Monday, 17 June 2019

(10.02 am)

MR CLAYTON: Good morning, members of the Commission.

CHAIRMAN: Yes.

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

MR YUENG WAI HUNG, RON (sworn in Cantonese)

Examination-in-chief by MR CLAYTON

Q. Mr Yueng, please sit down.

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

A. 冇錯。

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

A. 冇錯。

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

Is that the first page of your second witness statement?

A. 冇錯。

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

A. 冇錯。

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

to it.

Is that your signature there on your second witness statement?

A. 係。

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

A. 冇錯。

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

A. 係。

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

Is that the first page of your third witness statement?

A. 冇錯。

Q. Does that deal with the SAT area?

A. 冇錯。

Q. And is your third witness statement true?

A. 冇錯。

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

A. 冇錯。

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

A. 冇錯。

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

signature on your fourth witness statement?

A. 冇錯。

Q. Is your fourth witness statement true?

A. 冇錯。

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

A. 係。

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

Examination by MR PENNICOTT

MR PENNICOTT: Good morning, Mr Yueng.

A. 早晨。

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

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

A. 明白。

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

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

Q. And the BSRC team on the other.

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

A. 冇錯。

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

A. 冇錯。

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

A. 冇錯。

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

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

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

A. 睇到。

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

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

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

Then a sentence I know is important to Pypun:

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

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

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

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

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

A. 係，我清楚。

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

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

A. 我記得。

Q. Right.

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

purposes of this part of the Inquiry. That's at GG1/29. Where you say:

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

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

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

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

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

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

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

"The primary driver to focus our work on this

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

Then the important part for my purposes now is this:

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

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

Do you see that, Mr Yueng?

A. 可以。

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

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

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

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

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

Do you see that, Mr Yueng?

A. 睇到。

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

A. 我唔同意呢個主要風險。

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

A. 冇錯，係一個合約交界面。

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

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，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，好straightforward。另外就係我哋喺個港鐵公司同埋承建商有關嘅risk days或者risk register裏面，其實我哋並唔睇到佢哋覺得呢一個stitch joint或者係個construction joint係有咩嘢風險。另外我哋喺BSRC team裏面見到嘅，就係1111同埋1112係港鐵係聘用同一個DDC，即係detailed design consultant，我哋睇到基本上個interface嘅風險其實已經好低呀。

再進一步，就係其實喺興建呢個stitch joint嘅時候，較早前嘅喺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 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，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major impact。

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

A. 我哋嘅同事有做過㗎。其實喺啲咁大嘅工程合約，喺個civil contract嘅交界面，的而且確係會有個風險喺度。但係因為係civil contract，基本上係港鐵公司作為成條線嘅Project Manager，咁佢哋會有相當認知或者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或者upgrading嗰個交界面。

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

before the stitch joints constructed. Which is it?

A. 之前已經定咗㗎嘞。

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

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

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

A. 我係最近先睇㗎，我哋之前冇睇過呢份文件。

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

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

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

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

呢一啲唔同合約嘅交界面、stitch joint，其實個風險好低嘅，

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。

Q. All right. Understood.

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

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。

Q. All right.

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

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

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

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

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

in monitoring and verifying construction quality. That's my understanding of your position. Is that right?

A. 冇錯，個brief寫得好清楚。

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

A. 同意。

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

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，我哋會按住我哋合約裏面要求我哋喺三個範疇去畀意見RDO嘅，包括就係cost，programme同埋public safety。

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

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

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

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

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 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。

Q. All right. I've understood.

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

Is that it, in a nutshell?

A. 冇錯。

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

But, as we perhaps saw earlier, the overall

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

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

A. 可唔可以去番剛才個brief嘅3.1呀？

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

A. 喺3.1第三行最屘稍--中間位置，嗰度都寫得好清楚：

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

我哋呢個服務嘅時間範圍，就係喺呢度定出嚟嘅。

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

A. 冇錯，係，冇錯，做好嘅工程係港鐵負責。

Q. Okay.

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

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

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

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

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

Do you see that, Mr Yueng?

A. 可以。

Q. Then you go on to say this:

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

So your position is that you, Pypun, were not

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

A. 唔知係咪翻譯有啲誤會，可唔可以重複個問題？

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

A. 冇錯。

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

A. 冇錯，係應該係啲additional services。

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

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

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

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

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，我哋係唔需要顧及嗰個quality嘅。因為RISC form大家喺之前嘅證人證供都提過，嗰個RISC form係一個quality form或者係quality document。

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

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

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

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

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NAT、SAT、HHS嘅情況，想我哋做一個獨立嘅檢查，報告番畀佢哋。

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

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

A. 冇錯，呢個亦都係RDO要求我哋做嘅嘢。

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

A. 冇錯。

Q. Understood. All right.

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

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

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

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

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

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

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

MR PENNICOTT: The QSR, correct.

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

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，應該係講嗰部分需要coupler嘅工程完成，就唔係整體工程完成。

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

A. 冇錯。

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

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

A. 冇錯。

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

A. Will you please repeat the question?

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

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

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

A. 冇錯，冇錯。

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

the stitch joints; is that right?

A. 冇錯。

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

A. 冇錯。

Q. Okay.

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

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

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

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

A. 記得。

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

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

A. 知道，佢哋通知過港鐵公司。

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

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 order嘅。因為整體工程，整個1112嘅工程未報員工，我哋唔可以判斷佢呢個係咪已經全部嘅rebar test係交咗畀我哋。

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

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

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

A. 冇錯。

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

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

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

Q. Understood. Yes. All right.

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

A. 係，係，冇錯。

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

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

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

A. 冇，冇見過。

Q. All right.

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

A. 記得。

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

A. 我可唔可以睇下邊個表呀？

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

A. 見到。

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

A. 睇到。

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

A. 冇錯。

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

I'm not sure if it's gone to the government -- and have you had a chance to review any of that further material? And I probably should say: have you been asked to review that further material?

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observation，佢哋有啲澄清嘅。但係都比較晏嘅時間，同埋我都要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。

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

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進一步提交嘅澄清同埋文件。

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

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

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

COMMISSIONER HANSFORD: I shall look in the bundle.

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

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

and discrepancies and differences are narrowing, I hope.

COMMISSIONER HANSFORD: Okay.

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

COMMISSIONER HANSFORD: Yes.

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

COMMISSIONER HANSFORD: It's confusing.

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

Indeed, could we be shown 51.2, please.

In that paragraph 32, Mr Yueng, you say:

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

paragraph 80 below."

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

A. 冇錯。

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

A. 喺個M&V tender嗰陣時，我哋見到--好似正話Mr Pennicott咁講，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。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，我哋已經預留咗人手去配合喺每一個階段去增加嘅contract。

咁contract個數目，有啲contract係大啲，有啲係contract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。我哋由M&V開始到而家，我哋冇缺乏人手呢個問題。

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

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

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

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

A. 好不幸係冇。

Q. I thought you would say that!

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

A. 記得。

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

A. 我自己冇參與，我嘅同事趙先生就有參與嘅。

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

Thank you very much, Mr Yueng.

Sir, I have no further questions.

CHAIRMAN: Thank you.

MR TSOI: I have no questions.

CHAIRMAN: Thank you.

MR CHANG: No questions from Leighton.

MR BOULDING: No questions, sir. Thank you.

CHAIRMAN: Thank you.

MR CHOW: Mr Chairman and Prof Hansford, there is a disagreement between the government and Pypun on the question of whether the monitoring and verification of the quality of the works and the compliance with the RISC form system forms part of the original scope of Pypun under the M&V agreement.

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

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

COMMISSIONER HANSFORD: I have one question for Mr Yueng.

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

"I would further respectfully suggest that the MTRCL establish coordination meetings and workshops to encourage additional communication and exchange of views between the design manager and construction manager (or equivalent) of each of the interfacing contractors (or interfacing teams of the same contractor) on design assumptions, requirements as to construction, supervision and records, as well as the responsibilities of the different contractors (or interfacing teams of the same contractor) in relation to interfacing works between different works contracts. The meetings and workshops should also address topics such as handover conditions, construction methods, sequence and materials in respect of the works of the contractor who had completed its works at the interface so as to properly inform these matters to the contractor on the other side of the interface (or in respect of the works of the team of the contractor which had completed its works at the interface so as to properly inform these matters to the other team of the same contractor on the other side of the interface)."

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

A. 呢個係運基對港鐵公司同埋承建商嘅建議。

COMMISSIONER HANSFORD: And when was this recommendation

first made?

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提議，我哋作出嘅。

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

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

COMMISSIONER HANSFORD: Okay. Thank you.

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

CHAIRMAN: Good. Thank you very much indeed.

Thank you, Mr Yueng.

(The witness was released)

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

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

MR CLAYTON: Certainly.

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

MR CHIU CHUNG LAI (sworn in Cantonese)

Examination-in-chief by MR CLAYTON

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

You have provided one witness statement for the

Commission of Inquiry; correct?

A. Correct.

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

A. 係。

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

A. 係。

Q. Is that witness statement true?

A. 係。

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

A. 係。

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

Examination by MR PENNICOTT

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

A. 早晨。

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

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

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

A. 喺我做呢個witness statement嗰陣時係。

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

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

Q. I see, a related company?

A. 係。

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

A. 正確嘅。

Q. Right. Are you still fulfilling that role?

A. 係。

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

A. 係喺2017年7月初。

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

A. 係嘅。

Q. And are you still fulfilling that role?

A. 係。

Q. Right. Okay. Good.

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

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

A. 係嘅。

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

A. 見到。

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

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

A. 我本人就冇直接參與，但係喺呢一個工作，喺同RDO洽商個工作細節嘅時候，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。

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

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

NCRs. Is that right?

A. 啱嘅。

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

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--而家嗰個範圍係會持續十二個月先嘅。

Q. Understood. All right.

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

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

A. 主要係呢個，係。

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

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HHS嘅部分嘅。

Q. All right.

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

A. 唔係咁嘅，係嗰個brief嗰度，我唔記得paragraph 三點幾係有講到嘅。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，

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

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

A. 係，冇錯。

Q. Understood. Okay.

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

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visual inspection係會出自己嘅報告嘅。

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

A. 相信係咁。

Q. Okay.

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

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visual inspection嘅，喺個brief度寫得好清楚。

CHAIRMAN: Sorry, February when?

MR PENNICOTT: This February -- 2019?

A. 冇錯，或者我哋可以睇一睇嗰個brief嗰個部分。

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

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

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

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

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

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

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，唔好意思。

Q. I think we are all relieved! Right.

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

of the RISC forms in relation to the three areas.

A. 係嘅。

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

A. 我冇參與做嗰個報告㗎。

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

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 team嘅人員係有開會嘅。

Q. All right.

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

A. 如果你係講12.5嗰個項目，就係冇嘅。

MR PENNICOTT: Okay. All right.

Sir, I have no further questions for Mr Chiu.

CHAIRMAN: Thank you.

MR TSOI: I have no questions, sir.

MR CHANG: Nothing from Leighton.

MR BOULDING: No questions. Thank you, sir.

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

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

CHAIRMAN: All right. Thank you very much.

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

CHAIRMAN: Thank you.

Mid-morning adjournment?

MR PENNICOTT: Yes, sir.

CHAIRMAN: How long would --

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

COMMISSIONER HANSFORD: Do you want to release the witness?

CHAIRMAN: A good point.

15 minutes, all right.

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

WITNESS: Thank you.

CHAIRMAN: 15 minutes.

(The witness was released)

(11.35 am)

(A short adjournment)

(11.53 am)

MR CHOW: Good morning, Mr Li.

MR LI TZE WAI, RALPH (sworn in Cantonese)

Examination-in-chief by MR CHOW

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

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

A. 正確。

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

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

A. 正確。

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

Can you confirm that this is your signature?

A. 正確。

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

A. 正確。

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

A. 正確。

Q. This is a very short statement.

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

A. 正確。

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

A. 正確。

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

A. 正確。

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

A. 正確。

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

A. 正確。

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

A. 正確。

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

A. 會。

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

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

A. 明白。

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

Examination by MR PENNICOTT

MR PENNICOTT: Good morning, Mr Li.

A. 早晨。

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

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

A. 正確。

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

A. 正確。

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

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

government departments in relation to the above issues."

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

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

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，最主要嚟講係其他同事去負責一路更新嘅工作。

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

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

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

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

government say is missing by way of explanation?

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。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，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，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。

Q. But is the -- just to put it rather bluntly, I mean, are you essentially asking the MTR to explain -- "Well, were the necessary inspections done, was the necessary supervision in place" -- is it those types of questions you are asking MTR to address, or is it something else?

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。

Q. All right. Well, at least we found out a lot of information during the course of the last three and a half weeks or so, Mr Li.

Then you say this:

"... also, MTRC has yet to" -- and then (ii) in paragraph 11 -- "provide copies of the signed RISC forms and inspection records for the stitch joints ..."

Pausing there, do you mean the original defective stitch joints?

A. 正確。

Q. But you have been told that there are no RISC forms for the original stitch joints, Mr Li, so how can they be

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

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

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

A. 而家清楚。

Q. All right.

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

In paragraph 17, page 1371, you say:

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

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

A. 個檢測嘅--我諗而家講嘅內容，就係講個RISC form嗰樣嘢喇。RISC form嚟講係一個--我哋都知道係一個比較一個工具可以能夠幫助quality assurance嘅，而呢個亦都係同個hold points，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supervision之後，又容許咗，然後施工單位先可以能夠做下一個階段嘅工作，所以我哋相信呢一個RISC form嚟講，係對於我哋了解嗰個，同埋去跟進個supervision嗰個過程係有幫助，所以我哋好想了解到呢一樣嘢喇。

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

A. 我對於嗰個--嗰啲方面嘅資料，因為我唔係做daily嘅supervision，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，我哋就想去了解呢一方面嘅，變咗我哋都係咁樣去問喇，希望能夠喺呢一方面得到嘅資料更加清晰喇咁樣。

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

Do you agree with that?

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

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

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

A. 我冇察覺到合約裏面有特別要咁樣去要求喇。

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

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，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，去落實佢喇。

Q. All right.

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

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

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

Were you at that meeting, Mr Li?

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。

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

A. 係，請問。

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

A. 係呀。

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

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

bars into coupler connection ..."

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

A. 其實係兩個會議係唔同嘅。如果你睇番嗰一段，top of the page，即係最高嗰度，你睇到嗰個與會嘅單位係冇THB嘅，冇THB嘅。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，佢就講補充咗嘞，就係有40%嘅缺失嘅RISC form嘅情況出現。所以其實係兩個會議嚟嘅。

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

A. 係冇會議紀錄嘅。

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

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，就講咗當日我哋有啲具體嘅討論。

Q. Right. All right.

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

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

Do you recall all that, Mr Li?

A. 我記得。

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

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

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

A. 正確。

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

A. 正確。

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

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，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。

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

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，NCRs亦都係全部做晒嘅，又嗰啲--唔係，我或者再講多次。

即係嗰啲RISC form嚟講，具體全部都係填晒嘅，即係唔知某種原因，係冇好好嘅document咗嘅。呢一啲咁嘅情況嚟講，真係你話同個工程、個works可能係咪有直接嘅掛鉤喇，定係純粹係一啲documentation嘅non-compliance喇。呢啲嚟講係可以咁有嘅可能性發生嘅。

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，佢哋真係原來係冇做到一啲嘅supervision喇，呢啲嘢--唔係，應該係冇做到嗰啲RISC form嗰啲嘅紀錄喇，呢個應該咁講法。

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

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

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

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

Sorry, I --

MR PENNICOTT: Yes.

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

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

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

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。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，對嗰個結構個安全係咪構成一個問題，咁我覺得呢一個要再去深入嘅分析。

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，咁呢個就唔可以叫做低風險嘞。

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

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，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嗰個NCRs個具體嘅情況去講番出嚟。

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

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

A. 呢個係其中一樣嘢會影響嘅，我相信。

Q. All right.

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

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

Do you see that? 1377.

A. 睇到。

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

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

A. 啱。

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

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

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

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verification proposal最終有個final report嘅。由於因為我哋知道個時間上，我哋不嬲都係希望喺6月底嗰陣時去完成喇，我哋睇到佢嗰個嘅proposal裏面亦都要分好多工作要做喇。所以我哋成立咗呢一個嘅taskforce喇，差唔多係隔日就已經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。

甚或係港鐵公司佢哋喺佢哋進行呢個verification裏面嘅時候，

有啲初步嘅結論嘅時候，都會攞出嚟大家去探討呀，去睇睇嗰個嘅情況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嘅proposal係儘快落實咗佢出嚟嘅。

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

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

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，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，以致點樣可以能夠做呢樣嘢更加係暢順喇。

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

A. 係呀。

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

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

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

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 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去睇呢樣嘢。

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

A. 嗰啲部門、單位就一樣嘅，但係就係少好多人㗎嘞。

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

A. 係呀，少好多人㗎嘞。

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

A. 呢個我冇回應，因為我唔係好清楚佢哋嗰方面嘅嘢。

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

A. 唔知你係咪所講喺其他嘅沙中線車站嗰啲嘅工作呀？

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

A. 可唔可以講多少少你嗰個嘅理解？唔好意思。

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

A. 知道。

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

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

Q. Okay.

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

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，你指係指...

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

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

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

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

MR PENNICOTT: In that case, my apologies.

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

MR PENNICOTT: Sorry, is that original bundle G13?

MR CHOW: Yes, that's correct.

MR PENNICOTT: Ah, right.

Oh, this is way back. Right.

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

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

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

to any report since this report?

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

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

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

MR PENNICOTT: All right.

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

Sir, I have no further questions for Mr Li.

MR TSOI: I have no questions, sir.

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

CHAIRMAN: Yes.

Cross-examination by MR CHANG

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

A. 我相信喺港鐵公司裏面PIMS裏面都有咁樣講到喇。

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

A. 有咁嘅可能性會發生嘅。

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

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達到嘅目的，咁呢個我就唔清楚嘞。

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

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。

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

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

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

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

and that the photographs bear a date --

MR CHANG: That's correct.

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

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，如果假如你話想啲相片達到係咪證明有做supervision，呢個都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snapshot，就能夠呢樣嘢，咁好視乎真係張相片做唔做到喇。

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

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，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，佢證明有supervision，定係證唔證明到個supervision個level係等同於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。

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

A. 某個程度都可以咁樣講嘅。

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

inspections have taken place?

A. 呢個我真係好難回應你呢個問題。

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顯示有適當嘅人去做嗰一樣嘢，同埋佢嗰個依據係啲乜嘢。咁所以就係一個WhatsApp嘅時候，就會牽涉咗一樣嘢，就係將所有嘅嘢要自己去--即係我唔知--呢個問題，我好難就咁即刻去答到你呢個問題，唔好意思。

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

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，究竟呢啲手頭有嘅，我哋叫quotation叫“evidence”係咪足夠，就視乎真係佢本身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，佢提供，我哋係會睇嘅，我哋會睇嘅。

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

A. 正如頭先所講，我哋都--佢認為係objective嘅evidence，佢提供出嚟嘅，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。

Q. I understand. Subject to the quality of the

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

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objective evidence，可以證明佢哋有一個監督工程嘅，所有我哋都會睇嘅，佢只要畀我哋，我哋就會睇㗎嘞。但係正如你都講到，究竟嗰樣嘢能夠達到嗰個目的同埋果效，視乎個quality of呢啲嘅evidence喇。

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

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，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？

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

A. 我使唔使再回應，定係...

Q. Yes.

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

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，我哋真係好視乎嗰個內容。

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嗰個工程嘅supervision，嗰個hold point嗰啲人，佢願意走出嚟，然後跟住就話「我其實有做到嗰啲嘅supervision」，唔知係咪講緊呢一個情況呀？

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

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PIMS嘅要求，亦都係即係大家係用--即係唔係我定嘅要求嚟嘅。你哋大家用嗰個要求去做，而大家亦都認同係一個工具，可以能夠睇到--做到quality assurance嘅工具嘅話，咪就係喺PIMS裏面係定咗嘞，呢個亦都係其實一個比較方便嘅一樣嘢。其實頭先亦都提咗一樣嘢嘞，冇咗一張RISC form要做咁多嘢嚟去考慮番，

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，會唔會簡單啲呢？

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

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

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按佢而家嘅機制，有佢嘅功用嘅。

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

A. 係。

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

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

In fact, if we go one sentence before that:

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

You can see that?

A. 啱啱睇到。

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

RISC forms to ensure public safety compliance; correct?

A. 其實正如一個工程，safety係牽涉好多個factors嘅，呢度只係變咗而家運基佢哋用一個叫risk-based嘅approach去做嘅時候，係綜合考慮咗好多唔同嘅嘢去做，所以變咗佢哋最褸屘畀嘅結論，係用呢個identify到嘅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。但係當然喇，佢當其時就冇講到用RISC form呢一個去睇囉。

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

A. 我只能夠咁講話係當其時係咁樣做囉。

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

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

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

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

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

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

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。

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

CHAIRMAN: Please continue.

MR CHANG: The final topic is this, still on RISC forms. You probably would hear from the evidence last week from Mr Kit Chan -- if we can quickly show you the relevant transcript. It's Day 13, page 130, line 10 onwards.

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

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

Then we move to line 20:

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

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

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

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

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

It's the normal practice ..."

Then he referred to the Macau-Zhuhai Bridge.

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

So, in that case, would you agree that the

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

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

CHAIRMAN: Perhaps it might be rephrased.

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

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

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，甚或頭先嘅討論，supervision甚或proper嘅supervision，大家都冇否定呢一樣嘢。但係至於喺港鐵公司制定佢哋PIMS嘅時候，點樣去能夠可以更加effective去做，就住而家咁多technology，我覺得係有空間畀港鐵公司，甚或佢點樣去進行--去approve佢呢一個成個制度點樣去運作，我係--我諗我只能夠講到咁多。

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

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

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

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

CHAIRMAN: That's fine. Good.

Mr Clayton?

MR CLAYTON: No questions at the moment, sir.

CHAIRMAN: Thank you very much.

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

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

WITNESS: I understand.

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

MR PENNICOTT: 2.20?

CHAIRMAN: 2.20. Thank you.

(1.06 pm)

(The luncheon adjournment)

(2.22 pm)

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

CHAIRMAN: Yes.

MR BOULDING: We have checked the transcript and upon

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

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

Thank you very much.

CHAIRMAN: Thank you.

MR CHOW: No re-examination.

CHAIRMAN: Good. There we are.

Questioning by THE TRIBUNAL

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

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

A. 我嘗試咁樣去回應，如果假如係冇咗個RISC form，而又佢係代表住真係冇做到supervision嘅話，咁會唔會有住個whole point，如果舉個例子係講紮鐵，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喺度。甚或，如果假如佢係一個好--一個比較extreme嘅case，佢就發現咗可能係結果因為冇睇到嘅時候，有啲鐵根本上冇嘅，或者冇正確地去接駁嘅，其實都會構成個結構裏面，有可能會構成一啲嘅危險喺度。所以我頭

先我嘅想表達嘅其實係呢個意思。

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

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，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嘅幫助喺度。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。咁你在我個人覺得，我又覺得可以真係一個合理嘅時間地夠長。

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

A. 如果政府嘅項目工程，係都幾長。

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

A. 12年。

COMMISSIONER HANSFORD: 12 years? That's pretty precise. Okay. Thank you.

CHAIRMAN: Is there anything arising? Good.

Mr Li, thank you very much indeed for your

assistance today. Your evidence is now completed. Thank you.

WITNESS: Thank you.

(The witness was released)

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

MR LEUNG MAN HO, JONATHAN (affirmed in Cantonese)

Examination-in-chief by MR CHOW

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

A. 對，正確。

Q. Could I ask you to go to bundle DD3, page 1355, please. This is the first page of your second witness statement; correct?

A. 正確。

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

A. 確認，正確。

Q. Then can I move on to your third witness statement at page 1362. Can you confirm this is the first page of your third statement, please?

A. 確認。

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

A. 確認。

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

A. 確認。

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

A. 確認。

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

A. 確認。

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

A. 會。

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

A. 明白。

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

Examination by MR PENNICOTT

MR PENNICOTT: Mr Leung, good afternoon, again.

A. 午安。

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

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

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

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

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

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

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contract嘅時候，其實我哋係有呢個睇法。當然，喺今日嚟講，我哋睇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

工作。

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

A. Exactly.

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

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$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。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，例如我要做好多嘅underpinning喺紅磡站裏面，又例如好似我要將承拓一條整區性嘅電欖，呢啲都係一啲高風險嘅動作。咁我哋喺超過六十個contract裏面，我哋一定要Pypun identify晒所有呢啲嘅高風險動作，然後去集中佢嘅精神，即係個時間或者resources去睇嘅。咁好--呢個係事實嚟，當日我哋冇係將risk--即係stitch joint呢一樣嘢擺喺一個高風險嗰個欄裏面。

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

Did you hear any of that, Mr Leung?

A. 有。

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

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

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

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check the checker嘅。其實同一時間，政府亦都畀咗超過$80億--接近$80億，畀咗港鐵係去做呢個monitoring，地盤supervision嘅工作，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approach。而喺呢個情況之下，佢哋睇晒咁多個contract，咁多嘅項目嘅時候，佢係冇將stitch joint擺去一個high-risk個item裏面，呢個係事實。

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

Pypun for that decision. Is that right?

A. 可以講話，當日喺form呢個contract嘅時候，所分析嘅risk registry 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 嘅factors落去，呢個係事實。

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

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 consultant裏面。當然，主要嘅責任其實由頭到尾我都講，我係畀咗港鐵去做呢一個動作，佢哋係要求佢係做好呢個supervision嘅role。而M&V 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 落去做，呢個第時會有一個好清晰嘅review，究竟我哋RISC form或者呢一啲嘅interface需唔需要擺落去，我哋要擺幾多嘅resources落去呢個M&V consultant，such that佢可以睇到港鐵要做嘅每一樣嘢。不過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，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--呢一類嘅railway，domestic railway對港鐵嚟講，其實佢唔係第一

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。

Q. Okay.

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

A. 好呀。

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

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

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

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

MR PENNICOTT: All right.

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

A. 當質量個問題係牽涉到喺呢幾方面裏面，佢當然要考慮。

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

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，當佢牽涉到quality嘅嘢，佢就要睇。

Q. All right.

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

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

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

例如你冇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，我哋而家要去做嘅嘢係咪一個簡單嘅auditing，定話每一張RISC form，我而家要佢做嘅嘢，係每一張RISC form攞番出嚟，逐張睇，唔係一個之前估計一個check the checker裏面一個簡單嘅抽樣嘅auditing。咁呢啲有咁大嘅分別，我哋係需要係當一個additional services，咁亦都睇番佢係咪真係攞咗一啲additional嘅resources落去做呢一樣嘢，而佢係當時enter into個contract嘅時候有冇估算到--有冇可能估算到。

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

A. 正確。

Q. Understood. All right.

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

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 into呢個contract裏面，其實佢會清楚港鐵會有幾多contract，會有幾多大嘅contract，會有幾多嘅錢係involve咗落去。如果我要講番佢講個數量，當然係多嘅，但係major contract，我成日指就話大過$5,000萬其實係未夠六十個。咁佢有個resources，即係to certain extend，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，

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further justification，我哋會再睇，但係喺呢個moment嚟講，我哋唔覺得我哋要直接畀一個additional service佢。

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

A. 係，正確。

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

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嗰個post就會係同佢每月都會有一個會會開，當然呢啲resources，或者啲咩嘢issues，會係佢其中一個討論嘅範圍之內。

MR PENNICOTT: All right. Thank you very much, Mr Leung. Sir, I have no further questions.

MR TSOI: I have no questions, sir.

CHAIRMAN: Thank you.

MR CHANG: No questions.

MR BOULDING: No questions, sir.

MR CLAYTON: No questions.

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

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

some instructions.

No re-examination.

CHAIRMAN: Thank you.

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

WITNESS: Thank you.

(The witness was released)

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

Good afternoon, Mr Lok.

MR LOK PUI FAI, ANDREW (sworn in Cantonese)

Examination-in-chief by MR CHOW

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

A. 係。

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

A. 係，證實。

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

A. 啱。

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

correct?

A. 啱。

Q. On page 10289, on the top of the page is your signature. Do you confirm that?

A. 啱。

Q. Your fourth witness statement at page 10292, please. This is the first page of your fourth witness statement; correct?

A. 啱。

Q. Could I ask you to go to 10296. Do you confirm the signature that we see is your signature; right?

A. 係。

Q. Your fifth witness statement is made in response to various matters raised by other witnesses that you noticed; right?

A. 啱。

Q. Start at bundle DD9, page 12276. This is the first page of your fifth witness statement; correct?

A. 啱。

Q. If we can go to page 12284, would you confirm that this is your signature?

A. 係。

Q. Would you confirm that the matters that you set out in the said four witness statements are true and correct to the best of your knowledge, information and belief?

A. 係，證實。

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

A. 採納。

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

A. 明白。

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

Examination by MR PENNICOTT

MR PENNICOTT: Mr Lok, good afternoon.

A. Good afternoon.

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

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

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

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

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

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

A. 係。

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

accordance with those proposals. Is that right?

A. 我哋認為佢會跟個remedial works proposal做。

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

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--咁就我哋睇番就其實禮頓就同港鐵都喺入咗嗰啲material submission畀咗COI，咁另外我哋睇到喺5月27號嗰時，就MRTC都入咗份material submission就畀BO team。咁我哋睇番呢幾份嘅文件，我哋搵咗BSRC team就做咗個audit checking，咁佢哋go through咗嗰個audit checking之後，都發現嗰個入面啲嘢係有啲嘢係未齊，同埋有啲discrepancy要clarify。

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

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 攪清番，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，因為我哋譬如喺入面有寫咗譬如話佢要submit一個

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

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

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

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

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

MR PENNICOTT: All right, which can be done.

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

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

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

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

With that caveat, we have no questions.

CHAIRMAN: Thank you.

Cross-examination by MR BOULDING

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

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

A. 係。

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

A. 係。

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

A. 係。

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

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

A. 係。

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

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。咁一路至到2016年，即係嗰時其實我已經promoted to一個senior engineer嘅--senior structural engineer嘅post。咁跟住就喺2016年1月，我就去--因為當時有位黃永強（譯音）先生退休，咁我就take up咗佢嘅post，就second咗去RDO。即係我2016年1月就second去咗RDO做一個senior structural engineer，Railway Development嘅post。

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

A. 主要係處理--根據睇番我哋嘅duties，即係睇vetting一啲building submission for佢入嚟for consultation，同埋make sure番嗰啲做嗰啲works，complies with building safety standard，即係主要有兩大嘅duties。咁我哋就--至於話我哋落地盤嗰度，就我哋就係會有需要as necessary嗰時就先至會落去。

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

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

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

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。

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

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

Q. Who were they?

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

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

A. 係，我未做過contractor firm。

Q. Okay.

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

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

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

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。

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

A. 如果有呢個問題，係都需要去解決嘅。

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

A. 你可唔可以repeat一次？

Q. For the third time, yes.

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

A. 我同意。

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

A. 我同意。

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

A. 我冇反對。

Q. Does that mean you agree?

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

Q. So you're agreeing with me?

A. Agree，如果--係，agree。

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

A. 我睇過部分，但係我未必係睇過全部。

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

Did you read that evidence?

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。

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

A. 係。

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

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

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

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

as well, have you, Mr Lok?

A. 我都有睇過部分。

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

A. 我當--我而家聽到，我當我冇問題，即係佢哋如果話地盤有...

Q. Thank you.

A. ...狀況要解決，我okay嘅。

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

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，就應該1月23號，咁MTRC就喺嗰度報告咗嗰個有個design change，就係包括就係用一個lapped bar就轉咗做coupler，就係喺NAT、SAT同HHS。咁我係嗰時先知道。

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

A. 係，係1月嗰時知。

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

A. 係，我明白嘅，呢個。

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

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accepted plan係一個紮鐵冇coupler，其實好簡單嘅啫，佢就淨係入一個consultation submission畀BO team，咁BO team譬如可能係一個typical details，咁咪BO team佢go through咗呢個程序，BO team可能就會impose番嗰個condition，話用coupler就會做番嗰個supervision，同埋就係話啲coupler做番testing，咁佢就跟住就可以做。

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

A. Okay.

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

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，同埋嗰個石屎係落咗，咁先至為之完成，我理解就係。

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

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

A. 因為呢個係Kit Chan同禮頓之間嘅共識，我冇呢個資料。因為我本身冇參與。

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

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

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

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

A. 因為--唔好怪我咁講，因為以我嘅confirm，Kit Chan話個spacing冇變，我冇理由會知道佢講嘅嘢係啱㗎。即係我唔可以講Kit Chan你話嗰樣嘢係個spacing冇變，因為我唔係親眼見到，我唔可以講呢樣嘢係啱㗎嘛。

Q. You can take it from me --

A. Okay.

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

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...

Q. Thank you.

A. ...個spacing冇變。

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

A. 係，我知道。

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

A. 係，睇到。

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

with. Is that fair comment?

A. 我都清楚。

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

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

A. 係，見到。

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

A. 你講緊8.7.1(a)、(b)、(c)都睇過。

Q. Absolutely.

A. 係。

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

"Forces are transmitted from one bar to another by:

(a) lapping of bars, with or without bends or hooks;

(b) welding; or

(c) mechanical devices assuring load transfer in tension and/or compression."

Then lastly:

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

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

A. 係，係。

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

A. 我而家聽到係咁樣。

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

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用咗coupler係一個under Code of Practice for Structural Use of Concrete入面係一個acceptable嘅方法，如果佢個證供係咁樣，我就係冇問題。

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

A. 佢個證供如果係你咁講，話夾到8.7.1(c)，係正確嘅。

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

A. 兩個都係同一個作用，係。

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

A. 係唔啱嘅。

Q. Oh, why's that?

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，即係我哋--其實我哋對嗰個coupler係有要求，要做一個testing，佢本身都要mill certificate。如果你嗰個coupler唔係一啲之前或者我哋叫under BO requirement accept過，即係冇quality control，咁我哋唔知佢用咗咩嘢coupler，咁我哋都唔知佢ful唔fulfil到嗰個rebar嗰個requirement。

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

A. 如果佢用咗人和嗰隻coupler，咁就係okay，我知道，...

Q. Thank you.

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

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

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

A. 係，喺structural point of view，係啱。

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

A. 喺structural point of view，係啱。

Q. Thank you very much.

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

A. 係。

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

A. 呢度寫咗我嗰個睇法。

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

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

A. 係。

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

A. 係。

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

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

Then you point out correctly:

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

of IoE for SCL."

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

A. 係，呢個係根據呢個報告睇到嘅事實講番出嚟。

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

A. 根據MTRC嘅report，我了解到呢個係--呢個事實係咁樣。

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

A. 係，係，見到個report係咁寫。

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

A. 係。

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

correct?

A. 係。

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

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

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

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SAT、NAT、HHS，即係MTRC仲未交代所有嘅改變個design change，喺呢個地區，即係我喺呢個未清楚晒所有嘅情況之下，就攞嚟compare，我覺得唔係好恰當。

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

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

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

Q. Thank you.

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

A. 明白。

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

I have no further questions, sir.

MR CLAYTON: I have no questions, sir.

MR CHOW: No re-examination.

CHAIRMAN: I have no questions.

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

WITNESS: Thank you.

(The witness was released)

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

CHAIRMAN: Thank you very much.

Mr Pennicott?

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

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

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

MR PENNICOTT: Indeed.

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

MR PENNICOTT: Yes, sir.

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

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

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

a week starting on 23 September --

CHAIRMAN: Good.

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

CHAIRMAN: Yes.

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

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

MR PENNICOTT: Yes, sir, indeed.

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

MR PENNICOTT: Well, sir, we may is the answer to that. I think the position, as I understand it, is the directions for written closing submissions on what we've been dealing with over the last couple of weeks are to be submitted by the involved parties by 19 July, and our submissions will follow on a week later than that. I was hoping that any party who wishes to submit to the Commission any expert evidence in relation to what we've been dealing with over the last few weeks, whether it's project management expert evidence or whether it's the steel evidence that Prof Hansford has just referred to, or indeed any other expert evidence that may have

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

CHAIRMAN: Good.

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

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

CHAIRMAN: Yes, of course.

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

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

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

much for the last ...

(Tribunal conferring)

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

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

CHAIRMAN: Mr Chow?

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

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

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

MR BOULDING: Yes.

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

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

I will pass it on.

CHAIRMAN: Fine. Yes.

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

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

MR PENNICOTT: Why not?

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

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

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

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

MR PENNICOTT: I honestly didn't hear him!

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

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

MR PENNICOTT: Yes.

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

(3.57 pm)

(A short adjournment)

(5.47 pm)

CHAIRMAN: Yes, Mr Pennicott.

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

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

MR PENNICOTT: Not at all.

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

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

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

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

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

and consider and then go through the required formalities.

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

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

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

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

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

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

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

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

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

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

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

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

tomorrow.

CHAIRMAN: And the verification?

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

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

COMMISSIONER HANSFORD: Me too.

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

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

CHAIRMAN: Mr Boulding?

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

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

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

MR BOULDING: Okay.

CHAIRMAN: How does that sound?

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

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

MR BOULDING: Of course, and you will.

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

MR PENNICOTT: Yes. Sir, I --

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

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

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

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

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

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

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

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

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

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

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

MR PENNICOTT: That's clear enough to me.

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

MR BOULDING: Yes.

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

MR BOULDING: Yes, absolutely.

CHAIRMAN: How does that sound?

MR PENNICOTT: Yes, sir.

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

with the tribunal, and that's 15 July.

MR BOULDING: So be it.

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

MR BOULDING: Yes.

COMMISSIONER HANSFORD: But we will still get it.

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

CHAIRMAN: Good.

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

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

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

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

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

CHAIRMAN: All right.

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

CHAIRMAN: Thank you. It was only just a question. I didn't want to delay matters on it.

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

Then we have directions which have been given -- Mr Pennicott --

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

CHAIRMAN: No. It follows.

MR PENNICOTT: Yes.

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

MR PENNICOTT: I have not, sir, no.

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

MR PENNICOTT: Yes, sir.

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

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

CHAIRMAN: And the number of pages. Good. Excellent.

Anything further, gentlemen or gentleladies?

MR PENNICOTT: No, sir.

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

(6.05 pm)

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

INDEX