

1 Monday, 17 June 2019

2 (10.02 am)

3 MR CLAYTON: Good morning, members of the Commission.

4 CHAIRMAN: Yes.

5 MR CLAYTON: I think it's my first witness, Mr Yueng, who's  
6 going to give evidence in Cantonese, I think.

7 MR YUENG WAI HUNG, RON (sworn in Cantonese)

8 Examination-in-chief by MR CLAYTON

9 Q. Mr Yueng, please sit down.

10 I believe you have provided three further witness  
11 statements for the Commission of Inquiry, your second,  
12 third and fourth statements; correct?

13 A. 冇錯。

14 Q. I think you already provided your first witness  
15 statement in the earlier part of the Commission of  
16 Inquiry; correct?

17 A. 冇錯。

18 Q. Could we then go to look at your second witness  
19 statement, at GG1, page 26, please.

20 Is that the first page of your second witness  
21 statement?

22 A. 冇錯。

23 Q. That, I think, deals with the NAT area. Is that right?

24 A. 冇錯。

25 Q. Then could you go to GG1, page 50, please, or be taken

1 to it.

2 Is that your signature there on your second witness  
3 statement?

4 A. 係。

5 Q. Is there a corrigendum to that second witness statement  
6 at GG1, pages 51.1 and 51.2?

7 A. 冇錯。

8 Q. Now, with the corrigendum, is your second witness  
9 statement true?

10 A. 係。

11 Q. Right. Could you then go to GG1, page 285, please.

12 Is that the first page of your third witness  
13 statement?

14 A. 冇錯。

15 Q. Does that deal with the SAT area?

16 A. 冇錯。

17 Q. And is your third witness statement true?

18 A. 冇錯。

19 Q. Then could you go to GG1, page 326, please. Is that the  
20 first page of your fourth witness statement?

21 A. 冇錯。

22 Q. And this witness statement deals with the HHS area; is  
23 that correct?

24 A. 冇錯。

25 Q. Could you go to GG1, page 328, please. Is that your

1 signature on your fourth witness statement?

2 A. 冇錯。

3 Q. Is your fourth witness statement true?

4 A. 冇錯。

5 Q. Are those the witness statements -- or are those witness  
6 statements the evidence you wish to present before the  
7 Commission of Inquiry, in this part of the Commission?

8 A. 係。

9 MR CLAYTON: Would you stay there, please. You will be  
10 asked questions by other people.

11 Examination by MR PENNICOTT

12 MR PENNICOTT: Good morning, Mr Yueng.

13 A. 早晨。

14 Q. Thank you, once again, for coming to give evidence to  
15 the Commission. I think you know how it works. I get  
16 to ask some questions first. I have a few but not  
17 a great many. Then, if anybody else wishes to ask you  
18 questions, they will do, and if Mr Clayton wishes to ask  
19 you any questions at the end, he can do that, and as you  
20 know at any time, either the Chairman or Prof Hansford  
21 can ask you some questions as well.

22 Mr Yueng, what I'd like to do first is just a bit of  
23 a recap, first of all on your role at Pypun, and then,  
24 secondly, in relation to the contractual context in  
25 which Pypun carried out its work.

1 A. 明白。

2 Q. We know that you are a director of Pypun, and we know  
3 that Pypun has principally two teams, if you like, in  
4 relation to the SCL project. That is a monitoring and  
5 verification, or M&V team on the one hand?

6 A. M&V team and BSRC team, right?

7 Q. And the BSRC team on the other.

8 And you were involved in the SCL project as the  
9 leader, as I understand it, of the BSRC team until  
10 January of this year. Is that correct?

11 A. 冇錯。

12 Q. But you tell us that in January this year the BSRC team  
13 was reduced in size and you joined the M&V team, as  
14 I understand it, although you still provide some support  
15 for the existing BSRC team. Have I got that right?

16 A. 冇錯。

17 Q. Now, although you were involved primarily with the BSRC  
18 team before January this year, your witness statements  
19 cover matters in relation to both teams, and I assume  
20 you have a general knowledge of the operation of both  
21 teams. Would that be fair?

22 A. 冇錯。

23 Q. Good. Now, can we just remind ourselves, as I indicated  
24 we would, about the contractual context of Pypun's  
25 operations. Could we be shown, please, the contract,

1 original contract of engagement of Pypun. That requires  
2 us to go back to the original files, at G9/7638.

3 We see the front sheet here, Mr Yueng. If we could  
4 please go to page 7642, and scroll down, please. This  
5 is the memorandum of agreement. And we remind ourselves  
6 that the agreement comprises, essentially, three  
7 separate parts. That is, the brief, the conditions and  
8 the schedule of fees. Do you see that, Mr Yueng?

9 A. 睇到。

10 Q. If we could please go to page 7646. We see this is the  
11 start of the first document, that is the brief. If we  
12 go to 7648, we see the table of contents set out there.

13 If we could please go to 7653, we remind ourselves  
14 at clause 3.1, at the bottom of the page, under the  
15 heading, "Objectives of the Assignment", that:

16 "The overall objective of the Assignment is to  
17 provide monitoring and verification services in relation  
18 to the work undertaken by MTR (including submissions by  
19 its consultants, contractors or agent to MTR) during the  
20 construction, testing and commissioning phase of the  
21 project so as to provide assurance that the MTR's  
22 obligations stated in the EAs for the SCL advance works  
23 and construction phases have been properly fulfilled."

24 Then a sentence I know is important to Pypun:

25 "The monitoring and verification shall focus on  
26 cost, programme and public safety of the Project."

1           So that's the M&V part of the assignment.

2           Then if we go to the top of the page, at 3.2 -- it's  
3           the next page:

4           "Provision of professional services in respect of  
5           the assessment of building submissions for compliance  
6           with the BO and other relevant ordinances, regulations  
7           and standards."

8           So that's the BSRC team referred to there. So  
9           that's the context, Mr Yueng.

10          A. 係，我清楚。

11          Q. Right. If we could then just go to 7655, we have  
12           a heading at number 5, "Deliverables", and if we could  
13           scroll down just a bit further, please -- yes, that will  
14           do for my purposes now -- the three, perhaps, most  
15           relevant documents, certainly that I'm concerned about  
16           this morning, Mr Yueng, although we won't be looking at  
17           them in any particular detail, are number 2, the  
18           inception report; number 5, the monitoring plan; and  
19           number 7, the verification plan.

20           Do you see those, and no doubt you will remember all  
21           of those?

22          A. 我記得。

23          Q. Right.

24           Now, with that introduction, could I ask you,  
25           please, to go to paragraph 16 of your second witness  
26           statement. That's the first witness statement for the

1 purposes of this part of the Inquiry. That's at GG1/29.

2 Where you say:

3 "As mentioned in Mr Mak's statement, Pypun's work  
4 adopted a risk-based approach (and necessarily had to,  
5 because [of] the vast scope of potential work to be  
6 carried out)."

7 And there's an expansion of the risk-based approach  
8 set out in that paragraph.

9 Then you refer to the second paragraph of the  
10 document you've referred to in paragraph 17. Then you  
11 say this:

12 "Page 7 of the monitoring plan (towards bottom of  
13 page) stated that the 'actual management of the SCL  
14 project risks will be undertaken by MTR.'"

15 Then you make reference to a number of passages in  
16 the monitoring plan.

17 Could we please look at the monitoring plan, for  
18 which purpose I'm afraid we will need again to go to the  
19 original files, and this time K1 at page 147.

20 This is the front sheet of the monitoring plan,  
21 Mr Yueng. If we could please then go to page 156.  
22 Sorry, let's go back to 155, just to put this in  
23 context, otherwise we are picking it up halfway through.  
24 There's a heading "Approach" in the monitoring plan,  
25 "General", and it says:

26 "The primary driver to focus our work on this

1 extensive project, with numerous contracts, will be to  
2 identify the risks that may impact the cost, programme  
3 and public safety. The fact that the project programme  
4 is tight and that there are a number of interfaces with  
5 the existing operating railway that need to be managed  
6 will only lead to an increase in potential risks."

7 Then the important part for my purposes now is this:

8 "There are some readily identified key risks, for  
9 example", and then can I draw your attention to the  
10 second bullet point, which I appreciate you mention in  
11 paragraph 14 of your witness statement, where it says  
12 this:

13 "Contract interfaces, both internal and external, to  
14 the SCL project".

15 Do you see that, Mr Yueng?

16 A. 可以。

17 Q. If we go to page 162 -- sorry, again, just to make sure  
18 there's no question as to where we are, if you could go  
19 back to 161, please, towards the bottom, thank you --  
20 heading, "Monitoring plan":

21 "Our monitoring will be on a high level basis with  
22 a focus on the following activities".

23 Then over the page, please, "Monitoring by review of  
24 documents", and then there's a heading at 4.1.2,  
25 "Contract documents", and if you could scroll down to  
26 the end of that, please -- that's fine, thank you -- do



1           you see the last sentence of that last primary  
2           paragraph, where it says:

3                   "A key aspect of this project is the interfaces  
4           between contractors, both internal and external to the  
5           project, and we will review this aspect carefully."

6           Do you see that, Mr Yueng?

7   A.   睇到。

8   Q.   Right.  Would you agree, in the light of those  
9           provisions we've just looked at, or observations in the  
10          monitoring report that we've just looked at, that the  
11          contract interface between contract 1111 and 1112 is  
12          a key risk?

13   A.   我唔同意呢個主要風險。

14   Q.   First of all, then, let's break it down: do you agree  
15          it's a contract interface?

16   A.   冇錯，係一個合約交界面。

17   Q.   Right.  So why is it not a key risk?

18   A.   或者喺較早時候大家都睇到，嗰個stitch joint基本上嗰個闊度只係2米，  
19          即係一張檯咁闊，大家喺之前應該都睇過啲相。嗰個建造基本上好簡單，  
20          好straightforward。另外就係我哋喺個港鐵公司同埋承建商有關嘅risk  
21          days或者risk register裏面，其實我哋並唔睇到佢哋覺得呢一個stitch  
22          joint或者係個construction joint係有咩嘢風險。另外我哋喺BSRC team  
23          裏面見到嘅，就係1111同埋1112係港鐵係聘用同一個DDC，即係detailed  
24          design consultant，我哋睇到基本上個interface嘅風險其實已經好低呀。

1           再進一步，就係其實喺興建呢個stitch joint嘅時候，較早前嘅  
2           喺1111早啲完成嗰部分嘅港鐵嘅CM，Mr Fu其實喺興建建造呢個stitch  
3           joint嘅時候，佢已經係調配咗1112。咁我哋睇到基本上，無論喺設計裏面  
4           同埋建造方面、監管方面，其實佢哋資料相當充分，亦都唔使exchange，  
5           因為都係同一班人做，所以我睇到呢個風險係好低，而唔覺得一個係咩嘢  
6           major impact。

7           Q. All right. Now, having recognised in the monitoring  
8           plan, Mr Yueng, potentially at least, that contract  
9           interfaces posed a key risk, did Pypun carry out  
10           an exercise to determine which contract interfaces did  
11           pose a key risk and which contract interfaces did not  
12           pose such a key risk? Was that exercise actually  
13           carried out?

14           A. 我哋嘅同事有做過㗎。其實喺嗰咁大嘅工程合約，喺個civil contract  
15           嘅交界面，的而且確係會有個風險㗎度。但係因為係civil contract，  
16           基本上係港鐵公司作為成條線嘅Project Manager，咁佢哋會有相當  
17           認知或者steps去交換個資料。我哋喺沙中線嘅項目嘅，我哋嘅identify  
18           喺最主要嘅交界面嘅風險，反而係喺現有嘅鐵路，同埋現有鐵路系統嘅運作  
19           或者upgrading嗰個交界面。

20           Q. All right. You see, what I'm trying to understand,  
21           Mr Yueng, is whether the conclusion, the evidence that  
22           you are giving, that the stitch joints were not a key  
23           issue or a key risk, is a conclusion that you have  
24           reached after the event or one that you had reached

1 before the stitch joints constructed. Which is it?

2 A. 之前已經定咗嚟嘞。

3 Q. All right. Can I ask you this: are you aware that in  
4 the 1112 contract, there is an interface requirements  
5 specification? Were you aware of that?

6 A. 我本人冇睇過嗰個文件，但係我嚟同港鐵公司嘅設計團隊溝通嗰時，  
7 佢哋提過有個咁嘅條款喺裏面。

8 Q. Right. Was that, again, a document that you would have  
9 seen before the stitch joints were constructed, or is  
10 that something you've seen more recently?

11 A. 我係最近先睇㗎，我哋之前冇睇過呢份文件。

12 Q. Right. Do you know whether Pypun itself would have  
13 reviewed the 1112 contract and that specification in  
14 particular?

15 A. 冇，我哋個service裏面係冇需要睇合約嗰個個別嘅specification，  
16 尤其係關於質量或者其他嘅方面。

17 Q. You say "with regard to quality". This was an interface  
18 specification, appearing in the 1112 contract and also,  
19 we assume, the 1111 contract, because those are the two  
20 contracts that were interfacing. So Pypun didn't play  
21 a role in looking at that particular document, even  
22 though the monitoring plan, as we've seen, identified  
23 contract interfaces as a key issue or a key risk? Is  
24 that right?

25 A. 我唔係咁嘅意思，因為我哋早前已經識別到，喺civil works裏面，

1           呢一啲唔同合約嘅交界面、stitch joint，其實個風險好低嘅，  
2           所以我哋冇再就住呢個交界面裏面嘅要求鑽到好深去睇呢件事。

3           Q. All right. Understood.

4                     So I think it must follow from that evidence,  
5           Mr Yueng, that Pypun itself did not take any active  
6           steps to consider the design and the detail of those  
7           stitch joints. Is that right?

8           A. 因為個風險好低呀，所以我哋都覺得呢個唔需要有特別乜嘢關注喺度。

9           Q. All right.

10                    Mr Yueng, just moving on -- in your witness  
11           statement, that's your second witness statement, at  
12           paragraph 12 -- that's at GG28 -- in the first sentence  
13           there you say:

14                    "Monitoring therefore does not relate to  
15           construction quality or construction record keeping."

16                    Then similarly in paragraph 36, under the general  
17           heading of "Verification", which we can see on page 31,  
18           you say, having reviewed a number of documents:

19                    "Such documents and risk groups are unrelated to  
20           construction quality or construction record keeping."

21                    So the same phraseology. So, in essence, both in  
22           relation to monitoring and verification -- two separate  
23           things, monitoring and verification -- you say neither  
24           of those obligations that you had related to  
25           construction quality -- and let's just pause there,  
26           construction quality. You were not engaged, as you say,

1 in monitoring and verifying construction quality.

2 That's my understanding of your position. Is that  
3 right?

4 A. 冇錯，個brief寫得好清楚。

5 Q. Right. But would you agree with this proposition,  
6 Mr Yueng, that poor construction quality will lead to  
7 the necessity to carry out remedial works which will  
8 then have an impact on cost and programme; do you agree  
9 with that?

10 A. 同意。

11 Q. And so, for example, if three defectively constructed  
12 stitch joints give rise to remedial costs of  
13 \$50 million, is that not something that is a cost and  
14 something that you ought to be interested in?

15 A. 我哋個關注點，其實係當有事發生嘅時候，無論係質量嘅事宜或者其他事，  
16 我哋會按住我哋合約裏面要求我哋嘅三個範疇去畀意見RDO嘅，包括就係  
17 cost, programme同埋public safety。

18 喺呢個stitch joint發生有呢一啲defective works嘅時候，  
19 其實我哋已經就住呢三個aspects，我哋去advise咗RDO喺呢三樣範疇嘅  
20 意見。我哋並冇責任去搵出啲defective work，亦都有責任去做一個  
21 quality supervision。

22 Q. I understand that entirely, Mr Yueng, and certainly I'm  
23 not suggesting that you should have been there to spot  
24 these particular difficulties and these particular  
25 defects that arose.

1           But what I am trying to understand is to what  
2           extent, perhaps, Pypun ought to have anticipated the  
3           stitch joints being key risks and should have done  
4           something prior to their construction.

5           Now, I've understood your position on that, but I'm  
6           just now raising, as it were, the bar, pointing out that  
7           \$50 million, apparently, was spent putting right these  
8           stitch joints, and presumably, but I don't know, there  
9           may have been programme implications as well, both of  
10          which, on the face of it, Pypun is interested in, cost  
11          and programme.

12         A. 其實如果我哋--我之前都提過，喺好早時間我哋已經睇到呢一個interface  
13          joint其實個風險好低，風險低都會出咗事，呢個我哋都預計唔到。

14         Q. All right. I've understood.

15          Mr Yueng, so far as public safety is concerned, as  
16          I understand it -- and I think this is referred to in  
17          the inception report -- you say that it means safety to  
18          the public when the construction works for the project  
19          are being carried out and not the integrity of the  
20          permanent works.

21          Is that it, in a nutshell?

22         A. 冇錯。

23         Q. And that definition, as I've tried to summarise, as  
24          I say, is contained in the inception report. I think  
25          you accept that. We don't need to look at it.

26          But, as we perhaps saw earlier, the overall

1 objective of Pypun's or the high-level objective of  
2 Pypun's engagement was to provide assurance that MTR's  
3 obligations stated in the entrustment agreements for the  
4 SCL advance works and construction phases have been  
5 properly fulfilled.

6 With your narrow definition, if I can call it that,  
7 Mr Yueng, of public safety, how is that high-level  
8 objective going to be achieved, if you are not looking  
9 at the position of the integrity of the permanent works?

10 A. 可唔可以去番剛才個brief嘅3.1呀?

11 Q. Of course. 7653. It's in G9/7653.

12 A. 喺3.1第三行最尾稍--中間位置, 嗰度都寫得好清楚:

13 "... during the construction, testing  
14 and commissioning phase of the Project ..."

15 我哋呢個服務嘅時間範圍, 就係喺嗰度定出嚟嘅。

16 Q. And so you say that distinguishes the position from the  
17 finished product, is that right, the permanent works as  
18 ultimately constructed?

19 A. 冇錯, 係, 冇錯, 做好嘅工程係港鐵負責。

20 Q. Okay.

21 RISC forms, Mr Yueng. Let's clear one thing out of  
22 the way. My understanding is that during the course of  
23 the carrying out of Pypun's works, it was never drawn to  
24 your attention, in relation to the 1112 contract, that  
25 there was a problem about RISC forms. Is that right?

1 A. 冇錯，直至係喺PCS meeting，應該係12月囉，17年12月呀。

2 Q. Right. And as I understand -- I think it's  
3 paragraph 103 of your witness statement, that's at GG46,  
4 under the heading "Request for inspection/test/survey  
5 check (RISC) forms", you refer in paragraph 103 to  
6 a technical memorandum and code of practice.

7 Then, if we can pick it up about seven or eight  
8 lines from the bottom of 103, with the word  
9 "Consequently", you say:

10 "Consequently, the documents that Pypun would audit  
11 for its site audits for any area which was audited  
12 (because these documents would be kept on site) would be  
13 the documents produced under the site supervision plan  
14 in respect of those works, ie the form A and form B  
15 from the code of practice."

16 Do you see that, Mr Yueng?

17 A. 可以。

18 Q. Then you go on to say this:

19 "The RISC forms were not documents Pypun would have  
20 been required to look at for any audit that was carried  
21 out and so, if these areas had been audited, the RISC  
22 forms would not have been looked at. Further, the RISC  
23 forms, were this a private building project, were not  
24 documents that would be inspected by the BD to check  
25 that the supervision had been carried out properly."

26 So your position is that you, Pypun, were not



1 required to look -- would not have been required to look  
2 at the RISC forms, had an audit been carried out. But,  
3 as I understand it, you have now been asked by the  
4 government, under a separate contract, to look at and  
5 carry out an audit in relation to the RISC forms on  
6 contract 1112?

7 A. 唔知係咪翻譯有啲誤會，可唔可以重複個問題？

8 Q. Yes, of course. You tell us in your statement that, had  
9 you carried out an audit or audits during the course of  
10 your works, when the contract works were being carried  
11 out, you would not have been required to look at RISC  
12 forms?

13 A. 冇錯。

14 Q. But you have now, under a separate contract or  
15 a supplementary contract of engagement, been asked by  
16 the government to do an audit exercise on contract 1112  
17 in respect of RISC forms?

18 A. 冇錯，係應該係啲additional services。

19 Q. So what is your understanding of why now you have been  
20 asked to look at those RISC forms?

21 A. 我哋接到RDO嘅要求，我哋要做一個additional service，佢係想理解  
22 啲1112 NAT、SAT同埋HHS而家個RISC form個情況。

23 Q. I understand that they've asked you to look at the  
24 status of the RISC forms, and you have produced a report  
25 which we'll have a quick look at in a moment. But what

1 is your understanding as to why now you have been asked  
2 to do that auditing exercise?

3 A. 因為個RISC form不嬲都唔係我哋--或者去檢查RISC form唔係我哋原本  
4 嘅工作範圍裏面嘅。因為M&V我哋正話講過喇，我哋係唔需要顧及個  
5 quality嘅。因為RISC form大家喺之前嘅證人證供都提過，嗰個RISC  
6 form係一個quality form或者係quality document。

7 而BSRC team嗰邊係我哋去協助BO team做工作，BO team  
8 其實喺之前我哋講過喇，就係RISC form唔係BO需要嘅文件嚟嘅。反而  
9 係嗰個site supervision record，即係正話講嘅form A、form B  
10 就係BO需要嘅文件。

11 Q. Yes. So why is it that the BO team is now so interested  
12 in RISC forms, when previously neither Pypun was  
13 required to look at them and the BO -- and we know that  
14 RISC forms are not part of the BO process? So what's  
15 the purpose? Why are we now looking at them?

16 MR CLAYTON: Excuse me, but does he really know why the BO  
17 team -- isn't it actually appropriate to ask the BO team  
18 in relation to this?

19 MR PENNICOTT: All right, I'll ask him: do you know why you  
20 are being -- in fact that was my first question -- do  
21 you know why you are being asked to look at these RISC  
22 forms?

23 A. RDO要我哋睇呢個表格係佢想掌握到而家港鐵公司手上RISC form就住  
24 NAT、SAT、HHS嘅情況，想我哋做一個獨立嘅檢查，報告番畀佢哋。

25 Q. All right. And what you've done is essentially

1 a statistical analysis of how many RISC forms there  
2 perhaps should have been in any particular area and how  
3 many RISC forms there are in fact in a particular area,  
4 and also you have pointed out a number of irregularities  
5 in the RISC forms that do exist. Is that broadly the  
6 position, Mr Yueng?

7 A. 冇錯，呢個亦都係RDO要求我哋做嘅嘢。

8 Q. All right. And from Pypun's perspective, that's seen as  
9 additional services or extra services, because it is  
10 regarded as a matter of quality, as I understand it,  
11 which you say is not part of your original contract?

12 A. 冇錯。

13 Q. Understood. All right.

14 Can I ask you, please, to look at paragraph 107 of  
15 your witness statement, at GG47. You have a heading  
16 there, Mr Yueng, "QSP checklists", and the first  
17 sentence reads:

18 "These checklists relate only to installation of  
19 mechanical couplers."

20 You go on to say that under the approval letters,  
21 there also had to be, on completion of the works, under  
22 a particular contract, submission of a QSP.

23 "The QSP checklists for the works would be included  
24 in that QSR. Once the QSR had been submitted, Pypun  
25 would then consider the report and the checklists  
26 supplied with it. The contract 1112 works have not yet

1           been completed. Consequently, the QSR has not been  
2           provided", and you will, that is Pypun, consider the QSR  
3           and the QSP when they are provided.

4           As I understand it, that is an exercise that would  
5           happen after the contract is completed and when the  
6           relevant submissions are made?

7   MR CLAYTON: Sorry, may I just interject there? I think the  
8           QSP is provided earlier. It is the QSR that is provided  
9           at the completion of the works.

10   MR PENNICOTT: The QSR, correct.

11           But the QSP checklists are also provided after  
12           completion; is that right? The QSP itself is obviously  
13           provided earlier, but the QSP checklists are provided at  
14           completion?

15   A.   呢個係睇港鐵公司佢自己安排喇。因為你講到個工程完成，應該係講個  
16           部分需要coupler嘅工程完成，就唔係整體工程完成。

17   Q.   All right. Yes. Sorry, you are quite right. I was  
18           trying to focus on the question of couplers which you  
19           refer to in "mechanical couplers", and in relation to  
20           those we know that certainly where there are ductile  
21           couplers, a quality supervision plan will be submitted  
22           by MTR and Leighton?

23   A.   冇錯。

24   Q.   But then what happens, when we get to the end of the  
25           project, upon completion, a QSR, quality supervision  
26           report, will include within it, as we saw in the first

1 part of the Inquiry, QSP checklists, and at that point  
2 Pypun will review that documentation, as I understand  
3 it. Is that right?

4 A. 冇錯。

5 Q. So does it follow that during the course of the works  
6 and in the various areas that we are concerned with in  
7 this part of the Inquiry -- NAT, SAT and HHS -- Pypun  
8 itself has had no involvement with the whole question of  
9 the use of couplers; would that be right?

10 A. Will you please repeat the question?

11 Q. Yes, I will. You have not been asked by the government  
12 at any point during the course of the works with which  
13 we are concerned in the NAT, the SAT and the HHS, to  
14 date, to look at the question of the use of couplers in  
15 any of those areas. Is that right?

16 A. 有呀，有叫我哋睇過嘅。喺舊年嘅應該喺6月、7月嘅喇，我記得，當我哋  
17 做EWL slab嘅文件檢查嘅時候，當中因為等緊其他文件，我哋係就住  
18 北面隧道嘅stitch joint嘅reconstruction，我哋係曾經睇嗰個  
19 reconstruction嘅QSP嘅，嗰陣時見到嘅係我--reconstruction  
20 裏面嘅QSP checklist係並冇問題嘅。

21 Q. Did you say reconstruction or remedial work at the NAT?  
22 Is that what you were referring to?

23 A. 冇錯，冇錯。

24 Q. So you looked at the question of couplers in the narrow  
25 context of the remedial works that were carried out to

1 the stitch joints; is that right?

2 A. 冇錯。

3 Q. I understand. Okay. But apart from that context, there  
4 is no other context in which Pypun has looked at the  
5 incorporation of couplers into the works in the NAT, SAT  
6 and HHS, only in relation to those remedial works?

7 A. 冇錯。

8 Q. Okay.

9 In various paragraphs of your second, third and  
10 fourth witness statements, Mr Yueng, you -- and let's  
11 just look at one while we are here, paragraph 111 at  
12 GG48. You refer there, in the first sentence of 111, to  
13 MTRC submitting, on or about 7 September 2017, to the BO  
14 team a batch of material testing records for rebars.

15 Sorry, I should have said this section of your  
16 statement is dealing with rebars. There's a heading at  
17 the top of the page we can see, just to -- there we are.

18 "... a batch of material testing records for rebars,  
19 which were passed on to Pypun. Pypun checked such  
20 records in September 2017, and found them to be in  
21 order."

22 Mr Yueng, you have a similar sentence in your other  
23 two statements in relation to the SAT area and in  
24 relation to the HHS area. Do you recall that?

25 A. 記得。

26 Q. All right. To save me going to all three references.

1 I don't know whether you are aware of this,  
2 Mr Yueng, but recently, quite recently, we have heard  
3 evidence from Leighton that there are approximately  
4 7 per cent of the rebar, under contract 1112, which were  
5 not tested, apparently, by the HOKLAS laboratory. Is  
6 that something you are now aware of, Mr Yueng?

7 A. 知道，佢哋通知過港鐵公司。

8 Q. Right. So whilst you looked at the records that you  
9 were given in the three different areas which you refer  
10 to in your witness statement, was there no means of  
11 picking up that certain rebar had not been tested, or  
12 were you just looking at the documents you were given  
13 and ticking them as being satisfactory?

14 A. 喺去到2017年9月，佢哋提交嘅講緊測試報告，我哋發現係okay嘅，in  
15 order嘅。因為整體工程，整個1112嘅工程未報員工，我哋唔可以判斷  
16 佢呢個係咪已經全部嘅rebar test係交咗畀我哋。

17 我哋講嘅係"in order"嘅意思，係佢已經呈交嘅，我哋見到係  
18 in order。

19 Q. Right. So, if that's right, as I understand it, and  
20 going back to our brief discussion about the QSR  
21 a moment ago, when completion is achieved and there is  
22 presumably, what, a final submission of all the  
23 documentation, and so the government, no doubt with your  
24 assistance, would then carry out, as it were, a final  
25 overall check of the position in relation specifically

1 to the rebar and no doubt lots of other matters as well;  
2 is that right?

3 A. 冇錯。

4 Q. And so, if there was rebar or there is rebar that has  
5 not been HOKLAS tested, you would have, what, hoped to,  
6 if it wasn't -- if it hadn't been drawn to your  
7 attention, would you be able to pick that up on that  
8 final check?

9 A. Technically係唔可以㗎，因為我哋收到嘅文件就應該係港鐵嘅CP  
10 佢交嘅文件，我哋--同埋交嘅報告，佢有報告，我哋會check個  
11 報告喇；冇，就根本冇得check喇。

12 但係喺《建築物條例》佢其實都有機制㗎，你見到我嘅證人口供  
13 第110段 GG48裏面講咗，其實當個CP佢呈交呢啲rebar嘅test report  
14 或者其他有關於呢啲rebar嘅材料嘅時候，佢必需要做一個confirmation  
15 嘅。而你睇到呢四個confirmation，其實第一個就已經講咗，就話所有嘅  
16 steel reinforcing bar就已經係測試過，而佢人嘅個test specimens  
17 係cover咗所有佢哋用嘅rebar。呢個confirmation唔係普普通通嘅  
18 confirmation，呢個係CP要做嘅confirmation，係有一定嘅power㗎度㗎。

19 Q. Understood. Yes. All right.

20 Can I just ask you a few questions related to the  
21 stitch joints. As you mentioned earlier and as you  
22 mention in your witness statement, my understanding is  
23 that Pypun first became aware of the stitch joint  
24 problem probably in about March 2018. Is that right?



1 A. 係，係，冇錯。

2 Q. Right. And you, Pypun, assisted the RDO in  
3 investigating into the stitch joints, and was that you  
4 personally, Mr Yueng, or were there others in Pypun that  
5 did that work?

6 A. 運基其實冇幫手去investigate，冇去調查嗰個原因嘅。運基係  
7 喺協助RDO去評估由港鐵公司呈交嘅remedial proposal同埋之後嘅  
8 文件。而我自己個人係有參與去評估個remedial proposal，同埋及後  
9 對於個設計修改，design amendments。

10 Q. Right. And you personally didn't witness any of the  
11 original stitch joint work before it had been  
12 demolished; is that right, Mr Yueng?

13 A. 冇，冇見過。

14 Q. All right.

15 And also in relation to the stitch joint remedial  
16 work, Mr Yueng, you will be aware -- because I think you  
17 possibly did the work yourself -- you were asked by the  
18 government to analyse the documentation that MTR and  
19 Leighton had submitted in relation to the stitch joint  
20 remedial works. Do you remember that?

21 A. 記得。

22 Q. And you made a number of comments in a table about  
23 certain outstanding items and certain discrepancies that  
24 emerged from the documentation. Do you remember that?

25 A. 我可唔可以睇下邊個表呀？

1 Q. Yes, of course. I think it's DD10. If we go to  
2 page 12410, this is an email from you, I think,  
3 Mr Yueng, to Lok Pui Fai of the BD, do you see that, on  
4 31 May?

5 A. 見到。

6 Q. If we go to page 12414 -- this is one of the tables  
7 I was referring to, Mr Yueng -- this relates to concrete  
8 cube test reports, and we can see in the "Remarks"  
9 column that those are the points that you effectively  
10 have picked up on your analysis of the documents that  
11 have been provided to you by MTR and Leighton; do you  
12 see that?

13 A. 睇到。

14 Q. The other table starts at 12417, and again this is  
15 an analysis that you've done in relation to the steel  
16 documents, as you call them, that's the checklist for  
17 steel documents, and again you have picked up various  
18 points by referring to "O/S", which I understand is  
19 "outstanding"?

20 A. 冇錯。

21 Q. And trying to cut through this, Mr Yueng, what has  
22 happened -- I don't know if you have been keeping up --  
23 is that both MTR and Leighton have responded to your  
24 observations and provided some clarifications and some  
25 more documents to the government and indeed to the  
26 Commission -- perhaps actually just to the Commission;

1 I'm not sure if it's gone to the government -- and have  
2 you had a chance to review any of that further material?

3 And I probably should say: have you been asked to review  
4 that further material?

5 A. 我記得應該係我禮拜五係透過我哋律師收到禮頓同埋港鐵公司就住我嘅  
6 observation, 佢哋有啲澄清嘅。但係都比較晏嘅時間, 同埋我都要  
7 準備今日嘅出席呢個委員會, 所以我哋--我都係睇咗--好brief咁睇咗。

8 Q. It's no criticism at all, Mr Yueng, at all. I just  
9 wanted to make sure that you are aware of what has now  
10 happened. So it may be you will be asked to look at  
11 that latest material in due course and perhaps even let  
12 us have your observations on it.

13 A. 有呀, 我都收到BO team陸先生有e-mail去要求睇由港鐵公司同埋禮頓  
14 進一步提交嘅澄清同埋文件。

15 MR PENNICOTT: Right. That's very helpful, Mr Yueng. Thank  
16 you very much.

17 COMMISSIONER HANSFORD: Is that something we've seen,  
18 Mr Pennicott? What you are referring to now that  
19 happened on Friday, is that something --

20 MR PENNICOTT: It's in the bundle. Whether you have seen it  
21 or not is a different matter.

22 COMMISSIONER HANSFORD: I shall look in the bundle.

23 MR PENNICOTT: The MTR's documents are at BB16/9774, and  
24 Leighton's responses are at CC11/7088.

25 I think, in the way of these things, sir, disputes

1 and discrepancies and differences are narrowing, I hope.

2 COMMISSIONER HANSFORD: Okay.

3 MR PENNICOTT: Sir, I am told by Mr Lam that back in the  
4 transcript at some point earlier this morning -- we'll  
5 pick it up later -- Mr Yueng used the phrase "risk  
6 register". I think he was using that in the sense of  
7 R-I-S-K.

8 COMMISSIONER HANSFORD: Yes.

9 MR PENNICOTT: But of course, because we've been using RISC  
10 forms and we know the MTR has a RISC, R-I-S-C, register,  
11 it's come out incorrectly on the transcript. We'll get  
12 that sorted out in due course.

13 COMMISSIONER HANSFORD: It's confusing.

14 MR PENNICOTT: Mr Yueng, finally from me, can I just ask you  
15 to look at your corrigendum to your witness statement  
16 that you were taken to earlier. So that is at page 51.1  
17 in GG1.

18 Indeed, could we be shown 51.2, please.

19 In that paragraph 32, Mr Yueng, you say:

20 "It could be seen that the focus is again on cost  
21 compliance, programme compliance and public safety  
22 compliance, and audits would be carried out on each of  
23 the one hundred contracts identified [in] the  
24 verification plan. In fact, since the verification plan  
25 was issued, about an additional 240 contracts have been  
26 let, making in total about 340 contracts -- see

1 paragraph 80 below."

2 As I understand it from that paragraph, Mr Yueng,  
3 what you are saying is your starting position under the  
4 M&V consultancy contract was monitoring and verifying  
5 approximately 100 different contracts, is that right,  
6 and that has increased to about 340?

7 A. 冇錯。

8 Q. Can I ask you this. Given that very significant  
9 increase in the number of contracts, what happened about  
10 your resources? Did you have to engage many more  
11 people, recruit lots of people? How did it work, given  
12 this vast increase in the number of contracts, Mr Yueng?

13 A. 喺個M&V tender嗰陣時，我哋見到--好似正話Mr Pennicott咁講，  
14 我哋見到大約有一百份單。以我哋個經驗，我哋知道一定會有增加㗎。  
15 其實喺嗰個做個tender，或者我哋去投標呢個M&V顧問嘅時候，我哋  
16 已經預--估算到呢個合約數目唔止呢一百份㗎，所以喺我哋嗰陣時，  
17 我哋已經預留咗人手去配合喺每一個階段去增加嘅contract。

18 咁contract個數目，有啲contract係大啲，有啲係contract  
19 小啲喇，所以我哋都會喺唔同嘅時候去調整我哋人手去配合呢件事嘅。  
20 我哋由M&V開始到而家，我哋冇缺乏人手呢個問題。

21 Q. I mean, was there an increase in staff, Mr Yueng, or  
22 not, to cater for this very significant rise in the  
23 number of contracts you had to monitor and verify?

24 A. 有㗎，有，喺無論喺cost programme同public safety，我哋都有增加

1           人手，有啲唔係full time做嘅，有啲係part time，有啲合約大啲，  
2           有啲合約細啲，所以我哋用自己內部彈性去調節，去配合番每一階段  
3           就住M&V需要嘅工作量去調節自己嘅resources。

4           Q. And were you paid an increased fee? I don't want to  
5           know what it was, but were you paid an increased amount  
6           of remuneration as a consequence of all of this?

7           A. 好不幸係冇。

8           Q. I thought you would say that!

9                    I said that was the last topic. There's just one  
10           other thing I wanted to ask you about, Mr Yueng. We'll  
11           hear from Mr Chiu in a moment, I think, but we know that  
12           you've entered into, over the last year or so, a number  
13           of supplementary agreements with the government to carry  
14           out various tasks, and we touched on one of them  
15           earlier, in relation to the RISC forms. Do you  
16           remember?

17          A. 記得。

18          Q. And in relation to those various supplementary  
19           agreements, have you had any involvement with the expert  
20           advisory team of the government, EAT as they are  
21           sometimes called?

22          A. 我自己有參與，我嘅同事趙先生就有參與嘅。

23          MR PENNICOTT: Okay. Perhaps I'll ask him.

24                    Thank you very much, Mr Yueng.

25                    Sir, I have no further questions.

1 CHAIRMAN: Thank you.

2 MR TSOI: I have no questions.

3 CHAIRMAN: Thank you.

4 MR CHANG: No questions from Leighton.

5 MR BOULDING: No questions, sir. Thank you.

6 CHAIRMAN: Thank you.

7 MR CHOW: Mr Chairman and Prof Hansford, there is

8 a disagreement between the government and Pypun on the  
9 question of whether the monitoring and verification of  
10 the quality of the works and the compliance with the  
11 RISC form system forms part of the original scope of  
12 Pypun under the M&V agreement.

13 However, these issues only turn on interpretation of  
14 the contract, and they are a matter of submission. So  
15 we take the view that it would not be helpful for us to  
16 cross-examine Pypun's factual witnesses on matters of  
17 interpretation of the contract, but we reserve our right  
18 to make submissions in the government's closing. On  
19 that basis, we have no questions for Mr Yueng.

20 CHAIRMAN: Good. Yes. That's sensible, if it's a matter of  
21 submission which clearly -- if we are looking to how you  
22 properly interpret something. Thank you.

23 COMMISSIONER HANSFORD: I have one question for Mr Yueng.

24 Mr Yueng, in paragraph 120 of your second witness  
25 statement -- perhaps we can go to that, on GG49 -- let's  
26 look at this paragraph. You say:

1            "I would further respectfully suggest that the MTRCL  
2            establish coordination meetings and workshops to  
3            encourage additional communication and exchange of views  
4            between the design manager and construction manager (or  
5            equivalent) of each of the interfacing contractors (or  
6            interfacing teams of the same contractor) on design  
7            assumptions, requirements as to construction,  
8            supervision and records, as well as the responsibilities  
9            of the different contractors (or interfacing teams of  
10           the same contractor) in relation to interfacing works  
11           between different works contracts. The meetings and  
12           workshops should also address topics such as handover  
13           conditions, construction methods, sequence and materials  
14           in respect of the works of the contractor who had  
15           completed its works at the interface so as to properly  
16           inform these matters to the contractor on the other side  
17           of the interface (or in respect of the works of the team  
18           of the contractor which had completed its works at the  
19           interface so as to properly inform these matters to the  
20           other team of the same contractor on the other side of  
21           the interface)."

22           The Commission is grateful for that, Mr Yueng. My  
23           question is: is this a recommendation that Pypun made to  
24           Highways Department during the course of the projects?

25           A. 呢個係運基對港鐵公司同埋承建商嘅建議。

26           COMMISSIONER HANSFORD: And when was this recommendation



1 first made?

2 A. 呢個建議係我哋回應COI個信件嘅要求，因為COI信件要求我哋就住有乜嘢  
3 提議，我哋作出嘅。

4 COMMISSIONER HANSFORD: So this is in hindsight; this is not  
5 a recommendation that Pypun made to Highways Department  
6 during the course of the project? Is that correct?

7 A. 冇錯，我哋--我早前講過，我哋透過港鐵公司嘅設計團隊，我哋知道佢哋  
8 有一啲interface嘅會議，但係我哋唔知道佢哋討論嘅內容係乜嘢。  
9 就住今次嘅事件，我哋覺得個interface meeting應該要包含埋  
10 我哋建議嘅範圍同埋內容。

11 COMMISSIONER HANSFORD: Okay. Thank you.

12 MR CLAYTON: I have no re-examination, sir.

13 CHAIRMAN: Good. Thank you very much indeed.

14 Thank you, Mr Yueng.

15 (The witness was released)

16 MR CLAYTON: Do we take a mid-morning break or do we --

17 MR PENNICOTT: No, I think we plough on with Mr Chiu, for  
18 reasons which will become apparent.

19 MR CLAYTON: Certainly.

20 MR PENNICOTT: I think I'll be about two minutes.

21 MR CHIU CHUNG LAI (sworn in Cantonese)

22 Examination-in-chief by MR CLAYTON

23 MR CLAYTON: Please sit down, Mr Chiu. You are going to  
24 give your evidence in Cantonese, I understand.

25 You have provided one witness statement for the

1 Commission of Inquiry; correct?

2 A. Correct.

3 Q. Could we go to GG2, page 433, please. Is that the first  
4 page of your witness statement?

5 A. 係。

6 Q. Could we then go to page 436, please, of the same  
7 bundle. Is that your signature?

8 A. 係。

9 Q. Is that witness statement true?

10 A. 係。

11 Q. Does your witness statement contain the evidence you  
12 wish to give before the Commission of Inquiry?

13 A. 係。

14 MR CLAYTON: Could you stay there, please. You will be  
15 asked questions by other people.

16 Examination by MR PENNICOTT

17 MR PENNICOTT: Mr Chiu, good morning. My name is Ian  
18 Pennicott --

19 A. 早晨。

20 Q. -- I'm one of the counsel to the Commission. I have  
21 a few questions for you and it may be that other lawyers  
22 have as well, and the Chairman and the Commissioner may  
23 also have questions for you.

24 Thank you very much for coming along to give  
25 evidence to the Commission this morning.

1           Mr Chiu, you tell us that you are a director of  
2           Pypun?

3           A.    喺我做呢個witness statement嗰陣時係。

4           Q.    And you are no longer a director of Pypun?

5           A.    而家唔係，但係我仍然係Pypun Engineering Consultant嘅同事。

6           Q.    I see, a related company?

7           A.    係。

8           Q.    Okay. When you -- so far as the content of your witness  
9           statement is concerned, Mr Chiu, you tell us that you  
10          were involved in the SCL project as a deputy project  
11          manager, monitoring the programme of the M&V team. Is  
12          that right?

13          A.    正確嘅。

14          Q.    Right. Are you still fulfilling that role?

15          A.    係。

16          Q.    Okay. When did you start in that role?

17          A.    係喺2017年7月初。

18          Q.    Okay. You tell us also, in paragraph 5 of your  
19          statement, that you assist the cost monitoring of the  
20          M&V team. Is that right?

21          A.    係嘅。

22          Q.    And are you still fulfilling that role?

23          A.    係。

24          Q.    Right. Okay. Good.

25                 Now, Mr Chiu, the primary purpose, as I understand

1           it, of your witness statement is to inform the  
2           Commission about a number of supplementary agreements  
3           that have been made between the government and Pypun, in  
4           addition to the original M&V agreement. That's right,  
5           isn't it?

6           A.   係嘅。

7           Q.   Right. If we go to paragraph 12 of your witness  
8           statement, at GG434, you identify the five supplementary  
9           engagements; do you see that, Mr Chiu?

10          A.   見到。

11          Q.   Right. And you tell us that the supplementary  
12          agreements that are of particular relevance to the  
13          Commission's work are the ones at 12.2, which is the  
14          "Technical and procedural review on non-conformance  
15          report submitted by MTR for SCL project (stage 1)".

16                Pausing there. Mr Chiu, have you personally been  
17          involved in that technical and procedural review?

18          A.   我本人就有直接參與，但係喺呢一個工作，喺同RDO洽商個工作細節嘅時候，  
19          我係有參與嘅，而佢亦--我哋公司係有我哋嘅同事，之前有上嚟畀證供嘅  
20          麥先生，佢就係負責帶住另外兩位工程師係進行呢個工作嘅。

21          我哋公司有個regular meeting，所以我哋其他嘅team leader  
22          都知道呢方面嘅進度嘅。

23          Q.   Right. I understand that this is an ongoing engagement,  
24          pursuant to which Pypun are providing weekly and perhaps  
25          monthly reports to the government on the question of the

1 NCRs. Is that right?

2 A. 啱嘅。

3 Q. Right. That is, as I say, continuing work in progress?

4 A. 係，其實個工作係喺2月尾開始嘅，我哋一路工作嘅時候係--而家跟--  
5 而家嗰個範圍係會持續十二個月先嘅。

6 Q. Understood. All right.

7 Then the second engagement you say of particular  
8 relevance is 12.3. That is "Extended building  
9 submission review and compliance (BSRC) services for  
10 [the station extension] SCL project."

11 As I understand it, Mr Chiu, from your witness  
12 statement, this primarily concerns Pypun's witnessing  
13 and inspecting and recording the opening-up and  
14 inspection of areas of the station extension. Is that  
15 right?

16 A. 主要係呢個，係。

17 Q. Right. Therefore, is this right, that that work relates  
18 primarily to the first part of the Inquiry?

19 A. 係對嘅，係，但係個brief裏面其實係有一個工作係關於NAT喇、SAT同埋  
20 HHS嘅部分嘅。

21 Q. All right.

22 So it will relate to those areas if opening-up, and  
23 so forth, were to occur? Is that the position, Mr Chiu?

24 A. 唔係咁嘅，係嗰個brief嗰度，我唔記得paragraph 三點幾係有講到嘅。  
25 我哋係BSRC team係要需要派工程師一個星期係進行兩次去紅磡站，

1 包括NAT、SAT同埋HHS嘅部分，進行呢個visual inspection，  
2 進行一個視察，同埋提交報告嘅。嗰個inspection個主要目的  
3 就係希望監察住嗰個結構嘅情況。

4 Q. Okay. Including the NAT, SAT and HHS?

5 A. 係，冇錯。

6 Q. Understood. Okay.

7 So am I right in thinking that at least part of that  
8 or perhaps all of that work will be part of the holistic  
9 proposal and the verification proposal and the reports  
10 that are to be produced in due course?

11 A. 呢個我唔清楚會唔會擺落嗰個大嘅報告度，我哋嘅同事做咗嗰個  
12 visual inspection係會出自己嘅報告嘅。

13 Q. Understood. Okay. But they will write their own  
14 reports to the government, and then the government can  
15 choose to incorporate that material in the holistic  
16 report or not, as the case may be?

17 A. 相信係咁。

18 Q. Okay.

19 COMMISSIONER HANSFORD: Sorry, Mr Chiu. Do we know when  
20 that work will be completed?

21 A. 我記得paragraph 3.2嗰度有寫到，就我哋應該喺2月尾開始進行一啲嘅  
22 目測嘅檢查嘅，就係要歷時好似二十個月。咁有個時間，我哋係會係停止個  
23 visual inspection嘅，喺個brief度寫得好清楚。

24 CHAIRMAN: Sorry, February when?

25 MR PENNICOTT: This February -- 2019?

1 A. 冇錯，或者我哋可以睇一睇嗰個brief嗰個部分。

2 CHAIRMAN: Sorry, then just so I understand -- and then  
3 there will be 20 months of monitoring, so you will not  
4 have completed your monitoring exercise until late 2020.  
5 I mean, without being facetious, are we due back here in  
6 late 2020?

7 MR PENNICOTT: You might be, sir, but you won't be seeing  
8 me!

9 If you go to GG2/895, Mr Chiu, please. I'm not sure  
10 you are right, Mr Chiu, I confess, but I'll be corrected  
11 if I'm wrong. I'm just looking at the rest of the  
12 document before taking a false point.

13 If we look at 3.2(b), it says, in the second  
14 sentence:

15 "The initial duration of such inspections is  
16 approximately 20 weeks", not months.

17 But perhaps I need to double-check this because  
18 I confess I have not looked at this in any detail.

19 A. 係嘅，呢度應該係寫二十個星期，頭先可能我講錯咗二十個月，  
20 唔好意思。

21 Q. I think we are all relieved! Right.

22 Then lastly, Mr Chiu, at paragraph 12.5 you refer to  
23 "On-site record checking on RISC form in relation to  
24 construction of North Approach Tunnel, South Approach  
25 Tunnel", and so forth. And that is the report that  
26 I touched upon with Mr Yueng earlier, that is the audit

1 of the RISC forms in relation to the three areas.

2 A. 係嘅。

3 Q. As I understand it, it was Mr Yueng that was involved in  
4 that report; you weren't personally involved in the  
5 preparation of that report? Is that right, Mr Chiu?

6 A. 我有參與做嗰個報告㗎。

7 Q. Right. Mr Chiu, can I just finally ask you this. In  
8 any of the work that you may have been involved in in  
9 relation to the supplementary agreements, have you had  
10 any contact with or involvement with the expert advisory  
11 team of the government, sometimes known as EAT?

12 A. 當我哋執行第12.4嗰個項目嘅時候，我哋係同一個叫做expert advisory  
13 team嘅人員係有開會嘅。

14 Q. All right.

15 In relation to the RISC form audit, did the expert  
16 advisory team play any supervisory role in the  
17 preparation of that audit report?

18 A. 如果你係講12.5嗰個項目，就係冇嘅。

19 MR PENNICOTT: Okay. All right.

20 Sir, I have no further questions for Mr Chiu.

21 CHAIRMAN: Thank you.

22 MR TSOI: I have no questions, sir.

23 MR CHANG: Nothing from Leighton.

24 MR BOULDING: No questions. Thank you, sir.

25 MR CHOW: Mr Chairman, for the same reason and on same basis



1 as I submitted earlier, we have no questions for  
2 Mr Chiu.

3 CHAIRMAN: All right. Thank you very much.

4 MR CLAYTON: I have no re-examination, sir.

5 CHAIRMAN: Thank you.

6 Mid-morning adjournment?

7 MR PENNICOTT: Yes, sir.

8 CHAIRMAN: How long would --

9 MR PENNICOTT: 15 minutes, sir, if that's okay.

10 COMMISSIONER HANSFORD: Do you want to release the witness?

11 CHAIRMAN: A good point.

12 15 minutes, all right.

13 Mr Chiu, thank you very much. Your evidence is now  
14 completed, so you can go. Thank you for your  
15 assistance.

16 WITNESS: Thank you.

17 CHAIRMAN: 15 minutes.

18 (The witness was released)

19 (11.35 am)

20 (A short adjournment)

21 (11.53 am)

22 MR CHOW: Good morning, Mr Li.

23 MR LI TZE WAI, RALPH (sworn in Cantonese)

24 Examination-in-chief by MR CHOW

25 Q. Thank you. Mr Li, I understand that you have prepared  
26 three additional witness statements for the purpose of

1           this part of the Commission of Inquiry. Is that  
2           correct?

3           A.  正確。

4           Q.  Can I ask you to go to bundle DD3, page 1366, please.

5                     Would you confirm that is the first page of your  
6           second witness statement?

7           A.  正確。

8           Q.  Could I ask you to go to page 1377, please.

9                     Can you confirm that this is your signature?

10          A.  正確。

11          Q.  I understand this is a statement you prepared in  
12          relation to the works in the North Approach Tunnel. Can  
13          you confirm that?

14          A.  正確。

15          Q.  Can I ask you to go to your third witness statement, at  
16          page 1378. Can you confirm that this is the first page  
17          of your third witness statement?

18          A.  正確。

19          Q.  This is a very short statement.

20                     Please turn over the page. Can you confirm that  
21          this is your signature?

22          A.  正確。

23          Q.  This statement, the third statement, is prepared in  
24          relation to the works in SAT, the South Approach Tunnel.  
25          Can you confirm that?

1 A. 正確。

2 Q. Now I ask you to go to page 1380, your fourth witness  
3 statement. This is the first page of your fourth  
4 witness statement; correct?

5 A. 正確。

6 Q. And turn over the page. Can you confirm this is your  
7 signature?

8 A. 正確。

9 Q. I understand that this is a statement prepared in  
10 relation to the works in the HHS. Can you confirm that?

11 A. 正確。

12 Q. Do you confirm that the content of your three statements  
13 are true and correct to the best of your knowledge and  
14 belief?

15 A. 正確。

16 Q. Would you adopt the content of your witness statements  
17 as your evidence for this part of the Commission of  
18 Inquiry?

19 A. 會。

20 Q. Mr Li, what's going to happen is that counsel for the  
21 Commission, Mr Pennicott, will probably ask you some  
22 questions, and then he will be followed by counsel for  
23 the other parties. Meanwhile, the Chairman and  
24 Prof Hansford may ask you questions at any time. Then  
25 after with that, at the end, I may or may not need to

1 ask you further questions by way of wrap-up. Do you  
2 understand that?

3 A. 明白。

4 MR CHOW: So please remain seated and take questions from  
5 various counsel.

6 Examination by MR PENNICOTT

7 MR PENNICOTT: Good morning, Mr Li.

8 A. 早晨。

9 Q. Thank you very much for coming to give evidence to the  
10 Inquiry. Mr Chow has kindly explained what's going to  
11 happen so I won't repeat it.

12 Mr Li, you are, as I understand it, the Chief  
13 Engineer of the RDO; is that right?

14 A. 正確。

15 Q. If we see on any correspondence, as you say in  
16 paragraph 1 of your second witness statement,  
17 "CE/RD1-1", that's you?

18 A. 正確。

19 Q. Mr Li, I have a few questions but not many. Just really  
20 for everybody's benefit, you refer in paragraph 4 of  
21 your second witness statement -- so that's at DD1367 --  
22 that:

23 "To assist the Commission, the government will  
24 provide a chronology of events updated up to 8 May 2019  
25 setting out the involvement of Highways and relevant

1 government departments in relation to the above issues."

2 That is the issues with which the second part of the  
3 Inquiry is concerned, and that you rely upon that  
4 chronology in the witness statement.

5 As it happens, Mr Li, and I suspect you are aware of  
6 this, that chronology has been updated, helpfully, on  
7 a sort of weekly, ongoing basis. Have you been involved  
8 in that process or is that something you have left to  
9 the DoJ?

10 A. 因為呢一個嘅收集有關嘅信件、資料嗰啲，就係由其他同事去做嘅，  
11 最主要嚟講係其他同事去負責一路更新嘅工作。

12 Q. All right. That's fine. Just to put it on the  
13 transcript, the latest chronology we have is up until  
14 13 June, and that's at DD10/12471. There's no need to  
15 get it up on the screen.

16 Now, could I ask you, please, Mr Li, then, with that  
17 introduction, just to look at paragraph 11 of your  
18 second witness statement. You say:

19 "While stitch joint reconstruction works were  
20 reported to be completed on 18 July 2018, MTRC has yet  
21 to (i) provide full explanation as to why, under MTR's  
22 PIMS, non-conformance of such nature at the stitch  
23 joints could have happened ..."

24 Mr Li, what sort of explanation are you looking for  
25 from MTRC in relation to the non-conformance and PIMS?  
26 What are you actually looking for? What does the

1 government say is missing by way of explanation?

2 A. 其實最主要我哋睇到，港鐵公司佢哋有個施工團隊去監察成個工程嘅進行喇。

3 當我哋知道呢一個嘅結論係要導致到由個stitch joint有問題嘅時候，

4 我哋好想了解究竟喺個制度上喇，同埋喺實際嗰個運作上，究竟係咩嘢原因

5 可以會有呢個事情發生，亦都可以能夠希望杜絕將來有類同嘅情況發生喇，

6 呢個都係無論係向前看，同埋喺當其時，我哋都想知道喇、清楚喇。

7 Q. But is the -- just to put it rather bluntly, I mean, are

8 you essentially asking the MTR to explain -- "Well, were

9 the necessary inspections done, was the necessary

10 supervision in place" -- is it those types of questions

11 you are asking MTR to address, or is it something else?

12 A. 可以理解為我哋想了解清楚究竟佢個施工個監督係點樣去做喇，同埋佢係

13 根據個制度又點樣去實際嘅運作喇，我哋都係想呢一方面了解清楚。

14 Q. All right. Well, at least we found out a lot of

15 information during the course of the last three and

16 a half weeks or so, Mr Li.

17 Then you say this:

18 "... also, MTRC has yet to" -- and then (ii) in

19 paragraph 11 -- "provide copies of the signed RISC forms

20 and inspection records for the stitch joints ..."

21 Pausing there, do you mean the original defective

22 stitch joints?

23 A. 正確。

24 Q. But you have been told that there are no RISC forms for

25 the original stitch joints, Mr Li, so how can they be

1 provided? Why are you pressing for them when you know  
2 they don't exist?

3 A. 其實個係時序嘅問題喇，因為較早前嚟講，佢哋都唔係話咁清楚地表達  
4 有啲咁嘅情況出現，所以我哋就係當其時，我哋想去繼續真係講清楚究竟  
5 原本真係冇咩，唔見咗咩，定係點樣嘅情況喇，我哋都想了解個事實啫。

6 Q. All right. But government is now well aware that there  
7 are no RISC forms in relation to the original stitch  
8 joints?

9 A. 而家清楚。

10 Q. All right.

11 In paragraph 17 of your witness statement, Mr Li,  
12 under the heading -- sorry, if you look at the top, just  
13 to see what the context is: this is your part III --  
14 "Government's knowledge of and involvement in matters  
15 relating to issue 3, ie lack of RISC forms, inspection  
16 and supervisory records and deviation of NAT, SAT and  
17 HHS".

18 In paragraph 17, page 1371, you say:

19 "As I will further elaborate below, whilst MTRC had  
20 submitted a list of non-conformance report records (with  
21 some entries of 'missing RISC forms') to HyD for  
22 information in June 2018, the government had not been  
23 fully or clearly informed of the real nature, extent and  
24 seriousness of the problem of missing RISC forms until  
25 December 2018/January 2019."

1           Now, Mr Li, why are the missing RISC forms regarded,  
2           apparently, as so important by the government?

3       A.   個檢測嘅--我諗而家講嘅內容，就係講個RISC form嗰樣嘢喇。  
4           RISC form嚟講係一個--我哋都知道係一個比較一個工具可以  
5           能夠幫助quality assurance嘅，而呢個亦都係同個hold points，  
6           個檢測點係有關係。據我理解個檢測點嚟講，就話係要經過咗一個  
7           supervision之後，又容許咗，然後施工單位先可以能夠做下一個階段  
8           嘅工作，所以我哋相信呢一個RISC form嚟講，係對於我哋了解嗰個，  
9           同埋去跟進個supervision嗰個過程係有幫助，所以我哋好想了解到  
10          呢一樣嘢喇。

11       Q.   Why aren't the forms, that's form A and form B,  
12          submitted under the site supervision plan good enough  
13          for the government in relation to supervision?

14       A.   我對於嗰個--嗰啲方面嘅資料，因為我唔係做daily嘅supervision，  
15          我就唔係好清楚嘅。但係我係知道RISC form佢有個重要性嘅時候，  
16          我哋就想去了解呢一方面嘅，變咗我哋都係咁樣去問喇，希望  
17          能夠喺呢一方面得到嘅資料更加清晰喇咁樣。

18       Q.   Right. I don't know whether you've had a chance to read  
19          it or you were listening earlier to the evidence of  
20          Mr Yueng from Pypun. In paragraph 103 of his witness  
21          statement, he says that it was not part of Pypun's  
22          responsibilities to look at and consider the RISC forms  
23          if they were carrying out an audit.

24          Do you agree with that?



1 A. 照我嘅理解喇，運基佢哋嘅工作，最主要係用一個risk-based嘅  
2 approach嚟嘅。佢經過佢嘅過程裏面去搵出個risk邊一方面重要嘅，  
3 佢就按番個樣嘢去作進一步嘅去調查喇，去睇喇。

4 我理解佢哋之前嚟講，就有睇過呢個RISC form呢一樣嘢，  
5 佢哋認為係一個high risk，或者係需要咁樣去跟進，所以變咗  
6 佢哋就咁樣去做咗呢一樣嘢嘞。

7 Q. Yes. Because if the government regarded RISC forms as  
8 a matter of importance, presumably they could have made  
9 sure, in their contract with the M&V consultant, that  
10 RISC forms did expressly form part of any audit that was  
11 carried out. But that didn't happen, did it, Mr Li?

12 A. 我有察覺到合約裏面有特別要咁樣去要求喇。

13 Q. All right. But so far as the government is concerned,  
14 if I've understood it from your earlier answer, the RISC  
15 forms are seen as a matter of quality assurance. Is  
16 that really the nub of it, Mr Li?

17 A. 其實頭先我嘅講法都話個檢測表格係一個工具喇，可以幫助我哋去記錄番  
18 究竟有冇實際去做到嗰個嘅監察喇，去做嗰個嘅監督成個項目喇，咁係佢嘅  
19 重--佢嘅需要性係我諗係不可置疑嘅。但係至於係港鐵公司點樣去落實嚟講，  
20 我哋覺得應該係港鐵公司去應該係相信佢係會按番佢哋呢個PIMS喇，去落  
21 實佢喇。

22 Q. All right.

23 In paragraph 20 of your witness statement, Mr Li --  
24 that's at DD1372, that's your second witness

1 statement -- you refer to a meeting and you say:

2 "At a meeting among the Transport and Housing  
3 Bureau, HyD, BD and MTR held on 24 January" -- I think  
4 it was 23 January, actually, Mr Li, but it probably  
5 doesn't matter too much -- "MTR further advised that  
6 about 40 per cent of the RISC forms for NAT were  
7 missing, but failed to provide the data for SAT and  
8 HHS."

9 Were you at that meeting, Mr Li?

10 A. 我有參加呢個會，而呢個會係真係1月14號，即係1月24號嘅。

11 Q. Can we look at DD3/1128, please. This is the letter of  
12 24 January that you refer to further on in paragraph 20  
13 of your witness statement. Do you see that, Mr Li?

14 A. 係，請問。

15 Q. If you go over the page, Mr Jonathan Leung writes -- and  
16 I see you were copied in; is that correct?

17 A. 係呀。

18 Q. At the top of the page, on page 1129:

19 "I am given to understand the need for NAT in  
20 option B ... However, it was only in the meeting among  
21 BD/FSD/RDO/MTR of 23 January 2019 that the Corporation  
22 reported that the preparation for application for  
23 certificate of completion of building works at NAT was  
24 likely to be seriously affected by the lack of  
25 sufficient inspection records and material testing  
26 records, and the change of steel reinforcement lapped

1 bars into coupler connection ..."

2 Do you see that, Mr Li? Is that the meeting that  
3 you attended on 23 January 2019?

4 A. 其實係兩個會議係唔同嘅。如果你睇番嗰一段，top of the page，  
5 即係最高嗰度，你睇到嗰個與會嘅單位係冇THB嘅，冇THB嘅。  
6 只係一啲部門喇，同埋港鐵公司嘅一啲嘅討論。呢度佢係第一次  
7 就提到有呢個情況出現嘅，但係1月24號嘅時候，喺我證人供詞講，  
8 佢就講補充咗嘞，就係有40%嘅缺失嘅RISC form嘅情況出現。所以  
9 其實係兩個會議嚟嘅。

10 Q. Understood. One problem I've had with this, Mr Li, is:  
11 are there minutes of either of those meetings?

12 A. 係有會議紀錄嘅。

13 Q. Is that unusual for government, not to keep minutes of  
14 these rather important meetings?

15 A. 因為我哋--其實我哋因為個時間比較係緊迫呀，所以我哋用--透過一封信  
16 將啲重要嘅內容就去記錄咗佢出嚟嘅。因為會議紀錄嚟講，我哋需要都要  
17 有關嘅與會嘅人士去同意咗，然後先至可以成為一個紀錄。但係因為我  
18 哋想呢件事情即時嘅回應喇，我哋就係透過一啲信件嘅模式，就講咗當  
19 日我哋有啲具體嘅討論。

20 Q. Right. All right.

21 Now, in paragraph 22 of your witness statement, you  
22 had been dealing with the fact that NCRs had been issued  
23 by MTR to Leighton regarding missing RISC forms, and you  
24 had made the point that initially those RISC forms --

1           sorry, the NCRs were included in the NCR registers or  
2           reports that were submitted to government. Then they  
3           were removed, as we have seen with another witness. And  
4           then they were put back in again.

5           Do you recall all that, Mr Li?

6           A. 我記得。

7           Q. Right. You then say, at paragraph 22:

8           "On this, I should point out that by reading the  
9           MTRC's letters of 17 and 26 July 2018 together, MTR has  
10          categorised the NCRs for the missing RISC forms as 'low'  
11          risk, non-works related, and without safety impact."

12          Now, the first point, as I think you say a bit  
13          further on in your witness statement, the government  
14          actually asked MTR, requested MTR, to categorise the  
15          NCRs into high, medium and low risk. That's right,  
16          isn't it, Mr Li?

17          A. 正確。

18          Q. And the missing RISC forms were categorised by MTRC as  
19          "low"?

20          A. 正確。

21          Q. Is that something, that categorisation, is that  
22          something that you disagree with?

23          A. 我應該咁樣講法，呢一個分類嚟講，去到而家我哋--你睇番我哋一啲嘅信件，  
24          我唔係好記得邊一封，都問佢究竟點解係會個風險係咁樣去考慮喇。甚或  
25          呢一個點解同個works係冇關係喇，我哋亦都問番呢啲一連串嘅問題咁樣嘅。

1 Q. Right. But did you ever form a view as to whether they  
2 had been wrongly categorised as "low"?

3 A. 同佢分析去睇先喇，如果假如佢哋真係純粹係其實supervision係有做到，  
4 NCRs亦都係全部做晒嘅，又啲啲--唔係，我或者再講多次。  
5 即係啲啲RISC form嚟講，具體全部都係填晒嘅，即係唔知某種原因，  
6 係冇好好嘅document咗嘅。呢一啲咁嘅情況嚟講，真係你話同個  
7 工程、個works可能係咪有直接嘅掛鉤喇，定係純粹係一啲documentation  
8 嘅non-compliance喇。呢啲嚟講係可以咁有嘅可能性發生嘅。

9 不過無論點，我哋而家去到今天，我哋都知道發生咗咩嘢事喇，  
10 佢哋真係原來係冇做到一啲嘅supervision喇，呢啲嘢--唔係，  
11 應該係冇做到啲啲RISC form啲啲嘅紀錄喇，呢個應該咁講法。

12 Q. Yes. But, as we touched upon just a moment ago, Mr Li,  
13 these RISC forms, certainly according to Pypun, were not  
14 even documents they were required to audit, so why would  
15 one put them in anything other than the "low" category?

16 A. 正如我頭先嘅補充喇，好視乎佢個個嘅性質係點樣喇。而家好似運基  
17 佢哋嘅判斷，呢一個就唔係一個high risk高風險嘅嘢喇。而個實際  
18 嚟講，佢究竟係missing RISC form，呢個係講緊佢係真係有全部填晒，  
19 而又唔知擺咗去邊度咩，定係由頭到尾冇填過喇。呢啲其實具體嘅操作嚟  
20 講，就可以決定咗佢嘅情況係究竟係高風險、低風險。

21 COMMISSIONER HANSFORD: Sorry, I have difficulty  
22 understanding that. Could you assist me, sorry. If the  
23 forms were really missing, in other words that they were  
24 filled out, or just that they were misplaced, or indeed

1           there were no RISC forms filled out -- if there were no  
2           RISC forms or if they were misplaced, would either of  
3           those two things affect their importance?

4           Sorry, I --

5           MR PENNICOTT: Yes.

6           CHAIRMAN: -- I just have a little difficulty with that.

7           MR PENNICOTT: Let's break it down, Mr Li. On the NCR  
8           reports that were sent to government initially, it said  
9           "NCR [whatever number] missing RISC form", or "RISC form  
10          missing". No question of misplaced, lost, destroyed --  
11          "RISC form missing", and it was on that basis that the  
12          categorisation that MTR were requested to give, they  
13          gave it a "low" categorisation.

14          It's really -- if you -- and the initial question  
15          I asked was whether you agreed with that or not, and you  
16          seem to be neither agreeing or disagreeing. You seem to  
17          be suggesting that it depends, but I'm not sure on what.

18          A. 如果用今天個角度去有咁多嘅背景資料，我哋已經釐清咗部分嘅嘢喇。  
19          其實如果我哋再睇番去個RISC form，好似今天嚟講，佢係完全冇晒一啲  
20          嘅紀錄，我又覺得係要釐清咗，究竟呢一個係咪所謂低風險，佢哋個定義  
21          就係對個結構有冇安全嘅問題吖嘛，所以變咗我覺得其實要港鐵公司都  
22          去解釋番，究竟而家呢一個RISC form佢係冇填到之下，對嗰個結構個安全  
23          係咪構成一個問題，咁我覺得呢一個要再去深入嘅分析。

24          但係如果假如真係原因佢係因為種種嘅原因，係原來結構係會有危險嘅，  
25          咁呢個就唔可以叫做低風險嘞。

1 Q. Was the government -- was your thinking affected by,  
2 perhaps, the number of NCRs which identified missing  
3 RISC forms?

4 A. 呢個都唔會排除，但係問題就係NCRs個數目同RISC form之間嗰個直接  
5 關係，其實我哋都唔一定係--我哋都要港鐵公司去補充--講清楚呢樣嘢，  
6 究竟個NCRs係包括幾多個RISC form，呢啲嘅情況，我諗就好視乎佢實際  
7 嗰個NCRs個具體嘅情況去講番出嚟。

8 Q. The point is, Mr Li, that when they send you the NCR  
9 report with all the NCRs listed, if there was just one  
10 amongst many hundreds of RISC forms that just refer to  
11 one missing RISC form, presumably your attitude would  
12 have been very different to what actually happened,  
13 which of course dozens and dozens of missing RISC forms  
14 were identified by the NCRs.

15 So the question is whether the number of missing  
16 RISC forms had an impact on the government's thinking.

17 A. 呢個係其中一樣嘢會影響嘅，我相信。

18 Q. All right.

19 Mr Li, can I ask you to please look at paragraph 31  
20 of your second witness statement. That's at DD1377.  
21 You there say or make reference to the fact that:

22 "On 26 April 2019, MTR submitted to Highways a draft  
23 verification proposal ..."

24 Do you see that? 1377.

25 A. 睇到。

1 Q. "Highways maintains close liaison with MTR and  
2 coordinates with the other government departments  
3 concerned with a view to finalising the draft  
4 verification proposal and its final report in relation  
5 to NAT, SAT and HHS as per the agreed schedule submitted  
6 to the Commission on 27 April 2019."

7 As I understand it, Mr Li, you are very much  
8 involved in the verification proposal process. Is that  
9 right?

10 A. 喎。

11 Q. You say in the last sentence of paragraph 31:

12 "In this respect, a taskforce has been set up with  
13 members from the expert adviser team for the SCL  
14 project/BD/Highways/MTR to ensure smooth delivery of the  
15 verification proposal."

16 Can I ask you, please, this: what role is the expert  
17 adviser team playing, first of all, in the verification  
18 proposal process?

19 A. 其實我哋而家講緊呢個嘅taskforce，其實係希望嗰個嘅報告--嗰個  
20 verification proposal最終有個final report嘅。由於因為我哋  
21 知道個時間上，我哋不撈都係希望喺6月底嗰陣時去完成喇，  
22 我哋睇到佢嗰個嘅proposal裏面亦都要分好多工作要做喇。  
23 所以我哋成立咗呢一個嘅taskforce喇，差唔多係隔日就已經  
24 大家一齊坐低去睇睇個進度喇，同埋有啲具體嘅操作係點樣去進行嘅。

25 甚或係港鐵公司佢哋喺佢哋進行呢個verification裏面嘅時候，



1 有啲初步嘅結論嘅時候，都會擺出嚟大家去探討呀，去睇睇啲個嘅情況  
2 係點樣能夠儘快完成到呢個嘅proposal裏面嘅工作。所以我哋裏面  
3 講嘅嘢，其實最主要我哋涉及咁多人喇，最主要睇佢哋大家負責嘅範疇  
4 喺邊方面喇，大家係儘快畀番佢哋嘅反饋嘅意見，以致可以能夠將呢一個  
5 嘅proposal係儘快落實咗佢出嚟嘅。

6 而個proposal裏面亦都提到好多技術性嘅嘢嘅，亦都提到一啲  
7 搜集一啲construction records種種嘅嘢嘅，所以變咗我哋就住  
8 所搜集到嘅資料，我哋都會有初步嘅討論喇。

9 Q. What role is the expert adviser team playing in the  
10 verification proposal process, please, Mr Li?

11 A. 佢都係扮演一個嘅advisor一個嘅角色嚟嘅，其實整個嘅討論嚟講，  
12 都係由部門同埋港鐵公司去討論。但係當佢哋--因為佢哋都係有好多年  
13 嘅呢方面專業嘅經驗，佢都會適時會畀番一啲嘅方向，以致點樣可以能夠  
14 做呢樣嘢更加係暢順喇。

15 Q. Right. I understand that the expert adviser team is  
16 playing a similar role in relation to the holistic  
17 proposal; is that correct?

18 A. 係呀。

19 Q. Right. If we could just look very briefly, please, at  
20 an example of a meeting of I think this taskforce that  
21 you have mentioned: DD10/12773, please.

22 First of all, Mr Li, this is the minutes of a very  
23 recent meeting on the holistic proposal and the  
24 verification proposal. First of all, can you confirm

1           this was a meeting of the taskforce that you make  
2           reference to your witness statement; is that right?

3       A.   呢個唔係講嗰個嘅會議嚟嘅，因為我哋嗰個嘅會議嚟講，就係講嗰個  
4       proposal裏面一啲具體嘅操作，同埋啲具體嘅一啲嘅初步一啲嘅發現  
5       嘅時候，我哋係屬於一啲差唔多隔日就開會嗰啲，我哋或者叫用working  
6       level咁樣去睇呢一件事情㗎。但係而家呢個就係屬於比較係高層嘅會議  
7       去睇呢樣嘢。

8       Q.   Right. So the meetings that are happening every other  
9       day, I think you mentioned, those would be attended by  
10       a smaller number of people, is that right, but from the  
11       same organisations: the EAT team, Highways, BD and MTR?

12      A.   嗰啲部門、單位就一樣嘅，但係就係少好多人㗎嘞。

13      Q.   Right. Understood. But the representatives of the EAT  
14       would be there as well, not necessarily all of them but  
15       perhaps one or two?

16      A.   係呀，少好多人㗎嘞。

17      Q.   Okay. Do you happen to know whether the expert advisory  
18       team's original terms of reference have been altered and  
19       changed?

20      A.   呢個我有回應，因為我唔係好清楚佢哋嗰方面嘅嘢。

21      Q.   Okay. Do you know whether the expert advisory team, or  
22       a member of it, is supervising the audits that are being  
23       conducted by Highways through the monitoring and  
24       verification consultants, Pypun?

25      A.   唔知你係咪所講嘅其他嘅沙中線車站嗰啲嘅工作呀？

1 Q. No, I'm referring to on contract 1112.

2 A. 可唔可以講多少少你嗰個嘅理解？唔好意思。

3 Q. Yes. We know, for example, that Pypun have been engaged  
4 by government to carry out an audit on the RISC forms,  
5 and they produced a report recently. You are aware of  
6 that, Mr Li?

7 A. 知道。

8 Q. My question was -- let's take that report, that audit  
9 report, as an example -- did the expert adviser team  
10 play any role in supervising that audit process?

11 A. 最近運基佢做嗰個睇下嗰個HHS、NAT同SAT嗰個RISC form齊唔齊，  
12 係因應我哋路政處叫運基佢哋去作呢一個嘅調查㗎，就睇下有冇咩嘢  
13 特別嘅情況，我哋想了解。第一樣嘢就有涉及到EAT去做，我哋亦都--  
14 因為我哋只係純粹叫佢搞清楚，究竟RISC form個情況係點樣，透過  
15 運基公司去做呢樣嘢。

16 Q. Okay.

17 And we understand, Mr Li, that the expert advisory  
18 team have not produced any formal interim reports or any  
19 reports of any nature. Is that your current state of  
20 understanding as well?

21 A. 你講佢個中期報告，我理解好似之前EAT佢哋都有出過一個中期報告，  
22 你指係指...

23 Q. Sorry, my understanding was they had not produced  
24 an interim report, but you think they may have done; is  
25 that right?

1 A. 可能我會錯，我記得佢哋好似有啲嘢係出過出嚟個啲。不過唔緊要，  
2 其實你個重點係可唔可以講一講？

3 Q. I'm just trying to ascertain the position as to the  
4 expert advisory team. We know, when they were  
5 originally engaged, they were to produce a report within  
6 nine months. That nine months expired on 19 May 2019,  
7 just a month or so ago. And I was trying to ascertain  
8 because my information is that no report, of an interim  
9 or any other nature, had been produced by the expert  
10 advisory team, but perhaps I'm wrong.

11 MR CHOW: Sir, if I may assist AT this point. I understand  
12 that the EAT has produced an interim report, although it  
13 was rather primitive, and a copy of the interim report  
14 has actually been included in the bundle, in the first  
15 part of the hearing bundle, at bundle G --

16 MR PENNICOTT: In that case, my apologies.

17 MR CHOW: G13, starting from page 10890. Perhaps we can  
18 just take a quick look to make sure.

19 MR PENNICOTT: Sorry, is that original bundle G13?

20 MR CHOW: Yes, that's correct.

21 MR PENNICOTT: Ah, right.

22 Oh, this is way back. Right.

23 COMMISSIONER HANSFORD: This is more of an inception report,  
24 is it?

25 MR PENNICOTT: Yes. We looked at this last time.

26 COMMISSIONER HANSFORD: But, Mr Chow, you weren't referring

1 to any report since this report?

2 MR CHOW: I'm not aware of any fresh report. No.

3 MR PENNICOTT: Right. Sorry, let me clarify what I was  
4 asking you, Mr Li. We have just been helpfully shown  
5 an interim report back in October 2018 by EAT. You're  
6 not aware of any subsequent report, that is after this  
7 report in October 2018?

8 A. 我理解就係public就未見到，所以我都--或者呢樣嘢，我都唔係  
9 in a position去回應EAT嘅工作。

10 MR PENNICOTT: All right.

11 Sir, if I think I need to pursue that by other  
12 means, I will, but I'm not going to pursue it with  
13 Mr Li.

14 Sir, I have no further questions for Mr Li.

15 MR TSOI: I have no questions, sir.

16 MR CHANG: Leighton will have some questions, if I may.

17 CHAIRMAN: Yes.

18 Cross-examination by MR CHANG

19 MR CHANG: Mr Li, you accept RISC form is a quality control  
20 document; correct?

21 A. 我相信喺港鐵公司裏面PIMS裏面都有咁樣講到喇。

22 Q. So you accept RISC form is not the only piece of  
23 evidence to show that inspection had taken place;  
24 correct?

25 A. 有咁嘅可能性會發生嘅。

1 Q. Let me put it this way. RISC form is not the only piece  
2 of evidence capable of showing inspection had taken  
3 place?

4 A. 會唔會我哋咁樣去睇一樣嘢，其他嘅證據能唔能夠做到檢測報告  
5 達到嘅目的，咁呢個我就唔清楚嘞。

6 Q. Now, for those areas where we do not have the RISC  
7 forms, would the government accept there could be other  
8 documentation or information capable of showing that  
9 inspection had taken place?

10 A. 如果真係有咁嘅文件係能夠足以證明，而去達到嗰個嘅功能係好似我哋  
11 檢測報告咁，我哋係會持開始態度去理解。不過其實最主要就係港鐵公  
12 司佢作為監管、監督嘅工程，我諗首要要港鐵公司佢都要滿意咗呢樣嘢先。

13 Q. Now, I will give you a list of items and I wish to gauge  
14 the government's position as to whether these items are  
15 capable of showing inspection had taken place.

16 First of all, photographs? Would the government  
17 accept that?

18 A. 呢個問題，我覺得比較唔係好實質。因為其實相片，你要睇下佢個相片  
19 影嘢，同埋相片佢反映到個足夠性係嘢，所以變咗唔排除有一部  
20 分係幫助到我哋證明佢有做到supervision，甚或係--呢個好視乎  
21 佢個相片嗰個準確性、足夠性、代表性，咁呢啲都比較闊嘢嘅，  
22 比較闊嘢去睇呢樣嘢喇。

23 CHAIRMAN: Well, I presume that the question is to be  
24 considered in the context of the fact that the  
25 photographs are of the work that's open to inspection,

1 and that the photographs bear a date --

2 MR CHANG: That's correct.

3 CHAIRMAN: -- or an indication as to when the photographs  
4 were taken.

5 A. 我唔係好知道問呢個問題嘅目的，不過如果從咁樣去分析去講，  
6 如果假如你話想啲相片達到係咪證明有做supervision，呢個都  
7 要睇個相片可唔可以做到呢個功能，而唔係就咁影咗一啲嘅某一個  
8 snapshot，就能夠呢樣嘢，咁好視乎真係張相片做唔做到喇。

9 MR CHANG: Yes, but as the Chairman pointed out, we are not  
10 just talking about random photographs, like taking  
11 a picture of yourself here. We are talking about  
12 photographs that bear a date and show the actual works  
13 that were inspected. Would the government accept that  
14 as capable of showing inspection had taken place?

15 A. 呢個問題比較係概括性，比較概括性。如果對於我嚟講去睇呢樣嘢嘅時候，  
16 好視乎呢一個hold point係想睇啲乜嘢，呢個第一點去睇；而第二點，  
17 佢證明有supervision，定係證唔證明到個supervision個level係等同  
18 於RISC form所要求，咁呢個如果佢做到嘅，我哋都係持開放態度去討論。

19 Q. So, if I understand correctly, the government in  
20 principle will not reject these other documentation or  
21 information; it depends on the quality, correct?

22 A. 某個程度都可以咁樣講嘅。

23 Q. Now, a few other items. WhatsApp messages between, say,  
24 ConEs and IOWs referring to inspections -- would the  
25 government accept that as capable of showing the

1 inspections have taken place?

2 A. 呢個我真係好難回應你呢個問題。

3 因為我哋所睇任何嘢嚟講，都係要有一個所謂紀錄係要清楚  
4 顯示有適當嘅人去做嗰一樣嘢，同埋佢個個依據係啲乜嘢。咁所以  
5 就係一個WhatsApp嘅時候，就會牽涉咗一樣嘢，就係將所有嘢嘢要  
6 自己去--即係我唔知--呢個問題，我好難就咁即刻去答到你呢個問題，  
7 唔好意思。

8 Q. Of course, it's all dependent on the quality of the  
9 documentation and information, but what I'm trying to  
10 get from the government is whether the government has  
11 any in-principle objection to these other sources of  
12 information or documentation to show site inspections  
13 have taken place.

14 A. 可以咁樣講法，其實而家港鐵公司收集到嘅資料，佢哋都會畀我哋一齊去  
15 睇嘅。我哋會綜合睇咗呢一樣嘢，好似正如話齋之前所講，究竟呢啲手頭  
16 有嘅，我哋叫quotation叫“evidence”係咪足夠，就視乎真係佢本身  
17 嗰個係咪可以達到嗰個果效。但係我哋亦都係會去睇呢啲咁嘅資料，  
18 佢提供，我哋係會睇嘅，我哋會睇嘅。

19 Q. Just to quickly go through other items in my list. Site  
20 diary entries -- will the government consider that?

21 A. 正如頭先所講，我哋都--佢認為係objective嘅evidence，佢提供出  
22 嚟嘅，我哋都會睇嘅。但係至於嗰樣嘢能唔能夠達到佢所講嘅要求嘅  
23 果效，咁要好視乎睇咗之後，發現嗰套嘅資料嘅結果係咪可以做到喇。

24 Q. I understand. Subject to the quality of the



1 information, that's what my caveat is, subject to the  
2 quality of the information in this document, this other  
3 documentation, would the government, for example,  
4 consider coupler checklists or pre-pour checklists?

5 A. 正如頭先我哋所講，港鐵公司提交畀我哋佢哋搵到嘅認為係一啲  
6 objective evidence，可以證明佢哋有一個監督工程嘅，  
7 所有我哋都會睇嘅，佢只要畀我哋，我哋就會睇㗎嘞。但係正如  
8 你都講到，究竟嗰樣嘢能夠達到嗰個目的同埋果效，視乎個  
9 quality of呢啲嘅evidence喇。

10 Q. And finally, of course, if we have an inspector or  
11 a ConE giving evidence that they did certain  
12 inspections, the government would also take that into  
13 account as showing inspection did take place; correct?

14 A. 我想請問你講到嗰個例子，佢嗰個實際嘅操作，佢係後期補簽晒所有文件，  
15 你係咪咁嘅意思呀，定係即係佢淨係口頭講，定係有具體嘅嘢，定係點呢？

16 Q. Now, for areas where we do not have a RISC form, if  
17 an engineer subsequently comes out and makes a statement  
18 to say he or she did the inspection on a particular date  
19 in a particular area, would the government accept that  
20 as capable of showing inspection had taken place, in  
21 principle? Subject to the quality of the evidence,  
22 of course, as you will say.

23 A. 我使唔使再回應，定係...

24 Q. Yes.

25 A. 我再回應，okay。正如頭先我所講，所有一切嘅資料，港鐵公司提交

1 畀我哋，我哋都會考慮，都會睇。但係至於能唔能夠達到嗰個目的，  
2 我哋真係好視乎嗰個內容。

3 但係頭先你講咗一個好具體嘅例子，就話有一個我相信係曾經負責  
4 嗰個工程嘅supervision，嗰個hold point嗰啲人，佢願意走出嚟，  
5 然後跟住就話「我其實有做到嗰啲嘅supervision」，唔知係咪講緊  
6 呢一個情況呀？

7 Q. Now, the point I'm really trying to get at is this. If  
8 we have other sources of information and documentation  
9 capable of showing inspection had taken place, why do we  
10 still need a RISC form?

11 A. 其實呢個問題應唔應該係由我去回應呢？其實檢測表格係本身嗰個  
12 PIMS嘅要求，亦都係即係大家係用--即係唔係我定嘅要求嚟嘅。  
13 你哋大家用嗰個要求去做，而大家亦都認同係一個工具，可以能夠  
14 睇到--做到quality assurance嘅工具嘅話，咪就係喺PIMS  
15 裏面係定咗嘞，呢個亦都係其實一個比較方便嘅一樣嘢。其實頭先  
16 亦都提咗一樣嘢嘞，冇咗一張RISC form要做咁多嘢嚟去考慮番，

17 係咪會唔會有少少都係用一個簡單嘅方法，用一個行之有效嘅方法，  
18 會唔會簡單啲呢？

19 Q. Perhaps I haven't made myself clear. I mean, for public  
20 safety compliance, insofar as public safety is  
21 concerned, if we have other sources of information and  
22 documentation showing site inspection, do you agree  
23 a RISC form is not really necessary for that purpose?

24 A. 正如頭先我講咗好多次嘅，其他嘅資料能唔能夠達到呢個檢測表格

1 裏面所做到嘅功能，呢個好視乎其他資料做唔做到喇，但係檢測  
2 表格的而且確係有佢嘅功能做到出嚟，所以變咗我就覺得檢測係  
3 按佢而家嘅機制，有佢嘅功用嘅。

4 Q. Now, can we show you Mr Yueng's second witness  
5 statement, Mr Yueng of Pypun. Bundle GG1, page 29,  
6 paragraph 15. Mr Yueng says the focal points of Pypun's  
7 work set out in the brief are cost, programming and  
8 public safety. That accords with your understanding;  
9 correct?

10 A. 係。

11 Q. If we can go to paragraph 103 on page 46, the last  
12 sentence which Mr Pennicott has already alluded to:

13 "... the RISC forms, were this a private building  
14 project, were not documents that would be inspected by  
15 the BD to check that the supervision had been carried  
16 out properly."

17 In fact, if we go one sentence before that:

18 "The RISC forms were not documents Pypun would have  
19 been required to look at for any audit that was carried  
20 out and so, if these areas had been audited, the RISC  
21 forms would not have been looked at."

22 You can see that?

23 A. 啱啱睇到。

24 Q. In other words, in the government's mandate to Pypun,  
25 the government did not specifically ask Pypun to audit

1 RISC forms to ensure public safety compliance; correct?

2 A. 其實正如一個工程，safety係牽涉好多個factors嘅，呢度只係變咗而家  
3 運基佢哋用一個叫risk-based嘅approach去做嘅時候，係綜合考慮咗好  
4 多唔同嘅嘢去做，所以變咗佢哋最褻畧畀嘅結論，係用呢個identify到嘅  
5 risk嚟去做一啲audit嘅話，係按番呢一個佢哋所講嘅方法去做囉。

6 但係當然喇，佢當其時就有講到用RISC form呢一個去睇囉。

7 Q. I will try to put it in a simple way. Pypun was asked  
8 to carry out audit under three areas: cost, programming  
9 and public safety. And one of these areas is public  
10 safety. But Pypun was not asked for the purposes of  
11 public safety compliance to look at the RISC forms. So  
12 what I'm trying to get at is this. Would at least Pypun  
13 appear to accept it was not part of their duty to look  
14 at RISC forms to ensure public safety compliance?

15 A. 我只能夠咁講話係當其時係咁樣做囉。

16 Q. And the government did not specifically mandate Pypun  
17 must look at the RISC forms to ensure public safety  
18 compliance; correct?

19 A. 正如頭先我所講，我哋有點出晒所有嘅嘢出嚟嘅，而係用個approach，  
20 就用risk-based approach去identify個risk。因為工程嘅嘢，涉及  
21 好多唔同嘅嘢，亦都本身嗰個工程合約可能有自己特別嘅情況出現，所以變  
22 咗係當其時具體嘅操作，就有用到RISC form--冇pinpoint咗RISC  
23 form係一個high risk嘅內容再去跟進。

24 Q. Now, would you therefore accept that the presence or

1 absence of RISC forms by itself would not give rise to  
2 any public safety concern?

3 A. 呢個問題就太過open嘞，好視乎有RISC form背後嘅含義係啲乜嘢。

4 Q. That's why I focus on "by itself"; the simple fact that  
5 there may or may not be RISC forms by itself would not  
6 create any public safety concerns. You need to go  
7 behind to ask why. So you can't just look at the fact  
8 that RISC forms were not there. Do you agree?

9 A. 我同意嘅，因為你講到關注，真係要多啲資料同埋具體嘅情況去講。

10 MR CHANG: Mr Chairman, I note the time. I have only one  
11 other short topic, which will take less than five  
12 minutes.

13 CHAIRMAN: Please continue.

14 MR CHANG: The final topic is this, still on RISC forms.

15 You probably would hear from the evidence last week from  
16 Mr Kit Chan -- if we can quickly show you the relevant  
17 transcript. It's Day 13, page 130, line 10 onwards.

18 Can you see that, "I mentioned to you" -- Mr Li; can  
19 you see that?

20 "... the RISC forms are very time-consuming and  
21 labour-intensive, and it was there some 40 years ago  
22 when the industry was totally different from now ... and  
23 now the construction is so complicated, and the  
24 expectations from society are so high."

25 Then we move to line 20:

26 "But the system is still there. Four parts. If you

1 look, every RISC forms has four parts, have to sign off  
2 by four different people. It takes a long, long time.  
3 It's not practical. I think the industry got to start  
4 thinking to revise the system to more user-friendly,  
5 with the help of new technology."

6 Just to complete Mr Kit Chan's evidence, if you go  
7 to page 131, lines 1 to 14:

8 "And also one very important thing is RISC form is  
9 a contractual requirement. It's an administrative  
10 procedure, not a statutory requirement. The contractor  
11 normally don't pay high attention to that. Unless, if  
12 the government wants to make it a big deal -- 'Okay,  
13 it's a statutory requirement' -- then the whole thing  
14 would be different.

15 I'm not trying to defend but this is the reality in  
16 the construction industry.

17 It's the normal practice ..."

18 Then he referred to the Macau-Zhuhai Bridge.

19 Two points here. First, we have a highly  
20 experienced engineer who has worked in the industry for  
21 over 40 years, saying that RISC forms are time-consuming  
22 and not user-friendly. And we have also seen or at  
23 least I tried to get you to agree that the presence or  
24 absence of RISC form by itself will not give rise to  
25 public safety concerns.

26 So, in that case, would you agree that the

1 government should simply do away completely with the  
2 RISC form requirement and replace it with something  
3 that's more user-friendly and less time-consuming?

4 MR CHOW: Sir, I recall it was Mr Li's earlier evidence that  
5 the requirements of RISC form is actually the  
6 requirement of MTRC under PIMS, so perhaps this is not  
7 a very appropriate question to be asked of Mr Li.

8 CHAIRMAN: Perhaps it might be rephrased.

9 MR CHANG: Perhaps if I try to get the government's position  
10 on this.

11 Do you agree that the RISC form requirement should  
12 be revisited and be replaced with something that's less  
13 time-consuming and more user-friendly, from the  
14 government's perspective?

15 A. 就住呢點嚟講，我唔能夠話我代表政府去講喇，但係喺我嘅理解裏面嚟講，  
16 甚或頭先嘅討論，supervision甚或proper嘅supervision，大家都  
17 冇否定呢一樣嘢。但係至於喺港鐵公司制定佢哋PIMS嘅時候，點樣去能夠  
18 可以更加effective去做，就住而家咁多technology，我覺得係冇空間畀  
19 港鐵公司，甚或佢點樣去進行--去approve佢呢一個成個制度點樣去運作，  
20 我係--我諗我只能夠講到咁多。

21 MR CHANG: Mr Chairman, these are our questions. Thank you  
22 very much.

23 CHAIRMAN: Good. Thank you very much. Can I just ask, just  
24 to see where we are?

25 MR BOULDING: Yes, sir. I have a few questions. I won't be

1 very long. I would propose starting after lunch, if  
2 that's convenient to you.

3 CHAIRMAN: That's fine. Good.

4 Mr Clayton?

5 MR CLAYTON: No questions at the moment, sir.

6 CHAIRMAN: Thank you very much.

7 Mr Li, we are going to have lunch now, the luncheon  
8 adjournment. We will return after that. There will  
9 still be some questions for you, so it will be necessary  
10 to come back after lunch.

11 As you are in the middle of giving your evidence,  
12 it's a standard requirement that you're not entitled to  
13 discuss your evidence with anybody else until it is  
14 completed. Okay?

15 WITNESS: I understand.

16 CHAIRMAN: Good. Thank you very much. It's now 1.07 or  
17 1.08.

18 MR PENNICOTT: 2.20?

19 CHAIRMAN: 2.20. Thank you.

20 (1.06 pm)

21 (The luncheon adjournment)

22 (2.22 pm)

23 MR BOULDING: Good afternoon, sir. Good afternoon,  
24 Professor.

25 CHAIRMAN: Yes.

26 MR BOULDING: We have checked the transcript and upon



1 reflection the matter I was going to discuss with Mr Li  
2 has been adequately covered.

3 So I apologise, Mr Li, if I have kept you in purdah  
4 over the luncheon adjournment through my indecision.

5 Thank you very much.

6 CHAIRMAN: Thank you.

7 MR CHOW: No re-examination.

8 CHAIRMAN: Good. There we are.

9 Questioning by THE TRIBUNAL

10 COMMISSIONER HANSFORD: Actually, I have a couple of  
11 questions, so I'm grateful to you, Mr Boulding, for  
12 keeping our witness so he can answer my two questions.

13 Mr Li, just picking up on something you said  
14 earlier -- I don't quite understand -- why does  
15 a missing RISC form mean that the structure is  
16 necessarily dangerous? I think you used the word  
17 "dangerous". Why would that be the case because of  
18 a missing RISC form?

19 A. 我嘗試咁樣去回應，如果假如係有咗個RISC form，而又佢係代表住  
20 真係有做到supervision嘅話，咁會唔會有住個whole point，如果  
21 舉個例子係講紮鐵，落石屎，究竟落完石屎之後，裏面嗰啲嘅鐵係咪按住  
22 設計圖紙同埋合約裏面所訂明嘅要求去做？其實就係會有啲存疑嘅度。  
23 甚或，如果假如佢係一個好--一個比較extreme嘅case，佢就發現咗  
24 可能係結果因為有睇到嘅時候，有啲鐵根本上有嘅，或者有正確地去接駁  
25 嘅，其實都會構成個結構裏面，有可能會構成一啲嘅危險嘅度。所以我頭

1           先我嘅想表達嘅其實係呢個意思。

2           COMMISSIONER HANSFORD: Okay. And my other question is: how  
3           long would you expect RISC forms to be retained?

4           A. 呢個問題如果講港鐵嘅制度嘅話，就港鐵去回應喇。但係如果假如純粹係作為  
5           一個工程師去睇呢樣嘢先，其實呢一個RISC form嚟講，係代表住有人去  
6           簽署，有人去核實，有人去表達過佢驗收嗰陣時嘅情況。如果假如將來呢一個  
7           嘅結構係發現咗問題嘅時候，好明顯就會做一個調查，就會搵晒所有嘅資料，  
8           究竟當其時，我諗首先第一樣去睇就話當其時有冇正確地、根據圖紙地、根據  
9           合約要求地去做咗嗰個施工，同埋去監督，其實我相信呢個好大概幫助喺度。  
10          咁你至於話去具體要擺幾耐，咁你畀我嚟講，我覺得係一個合理嘅時間係其實  
11          都應該唔可以太過短，因為可能有啲問題未必咁快馬上浮現出嚟。咁你在我  
12          個人覺得，我又覺得可以真係一個合理嘅時間地夠長。

13          COMMISSIONER HANSFORD: And, in your experience, Mr Li, is  
14          that the case on other projects, that RISC forms are  
15          retained for a reasonable period of time? Is that your  
16          experience?

17          A. 如果政府嘅項目工程，係都幾長。

18          COMMISSIONER HANSFORD: What does "quite long" mean? Is it  
19          sort of two years, five years, ten years; roughly?

20          A. 12年。

21          COMMISSIONER HANSFORD: 12 years? That's pretty precise.

22          Okay. Thank you.

23          CHAIRMAN: Is there anything arising? Good.

24          Mr Li, thank you very much indeed for your

1 assistance today. Your evidence is now completed.

2 Thank you.

3 WITNESS: Thank you.

4 (The witness was released)

5 MR CHOW: Mr Chairman, the government's next witness is  
6 Mr Leung Man Ho.

7 MR LEUNG MAN HO, JONATHAN (affirmed in Cantonese)

8 Examination-in-chief by MR CHOW

9 Q. Good afternoon, Mr Leung. I understand that you have  
10 prepared three more witness statements for the purpose  
11 of this part of the Commission of Inquiry. Is that  
12 correct?

13 A. 對，正確。

14 Q. Could I ask you to go to bundle DD3, page 1355, please.

15 This is the first page of your second witness  
16 statement; correct?

17 A. 正確。

18 Q. Could I ask you to go to page 1361, please. Do you  
19 confirm that is your signature?

20 A. 確認，正確。

21 Q. Then can I move on to your third witness statement at  
22 page 1362.

23 Can you confirm this is the first page of your third  
24 statement, please?

25 A. 確認。

1 Q. Turn over the page. Would you confirm that this is your  
2 signature?

3 A. 確認。

4 Q. We can move on to your fourth witness statement at  
5 page 1364. Is this the first page of your fourth  
6 witness statement?

7 A. 確認。

8 Q. Turn over the page. 1365. Do you confirm that this is  
9 your signature; right?

10 A. 確認。

11 Q. Would you confirm that the contents of these statements  
12 are true and accurate to the best of your knowledge and  
13 belief?

14 A. 確認。

15 Q. Would you adopt the contents of these statements as your  
16 evidence for this part of the Commission of Inquiry?

17 A. 會。

18 Q. Mr Leung, what is going to happen is that Mr Pennicott,  
19 counsel for the Commission, will probably have some  
20 questions for you, and it will be followed by counsel  
21 for the various parties. Meanwhile, the Chairman and  
22 Prof Hansford may have questions for you as well, and at  
23 the end I may need to have a few more questions by way  
24 of wrap-up. Do you understand that?

25 A. 明白。

1 MR CHOW: Please remain seated and take questions, please.

2 Thank you.

3 Examination by MR PENNICOTT

4 MR PENNICOTT: Mr Leung, good afternoon, again.

5 A. 午安。

6 Q. Thank you very much for coming along to give evidence to  
7 the Commission. Mr Chow has explained what's going to  
8 happen and so I'll ask a few questions. I don't have  
9 many.

10 Mr Leung, first of all, at paragraph 9 of your  
11 second witness statement, so that's at page 1357, you  
12 say:

13 "The construction of stitch joints (issue 1) and  
14 shunt neck (issue 2) ..."

15 We can miss out the next bit about RISC forms for  
16 the moment.

17 "... were not considered by MTR and Pypun as  
18 high-risk items when compared with other more  
19 challenging and onerous tasks in contract no. 1112 at  
20 that time."

21 Mr Leung, is that a view that you share or do you  
22 not have any view on the subject?

23 A. 我只可以講番就係，當呢個contract，或者呢個合約，係喺當佢form呢個  
24 contract嘅時候，其實我哋係有呢個睇法。當然，喺今日嚟講，我哋睇  
25 到港鐵同埋禮頓嗰個檢測個結果，我哋當然唔會當得佢係一個低風險嘅

1           工作。

2           Q. Yes. So, with the benefit of hindsight --

3           A. Exactly.

4           Q. -- it was perhaps an error to treat this, the stitch  
5           joints that is, as a low-risk item, or at least not  
6           a high-risk item? Is that right, is that what you're  
7           saying?

8           A. 我希望大家可以睇番整個事情，當日當我哋有呢個工程嘅時候，其實  
9           Pypun係要所應對嘅就係超過--即係我指講呢啲大型嘅項目裏面，超過  
10           \$5,000萬嘅工程，其實都接近六十個，呢個只不過係其中嘅一個。咁喺  
11           呢啲工程裏面，我哋一定要睇每個工程裏面，高風險嘅工序係有啲咩嘢。  
12           好似喺1112裏面，我哋睇到例如我哋要將一條現有行緊車嘅天橋要改道，  
13           例如我要做好多嘅underpinning喺紅磡站裏面，又例如好似我要將  
14           承拓一條整區性嘅電纜，呢啲都係一啲高風險嘅動作。咁我哋喺超過  
15           六十個contract裏面，我哋一定要Pypun identify晒所有呢啲嘅  
16           高風險動作，然後去集中佢嘅精神，即係個時間或者resources去睇嘅。  
17           咁好--呢個係事實嚟，當日我哋冇係將risk--即係stitch joint  
18           呢一樣嘢擺喺一個高風險嗰個欄裏面。

19          Q. Yes. I don't know whether you heard any of the  
20          questions that I asked Mr Yueng of Pypun this morning  
21          regarding the monitoring plan that Pypun produced, in  
22          which there are references to contract interfaces, both  
23          internal and external to the SCL project, being  
24          identified as a key risk.

1 Did you hear any of that, Mr Leung?

2 A. 有。

3 Q. What one of the paragraphs or subparagraphs reads, in  
4 part, is that:

5 "A key aspect of this project is the interfaces  
6 between contractors, both internal and external to the  
7 project, and we will review" -- that's Pypun will  
8 review -- "this aspect carefully."

9 We now know that despite those words, the stitch  
10 joints between contract 1111 and 1112 were not regarded  
11 as a "key risk" item. And I assume, Mr Leung, the  
12 government having engaged Pypun, simply relied upon  
13 Pypun's judgment as to what was a key risk and what was  
14 not a key risk, in the context of contract interfaces.  
15 Would that be right?

16 A. 政府委任咗運基，或者Pypun幫我哋做一個M&V嘅monitoring，我哋係用  
17 check the checker嘅。其實同一時間，政府亦都畀咗超過\$80億--  
18 接近\$80億，畀咗港鐵係去做呢個monitoring，地盤supervision嘅工作，  
19 所以你講話政府畀咗\$1億8,000萬運基去睇住呢樣嘢，其實佢冇可能係等於番  
20 港鐵所做嘅所有嘢嘅。咁我哋去做嘅時候，一定係on一個risk-based嘅  
21 approach。而喺呢個情況之下，佢哋睇晒咁多個contract，咁多嘅項目嘅  
22 時候，佢係冇將stitch joint擺去一個high-risk個item裏面，呢個係  
23 事實。

24 Q. Right. And, as I understand it, you personally, or the  
25 government perhaps collectively, does not criticise

1 Pypun for that decision. Is that right?

2 A. 可以講話，當日喺form呢個contract嘅時候，所分析嘅risk registry  
3 裏面係冇擺呢一樣嘢落去，唔係冇擺，可以咁講，冇擺一個high priority  
4 嘅factors落去，呢個係事實。

5 Q. Right. In the light of what's happened on this  
6 particular project, on this particular contract, and  
7 specifically in relation to the stitch joints, is the  
8 government, going forward, likely to take a different  
9 view about the risk category that a stitch joint might  
10 fall into in the future?

11 A. 呢個要睇番第二時，即係話我哋要擺幾多resources喺我哋嘅M&V  
12 consultant裏面。當然，主要嘅責任其實由頭到尾我都講，我係畀咗港鐵  
13 去做呢一個動作，佢哋係要求佢係做好呢個supervision嘅role。而M&V  
14 係在乎我哋會睇--因為M&V睇嘅嘢係在乎--其實如果大家睇到，佢個文件  
15 裏面所講，就係佢睇咗港鐵要盡佢個EA裏面嘅責任去做嘢。當然，我哋  
16 EA裏面要做嘅責任其實係好多，亦都好多類別，咁我哋要擺幾多resource  
17 落去做，呢個第時會有一個好清晰嘅review，究竟我哋RISC form或者  
18 呢一啲嘅interface需唔需要擺落去，我哋要擺幾多嘅resources落去呢個  
19 M&V consultant，such that佢可以睇到港鐵要做嘅每一樣嘢。不過  
20 喺呢度我亦都要講番清一個事實就係話，當我哋喺12年，係開呢一個單  
21 contract嘅時候，或者係港鐵去簽呢一單工程嘅時候，我哋對港鐵嘅信任，  
22 或者對港鐵做嘢，係尤其是呢啲咁樣嘅quality嘅品質，其實我哋係冇  
23 好似而家咁大嘅憂慮。因為港鐵當時亦都喺香港裏面做過好多條呢一類嘅隧--  
24 呢一類嘅railway，domestic railway對港鐵嚟講，其實佢唔係第一



1 條，荃灣綫、觀塘綫、港島綫，佢係做過好多條，亦都係一個好有經驗。

2 Q. Okay.

3 Mr Leung, just try to focus on the question, please,  
4 going forward. All right. Let's move on.

5 A. 好呀。

6 Q. Mr Yueng of Pypun also says, both in his witness  
7 statement and repeated this morning, that Pypun were  
8 focused on costs, or cost, programme and public safety.  
9 Those are the words that are used in the M&V agreement  
10 or brief. And he says that Pypun's responsibilities do  
11 not extend to construction quality or construction  
12 record-keeping. Do you agree with that?

13 A. 我對佢呢個說法係有質疑，quality係part and parcel of佢其他做嘅  
14 所有嘢，cost、programme、public safety裏面，都有quality  
15 嘅成分，你唔會因為你係做public safety，見到有啲嘢quality  
16 有問題，而你話因為佢係quality，你唔理，有可能。

17 Q. Okay. So as reflected in something that government's  
18 counsel mentioned this morning, it's certainly your  
19 position, Mr Leung, as I understand it, that Pypun was  
20 very much involved in quality, in addition to or as part  
21 of cost, programming and public safety?

22 MR CLAYTON: Excuse me, that's not what the witness said.  
23 He didn't say it was -- he obviously qualified what he  
24 said but he didn't say he was very much involved in  
25 quality.

1 MR PENNICOTT: All right.

2 Mr Leung, is it your position that Pypun, as part of  
3 cost, programme and public safety, also had to take into  
4 account quality matters?

5 A. 當質量個問題係牽涉到喺呢幾方面裏面，佢當然要考慮。

6 Q. And Mr Yueng also told us, in his witness statement and  
7 again this morning, that so far as construction  
8 record-keeping is concerned, if Pypun were to carry out  
9 an audit, that would not extend to looking at RISC  
10 forms. Do you agree with that?

11 A. 頭先我亦都講咗同一個--我係唔同意，如果簡單講，因為頭先已經講咗，  
12 當佢牽涉到quality嘅嘢，佢就要睇。

13 Q. All right.

14 The government entered into a separate supplementary  
15 agreement fairly recently with Pypun to carry out  
16 an audit in relation to the RISC forms on contract 1112.

17 Why was a separate supplemental agreement entered  
18 into, Mr Leung, if -- if I've understood your evidence  
19 correctly -- it was part of Pypun's responsibilities to  
20 look at those RISC forms anyway?

21 A. 我想解釋兩樣嘢，第一樣嘢，我簽嗰個唔係supplementary agreement，  
22 係additional services，我哋係有畀additional services畀M&V。  
23 通常嚟講，如果additional services我哋會畀，就係話如果有一啲工序，  
24 或者係一啲works，喺你簽呢個合同嘅時候，你係有可能anticipate到，  
25 你有可能估算到你會發生呢件事。就算你一個好有經驗嘅consultant，

1 例如你有可能估到紅磡站會出現咁大嘅問題。咁亦都要睇一樣嘢就話，我哋  
2 而家要去做嘅嘢係咪一個簡單嘅auditing，定話每一張RISC form，我哋家  
3 要佢做嘅嘢，係每一張RISC form攞番出嚟，逐張睇，唔係一個之前估計  
4 一個check the checker裏面一個簡單嘅抽樣嘅auditing。咁呢啲有  
5 咁大嘅分別，我哋係需要係當一個additional services，咁亦都睇番  
6 佢係咪真係攞咗一啲additional嘅resources落去做呢一樣嘢，而佢係  
7 當時enter into個contract嘅時候有冇估算到--有冇可能估算到。

8 Q. Yes, I see. So this was seen as a genuine additional  
9 service outside of the scope of whatever they were  
10 required to do initially; yes?

11 A. 正確。

12 Q. Understood. All right.

13 We heard also from Mr Yueng earlier, Mr Leung, that  
14 the number of contracts within the SCL project, and  
15 therefore the number of contracts for which Pypun was  
16 required to monitor and verify, increased very  
17 substantially, and I assume you don't dispute that?

18 A. 我想講番一樣嘢就係話，運基係一間好有經驗嘅consultant嚟，佢enter  
19 into呢個contract裏面，其實佢會清楚港鐵會有幾多contract，會有幾多  
20 大嘅contract，會有幾多嘅錢係involve咗落去。如果我要講番佢講個  
21 數量，當然係多嘅，但係major contract，我成日指就話大過\$5,000萬  
22 其實係未夠六十個。咁佢有個resources，即係to certain extend，  
23 佢認為會加咗，但係佢作為一個好有經驗嘅consultant，佢應該落到一個  
24 咁嘅工程，有咁嘅數量，有咁嘅價錢嘅contract裏面，佢應該會有個估算，

1           合理嘅估算，所以喺呢方面就，我哋覺得係冇需要。當然，如果佢畀  
2           further justification，我哋會再睇，但係喺呢個moment嚟講，  
3           我哋唔覺得我哋要直接畀一個additional service佢。

4           Q. Right. So Mr Yueng was obviously right that under the  
5           original agreement, leaving aside all the arrangements  
6           for additional services, the sum of money payable to  
7           Pypun has remained the same, for the original services,  
8           despite the increase in the number of contracts?

9           A. 係，正確。

10          Q. Okay. Did you ever have occasion to discuss with Pypun  
11          their resources, as the number of contracts increased,  
12          and whether they had sufficient resources?

13          A. 喺我而家呢個位置就好少會同運基直接討論呢啲嘢，咁Chief Engineer  
14          嗰個post就會係同佢每月都會有一個會會開，當然呢啲resources，  
15          或者啲咩嘢issues，會係佢其中一個討論嘅範圍之內。

16          MR PENNICOTT: All right. Thank you very much, Mr Leung.

17                 Sir, I have no further questions.

18          MR TSOI: I have no questions, sir.

19          CHAIRMAN: Thank you.

20          MR CHANG: No questions.

21          MR BOULDING: No questions, sir.

22          MR CLAYTON: No questions.

23          CHAIRMAN: Thank you very much. Is there any  
24          re-examination?

25          MR CHOW: Can I have a moment, because I have just received

1           some instructions.

2           No re-examination.

3   CHAIRMAN: Thank you.

4           Thank you very much indeed, Mr Leung. Thank you for  
5   assisting us. Your evidence is now completed.

6   WITNESS: Thank you.

7                               (The witness was released)

8   MR CHOW: Mr Chairman, with your permission, we will call  
9   the government's third witness, also the last witness,  
10   Mr Lok Pui Fai.

11           Good afternoon, Mr Lok.

12           MR LOK PUI FAI, ANDREW (sworn in Cantonese)

13                               Examination-in-chief by MR CHOW

14   Q. Mr Lok, you have prepared altogether four additional  
15   witness statements for the purpose of this part of the  
16   Inquiry.

17   A. 係。

18   Q. Correct? Can I ask you to go to bundle DD7, page 10270.  
19   Would you confirm that this is the first page of your  
20   second witness statement?

21   A. 係，證實。

22   Q. Would you go to page 10285, please. The signature is  
23   your signature; correct?

24   A. 喺。

25   Q. Would you go to the same bundle, page 10286, please.  
26   This is the first page of your third witness statement;

1 correct?

2 A. 喺。

3 Q. On page 10289, on the top of the page is your signature.

4 Do you confirm that?

5 A. 喺。

6 Q. Your fourth witness statement at page 10292, please.

7 This is the first page of your fourth witness statement;

8 correct?

9 A. 喺。

10 Q. Could I ask you to go to 10296. Do you confirm the

11 signature that we see is your signature; right?

12 A. 係。

13 Q. Your fifth witness statement is made in response to

14 various matters raised by other witnesses that you

15 noticed; right?

16 A. 喺。

17 Q. Start at bundle DD9, page 12276. This is the first page

18 of your fifth witness statement; correct?

19 A. 喺。

20 Q. If we can go to page 12284, would you confirm that this

21 is your signature?

22 A. 係。

23 Q. Would you confirm that the matters that you set out in

24 the said four witness statements are true and correct to

25 the best of your knowledge, information and belief?

1 A. 係，證實。

2 Q. Would you adopt the content in those statements as your  
3 evidence in this part of the Inquiry?

4 A. 採納。

5 Q. Mr Lok, what is going to happen is counsel for the  
6 Commission, Mr Pennicott, will probably have some  
7 questions for you, and it will be followed by counsel  
8 for the other parties, and Mr Chairman and Prof Hansford  
9 may have further questions for you at any time. At the  
10 end, I may or may not need to ask you further questions  
11 by way of wrap-up. Do you understand that?

12 A. 明白。

13 MR CHOW: Please remain seated and take questions from  
14 various counsel, please.

15 Examination by MR PENNICOTT

16 MR PENNICOTT: Mr Lok, good afternoon.

17 A. Good afternoon.

18 Q. Thank you very much for coming to give evidence to the  
19 Commission. I can almost guarantee that the questions  
20 I have to ask you will last shorter than your  
21 examination-in-chief.

22 Can I ask you, however, just two points. In  
23 paragraph 13 of your second witness statement, you make  
24 reference to the fact that:

25 "MTR submitted to BO team a remedial proposal for  
26 stitch joint at EWL trough, ie joint 3 [as we know it],

1 a revised SSP on 22 March 2018 and an updated quality  
2 supervision plan for installation of couplers on  
3 26 March, which include enhanced site supervision and  
4 quality control by deploying an independent quality  
5 control team" -- about which we have heard -- "to ensure  
6 all the remedial works are carried out satisfactorily.  
7 BO team and BSRC team vetted the remedial proposal and  
8 discussed with MTR on 23 March 2018. MTR then submitted  
9 to BO team a revised remedial proposal for joint 3 on  
10 26 March 2018 and BO team issued an acceptance letter  
11 with imposed requirements to MTR on the remedial  
12 proposal for joint 3 on 27 March 2018."

13 So that's the EWL stitch joint, stitch joint 3.

14 Then if I could ask you, please, to go to  
15 paragraph 17 of your witness statement, and this time  
16 I'm not going to read it all out, again the government,  
17 through a series of letters, has vetted the submissions  
18 in relation to the other two stitch joints, that's  
19 joints 1 and 2 in the NSL, and albeit somewhat belatedly  
20 have accepted the MTR's submissions. That's right, is  
21 it not, Mr Lok?

22 A. 係。

23 Q. The government, as I understand it, has accepted those  
24 remedial proposals, as we've seen, and the government  
25 has, as I understand it, no doubt, has no reason to  
26 doubt, that the remedial work has been carried out in



1 accordance with those proposals. Is that right?

2 A. 我哋認為佢會跟個remedial works proposal做。

3 Q. Right. What was outstanding until recently, I think,  
4 were various documents relating to the materials that  
5 were used in the remedial works in the stitch joints,  
6 that is documents in relation to concrete, rebar and  
7 couplers -- that documentation has been supplied one way  
8 or another, perhaps through the Commission, and has been  
9 analysed by Pypun and there's been a bit of toing and  
10 froing between the government, Pypun, Leighton and MTR,  
11 and that I think you would agree is nearly resolved; is  
12 that right?

13 A. 因為其實佢而家係--嗰幾個stitch joint位係未正式報完工，即係未--  
14 咁就我哋睇番就其實禮頓就同港鐵都喺入咗嗰啲material submission  
15 畀咗COI，咁另外我哋睇到喺5月27號嗰時，就MRTC都入咗份material  
16 submission就畀BO team。咁我哋睇番呢幾份嘅文件，我哋搵咗  
17 BSRC team就做咗個audit checking，咁佢哋go through咗嗰個  
18 audit checking之後，都發現嗰個人面啲嘢係有啲嘢係未齊，同理有啲  
19 discrepancy要clarify。

20 Q. Right. And, I think as we've seen, those are sought to  
21 be addressed by MTR and Leighton and I think the ball is  
22 back in the court of Pypun or the government, just to  
23 see whether they are now satisfied that all the  
24 outstanding matters have been dealt with?

25 A. 係，要等運基睇番有幾多嘢未齊，咁我哋再到時等叫佢入番齊，或者

1 釐清番，咁我哋先至可以知道係咪所有文件都齊全。

2 Q. Right. Now, so far as the shunt neck joint is  
3 concerned, Mr Lok, I think that probably during the  
4 course of the various witness statements that you've  
5 prepared, and indeed somewhere between the fourth one  
6 and the fifth one, the government has approved, subject  
7 to conditions, the remedial proposal in relation to the  
8 shunt neck joint. Is that right?

9 A. 係，我哋已經發出咗一封信，就話畀佢聽，大致上就我哋accept咗佢嗰個  
10 remedial proposal，但係就會有一啲impose咗有啲condition and  
11 requirements喺封信度。

12 Q. Yes. Just for the sake of completeness, if we could  
13 look at DD9, page 12254. That's a letter of 28 May,  
14 which I think, if we turn over the page, was signed by  
15 you, Mr Lok.

16 A. 係。

17 Q. This is the letter confirming government's approval of  
18 the remedial proposal for the shunt neck, subject to the  
19 conditions that have been annexed to the letter?

20 A. 係。

21 Q. Right. Not only have you sent that letter, you have  
22 subsequently suggested to the MTR that they might like  
23 to get on with it as well, and Leightons?

24 A. 當然，就佢可以儘快做，但係我哋同佢講就係話，佢其實都要睇番我哋  
25 嗰封信嘅內容，因為我哋譬如喺人面有寫咗譬如話佢要submit一個

1           叫site supervision plan，即係要話畀我哋聽佢啲啲--用啲  
2           咩嘢人去做嗰個supervision。同埋其實仲有個item，我記得就係  
3           話，因為喺嗰個位就嗰個shunt neck tunnel喺外邊就有啲泥擋住，  
4           佢其實要話畀我哋聽點樣掘開啲泥，等啲人安全咁樣走入去做嗰個  
5           remedial works，咁佢要符合番呢啲條件，佢先至有可以做嘅。

6           Q. Indeed, but I think if we look at page, in the same  
7           bundle, 12268, another letter from the government, sent  
8           a couple of days after the letter that we've just been  
9           looking at in relation to all three areas, and if we  
10          just go on to the next page, 12269, what Mr Chan says  
11          there, if we can just look up, please -- scroll down:

12                 "For the shunt neck tunnel remedial proposal, the  
13                 Corporation [that's the MTR] should expedite the  
14                 commencement of the remedial works concerned."

15                 So it sounds to me as though the government is keen  
16                 that this work should be completed as quickly as  
17                 possible? Subject to the conditions, of course.

18          A. 係，當然要符合個條件，同埋睇番封信，因為唔係我出嘅，就我都唔知  
19          背後佢哋可能都係想儘快完成，如果睇番封信嘅字眼。

20          MR PENNICOTT: All right, which can be done.

21                 Thank you very much, Mr Lok. I have no further  
22                 questions.

23          MR TSOI: Sir, I have no questions. Thank you.

24          MR CHANG: Leighton has no questions, but we wish to lay  
25          down a marker, as we did in part 1 of the Inquiry. In

1 the fifth witness statement of Mr Lok, he expressed his  
2 views as to whether the QSP applies to any part of the  
3 project. For part 1 of the Inquiry, we have decided not  
4 to debate with Mr Lok in the box, because we do not  
5 think this would help the Commission, but suffice it to  
6 say that we do not accept Mr Lok's evidence but we will  
7 leave it for submissions.

8 With that caveat, we have no questions.

9 CHAIRMAN: Thank you.

10 Cross-examination by MR BOULDING

11 MR BOULDING: Good afternoon, Mr Lok. I represent MTR in  
12 this matter and I do have a few questions for you. Good  
13 afternoon.

14 You tell us, do you not, in paragraph 1 of your  
15 fourth witness statement that you are a senior  
16 structural engineer in government's Buildings  
17 Department; that's correct, is it not?

18 A. 係。

19 Q. You also tell us that you have been seconded to the  
20 Railway Development Office of the Highways Department;  
21 correct?

22 A. 係。

23 Q. I think that occurred in January 2016, did it not?

24 A. 係。

25 Q. In your first statement filed for part 1 of the  
26 Commission of Inquiry, you told the learned

1 Commissioners, did you not, that you joined the  
2 Buildings Department in 2001; right?

3 A. 係。

4 Q. So what's that -- that's about 18 years ago?

5 A. 即係我2001加入屋宇署，咁就一路喺屋宇署嗰度做番屋宇署嘅duties。  
6 咁一路至到2016年，即係嗰時其實我已經promoted to一個senior  
7 engineer嘅--senior structural engineer嘅post。咁跟住就  
8 喺2016年1月，我就去--因為當時有位黃永強（譯音）先生退休，咁我  
9 就take up咗佢嘅post，就second咗去RDO。即係我2016年1月  
10 就second去咗RDO做一個senior structural engineer，Railway  
11 Development嘅post。

12 Q. Thank you very much for that explanation. And, as  
13 I understand it, your job is essentially office-based,  
14 is it not, but on occasions you make site visits; would  
15 that be a fair description of it?

16 A. 主要係處理--根據睇番我哋嘅duties，即係睇vetting一啲building  
17 submission for佢人嚟for consultation，同埋make sure番啲  
18 做啲works，complies with building safety standard，即係  
19 主要有兩大嘅duties。咁我哋就--至於話我哋落地盤嗰度，就我哋就係會  
20 有需要as necessary嗰時就先至會落去。

21 Q. That's right. And the vetting of the building  
22 submissions that you refer to, making sure the works  
23 comply with the building safety standards, those jobs  
24 take place in your office, do they not?

1 A. 如果有需要要睇番地盤嘅譬如一啲叫做inspection form，或者一啲  
2 checklist，咁我哋通常就係會派BSRC team就幫我哋，或者我哋有  
3 BO team嘅同事，都會聯同佢一齊落去睇。

4 Q. And, as you say, you carry out site visits when it's  
5 necessary for you to do so, to leave the office and go  
6 and see the site; correct?

7 A. 係，有需要嗰時係我會派人落去睇，或者有需要，我自己都會落去睇。

8 Q. Okay. And before you joined the BD back in 2001, what  
9 did you do before that, before 2001?

10 A. 我之前係主要喺consultants嗰度做，即係design consultants。

11 Q. Who were they?

12 A. 嗰啲公司就係civil engineering、structural engineering嘅  
13 design consultants。

14 Q. Right. So it follows from that, does it not, that you  
15 have never worked for a contractor? You never worked  
16 directly for a contractor?

17 A. 係，我未做過contractor firm。

18 Q. Okay.

19 Now, presumably you would accept, would you not,  
20 that during the course of a civil engineering project,  
21 particularly a complex project such as this,  
22 coordination and sequencing issues, such as access  
23 problems, can and do arise?

24 A. 喺--我覺得任何工程，即係coordination，其他嘅事項，documentation、  
25 coordination、個programme，即係每樣嘢都有佢嘅重要性。

1 Q. Well, I accept that, but can I go back to my question,  
2 please. You would accept, would you not, that during  
3 the course of a civil engineering project, particularly  
4 a complex project such as this, coordination and  
5 sequencing issues such as access problems can and do  
6 arise? What's your answer to that question?

7 A. 我都同意，因為每個工程都會有佢個複雜性，其實每一個細節都係重要。

8 Q. Well, of course. And these coordination and sequencing  
9 issues such as access problems could arise, for example,  
10 due to changing site conditions, could they not? Such  
11 as the site getting more congested. You would accept  
12 that, would you?

13 A. 如果有呢個問題，係都需要去解決嘅。

14 Q. Again, Mr Lok, I've got to take you back to my question.  
15 You're not answering my question. What I put to you is  
16 that these coordination and sequencing issues, such as  
17 access problems, could arise, for example, due to  
18 changing site conditions, could they not? That was my  
19 question. What is your answer?

20 A. 你可唔可以repeat一次?

21 Q. For the third time, yes.

22 These coordination and sequencing issues, such as  
23 access conditions, could arise due to changing site  
24 conditions; that's correct, is it not?

25 A. 我同意。

1 Q. Thank you. And this problem, the problem we've talked  
2 about, can arise in the sense that in order to keep the  
3 works going efficiently, and to assist progress,  
4 a particular vehicular access might have to be created  
5 or retained; you would accept that, wouldn't you?

6 A. 我同意。

7 Q. And presumably you would also accept, would you not,  
8 that the need to retain or create such a vehicular  
9 access can affect the way in which the works were  
10 originally planned and agreed to be carried out; that  
11 would be right, wouldn't it?

12 A. 我有反對。

13 Q. Does that mean you agree?

14 A. 係咪要用同意?因為我想講就係,因為呢個construction個sequence,  
15 其實唔係我嘅一個duties,我用一個common sense嚟答你。如果你問我  
16 係如果有需要嘅,咁梗係要做。當然,嗰個嘢--做嗰樣事情,梗係要合乎  
17 譬如本身嘅程序。如果佢跟足程序做,其實我有反對。

18 Q. So you're agreeing with me?

19 A. Agree, 如果--係, agree。

20 Q. Thank you. I don't know whether you've been following  
21 the evidence in this Commission of Inquiry, but if you  
22 have did you hear or read the evidence given by both  
23 Mr Chris Chan and Mr Kit Chan of MTR? Did you hear or  
24 read that evidence?

25 A. 我睇過部分,但係我未必係睇過全部。



1 Q. And did you read their evidence when they told the  
2 learned Commissioners that these sort of access  
3 problems, these coordination problems, are the sort of  
4 things that have to be sorted out on the site by the  
5 contractor?

6 Did you read that evidence?

7 A. 可唔可以麻煩你show一show嗰個證供畀我睇？因為我唔係好記得。

8 Q. It's in the transcript. Take it from me that that's  
9 what they said.

10 A. 係。

11 Q. No doubt if my learned friend Mr Chow disagrees, he will  
12 re-examine you on it.

13 So proceeding on that basis, that that's what they  
14 said, presumably you'd agree with them that these sort  
15 of vehicular access problems are the sort of things that  
16 have to be sorted out on site. Would you agree with  
17 that proposition?

18 A. 如果係有site constraint嘅問題要現場解決，我相信係同意係要去  
19 解決。

20 Q. Thank you. We've also heard evidence, and I assume  
21 you've read it, that just this sort of problem, the need  
22 to retain vehicular access to progress the works  
23 efficiently and to programme, arose on the North  
24 Approach Tunnel, the South Approach Tunnel and the  
25 Hung Hom Sidings. Presumably you've read that evidence

1 as well, have you, Mr Lok?

2 A. 我都有睇過部分。

3 Q. And again the part you've read, the part you've read  
4 stated, did it not, that these problems arose due to  
5 site conditions? Do you remember reading that?

6 A. 我當--我而家聽到，我當我有問題，即係佢哋如果話地盤有...

7 Q. Thank you.

8 A. ...狀況要解決，我okay嘅。

9 Q. Good. And you will know, won't you, that to provide the  
10 necessary access, Leightons used couplers instead of  
11 lapped rebars in certain locations? That's something  
12 you know, isn't it, Mr Lok?

13 A. 喺呢度就係去到--睇番我statement就係2019年1月，就係喺一個會上面，  
14 就應該1月23號，咁MTRC就喺嗰度報告咗嗰個有個design change，就係  
15 包括就係用一個lapped bar就轉咗做coupler，就係喺NAT、SAT同HHS。  
16 咁我係嗰時先知道。

17 Q. So I think the answer so my question, Mr Lok, is, "Yes,  
18 that is something I know"?

19 A. 係，係1月嗰時知。

20 Q. And you will also know, won't you, that this use of  
21 couplers instead of lapped bars meant that there was no  
22 barrier -- no barrier -- of lapped bars in such  
23 locations to prevent the contractor's vehicles from  
24 getting where they needed to be on site? You know that,  
25 don't you?

1 A. 係，我明白嘅，呢個。

2 Q. You will also know and indeed understand, I venture to  
3 suggest, that once there was no longer any need for the  
4 vehicular access to be retained, the rebar works were  
5 then completed but using couplers. That's something you  
6 also know and understand, is it not?

7 A. 其實最緊要就係要睇番當日佢有冇跟嗰張accepted plan去做，如果嗰個  
8 accepted plan係一個紮鐵冇coupler，其實好簡單嘅啫，佢就淨係入一個  
9 consultation submission畀BO team，咁BO team譬如可能係一個  
10 typical details，咁咪BO team佢go through咗呢個程序，BO team  
11 可能就會impose番嗰個condition，話用coupler就會做番嗰個  
12 supervision，同埋就係話啲coupler做番testing，咁佢就跟住就可以  
13 做。

14 Q. Mr Lok, unless you concentrate and answer my questions,  
15 this process is going to take a lot longer would  
16 otherwise be the case. You understand that, don't you?

17 A. Okay.

18 Q. I'll put the question again. You will also know and  
19 indeed understand, I venture to suggest, that once there  
20 was no longer any need for the vehicular access to be  
21 retained, the rebar works were then completed but using  
22 couplers. That's something you also know and  
23 understand, is it not?

24 A. 佢哋唔需要用嗰個紮鐵工程，就除非個紮鐵工程係完成咗嘅啫，同埋嗰個  
25 石屎係落咗，咁先至為之完成，我理解就係。

1 Q. I'll take that as a "yes".

2 And you will know, won't you, that Mr Chris Chan of  
3 MTR told the learned Commissioners that there was  
4 general consensus on site between both MTR and Leighton  
5 that the change from lapped bars to couplers to suit  
6 site conditions was acceptable?

7 A. 因為呢個係Kit Chan同禮頓之間嘅共識，我有呢個資料。因為我本身  
8 冇參與。

9 Q. I didn't say you were. And as Chris Chan also told the  
10 Commission of Inquiry, the change from lapped bars to  
11 couplers involved no change to the diameter of the  
12 rebars that were used in the works as shown in the  
13 accepted or working drawings. That's correct, isn't it,  
14 as a statement of fact?

15 A. 如果純粹講個diameter，就啱嘅，但係講個lapping嗰個details，就唔夾。

16 Q. I know that you want to go off and make a little speech  
17 of your own, Mr Lok, but please concentrate on my  
18 question, to which you answered "yes". Thank you.

19 So far as the spacing of the rebars was concerned,  
20 you will know, won't you, that Mr Chris Chan of MTR also  
21 told the Commission of Inquiry that there was no change  
22 to the spacing of the rebars that were used in the works  
23 as shown in the accepted or working drawings. And  
24 again, as a statement of fact, that is correct, is it  
25 not, Mr Lok?

1 A. 因為--唔好怪我咁講，因為以我嘅confirm，Kit Chan話個spacing  
2 冇變，我有理由會知道佢講嘅嘢係咁㗎。即係我唔可以講Kit Chan你話  
3 個樣嘢係個spacing冇變，因為我唔係親眼見到，我唔可以講呢樣嘢係  
4 咁㗎嘛。

5 Q. You can take it from me --

6 A. Okay.

7 Q. -- Mr Lok, that that's what Mr Chan told this Commission  
8 of Inquiry, on oath, and if he said that -- let's look  
9 at it from another perspective -- you're not in  
10 a position to dispute that evidence, are you? You are  
11 not in a position to dispute his evidence?

12 A. 係，我唔質疑陳生嘅證供，如果佢咁樣講，我就聽到就話佢話...

13 Q. Thank you.

14 A. ...個spacing冇變。

15 Q. And are you aware of the Code of Practice for Structural  
16 Use of Concrete 2013 as produced I think by the  
17 Buildings Department; is that something you're aware of,  
18 Mr Lok?

19 A. 係，我知道。

20 Q. I wonder whether we can just remind ourselves of its  
21 terms. It can be found in bundle C at 8348. This is  
22 the document we are talking about, is it not, Mr Lok?

23 A. 係，睇到。

24 Q. I take it that because of what you've done in your  
25 career, it's a document that you are quite familiar

1 with. Is that fair comment?

2 A. 我都清楚。

3 Q. Good. So let's go on to page 8478, if we can. If we  
4 could blow up clause 8.7. Yes, thank you very much.

5 Do you see clause 8.7 there emboldened and entitled  
6 "Laps and mechanical couplers"? Do you see that?

7 A. 係，見到。

8 Q. And presumably this is a clause that you've had occasion  
9 to read before?

10 A. 你講緊8.7.1(a)、(b)、(c)都睇過。

11 Q. Absolutely.

12 A. 係。

13 Q. Thank you. We can see 8.7.1, "General":

14 "Forces are transmitted from one bar to another by:  
15 (a) lapping of bars, with or without bends or hooks;  
16 (b) welding; or  
17 (c) mechanical devices assuring load transfer in  
18 tension and/or compression."

19 Then lastly:

20 "In joints where imposed loading is predominantly  
21 cyclical bars should not be joined by welding."

22 Indeed, this is a provision which you refer to in  
23 your second, third and fourth witness statements, is it  
24 not?

25 A. 係，係。

1 Q. You will know, if you've read the transcript, Day 14,  
2 page 46, that MTR's Mr Kit Chan told the learned  
3 Commissioners that a coupler is a mechanical device of  
4 the kind referred to in subparagraph (c) of this clause.  
5 Did you read that evidence, Mr Lok?

6 A. 我而家聽到係咁樣。

7 Q. Indeed, he's right, is he not, clause 8.7 is referring  
8 to laps and mechanical couplers, and (c), mechanical  
9 devices assuring load transfer in tension and/or  
10 compression? So you would agree, would you not, with  
11 what Mr Kit Chan told the learned Commissioners?

12 A. 因為我唔知佢個證供係咪就係話--佢個證供就話呢個mechanical device  
13 用咗coupler係一個under Code of Practice for Structural Use  
14 of Concrete入面係一個acceptable嘅方法，如果佢個證供係咁樣，  
15 我就係冇問題。

16 Q. Mr Lok, listen to my question. What I put to you -- we  
17 can look at it if necessary but I didn't think it was  
18 going to be a useful use of time -- Mr Kit Chan told the  
19 Commission of Inquiry that a coupler is a mechanical  
20 device of the kind referred to in subparagraph (c). As  
21 a statement, that is correct, is it not?

22 A. 佢個證供如果係你咁講，話夾到8.7.1(c)，係正確嘅。

23 Q. Thank you very much. It is also right, is it not, that  
24 lapped bars and couplers serve the same purpose, do they  
25 not? Lapped bars and couplers serve the same purpose?

1 A. 兩個都係同一個作用，係。

2 Q. Thank you. And if you were to change lapped bars to  
3 couplers, it's not the sort of change, is it, that would  
4 require any supporting calculations to be carried out?  
5 That's correct, isn't it?

6 A. 係唔啱嘅。

7 Q. Oh, why's that?

8 A. 因為我哋首先就係個coupler係要本身係要做到嗰條rebar嗰個function，  
9 即係我哋--其實我哋對嗰個coupler係有要求，要做一個testing，佢本身  
10 都要mill certificate。如果你嗰個coupler唔係一啲之前或者我哋叫  
11 under BO requirement accept過，即係冇quality control，咁我哋  
12 唔知佢用咗咩嘢coupler，咁我哋都唔知佢ful唔fulfil到嗰個rebar嗰個  
13 requirement。

14 Q. Come, come, Mr Lok. Don't make difficulties where there  
15 are none. We know that the couplers used here, BOSA  
16 couplers, had already been approved for use elsewhere on  
17 the project, as Chris Chan told the learned  
18 Commissioners in paragraph 11 of his statement, BB5236.  
19 That's correct as a statement of fact, isn't it?

20 A. 如果佢用咗人和嗰隻coupler，咁就係okay，我知道，...

21 Q. Thank you.

22 A. ...如果佢唔話畀我知用邊隻coupler，我就唔知嗰隻coupler係咪一個  
23 acceptable嘅coupler嚟。

24 Q. And if it be the case that BOSA couplers were used, and



1 we've got evidence on that -- I'll repeat my question --  
2 it's the sort of change from lapped bars to BOSA  
3 couplers that would not require any supporting  
4 calculations to be carried out, would it? That's  
5 correct as a statement of fact, isn't it?

6 A. 係，喺structural point of view，係啱。

7 Q. Thank you. And what I suggest to you is that Kit Chan  
8 was also correct when he told the learned  
9 Commissioners -- this is paragraph 54 of his witness  
10 statement, bundle BB5204 -- that the change from lapped  
11 bars to couplers was a minor change. That's correct as  
12 a description, is it not, Mr Lok?

13 A. 喺structural point of view，係啱。

14 Q. Thank you very much.

15 Now, in paragraph 12 of your fifth witness  
16 statement, which is at -- it starts at DD12276, and  
17 paragraph 12 can be found at page DD12279; splendid,  
18 we're already there -- now, here you refer, do you not,  
19 to the 2015 incident report for the change in  
20 reinforcement details in the diaphragm wall. That's  
21 what you're referring to here, is it not?

22 A. 係。

23 Q. Thank you. And what you say is that the contents of  
24 this report reinforce the need for an amendment  
25 submission. That's the tenor of your evidence, is it  
26 not, Mr Lok?

1 A. 呢度寫咗我嗰個睇法。

2 Q. I think you're agreeing with me so I'll proceed on that  
3 basis.

4 If we have a look at that report -- fortunately, we  
5 don't have to go to it all but I hope we'll find it at  
6 bundle H11/H5538. This, is it not, is the letter from  
7 MTR way back at the end of July 2015 whereby they send  
8 to the Buildings Department the incident report which  
9 you are referring to in paragraph 12 of your statement?  
10 That's correct, is it not, Mr Lok?

11 A. 係。

12 Q. As I've said, we don't have to look at it all, but for  
13 my purposes I would take you to H5542, and there we see,  
14 do we not, the background to the report set out; that's  
15 correct, is it not?

16 A. 係。

17 Q. Then for my purposes I go to paragraph 1.4, which  
18 states:

19 "There are ... 282 numbers of diaphragm wall panels  
20 in contract 1112 and their construction was started in  
21 mid-2013. The contractor had made changes to the  
22 diaphragm wall reinforcement details at connection with  
23 the EWL slab during construction."

24 Then you point out correctly:

25 "... this amended detail was not submitted to BD for  
26 acceptance in accordance with the consultation process

1 of IoE for SCL."

2 So that's indeed a correct summary, is it not, of  
3 the change in detail which was the subject of this  
4 report?

5 A. 係，呢個係根據呢個報告睇到嘅事實講番出嚟。

6 Q. As we've seen summarised there, it's right, is it not,  
7 that the incident report contemplated design changes  
8 which involve significant changes in the reinforcement  
9 arrangements relating to the EWL slab, the eastern  
10 D-wall and the OTE slab? As a proposition, that is  
11 correct from a factual point of view, is it not?

12 A. 根據MTRC嘅report，我了解到呢個係--呢個事實係咁樣。

13 Q. And those changes involved, amongst other things, the  
14 following, did they not? Firstly, the reconfiguration  
15 of layers of rebar and couplers. That was the first  
16 change, wasn't it? The reconfiguration of layers of  
17 rebar and couplers. That's correct as a fact, is it  
18 not?

19 A. 係，係，見到個report係咁寫。

20 Q. Yes. Secondly -- I'm not trying to trick you -- there  
21 was a change to the anchorage and the lapping lengths.  
22 That's correct, isn't it?

23 A. 係。

24 Q. Thirdly, there was, was there not, the omission of  
25 U-bars within the diaphragm wall steel cages; that's

1 correct?

2 A. 係。

3 Q. Thank you. Can I suggest that the changes that you've  
4 just agreed with me there are on a completely different  
5 scale from the use of couplers instead of lapped bars at  
6 the construction joints in the North Approach Tunnel,  
7 the South Approach Tunnel and the Hung Hom Sidings.  
8 They are of completely different scale, are they not?

9 A. 其實喺structural point of view, 個lapped bar同埋嗰個coupler,  
10 都係有分我哋叫做ductility zone同埋non-ductility zone。即係話  
11 要睇番嗰個結構有幾嚴重, 先至決定可唔可以用得, 同埋係用邊隻, 即係  
12 唔可以一概而論。

13 Q. I've got to put it to you again, Mr Lok, the sort of  
14 changes you've agreed with me that occurred and which  
15 were the subject of this incident report are on  
16 a completely different scale from the change from lapped  
17 bars to couplers at the construction joints in the NAT,  
18 the SAT and the HHS. That's correct, is it not?

19 A. 呢個我想point out一樣嘢, 就係到而家, 其實我都唔係太過清楚, 喺呢個  
20 SAT、NAT、HHS, 即係MTRC仲未交代所有嘅改變個design change, 喺呢個  
21 地區, 即係我喺呢個未清楚晒所有嘅情況之下, 就擺嚟compare, 我覺得  
22 唔係好恰當。

23 Q. Well, I can see that you want to wriggle, Mr Lok, but  
24 the comparison, I suggest to you -- and I really didn't  
25 think there would be any dispute over this -- is a

1 change from lapped bars to couplers. As you deal with  
2 in your report, the comparison is between lapped bars to  
3 couplers, and at least those three changes that you just  
4 agreed with me on the diaphragm wall and which are  
5 referred to in the 2015 incident report. I'll give you  
6 another opportunity, and what I'm going to suggest is  
7 that there's absolutely no comparison between the two.  
8 There's no comparison between the two; that's correct,  
9 isn't it?

10 A. 我只可以講係from structural point of view, 就唔可以同日而語。

11 Q. Thank you.

12 Right, Mr Lok. You also deal with your view as to  
13 the meaning and effect of appendices 7 and 9 of the PMP  
14 in your witness statement. Like my learned friend  
15 Mr Chang, who acts for Leightons, we are proposing to  
16 deal with that by way of submissions, because we  
17 consider it to be a legal matter, but I just want to put  
18 a marker down that we do not accept what you say. You  
19 understand that, do you, Mr Lok?

20 A. 明白。

21 MR BOULDING: Thank you very much. Thank you very much,  
22 Mr Lok.

23 I have no further questions, sir.

24 MR CLAYTON: I have no questions, sir.

25 MR CHOW: No re-examination.

26 CHAIRMAN: I have no questions.

1           Thank you very much indeed, Mr Lok. Your evidence  
2           is now completed.

3           WITNESS: Thank you.

4                                 (The witness was released)

5           MR CHOW: Mr Chairman, that concludes the government's  
6           evidence.

7           CHAIRMAN: Thank you very much.

8                                 Mr Pennicott?

9           MR PENNICOTT: I was slightly concerned Mr Boulding was  
10          trying to take us into tomorrow then, but never mind.

11          Sir, that does indeed complete the evidence of all  
12          the involved parties, so with two days to spare, as it  
13          were, we have completed the evidence.

14          CHAIRMAN: Good. That's -- just for those who may be  
15          listening in, this is the factual evidence only --

16          MR PENNICOTT: Indeed.

17          CHAIRMAN: -- that relates to these matters, but of course  
18          we still have important expert evidence, once certain  
19          government-sponsored reports are ready, and the expert  
20          evidence will also encompass issues under the Original  
21          Inquiry.

22          MR PENNICOTT: Yes, sir.

23                                 H O U S E K E E P I N G

24          CHAIRMAN: When is it that we are due to commence our  
25          hearings with the expert evidence?

26          MR PENNICOTT: Sir, my current understanding is that we have

1 a week starting on 23 September --

2 CHAIRMAN: Good.

3 MR PENNICOTT: -- which I think is earmarked for any  
4 structural engineering technical evidence.

5 CHAIRMAN: Yes.

6 MR PENNICOTT: Then we have a number of days which I don't,  
7 I'm afraid, have right in my head at the moment, at the  
8 beginning of October, for any further project management  
9 expert evidence as well.

10 CHAIRMAN: Of course, yes, which could be of importance in  
11 the light of matters that have arisen here.

12 MR PENNICOTT: Yes, sir, indeed.

13 COMMISSIONER HANSFORD: And I understand we also have  
14 evidence about steel sampling.

15 MR PENNICOTT: Well, sir, we may is the answer to that.

16 I think the position, as I understand it, is the  
17 directions for written closing submissions on what we've  
18 been dealing with over the last couple of weeks are to  
19 be submitted by the involved parties by 19 July, and our  
20 submissions will follow on a week later than that.

21 I was hoping that any party who wishes to submit to the  
22 Commission any expert evidence in relation to what we've  
23 been dealing with over the last few weeks, whether it's  
24 project management expert evidence or whether it's the  
25 steel evidence that Prof Hansford has just referred to,  
26 or indeed any other expert evidence that may have

1           escaped me, will flag that up in their written closing  
2           submissions so that appropriate directions can be made  
3           for the submission of that expert evidence.

4           CHAIRMAN: Good.

5           MR PENNICOTT: Sir, with regard to particularly the  
6           structural engineering expert evidence, the Commission  
7           is obviously waiting with a degree of anxiety for  
8           confirmation from the government and MTRC as to whether  
9           or not there is likely to be any delay to the milestone  
10          date of 30 June. I was hoping that we would have heard  
11          something by now, and I think we have invited government  
12          and MTRC to tell us the position by 5 o'clock this  
13          afternoon.

14          So, sir, I don't know whether we have received  
15          anything while we've been sitting here this afternoon.  
16          I just don't know. But obviously that is very important  
17          because once those reports are in, that will probably  
18          need to trigger directions by the Commission about the  
19          dates by which structural engineering reports, for  
20          example, should be submitted to the Commission. So  
21          that's obviously a very important milestone date.

22          CHAIRMAN: Yes, of course.

23          MR PENNICOTT: And we obviously need to know what is  
24          happening.

25          CHAIRMAN: Yes. Good. Is there anything further arising?

26          MR PENNICOTT: I have nothing further, sir. Thank you very



1 much for the last ...

2 (Tribunal conferring)

3 CHAIRMAN: Yes. I mean, from our perspective, obviously we  
4 would like to know if everything -- from the MTR and the  
5 government's perspective at the moment, represented by  
6 counsel here, everything appears to be working towards  
7 30 June.

8 MR PENNICOTT: Yes. Sir, I'm not going to press anybody  
9 myself, but if you feel it appropriate to ask the  
10 question, obviously I can't stop you. We have, as  
11 I say, asked for a response by 5 o'clock this afternoon,  
12 but if you wish to take the opportunity, it only being  
13 one hour approximately from 5 o'clock, obviously we will  
14 see what Mr Chow and Mr Boulding say respectively.

15 CHAIRMAN: Mr Chow?

16 MR CHOW: Mr Chairman, the most up-to-date information that  
17 I have in relation to this is we, the government,  
18 understands that MTRC would write to the government  
19 about the extent of extension that MTRC would require.  
20 It has been a few days that the government has been  
21 waiting for this formal notice from MTRC, and we are  
22 conscious of the deadline of 5 o'clock today and we have  
23 been wondering as to when we will receive such a formal  
24 request from MTRC. So I'm actually in roughly the same  
25 position as Mr Pennicott and we have been wondering as  
26 to when we will receive that request from MTRC.

1 MR BOULDING: Sir, you will have just seen I have just taken  
2 my instructions from my partner in charge, and my  
3 instructions are that we will seek instructions  
4 immediately and revert by the deadline of 5 o'clock with  
5 anything constructive we've got to say. I hope that's  
6 satisfactory in the circumstances. It's not ideal but  
7 it's satisfactory, I hope.

8 CHAIRMAN: Yes. Because we would quite like to know that  
9 these reports are coming in. Certainly both myself and  
10 my co-Commissioner, and I'm sure everybody does this,  
11 have travel arrangements over the summer and that sort  
12 of thing. We would like to be in a position to at least  
13 receive these reports and understand what they are about  
14 and consider making directions as to other expert  
15 evidence that may arise out of those reports and the  
16 like --

17 MR BOULDING: Yes.

18 CHAIRMAN: -- sooner rather than later. I don't want  
19 a situation where I'm trying to contact Prof Hansford in  
20 some bleak part of the world while he's trekking around  
21 on holiday.

22 MR BOULDING: Sir, both parties, I'm sure, understand the  
23 urgency of the situation and the need for these reports,  
24 and I'm sure that those instructing Mr Chow and myself  
25 are probably witnessing what you are saying at this very  
26 moment on the transcript. But you can rest assured that

1 I will pass it on.

2 CHAIRMAN: Fine. Yes.

3 I would mention one other thing, somewhat more  
4 important than our own travel plans, and that is that  
5 the Chief Executive's Office does require confirmation  
6 of any delay, because we are asking for the report to be  
7 put in at a later date. It was always, I think,  
8 anticipated, but we weren't sure exactly earlier on of  
9 what the actual timing would be, and we took a shorter  
10 time rather than a longer time, but now we hope we may  
11 be given a longer time, and obviously an integral part  
12 of that is any delay occasioned in the receipt of these  
13 expert reports, the holistic report and the verification  
14 report.

15 If we are talking about 5 o'clock, if we were to  
16 come back at 5.00?

17 MR PENNICOTT: Why not?

18 CHAIRMAN: I mean, it's an hour, that's all.

19 MR CHOW: Mr Chairman, I've just been informed that the  
20 government has received a draft letter from MTRC which  
21 is supposed to be formally issued to the Highways  
22 Department, but we haven't received a formal letter from  
23 the Highways Department.

24 MR PENNICOTT: Sir, could I suggest then -- that sounds at  
25 least an advance on where we were a few minutes ago --  
26 we adjourn now?

1 CHAIRMAN: I had good advice from my Commissioner saying  
2 exactly that.

3 MR PENNICOTT: I honestly didn't hear him!

4 That we adjourn now and we allow the MTR and the  
5 government, as necessary, to put their heads together or  
6 at least exchange letters on a more formal basis, and  
7 then perhaps when they've got something positive to tell  
8 us, perhaps the Commission can be told and we can then  
9 re-convene for hopefully a very short time and then  
10 we'll know where we are.

11 CHAIRMAN: Yes. I think so. I'm sorry if I'm keeping  
12 people, but the evidence may have gone on a little later  
13 this afternoon as it is and we would rather wrap things  
14 up this afternoon, if that is possible.

15 MR PENNICOTT: Yes.

16 CHAIRMAN: So we will adjourn. Please let us know as and  
17 when you are in a position to give us some news, be it  
18 negative or constructive.

19 (3.57 pm)

20 (A short adjournment)

21 (5.47 pm)

22 CHAIRMAN: Yes, Mr Pennicott.

23 MR PENNICOTT: Sir, first of all, thank you very much for  
24 the adjournment.

25 CHAIRMAN: I'm sorry if I kept you waiting.

26 MR PENNICOTT: Not at all.

1 CHAIRMAN: I was on a telephone call with another matter and  
2 I just couldn't dump it, if I can put it that way.

3 MR PENNICOTT: Not at all, sir. Thank you for the  
4 adjournment. During the course of the adjournment,  
5 I have been handed a letter, which I think you have now  
6 also seen a copy of, from the MTR to Highways,  
7 indicating an intention to write to the Commission to  
8 seek a short extension of time to the 30 June date to  
9 12 July 2019, so a deferment of 12 days or so.

10 Sir, I understand that, having spoken to counsel for  
11 the government, in principle that date is agreed, but  
12 that there is, as it were, a condition that the  
13 government would wish to have inserted, as it were, to  
14 that date. Perhaps I can ask Mr Chow to explain what  
15 that is.

16 MR CHOW: First of all, I apologise on behalf of the  
17 government to have kept the Commission waiting for  
18 almost an hour.

19 The position is this. The government's  
20 understanding is that when the date of 30 June was  
21 provided, the report submitted at that stage has to be  
22 a report endorsed by the government, so when the date  
23 was agreed, there was a discussion between MTRC and the  
24 government on a number of dates before 30 June on which  
25 the government would receive an advance copy of the  
26 report so that the government would have time to look at

1 and consider and then go through the required  
2 formalities.

3 So, when MTRC indicated that they would need  
4 an extension of time up to 12 July, we have been  
5 working -- as I understand it, the government is working  
6 with the relevant personnel of MTRC to work out the date  
7 before 12 July on which the government would receive  
8 an advance copy of the final report.

9 My understanding of the latest position is that the  
10 government requires four clear days before whatever date  
11 is the new date to receive an advance copy of the report  
12 for them to consider and endorse it and go through the  
13 formalities.

14 My understanding is, up to present, all that MTRC  
15 would be able to do is to provide the final report for  
16 the verification proposal on 8 July if we stick to  
17 12 July, in other words four days before. Whereas the  
18 final report for the holistic proposal will be on the  
19 10th, in other words just two days before the new date.

20 The government, having due consideration of this new  
21 date, can -- well, actually, having considered the  
22 constraint of the government, within the government  
23 organisation, the latest date the government would  
24 require the advance copy of this report would be 8 July.  
25 In other words, we have no problem with the proposed  
26 date for the verification proposal. The problem is with

1 the advance copy of the final report for the holistic  
2 proposal, the government wants to receive it on the 8th  
3 whereas MTRC only commits to the 10th. So there's two  
4 days' difference.

5 We have been trying to further liaise, arrange --  
6 encourage further discussion, but in the time that we  
7 have ...

8 CHAIRMAN: Well, Prof Hansford has a suggestion, and  
9 I endorse it, actually. It seems to me to be entirely  
10 correct.

11 COMMISSIONER HANSFORD: I think the Commission would be  
12 happy to receive the report on Monday, 15 July.

13 MR CHOW: I have taken instructions on that as a possible  
14 alternative solution and my instructions are it is  
15 acceptable to the government, but now I have to hear  
16 from my learned friend Mr Boulding.

17 MR BOULDING: Okay. Yes, may it please you, sir. The  
18 situation is that we would be happy with the 15th. We  
19 want to make it clear that we have undertaken to  
20 government, and my learned friend knows this, to serve  
21 our holistic proposal by close of business tomorrow --  
22 tomorrow -- at the very latest.

23 So, yes, 15 July, but we are serving our proposal  
24 latest close of business tomorrow.

25 MR CHOW: I am glad to hear that. So we are looking forward  
26 to receiving an advance copy of the holistic proposal by

1 tomorrow.

2 CHAIRMAN: And the verification?

3 MR BOULDING: Well, the verification proposal, we sent one  
4 last week for comment and we understand that they are  
5 considering it at the moment.

6 CHAIRMAN: All right. So I am slightly puzzled --

7 COMMISSIONER HANSFORD: Me too.

8 CHAIRMAN: -- as to why, if you are going to get the  
9 holistic proposal tomorrow, we are arguing about the  
10 difference between 10 and 12 July.

11 MR CHOW: Chairman, I am also puzzled. If the MTR is ready  
12 to give an advance copy, why would they need  
13 an extension? They are supposed to serve the final  
14 report by 30 June. We are happy to receive an advance  
15 copy of the final report tomorrow and get ready to  
16 endorse it by 30 June, but this is an application of  
17 MTRC for an extension up to 12 July.

18 CHAIRMAN: Mr Boulding?

19 MR BOULDING: Sir, I'm slightly confused because Mr Chow is  
20 seemingly suggesting that he'd not heard of any of this  
21 before. You can imagine, over the course of the last  
22 two hours, there have been various exchanges, and what  
23 he has been told is that we are serving the draft  
24 holistic proposal by close of business tomorrow at the  
25 latest, and obviously then how long we need or he needs  
26 in order to agree it or presumably come back with yet



1 further qualifications will affect the date, the cut-off  
2 date, by which you can be given the final agreed  
3 version, if indeed it can be agreed.

4 CHAIRMAN: Why don't we do it on this basis, again with  
5 the -- thank you to my co-Commissioner. We've said  
6 15 July. Providing we get it by 15 July, we're happy  
7 for you to reach whatever arrangements you can within  
8 that extended time period.

9 MR BOULDING: Okay.

10 CHAIRMAN: How does that sound?

11 MR BOULDING: We're content with that, sir. Thank you very  
12 much.

13 COMMISSIONER HANSFORD: If, of course, it happens to be  
14 available earlier than that, we'd be happy to receive it  
15 earlier.

16 MR BOULDING: Of course, and you will.

17 CHAIRMAN: But we've given you now an extended period until  
18 15 July from what we had earlier worked on as being  
19 30 June.

20 MR PENNICOTT: Yes. Sir, I --

21 CHAIRMAN: Sorry, Mr Pennicott we haven't taken your advice.  
22 Apologies.

23 MR PENNICOTT: No, sir, in a sense, not at all. What I am  
24 keen to achieve is as much certainty as possible. So  
25 15 July, as Prof Hansford suggests, seems to me to be  
26 an extremely sensible option or deadline. And if one

1 spins the discussion back a bit, and the MTR were  
2 prepared to provide the advance copy of the holistic  
3 proposal on the 10th and the verification proposal on  
4 the 8th, then it seems to me there is no difference  
5 between the MTR and the government on that score.

6 What I'm slightly puzzled by, I have to say, is what  
7 amounts to be a distinction between the MTR providing  
8 what was just described as a draft verification  
9 proposal/holistic proposal on the one hand and providing  
10 what has been described as an advance copy on the other,  
11 because it may be that those are two completely  
12 different animals.

13 If I may say so, I suggest perhaps from what I've  
14 heard, they are, in the sense that an advance copy is  
15 something that the government has received or will be  
16 very soon receiving of the holistic proposal and the  
17 verification proposal, and they have now a period of  
18 time to pore over that document with a view to providing  
19 presumably any observations/comments which the MTR then  
20 takes on board. And then, at that point, the MTR  
21 provides the advance copy, in the sense that what they  
22 have been providing so far is a draft, not an advance  
23 copy.

24 Then, I would have thought -- Mr Chow will be able  
25 to tell me otherwise -- that the government then just  
26 has this period of seven days and five days

1           respectively, if there are absolutely any very  
2           small/minor points that just need tidying up, but  
3           nothing of any great substance.

4           That's the way I see it. There was the draft and  
5           then there was the advance copy. It may be I have  
6           misunderstood but I would like to know precisely what  
7           the intentions are because I am concerned that there is  
8           this distinction between a draft on the one hand and  
9           an advance copy on the other.

10       MR CHOW: Mr Chairman and Prof Hansford, I have been very  
11       careful in the use of my language, by using the word  
12       "advance copy" instead of "draft", because a draft of  
13       the report, we have been talking about this even between  
14       the two parties for quite some time. I don't want to  
15       waste time in talking about what was contained in the  
16       various drafts that the government has received, but  
17       I want to make sure, by using -- when we expect  
18       an advance copy, we expect that it is the final form of  
19       the final report, of course subject to some minor  
20       changes in terms of perhaps typos, then that's fine, but  
21       not major changes. We expect really the final form, so  
22       that it's something ready to be accepted by the  
23       government, if it is acceptable to the government.

24       MR BOULDING: Well, sir, it seems to me that these terms are  
25       somewhat misconceived. Let me be clear. What we are  
26       serving tomorrow is a report that we are prepared to

1 sign off tomorrow night. That's going to be our  
2 position. Obviously, if government do not agree with  
3 what's in it, then there may have to be some further  
4 negotiations. But our position is that what we serve  
5 tomorrow is, so far as we are concerned, our final  
6 position, and government could simply sign it off  
7 midnight tomorrow; deal done.

8 MR PENNICOTT: That's clear enough to me.

9 CHAIRMAN: That's good, and then if government doesn't like  
10 it, then you've got a period of time within which to  
11 negotiate?

12 MR BOULDING: Yes.

13 CHAIRMAN: And if by 15 July, or shall we say Friday,  
14 12 July, you are still at a distance from each other,  
15 then it's a matter for you as to how you wish to present  
16 the proposal. You may present two different proposals  
17 or reports. You may present a single report with  
18 certain reservations. That would seem to be a matter  
19 for the two of you, as you are instructed by those who  
20 instruct you.

21 MR BOULDING: Yes, absolutely.

22 CHAIRMAN: How does that sound?

23 MR PENNICOTT: Yes, sir.

24 CHAIRMAN: I think that's the best way. So what we are  
25 really after is a final date for matters to be actually  
26 lodged with Mr Pennicott and his team, that is lodged

1 with the tribunal, and that's 15 July.

2 MR BOULDING: So be it.

3 CHAIRMAN: Hopefully, it will be a final, agreed report  
4 between the MTR and the government, but if there are  
5 reservations or if there are reasons why you cannot  
6 reach agreement entirely -- well, that will be explained  
7 in whatever documentation we receive.

8 MR BOULDING: Yes.

9 COMMISSIONER HANSFORD: But we will still get it.

10 MR BOULDING: Yes. All noted, sir and Professor. All  
11 noted.

12 CHAIRMAN: Good.

13 Can I ask just one thing -- you don't have to answer  
14 this, by the way -- but the report that will come in,  
15 because obviously, from the Commission's point of view,  
16 we would then be interested in the matter being  
17 considered by experts, you know, within that small ambit  
18 we have -- have your experts also played a role, the  
19 experts that have given evidence? You don't have to  
20 answer that. You can simply say, "We'd rather not  
21 discuss it at this stage; we will deal with it later."

22 MR BOULDING: Sir, I would have to go back for specific  
23 instructions on that. I'm sorry. I'm at a loss to  
24 answer your question. I'm sorry.

25 CHAIRMAN: No, no. It's just that the question then becomes  
26 one of how much time is perhaps going to be required

1 later for the expert evidence, if your own experts are  
2 already -- and they are the ones that we know because  
3 they've already given evidence and they are already on  
4 board with what you're putting before us -- it makes  
5 what comes later perhaps much more limited.

6 MR CHOW: Mr Chairman, as I already mentioned it during my  
7 oral opening, Prof Au was involved in a continuous  
8 discussion, so Prof Au's views and opinions were passed  
9 to the consultants engaged by MTRC.

10 CHAIRMAN: All right.

11 MR CHOW: But how much of that view or opinion is accepted,  
12 we don't know yet. We have to yet to see the next round  
13 of the draft report. I think that's all we can say.

14 CHAIRMAN: Thank you. It was only just a question.

15 I didn't want to delay matters on it.

16 Excellent. So that's where we stand. 15 July.

17 Then we have directions which have been given --

18 Mr Pennicott --

19 MR PENNICOTT: Yes, sir. They were emailed to all the  
20 involved parties last Friday afternoon, and unless  
21 somebody is really interested in you reading it onto the  
22 transcript -- I mean, the headlines are --

23 CHAIRMAN: No. It follows.

24 MR PENNICOTT: Yes.

25 CHAIRMAN: You haven't had a war party after your scalp in  
26 regard to these directions?

1 MR PENNICOTT: I have not, sir, no.

2 CHAIRMAN: Good, in which case we can then assume that --  
3 all right, apart from the written submission from the  
4 Commission's counsel, all parties will submit a soft  
5 copy of their written submission on the factual  
6 evidence, and they will submit this to the Commission's  
7 solicitors by 4 pm on Friday, 19 July. And written  
8 submissions from the Commission's counsel will then be  
9 submitted by 4 pm on Friday, 26 July.

10 MR PENNICOTT: Yes, sir.

11 CHAIRMAN: The other directions really follow what came  
12 before and relate to matters such as font size and that  
13 kind of thing.

14 MR PENNICOTT: Yes, sir, and number of pages.

15 CHAIRMAN: And the number of pages. Good. Excellent.  
16 Anything further, gentlemen or gentleladies?

17 MR PENNICOTT: No, sir.

18 CHAIRMAN: Good. Thank you very much indeed. I wish you  
19 a good summer.

20 (6.05 pm)

21 (The hearing adjourned until 10.00 am  
22 on Monday, 23 September 2019)

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