "Supervision and
20 inspection by MTRC on site -- installation works", and
21 you can see from paragraph 1(i) that there's
22 a requirement that quality control supervisors will be
23 responsible to carry out full-time and continuous
24 supervision of the splicing assemblies on site.

25 Were you ever referred to this particular document?

1 A. 我唔知呀，呢個。

2 Q. Thank you.

3 CHAIRMAN: Sorry, what is a splicing assembly?

4 A. 即係等如一樣，就係接駁，即係coupling咁樣(demonstrating)。

5 CHAIRMAN: Thank you.

6 MR KHAW: Were you aware of any guidelines or notes which

7 were issued to engineers or your team members in

8 relation to the requirements for supervision and

9 inspection in relation to coupler installation?

10 A. 唔清楚呢個。

11 Q. Were you aware of any record sheet, or any kind of

12 record, which would record the inspection work in

13 relation to coupling works?

14 A. 咁睇鐵算唔算呀？

15 Q. Sorry?

16 A. 睇鐵呀，平時睇鐵啲，當中有牽涉到螺絲帽啲算唔算係其中一種紀錄呀？

17 CHAIRMAN: No. I think a record means, having conducted

18 an inspection, do you write that down somewhere, so that

19 you and others have a record of what has been done?

20 A. Sorry, sorry, 可唔可以重複多一次呀？

21 CHAIRMAN: Having conducted an inspection, was there

22 somewhere where you were meant to write down that you

23 had done so, put it into a book or a logbook?

24 A. 唔清楚呢個。

25 CHAIRMAN: Sorry, do you mean you don't understand the

1 question or you're not clear whether there was in fact
2 a book?

3 A. 我唔清楚嘅係咩嘢叫做紀錄冊，例如，我哋睇鐵，我哋有個inspection
4 form，會睇；例如我哋有pre-pour check、post-pour check，嗰啲
5 都係一啲part of個紀錄，我知道嗰啲；至於coupler嗰啲，我就要再
6 check check有冇個--有個特定、指定嘅logbook，呢個我就唔肯定。

7 CHAIRMAN: No, fine. That answers the question. Thank you.

8 MR KHAW: Mr Tam, I presume that you yourself had actually
9 taken part in the inspection process of the installation
10 of couplers; is that correct?

11 A. 你意思係formal嘅巡查咩，定係一個general嘅巡查？

12 Q. So you mean there was in fact a general inspection and
13 a formal inspection?

14 A. 因為你就係講到話係同地鐵嘅巡查咩嘛，之前你有提及到地鐵嘅巡查，我當然
15 我有牽涉喺呢個地鐵嘅巡查裏面，但係平時自己行過見到嘅，有--咁當然有，
16 呢個係咪叫做其中一個巡查？自己行過，喺啲自己同地鐵或者同分判商去行過
17 見到嘅，咁算唔算係一個其中嘅巡查？呢個就係我嘅問題。如果呢個算係其中
18 一個巡查嘅，我有參與到；但係如果呢個唔算嘅，就我有參與到。

19 Q. My question was simply this, Mr Tam. You yourself
20 actually took part in the inspection of couplers during
21 the course of your work, whether you are talking about
22 formal site walks or non-formal site walks. My question
23 was simply whether you yourself took part in the
24 inspection process of coupler installation, as simple as
25 that.

1 A. 我諗我有見過，可以話係。

2 COMMISSIONER HANSFORD: Sorry, I'm confused with that
3 answer, because I'm not sure whether you saw other
4 people inspecting or whether you actually inspected
5 yourself. Which is it?

6 A. 就話問--即係回答嗰條問題，就係話巡查嘅意思係可以係formal
7 inspection咁，或者平時自己同分判商行過或者同地鐵行過，見到人哋
8 裝coupler都係其中一個巡查咁嘛，係咪？如果係後者嗰個係其中一個巡
9 查嘅，我都見過人哋去扭個coupler，去裝個coupler，或者見到有啲
10 coupler喺地盤度已經裝咗，呢啲有見過。呢個就係我正話嘅答案。

11 MR KHAW: When you were doing the site walk, when you were
12 carrying out your duties, when you saw couplers having
13 been installed, were you aware of whether your team
14 members would check each installation of the coupler or
15 what percentage of the couplers that they would check
16 during the inspection process? Do you know?

17 A. 唔知道呢個。

18 Q. So are you telling us that, as a construction manager,
19 you can't even tell us approximately what was the
20 percentage of the couplers which would be checked by
21 your team; is that your evidence?

22 A. 你問我個percentage，我唔能夠確實答到，但係我會可以調番轉講嘅，
23 佢哋會有好多時間喺個地盤度做巡查。你話幾多per cent係睇緊個
24 coupler嘅，呢個就唔知。

25 CHAIRMAN: Sorry, were you ever aware of directions that you

1 should inspect a certain percentage of any of the
2 matters relevant to the construction, for example
3 a certain percentage of couplers or a certain percentage
4 of bend bars or whatever else may have been necessary to
5 check?

6 A. 我有印象，冇人叫--應該冇印象，呢個。

7 MR KHAW: If we can take a look at paragraph 11 of your
8 first witness statement, C27/20613. You said you learnt
9 subsequently, from reviewing an email dated 7 April
10 2016, of one occasion on 15 December 2015 when rebars
11 with the threaded ends cut off were identified. Then
12 you said you understand from the non-conformance report
13 that there were five defective rebars rectified,
14 et cetera.

15 Then you went on to say:

16 "I did not have any direct involvement in this
17 matter."

18 I'm just a bit curious as to why, Mr Tam, you as
19 a construction manager were not involved in this
20 particular NCR? Can you tell us why?

21 MR PENNICOTT: Sir, we know the answer to that. This
22 gentleman was working on the NAT and the SAT up until
23 April 2016. This all arose, we know, in C1-4. That's
24 been established. So it's a pretty obvious answer, with
25 respect. Indeed I'm a bit more concerned about some of
26 the more general questions that were asked earlier about

1 the inspections, because again, apart from the period
2 from April 2016 onwards, where we know the NSL was
3 certainly being constructed for a few months after April
4 2016, any other questions could only possibly be related
5 to the SAT and the NAT, where this gentleman was
6 working.

7 I'm not sure about the position on the NAT.
8 I accept that there may have been some coupler
9 installations on the SAT, but fairly limited, to my
10 understanding. So I think one needs to be a bit careful
11 about the scope of the evidence and the generality of
12 questions that are being put to this witness.

13 CHAIRMAN: Yes.

14 MR KHAW: Thank you. I will move on.

15 You told us that when you were first aware of this
16 NCR, it was around April 2016?

17 A. 其中有個email send過畀我。

18 Q. That was an email dated 7 April 2016.

19 Now, when you received that NCR, did you have
20 a chance to look at the contents of that NCR?

21 A. 因為其實嗰個email其實有好多個唔同嘅NCR，我又--我嗰時又未負責喺
22 嗰個地方，其實我有仔細去睇唔關我事嘅地方，我淨係集中睇我自己要
23 做嘅嘢度。

24 Q. Regardless of the contents of the NCR, when were you
25 first aware of the incident that cut threaded rebar were

1 found on site? When were you first notified of such
2 an incident?

3 A. 「通知」嘅意思係通知啲乜嘢呀？你意思係，通知剪鋼筋，定係...

4 Q. As a construction manager, when were you first notified
5 of the incident where threaded rebars were cut?

6 A. 我諗由16年尾嗰時Jason嗰個email--唔係，sorry，應該17年頭個email。

7 Q. Right. So you were only aware of the bar cutting
8 incident when you received Jason Poon's email dated
9 6 January?

10 A. Yes.

11 Q. And before that, you were not aware of what the NCR was
12 all about?

13 A. 係。

14 Q. So, when you received Jason Poon's email dated 6 January
15 2017, were you then told about the NCR incident which
16 happened in December 2015?

17 A. 唔記得，呢個。

18 Q. At the time when you received Jason Poon's email in
19 January 2017, were you aware of any investigation
20 carried out by Leighton in respect of the bar cutting
21 incident?

22 A. 我見到Stephen Lumb落嚟地盤。

23 Q. And in your witness statement you told us that you could
24 not recall the result of such investigation; is that
25 correct?

1 A. 係。

2 Q. If I can then take you to the last paragraph of your
3 first witness statement. You told us about a WhatsApp
4 message from Alex Ngai on 12 June 2018.

5 A. 係。

6 Q. Then you said the WhatsApp message asked for a call to
7 speak about certain scaffolding issues, et cetera, and
8 it also said that Jason Poon would like to find a reason
9 to speak to you. You saw that?

10 A. 見到。

11 Q. What was the reason that he wanted to speak to you on
12 that occasion?

13 A. 唔知，唔知咩嘢原因。

14 Q. But then you told us that you asked Jason Poon when he
15 would "finish playing the game", and by that you meant
16 making allegations to the media against Leighton in
17 relation to the project; right?

18 A. 係。

19 Q. So, when you said this to Jason Poon, were you aware of
20 any result in relation to the bar cutting incident? Any
21 result in relation to the investigation of the bar
22 cutting incident?

23 A. 我唔明白咩嘢叫result剪鋼筋事件，唔明白。

24 Q. I'll try to go through that step by step. You told us
25 that Mr Stephen Lumb came to the site, apparently to

1 carry out an investigation of the bar cutting incident,
2 or the allegation regarding bar cutting. Do you
3 remember that?

4 A. 記得。

5 Q. In your paragraph 21, you told us that you could not
6 recall the results of that investigation; is that right?

7 A. 係。

8 Q. My question was very simple. My question was, in June
9 2018, when you told Jason Poon -- or when you asked him
10 when he would "finish playing the game", ie making
11 allegations to the media, were you aware of any result
12 of the investigation carried out by about Mr Lumb?

13 A. 唔知。

14 Q. So you had no idea at that time whether the bar cutting
15 allegation could be substantiated or not; am I right?

16 A. 可以咁講。

17 Q. And, at that time, you were not aware of any previous
18 bar cutting incident which happened on site; is that
19 correct?

20 A. Sorry, 可唔可以問多一次, 呢個?

21 Q. At the time when you talked to Mr Jason Poon in June,
22 when you asked him when he would "finish playing the
23 game", ie, according to you, "playing the game" means
24 making allegations about bar cutting -- my question was,
25 before your conversation with Mr Jason Poon in June

1 2018, were you aware of any previous bar cutting
2 incidents which happened on site, including the one
3 covered under the NCR?

4 A. 即係你意思係問我知唔知道有冇cut--剪鋼筋事件，喺6月12號18年之前知
5 唔知呀，你意思，係咪呀？咁個時傳媒已經廣泛報導喇喇已經係，我資料就
6 喺個度囉，係。

7 Q. I'm not talking about the media reports. I'm talking
8 about whether you, as a construction manager of
9 Leighton --

10 A. 唔知。

11 Q. After December 2015, were you aware of any instruction
12 or guideline given by Leighton which would prevent or
13 which sought to prevent bar cutting incidents on site?
14 Were you aware of any such instruction or guideline?

15 A. 唔肯定，要再睇。

16 Q. Can I just clarify one more thing with you: when were
17 you first aware of the NCR bar cutting incident; can
18 I just clarify that with you?

19 A. 好後期，近期喇我諗係。

20 Q. So you meant -- what you are saying is that despite the
21 NCR issued in December 2015, since then you have never
22 been told or you have never been -- or you have never
23 discussed with anyone on the site regarding the
24 discovery of particular bar cutting incidents on site;
25 is that correct?

1 A. 討論冇，been told就from個email喇，係咪？

2 MR KHAW: I have no further questions.

3 MR BOULDING: No questions from the MTR, sir.

4 CHAIRMAN: Thank you.

5 Ms Chong?

6 MS CHONG: No questions from Fang Sheung.

7 CHAIRMAN: Any re-examination?

8 MR SHIEH: No re-examination.

9 CHAIRMAN: Good.

10 Questioning by THE COMMISSIONERS

11 COMMISSIONER HANSFORD: I just have one question.

12 Mr Tam, you talk about friction between
13 sub-contractors. What do you mean by "friction" and
14 could you just expand on the nature of the relationship
15 between sub-contractors? This is your paragraph 9 in
16 your first witness statement.

17 A. 可以，絕對可以，因為我有參與喺HUH裏面做嗰陣時，因為--或者講中科，
18 中科係喺呢個站嘅中間嗰度做，其實，佢周邊都有唔同--大大小小唔同嘅
19 contract--嘅判頭嘅分判商，其實某程度上，就有比較多啲interface，
20 咁可能有時因為佢嘅地方，因為其實成個站呢，中科佢牽涉嘅地方比較大呀
21 其實，可能會有--好多時都會發生到有啲磨擦，或者有啲做嘢，咁有啲人、
22 啲物料調動嗰啲咁樣有啲--有少少磨擦囉有時會係。

23 COMMISSIONER HANSFORD: Just expand on the word "friction".
24 What was the nature of that friction?

25 A. 有時可能會係嘈交，少少囉，嘈交囉。

1 COMMISSIONER HANSFORD: Small arguments?

2 A. Yes, 係呀, 細嘅爭吵, 因為大家啲物料其實都係差唔多嘅物料, 個個判頭都
3 係做緊差唔多同一樣嘅嘢, 有時就會話「點解你擺咗我啲嘢?」有時點解你--
4 我擺咗你啲嘢咁樣, 就會比較多啲咁嘅呢啲嘅磨擦發生, 有時會係。

5 COMMISSIONER HANSFORD: In your experience, is that natural,
6 is that usual? On the construction sites you have been
7 involved in, is that sort of level of friction between
8 sub-contractors usual, or is this unusual or abnormal?

9 A. 其實我諗會係睇番嗰個分工嘅安排, 先至可以討論係正常與否囉其實, 因為
10 嗰個工作或者嗰個工地嘅nature, 呢個有少少同一般嗰個地盤唔係咁同,
11 因為呢個--因為個地盤嘅關係, 其實個interface其實比較多, 同埋我哋
12 喺個podium下低做嘢, 其實會複雜咗啲, 咁可以--如果你話係咪正常, 咁
13 我--比我之前舊時做嗰啲地方, 可以話係冇咁正常, 呢個係叫做, 因為磨擦
14 比較多嘅, 其實都。

15 COMMISSIONER HANSFORD: Okay. Thank you.

16 CHAIRMAN: Nothing arising? Good.

17 Thank you very much indeed, Mr Tam. Your evidence
18 is now completed. Thank you for your assistance.

19 (The witness was released)

20 MR PENNICOTT: 15 minutes, sir?

21 CHAIRMAN: Yes, thank you.

22 (3.43 pm)

23 (A short adjournment)

24 (4.05 pm)

25 MR SHIEH: Mr Chairman and Mr Commissioner, we now have Gary

1 Chow.

2 Just to place him on the corporate chart, could
3 I ask the Commission to look at C7, first of all 5535,
4 which is the corporate chart, as of 14 May 2015.

5 COMMISSIONER HANSFORD: It's not up yet.

6 MR SHIEH: C7/5535.

7 COMMISSIONER HANSFORD: Yes.

8 MR SHIEH: If we take the MTRC name in the middle as the
9 starting point, and then Mr Plummer's photo, Mr Gary
10 Chow is immediately below Mr Plummer on the corporate
11 chart.

12 CHAIRMAN: I've got it.

13 COMMISSIONER HANSFORD: In a parallel position to Mr Joe Tam
14 who we've just seen?

15 MR SHIEH: Yes, that's right.

16 Then, for the other corporate chart, which is the
17 next page, 5536, as of 28 December 2015, if we take
18 Mr Plummer again, under the MTRC name, Mr Gary Chow
19 would be about 4 o'clock from Mr Plummer.

20 CHAIRMAN: Yes. Thank you.

21 COMMISSIONER HANSFORD: Sorry, hold on.

22 MR SHIEH: 4 o'clock from Mr Plummer.

23 COMMISSIONER HANSFORD: I'm just trying to work out my
24 4 o'clock.

25 Oh, yes.

26 MR SHIEH: So that is Mr Gary Chow's position in those two

1 corporate organisation charts.

2 Mr Chow, good afternoon. Welcome to this hearing.

3 MR CHOW MING YIN, GARY (affirmed in Puntì)

4 Examination-in-chief by MR SHIEH

5 Q. Mr Chow, can you look at bundle C27, page 20713. You
6 see this is your first witness statement; can you see
7 that?

8 A. 係，睇到。

9 Q. Can you turn to 20716. Is that your signature on that
10 page?

11 A. 係。

12 Q. Can you then look at bundle C33, page 24777. That is
13 your second witness statement; do you see that?

14 A. 係。

15 Q. Can you look at 24778. Is that your signature?

16 A. 係。

17 Q. Do you confirm the content of these two witness
18 statements and put these forward as your evidence in
19 this Commission of Inquiry?

20 A. 係。

21 MR SHIEH: Thank you. Please remain seated because lawyers
22 for other parties may ask you questions. The Commission
23 may also --

24 MR PENNICOTT: There's a third statement.

25 MR SHIEH: Sorry, yes. There's a third statement also.

1 That is in bundle C35, page 26676. This is your third
2 witness statement, Mr Chow; correct?

3 A. 係。

4 Q. Turn to the next page, please. That is your signature
5 there?

6 A. 係。

7 Q. Do you confirm the contents of this witness statement
8 and put this forward as your evidence in this Commission
9 of Inquiry?

10 A. 係。

11 Q. Please remain seated because lawyers for other parties
12 as well as the Commission may have some questions for
13 you, and then I may have some questions for you by way
14 of rounding-up. Do you understand?

15 A. 明白。

16 Q. And also, when you give your answers, can I ask you to
17 speak out and not simply nod or make a gesture, because
18 these cannot be captured by the recording system or
19 turned into the form of a written transcript. Do you
20 understand?

21 A. 明白。

22 MR SHIEH: Thank you very much. Please remain seated for
23 questioning.

24 Examination by MR PENNICOTT

25 MR PENNICOTT: Mr Chow, good afternoon. My name is

1 Pennicott, I'm one of the counsel for the Commission,
2 and I get to ask you some questions first, and as
3 Mr Shieh has explained, others may do so after me.

4 Thank you very much for coming along to give
5 evidence to the Commission this afternoon.

6 I've just got a couple of topics I want to cover
7 with you, Mr Chow, and I doubt if I'll be very long.

8 Mr Chow, first of all, were you following Mr Shieh's
9 explanation of the organisation charts a few minutes
10 ago?

11 A. 明白。

12 Q. That seemed to show you, as at May 2015, under the
13 general heading of "HUH"; do you remember that?

14 A. 係。

15 Q. But, by December 2015, it had become area B, area C and
16 HKC; do you remember that?

17 A. 係。

18 Q. What was the difference? What was the change and when
19 did it happen?

20 A. 我諗應該大概係5、6月左右，就有另外一個同事就Brian Scheff（譯音）
21 就調咗嚟紅磡呢個地盤，所以就當其時就將SAT同埋area A就分咗畀嗰個
22 同事去負責。

23 Q. I see. But, in any event, can we just establish that
24 from paragraph 4 of your witness statement -- that's at
25 20713, that's your first statement -- that from about,

1 you say, late March 2015 to April 2016, you worked as
2 the construction manager on areas B, C1, C2 and C3 and
3 HKC, both in relation to the EWL slab and the NSL slab,
4 and that that is accurate?

5 A. 係。

6 Q. Thank you very much.

7 Mr Chow, you refer in paragraph 12 of your witness
8 statement at 20715 to an incident that occurred on
9 15 December 2015. On that day, you say, correctly
10 I think, that you were copied in on an email sent by
11 Kobe Wong of the MTRC to a number of people at
12 Leightons. Do you recall that?

13 A. 記得。

14 Q. I'm obliged. You say that you have no recollection of
15 receiving or acting on this email at that time. Is that
16 correct?

17 A. 喺第一份證供，係。

18 Q. Have you in recent times reviewed NCR157?

19 A. 不合格報告157，我就見過一次，就係返番去今年嘅應該7月份，我就去咗協
20 助地鐵調查嗰陣，我同事畀過我睇，我就係見過嗰一次。

21 Q. Right. Have you not reviewed it for the purpose of
22 coming to give evidence today?

23 A. 冇。

24 Q. Okay. Could I ask you, please, to be shown NCR157.

25 First of all, let's look at the email. If you

1 please could be shown C12/8127. That's the email from
2 Mr Kobe Wong which I just mentioned to you; do you see
3 that, Mr Chow?

4 A. 睇到。

5 Q. And we can see that you were copied in.

6 Then if you would be good enough, please, to go to
7 C12/8134, this is the NCR, 157. We can see that
8 Mr Rawsthorne signed it, and on this page it is dated
9 18 December 2015; do you see that?

10 A. 睇到。

11 Q. If we go right to the bottom of the page, under the
12 copyright note it says, "Prepared by: Andy Ip"; do you
13 see that?

14 A. 睇到。

15 Q. If we go over the page, please, to page 8135 -- and this
16 is the second page, as I understand it, of the NCR,
17 Mr Chow -- if we could go to the bottom of the page,
18 please, this time, under the copyright, it says,
19 "Andy Ip", and it also has your name; do you see that?

20 A. 睇到。

21 Q. So why does this NCR have, on its face, your name?

22 A. 我相信因為Andy係喺我個team裏面嘅，應該正常個程序就係佢哋prepare
23 咗之後，就應該佢傳閱畀我，我睇過，okay，我initial咗，先至再去傳
24 上去嘅。

25 Q. Right. That was my next question. The initials at the

1 bottom, one of those initials is yours; is that correct?

2 A. 我有簽過。

3 Q. Are either of -- I don't know whether it's one or two
4 initials -- but is the initial or initials at the bottom
5 yours or not?

6 A. 唔係我簽嘅，都唔係我嗰個簽名個樣。

7 Q. All right. So perhaps they are Mr Ip's initials. Do
8 you recognise them?

9 A. 我估係。

10 Q. All right. But, in any event, you simply have no
11 recollection whatsoever of this NCR; is that correct?

12 A. 我有見過，去到我協助地鐵調查嗰陣，我先第一次見。

13 Q. You were the construction manager for the relevant area,
14 which we know to be C1-4, in December 2015; that's
15 right, isn't it?

16 A. 冇C4嘅，應該係C1到C3。

17 Q. C1 hyphen 4 is what I meant.

18 A. 係。

19 Q. Mr Chow, we know that this is, on Leighton's evidence,
20 particularly the evidence of Mr Edward Mok, the third of
21 three incidents of threaded rebar cutting that had
22 happened between about September and December 2015.
23 Were you aware of that?

24 A. 唔知道。

25 Q. So is it your evidence, Mr Chow, that at no time between

1 September and December 2015, nobody informed you of any
2 bar cutting incident?

3 A. 係。

4 Q. You would agree, I assume, with all the witnesses who
5 have given evidence on this point so far that cutting
6 threaded rebar is something that should not be done; do
7 you agree?

8 A. 係。

9 Q. It is a serious malpractice; would you agree?

10 A. 同意。

11 Q. Are you surprised, given that you were the construction
12 manager at the time for the relevant areas, looking back
13 on things, that you were not informed at the time?

14 A. 係。

15 Q. Having recently, relatively recently, acquired knowledge
16 of this bar cutting incident and perhaps others have you
17 made any enquiries as to why you were not informed at
18 the time?

19 A. 因為其實我都已經離開咗禮頓，所以亦都有同相關嘅同事有聯絡。

20 Q. All right. You left in April 2016, I think, to be fair
21 to you.

22 A. 我當其時係調咗去第二個地盤，但係其後我都今年年初我都正式離開咗禮頓。

23 MR PENNICOTT: Right. Thank you very much, Mr Chow. I have
24 no further questions.

25 MR TO: Chairman and Commissioner, I just have a few

1 questions.

2 CHAIRMAN: Yes.

3 Cross-examination by MR TO

4 MR TO: Good afternoon, Mr Chow. I represent China
5 Technology. I'm Christopher To. I'm just going to ask
6 you two or three questions, if that's okay.

7 The first question is -- Mr Pennicott asked you some
8 questions about NCR, non-conformance reports; you
9 recollect?

10 A. 記得。

11 Q. During your time, how many NCR forms were issued?

12 A. 唔清楚。

13 Q. Are you familiar with a Stephen Lumb, L-U-M-B?

14 A. 唔認識。

15 Q. So are you familiar with a report or two reports done by
16 Leighton relating to the incidents of rebar cutting?

17 A. 去到呢兩日，報紙賣嗰陣，睇到。

18 Q. My last question is: were you involved in any way or
19 form in terms of assisting in compiling these reports or
20 being interviewed in relation to these reports?

21 A. 冇。

22 MR TO: Thank you, Mr Chow. I have no further questions.

23 Cross-examination by MR KHAW

24 MR KHAW: Just one question, Mr Chow. I'm acting for the
25 government. While you were working for this particular

1 project, were you aware of any requirements in relation
2 to inspection and supervision as set out under the QSP?

3 A. 我有睇過嗰個質量監控報告，不過但係一般地盤都係有--即係其實個個地
4 盤一樣都係會有唔同嘅驗收個程序。

5 MR KHAW: I have no further questions.

6 MR BOULDING: No questions from MTR, sir.

7 MS CHONG: No question from Fang Sheung.

8 CHAIRMAN: Peter?

9 COMMISSIONER HANSFORD: I have nothing.

10 CHAIRMAN: I have nothing.

11 MR SHIEH: No re-examination.

12 CHAIRMAN: Good. Thank you very much indeed. That was
13 short, sharp and sweet for you, I hope. Thank you very
14 much for coming to the Commission to assist us. Your
15 evidence is now finished.

16 WITNESS: Okay, 唔該晒主席。

17 (The witness was released)

18 MR SHIEH: Mr Chairman and Mr Commissioner, the next witness
19 in line is supposed to be Mr Joe Leung, but we have
20 miscalculated the time that everyone would take, and
21 therefore Mr Joe Leung is not on standby today.

22 CHAIRMAN: That's all right.

23 MR SHIEH: If we may ask for the matter to be adjourned
24 slightly earlier today and then for Mr Joe Leung to be
25 called first thing tomorrow morning.

26 CHAIRMAN: Yes, of course.

1 MR PENNICOTT: Sir, I'm afraid I just couldn't anticipate
2 this and I'm aware of the situation and I apologise as
3 well.

4 CHAIRMAN: No. The Inquiry has been running very much to
5 time, very efficiently. I think we've been making good
6 use of our time, and once in a while something like this
7 is unavoidable. You can't have people who have their
8 own lives, they are busy people, they have
9 responsibilities, simply waiting around at this court on
10 the basis they may be called today or maybe tomorrow, so
11 the odd hiccup like this is acceptable.

12 MR PENNICOTT: Sir, you will appreciate also, of course,
13 that I think all of us are trying not to be repetitive
14 insofar as we can avoid it --

15 CHAIRMAN: Yes, of course.

16 MR PENNICOTT: -- in terms of putting things to the
17 witnesses time and time again.

18 H O U S E K E E P I N G

19 Could I raise, however, another administrative
20 matter which I haven't had a chance to raise with you
21 before.

22 It really relates to tomorrow. We will obviously
23 start with Mr Leung first thing in the morning, and he
24 will be followed by Mr Andy Ip. I'm reasonably
25 confident, subject to anybody behind me telling me I'm
26 wrong, that we will complete the evidence of Mr Leung

1 and Mr Ip during the course of tomorrow.

2 Sir, the problem then arises the next witness is
3 Mr Edward Mok. I anticipate, but I may be wrong, that
4 Mr Edward Mok could be in the witness box rather longer
5 than some of the other Leighton witnesses that we've had
6 to date, for reasons which obviously everybody is aware.

7 Sir, I've had a brief discussion with Mr Shieh and
8 Mr Wilken, and I think we all agree that it would be
9 inappropriate to have a witness in purdah when we break
10 tomorrow evening and for a week off.

11 So what I'm suggesting, I think, so that everybody
12 is aware -- and obviously you may have views -- is that
13 tomorrow the business is Mr Leung and Mr Ip, and we can
14 probably stand down Mr Mok tomorrow, because even if we
15 start him, there's simply no chance we are going to
16 finish him. That would be my take on the situation,
17 unless anybody else has any contrary views.

18 CHAIRMAN: Does any counsel disagree with that assessment?

19 MR SHIEH: We would endorse that, Chairman.

20 COMMISSIONER HANSFORD: Can I just ask a question -- there
21 may be logical reasons why this wouldn't be the case --
22 but would it be possible to skip over Mr Mok and go to
23 Mr Man?

24 MR PENNICOTT: I think it's a similar problem.

25 MR SHIEH: Well, the subject matter.

26 CHAIRMAN: That's fine.

1 May I mention that I have discussed matters briefly
2 with Mr Pennicott and those who assist him, and also
3 with Prof Hansford, and it would be good, I think, to
4 try to assess the amount of evidence we will have to
5 consider when we return on the basis that it may be
6 necessary to sit on Saturdays once we return.

7 So what I'd like Mr Pennicott to do, and those who
8 assist him, is to have a discussion with you, out of
9 this matter, to see administratively how that would
10 work, in the sense of whether it's necessary or not.

11 What we would anticipate would be full-day hearings
12 from 10.00 in the morning through until 4.00 in the
13 afternoon on the Saturdays when we return. That's not
14 a definite, I'm not saying it will happen, but we do
15 need to have a better idea of the evidence and the
16 amount that we need to get through.

17 MR PENNICOTT: Yes, sir.

18 CHAIRMAN: Good. Anything more?

19 MR PENNICOTT: No, sir. Thank you very much.

20 CHAIRMAN: Thank you very much.

21 (4.31 pm)

22 (The hearing adjourned until 10.00 am the following day)

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