

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE MATTER OF

No. CR9740065 CW

_____)
 UNITED STATES OF AMERICA)
)
 Plaintiff)
)
 vs.)
)
)
 KWOK KI FONG, aka "Jimmy" Fong)
 FOK LOONG ENTERPRISES,)
 DANIEL TSANG, NANCY TSANG,)
 DAYBREAK INTERNATIONAL,)
 and GUANGDONG CANNERY,)
 Inc. dba EAST TRADE)
 ENTERPRISES)
)
 Defendants)
 _____)

Deposition of

LU HAN KUEI

Wednesday, 19th March 2003

AT: 9.30 am

Taken at:
US Customs Department
11th Floor, St John's Building
Garden Road
Central
HONG KONG

Reported by: RAWINIA HAURAKI (WORDWAVE INTERNATIONAL ASIA)

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A P P E A R A N C E S

Appearing on behalf of UNITED STATES OF AMERICA:

MR. M. WANG
MR. V. LEE (observing)
MR. WONG (cameraman)

Appearing on behalf of KWOK KI FONG aka "Jimmy" FONG, and
FOK LOONG ENTERPRISES:

MR J. MATTHEWS

Appearing on behalf of DANIEL TSANG, NANCY TSANG,
DAYBREAK INTERNATIONAL AND GUANGDONG CANNERY INC. DBA
EAST TRADE ENTERPRISES:

MR. D.A. HOROWITZ

MR. D.C. TSANG (in attendance)

MR. S. GORE (cameraman)

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Wednesday, 19th March 2003

(9.30 am)

(Let the record show that the Court Reporter,

Interpreter, Mr. Andrew Cheung, and witness were duly sworn

in the presence of all counsel, conducted by

Ms. M. Christina Novo, Vice Consul, US Consulate General,
Hong Kong, who withdraws from the deposition subject to
recall, if necessary, with the consent of all parties.)

MR. LU HAN KUEI,

having been duly sworn, testified as follows:

Direct examination by MR. HOROWITZ:

Q. Good morning. Can you state your name for the
record, sir?

A. Do I use Chinese?

Q. Yes, and he will translate.

A. My name's Lu Han Kuei.

Q. Thank you for coming here. You're here
voluntarily of your own accord; is that correct?

A. Yes.

Q. Thank you, again, for that. Let me explain
just briefly what we're doing here, although I think you
already understand.

A. Briefly?

Q. Yes. I will. You've promised to tell the
truth, which of course you would do in all circumstances; we

know that. And you're doing that in order to allow both sides to this disputed proceeding to ask you questions. Now, you've also taken an oath voluntarily under United States law.

MR. WANG: Excuse me; may I have all the witness's answers translated as well?

THE INTERPRETER: Sure.

MR. WANG: When there's a witness response; thank you.

MR. HOROWITZ: And, under United States law, there is an obligation to tell the truth as in social or personal situations, but also, there's a legal punishment for one who does not, which is what that oath involves.

A. I understand.

Q. And finally, we have no right to force you to agree to that, so I must, again, thank you for doing that willingly. The Feng Lee Food Corporation; do you know what

that is?

THE INTERPRETER: I'm sorry, the...?

A. I know.

MR. HOROWITZ: What is that?

A. It is a food company and they process
vegetables.

Q. And who is the owner of that company?

A. I'm the owner, and I'm also the factory

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manager.

Q. Now, how long has the Feng Lee company been a
business?

A. Almost 50 years; around 48 years.

Q. Did you -- did you originate the company?

A. I was one of the founding shareholders of the
company.

Q. Who else founded this company?

A. I was the person who originated the idea and there were other shareholders.

Q. Who invested?

A. Yes, I originated the idea and other people invested in the company.

Q. Now, Feng Lee is in the country of Taiwan; is that correct?

A. Yes, in Taiwan.

Q. And, do you do business with countries throughout Asia?

A. Yes.

Q. And also the United States?

A. Yes, with United States and also other -- some other 30 countries.

Q. So, I've probably eaten food that you provided?

A. The seasoning product that we produce account for a few percent of the world market share.

Q. Now, has the business always been the same in terms of what you do?

A. It is roughly the same, but the business volume is increasing gradually.

Q. Now, how did you learn to go into this business? You were a young man when you started it; did you -- how did you know to go into this kind of business?

A. I was in my 20s.

Q. And, did you have training, did you just take a chance, did you grow up in this business; how did you learn to do this?

A. I first started with garlic processing and we were the only company that produced or processed garlic in Taiwan.

Q. And over the years you distribute many more products than just garlic?

A. Yes, there's a lot of different other products, roughly 400 something and, therefore, I can't really tell you each, individually, what they are.

Q. Now, Nantong Tongming Company; what is that?

A. This is company in Shanghai, and the reason we use this is because it's cheap in terms of labour cost.

Whereas in past, when we first started, the salary that we would pay to one single Taiwanese employer can hire some 20 employees in China. That's why we use them.

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Q. And, do you have a financial investment in the Nantong Tongming Food Company?

A. I invest in the machineries in the company.

Q. Now, the company is owned by Mr. Gu?

A. I'm not too sure because it was more like a state-owned business when we first knew about them.

Q. Now, doing business with the peoples Republic of China; is it difficult?

A. What we do is, we give them the material and then they process for us and then we export the processed product, so it's not too difficult, and most important thing

is dead sheep.

Q. Now, you come from a country that has a legal system that is honest and you can trust it. Is that true?

MR. WANG: Objection, leading.

THE INTERPRETER: I'm sorry?

MR. WANG: Objection; leading question.

MR. HOROWITZ: You can continue.

A. I am not very sure about the laws. What we do is to process food.

Q. Now, when you make a contract with a company in China, can you be sure that they're going to honor the agreements? How do you enforce it?

A. We're dealing with a rather large company, it was like a state-owned business, so they're -- they're big.

Q. Okay. Now, do they give you pieces of paper that show that you've invested in this company? How do you

prove that you have an investment?

A. We invest in the machineries, the machineries that you use.

Q. And what if one day the Chinese Government said 'you don't own that machinery, it always belonged to China'; would you have any recourse?

A. Recently I have begun to worry about this, and if I can't run the business in China, I'll move somewhere else.

Q. Now, talking about the garlic business: In July of 1994 the United States put some restrictions on garlic grown in China. Are you aware of that?

A. Yes, I do know about it, and because we process garlies and it is expensive to process garlies in Taiwan, that's why we decided to move the processing to China, because the cost structure is very different; and since Taiwan and China, they are so close, it only takes a few hours to travel between these two places, therefore it's an idea location, even though the Taiwan Government doesn't allow -- doesn't allow direct transportation, but we can still do it in secret.

Q. Now, in 1994, in July, the United States

Government put a tariff and some restrictions on garlic to

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make it very expensive to bring Chinese grown garlic to the United States. Did you know that?

A. I don't know whether it is expensive or not, and I know there's some restriction, but I do not know that it was not allowed legally, and if I had known that it was not allowed legally I would not have done it.

Q. Now in July, or approximately July 1994, did Daniel Tsang ask you to start buying garlic for him?

MR. WANG: Objection to the extent it calls for hearsay.

A. Yes, did he ask me to buy garlic from him.

MR. HOROWITZ: And what did he tell you in terms of his instruction to you?

MR. WANG: Objection, hearsay.

A. Yes, he asked me to provide him with garlicks

and I asked him if -- if the garlics needed to be processed.

He said, yes, and since its expensive to process garlics in Taiwan, therefore we did the processing in China.

MR. HOROWITZ: And, did Daniel have a discussion with you about where the garlic was allowed to be from?

MR. WANG: Objection, hearsay.

A. He did said anywhere but mainland China, but since our garlics were grown in Taiwan, so it didn't matter.

Q. So, did you provide garlic to Daniel Tsang, after that conversation?

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A. Yes. Well, we processed the garlics in China and then export it to the US.

Q. And was the garlic that you provided to Daniel Tsang, after that conversation, grown in China or in countries other than China?

A. They were all grown in Taiwan.

Q. Let me show you a document which we have numbered as Bates 3642, which is a packing list from the Feng or "Fung" Lee Corporation, and I have to scroll up and down, as he asks me, to keep the letters bigger on the screen. Can you look at this, please.

MR. WANG: Counsel, the number please?

MR. HOROWITZ: 3642.

A. This is from Feng Lee Food.

MR. HOROWITZ: Now, it says "packing list"?

A. Yes.

Q. Can you explain to me what this document means?

A. This is one of the five different documents that are required by law for us to export our products. We need to have this document to -- to gain the approval from the Taiwan Government to export our product. Without this, any -- all exports are illegal.

Q. I have another document that is Bates marked 3644, which is a Feng Lee Phytosanitary Certificate. Can you explain to me what this document is?

A. This is one of the export documents.

Q. And, what kind of information is on this document?

A. It has the packing information, the volume, the -- invoice and also this information are to be submitted to the Taiwan Government.

Q. Now, who prepares this particular document? Do you -- does your company prepare it, does the buyer prepare it, does Nantong Tongming prepare it; who prepares it?

A. In Taiwan there are custom clearance agents that will do it for you, and in China there are some shipping companies that will take their own details and prepare documents for you.

Q. So the information on this phytosanitary certificate was provided then by the exporter to either the Government officials or to someone else?

A. As an exporter, we need to provide many different types of documents and regardless of where the

goods are to be shipped to.

Q. Now, I have another document marked 3645, which is called a "Certificate of Origin". Can you explain to me what this is?

A. This is -- the Certificate of Origin is one of the documents that is required to export together with packing lists etc, they are all issued by the Taiwan

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Government; without these documents you can't export anything.

Q. Now, I just showed you three documents, and they have information in them; is it your company or someone else who supplies the information that is provided?

A. All the information was specified by our customers, including the mark, and we didn't create any information.

Q. So, if it says on these documents that the

garlic was grown in Taiwan, is that something that your customer just told you to put down, or is it the truth about where the garlic really came from?

A. Of course, they were grown in Taiwan; without being -- without being true, then the Government would not have issued the document.

Q. Now, investing money or equipment in China from Taiwan; is that an easy thing to do or can it be difficult?

A. It depends on the projects that you are talking about. There are some projects that require high tech, which I think is more difficult. There are some projects that only involve very preliminary or primary technology, which is not difficult at all.

Q. I have a document marked 3679, which is called a "Commercial Invoice" from Feng Lee to East Trade Enterprise; can you explain what this is?

A. On this document it states the amount of money because we need to file our tax, and that's why we need this document.

Q. So, this shows how much money you charged for garlic?

A. Yes, this is how much we charge, but we don't charge a fixed price; sometimes it depends on the quality of the garlic.

Q. I have a document marked Bates 5554. I can make it bigger, but I'm showing you the whole document on the screen. Can you see it sufficiently?

A. Yes, I can see it sufficiently.

Q. Can you explain to me, please, what this is?

A. I've mentioned -- I've mentioned to you there are several different export documents, and I think this is one of those.

Q. Now, I don't know your business, but this looks like you, through your company Feng Lee, are buying garlic from a Hong Kong company. Am I wrong?

A. Not a Hong Kong based company, but since there's no direct link between Taiwan and China and, therefore, we can't really ship everything to China directly

from Taiwan and, therefore, we need a company from somewhere else to ship our things to.

Q. Let me show you 5526, an On Kun Hong Limited

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commercial invoice for fresh garlic. Is this the same type document that we just talked about?

A. The same kind. The same kind. The company was -- this company was specified by a customer and they also specified the title, the name of the company. We did not specify it, and sometimes one shipment we could have several different titles of names of the companies specified by our customers.

Q. So, the company here is "Daniel's Valley Farm"; right?

A. We issued the title but this title is -- is not one of our companies. This company was specified by our customer. We are in the business and, therefore, we need to

meet the customer's needs.

Q. I have a document that's marked as Bates 3685.

Can you take a look at this, please, and explain to me what it is?

A. This is like before; a packing list.

Q. Now, this is involving a shipping company; is that correct?

A. Yes, there is a shipping company.

Q. Who picked that shipping company to use?

A. This is a shipping company, as I mentioned before, and we choose many different companies to help us -- to help us ship our things from Taiwan to different places,

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for instance, to the United States.

Q. Do shipping companies always charge the same price each time you contact them?

A. I'm not sure about the cost and we need to talk

to the shipping companies and they will tell us a quotation to ship things from, for instance, Hong Kong to many different places, how much would that cost, and we use some dozen company -- shipping companies currently.

MR. HOROWITZ: Thank you. I have no other questions, perhaps these gentlemen will. Thank you, sir.

Cross-examination by MR. MATTHEWS:

MR. MATTHEWS: Mr. Lu, my name is Jerome Matthews and I represent Jimmy Fong and Fok Loong Enterprises in this case.

THE INTERPRETER: Umm, you're my client; I'm supposed to be working for you?

MR. WANG: No, no, no; everybody.

THE INTERPRETER: I'm sorry, I didn't get it.

MR. MATTHEWS: My name is Jerome Matthews and I represent Kwok Ki Fong who is also known as "Jimmy Fong" and Fok Loong Enterprises, that's F-O-K, L-O-O-N-G?

A. Yes.

Q. Okay, on behalf of Mr. Fong who is not here, thank you very much for taking the time to come and speak with us today. I have just one or two questions for you.

And if, for someone reason, you don't understand my question, please feel free to ask me and I will try my best to clarify it for you. How did the name "Fok Loong Enterprises" first come to your attention?

A. I forgot who this person was, but this person was from the United States, and this person told us about this company and said we could buy things from them.

Q. Okay, did Daniel Tsang introduce Fok Loong into your business relationship with him -- with Mr. Tsang?

A. He introduce Fok Loong to us and he told us about his company and told us that we could buy things.

Q. Okay; had you ever done any kind of business with Fok Loong prior to Mr. Tsang's introduction?

A. No, no.

Q. Had you ever heard of Kwok Ki Fong or Jimmy Fong prior to Mr. Tsang introducing Fok Loong Enterprises?

A. I don't know this "Mr. Fong". Where does this Mr. Fong come from?

Q. Don't worry about that, I'm just trying to establish whether or not Fong -- he ever heard of Fok Loong prior to Mr. Tsang introducing his business to him.

A. It has been a long time and, therefore, I don't very -- have a very clear recollection.

MR. MATTHEWS: Okay, that's fine. All right, I don't have anything further. Thanks very much.

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MR. HOROWITZ: Mike, can we have a 10.25 tape change?

MR. WANG: Do you want to take a break or, do you want...?

MR. HOROWITZ: No, no; about in 10 minutes.

Cross-examination by MR. WANG:

MR. WANG: Good morning, sir. How long have you

known Daniel Tsang?

A. It has been a very long time, some 20 years already. I knowed him for quite a while. A long time. I knew him when I was in my 20s, so it has been a long time.

MR. MATTHEWS: Are you that old?

MR. WANG: How did you first -- and, just to be clear, when I refer to "Daniel Tsang", I'm referring to the gentleman to the right of defence counsel.

MR. HOROWITZ: I remove all stipulations, that "Daniel Tsang" refers to my client, who's here.

MR. WANG: Very well.

MR. HOROWITZ: Thank you.

A. Yes, that's Mr. Tsang.

MR. WANG: How did you first meet Mr. Tsang?

A. We are a Taiwanese supplier and Mr. Tsang come from the US to come to Taiwan for sourcing.

MR. WANG: Did the interpreter translate every word of his answer?

THE INTERPRETER: Yes.

MR. WANG: Word-for-word? I thought I heard more than that.

THE INTERPRETER: Yes, he -- umm, Mr. Lu was repeating himself.

MR. WANG: If possible, even if he repeats himself, please translate every word.

THE INTERPRETER: Okay.

MR. WANG: Thank you.

Q. Did you first meet in Taiwan?

A. Yes, met in Taiwan, knew him in Taiwan.

Q. Do you remember the circumstances of the first meeting?

A. He wanted to buy things from Taiwan, not through other friends or people. We are a supplier and there's a lot of trading companies that come to Taiwan for sourcing.

Q. I think I understand the initial business relationship, but the question is, what were the -- what were the details or the circumstances of your first meeting? For

example, who introduced you, how did you become acquainted with Mr. Tsang to the extent you remember?

MR. HOROWITZ: Can I consult with counsel quickly, off the record?

MR. WANG: Sure.

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(Off the record)

MR. HOROWITZ: Thank you; we're back on.

MR. WANG: Does the translator remember the question?

THE INTERPRETER: No.

MR. WANG: I'm not sure I remember it either.

Q. Let me rephrase. Can you please -- before I do so, let me go back and clarify something. You testified earlier that you knew Mr. Tsang when you were in your 20s. Did you mean to say that you knew Mr. Tsang when he was in his 20s and you were just a little bit older?

MR. MATTHEWS: "A little bit".

A. I was referring to the fact that Mr. Tsang was in his 20s and I'm, like, 20 years older than he. Therefore, I was not referring to the fact that I was in my 20s.
(Pause).

Q. So, just so we're clear; you were -- you were in your 40s?

A. Yes, in my 40s. In my 40s.

Q. So, this was maybe more like -- more like 30 years ago?

A. 30 years or 20 years, I'm not sure; it's been a long time, some 20 years I think. My grandson is 25 or 27 years old now.

Q. Did someone introduce you to Mr. Tsang?

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A. No, he was -- he was coming from the US to look for a supplier in Taiwan, and he came to our factory and

that's how I met him.

Q. How did he find his way to your factory? Was there a common -- a common contact, or was there just -- he just sort of showed up one day?

A. I think he was calling around to see if he could buy things from Taiwan to export to the US, and since it has been a very long time and, therefore, I'm not very sure; I have more than 100 customers.

Q. Are you related to Mr. Tsang in any way?

A. No, except for the fact that we are trading partners and we have business relations.

Q. Do you think of him as a, sort of, a son to you?

A. I trust him and I believe him. He comes from the US where cultural standard is higher and, therefore, is easy for me to trust him and believe in him.

MR. HOROWITZ: Could we take a break now for tapes, Mike?

MR. WANG: Sure.

MR. HOROWITZ: I'm going to use the facilities.

(10.25 am)

(Recess)

(10.30 am)

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MR. WANG: Everyone ready?

MR. HOROWITZ: Yes.

MR. MATTHEWS: Yes.

MR. WANG: Sir, I've been told that you have health concerns?

A. My body has not been too well lately and, therefore, I am concerned about the time as well.

Q. All right. I'm going to try and go as quick as I can but, if you need a break, just let me know and we'll stop. Okay?

A. Thank you.

Q. How long has Feng Lee Food Corporation, or you, been in the business of garlic?

A. Some more than 40 years, and when we first

started we were the first in Southeast Asia to be in the garlic business. It has been more than 40 years, or 48 years.

Q. Does Feng Lee currently have other garlic customers other than Daniel Tsang or his companies?

A. Yes, there's a lot. There are many many customers in the US. There's many.

Q. Many customers for garlic or for other products?

A. Garlics and others. We still have a lot of customers for garlics.

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Q. Could you please tell me some of your other US customers for garlic only?

A. Now, there's a lot, but I'm afraid it's not convenient for me to name each of them individually. You can go to the US to find them. I'm afraid I cannot identify them

here. We do have a lot of customers for garlic.

Q. If you have a lot of customers I understand it might be burdensome to identify them all, but could you please identify your top five -- your top five US customers for garlic?

A. There's a lot of trading companies in the US, and I cannot tell you, and I cannot identify them for you.

Q. Can you name any US -- any of Feng Lee's customers for US garlic other than -- strike that. Can you name any Feng Lee customer of garlic in the US other than Daniel Tsang and Daybreak?

THE INTERPRETER: I'm sorry, I didn't get the -- the second name. Daniel Tsang and...?

MR. WANG: "Daybreak International".

THE INTERPRETER: Day...?

MR. WANG: "Daybreak International".

THE INTERPRETER: Okay.

MR. MATTHEWS: I'm going to object, just to the extent of the question. (Interpreted).

Before you read that back, let me finish my

objection. I just want to object to the extent that the question invades the witness's right to business privacy.

MR. WANG: Can you translate the answer please?

THE INTERPRETER: Shall I go ahead?

MR. WANG: Yeah, translate the answer please.

THE INTERPRETER: Okay.

A. We use a lot of trading companies in the United States. As I mentioned earlier, I cannot identify them for you; this is a business secret. We do have a lot of garlic customers in the US, but I cannot name them for you here. (Pause).

MR. WANG: Now, I'm going to observe that -- that there is no right to business privacy in a legal proceeding. The only protection I'm aware of is attorney/client privilege.

So, keeping in mind, sir, that this will only be used for legal purposes, I'm going to ask you one more time

if you can name any customers of Feng Lee Food Corporation in the United States for garlic?

MR. MATTHEWS: I'm going to interpose an objection to counsel's question; first, he's not in a position to instruct the witness as to the applicability or non-applicability of specific privileges. I disagree with his assessment that there is no right to business privacy in

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Federal proceedings -- Federal deposition proceedings.
(Interpreted).

MR. WANG: And also, I'm willing to agree to have this part of the deposition sealed.

A. All the names are in English -- in the English language and, therefore, I cannot remember them. All of them are in English language; I've only learnt Japanese and Chinese, and since they are all in English I cannot remember the names.

MR. HOROWITZ: Can I ask a question to that; I might have missed this. Are we talking about customers now in 2003, or was this question relating to customers at the timeframe of '94/'95? And, I apologize for not listening.

MR. MATTHEWS: I don't know; I mean, I just interposed the objection generally whatever was -- either then or as of now.

A. I was referring to the fact that we do have a lot of customers in the US because there are many different processed garlicks products; for instance, peeled or diced or frozen and, therefore, we have many different customers that buy garlicks, not necessarily raw garlic from us.

MR. WANG: Okay, I'm talking only about raw garlic.

A. No raw garlic lately for the past one or two years. Nothing lately. There's nothing lately.

Q. Okay, just so -- just so we're clear on
timeframe, and I don't even remember what I asked, counsel,
so...

MR. MATTHEWS: I don't think you framed it.

MR. WANG: I may not have.

In the past 10 years has Feng Lee supplied raw
garlic to any customer in the US other than Daniel Tsang?

MR. MATTHEWS: Same objection, to the extent that
it calls for the witness to divulge what could conceivably be
a business secret.

MR. WANG: And again, I'll stipulate that this
part of the transcript, and any part of the transcript that
this witness considers a trade secret can be sealed.

A. Raw garlic lately, there's not too much
business coming from the United States. There's a lot of
business coming from France.

Q. So, in the past 10 years, from say 1993 to
present, you haven't had any US customers for raw garlic
other than Daniel Tsang, have you?

MR. MATTHEWS: Same objection.

A. From 1993 to now I think there are some trading

companies that wanted to buy raw garlies from us, but these are all through trading companies, therefore, I'm not very sure.

Q. So, just so we're clear, some trading companies

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in the US that wanted to buy raw garlic, but no actual customers?

MR. MATTHEWS: Objection. I think that misstates the witness's testimony.

MR. HOROWITZ: I just object that it's not -- I just object that it's not relevant, anything before -- I mean, after the relevant time periods of this case. That's my objection. I'm not going to repeat it, I just state it this one time.

A. I'm not really sure; there's a lot of different customers that buy garlies from us and I'm not really sure about the relevance of your question to what we are talking

about here. Mr Tsang, they only buy a small amount of
garlics from us, and we do have a lot of customers and --
that Feng Lee deal with in the US.

Q. Who in Feng Lee is responsible for contacting
customers for orders and follow-up instructions on shipping?

A. I am responsible of handling the orders, and as
for shipment, we have a quality control department which
deals with the shipping issues, and we also have a finance
department that -- with financial related issues.

Q. Just so I understand your testimony, it's that
you supplied garlic to Nantong Tongming?

A. We provide raw materials to them to conduct
processing for us.

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Q. And you said this garlic was all grown in
Taiwan?

A. Mostly in Taiwan; a small or very small amount

from Vietnam, mostly in Taiwan. Only very very small amount from Vietnam.

Q. And on what farms in Taiwan is this garlic grown?

A. There's one in Yun Lin. In Yun Lin; there's one in -- there's one in Yun Lin, there's one in Tsai Goa, there's one in Chia Yee that -- three different counties. There are 21 different counties in Taiwan. There's many different farms, there's even a Garlic Farmers Association, therefore, there's a lot of different places that grow -- do grow garlies, and there are many many different farms that we grow garlies, and there's more than 10,000 acres of land that grow garlies, and if you've been to Taiwan you have seen all this farm lands that grow garlies, and if you do have time you should come and see Taiwan and look at the farms.

Q. Are any of these farms owned by Feng Lee?

A. Yes, but not too many. We do have some land that we grow, and I think some more than 90% of garlies we buy from these Farmers Association. The Farmers Association is a Government organization. The Government organizes different farmers and they group together.

Q. So, you buy -- most of your garlic is bought

from Farmers Association; is that correct?

A. There's a lot of different farms and we buy some 100,000 metric tonnes and -- or 120 metric tonnes. The production is like 200,000 metric tonnes. Taiwan is very famous for its garlic export. You are in the Custom, you should have known a little bit about this.

Q. Well, in response to your last answer, sir, my information is that Taiwan exports very very little garlic; isn't that right?

A. Right now I think Taiwan exports some 10,000 metric tonnes of garlic overseas, and currently it has been going down, but still is -- is quite a lot, and you can go find information. Lately the price in China is going down, therefore, the amount of garlicks that we export from Taiwan has also been decreasing.

Q. Isn't it true that the amount -- the amount of

garlic imported by Mr. Tsang to the -- into the United States through Feng Lee Corporation exceeded the entire production of Taiwanese garlic exports for that year, which is 1994?

A. Only a few containers, which accounts for a very low percentage. Usually is -- 8,000 to 1,000 metric tonne is all vegetables and is -- monthly average is 8,000 to 10,000 metric tonne and, therefore, garlics is only a very small amount, very low percentage. Garlic is with a very low margin and we're not making a lot of money; it is very -- it

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is a very cheap commodity; only a very few numbers of containers.

Q. Okay; when you buy garlic from the Farmers Association, who there do you deal with?

A. There is a supply and sales department of the Farmers Association.

Q. Can you give me the names of any of the

contacts -- contacts there?

A. Is the Yun Lin -- Yun Lin County Farmers Association. Yun Lin County Farmers Association, and the person in charge keeps on changing, and since they are civil servant, the Government changes them.

Q. Okay. Well, keeping in mind that the person keeps changing, can you just name one person there who you've dealt with in the past 10 years in purchasing fresh garlic; whether they're still there or not? Just one person; one name?

A. I do not have a very good memory, but all these things were done by the purchasing department, the purchasing department of my company.

Q. So, as you sit here, you can't -- you can't think of anybody?

A. I cannot give you a name. You should approach the purchasing department. There's also a division of labors in my -- in the purchasing department, different -- different

units of that department deals with different commodities.

Q. Okay. Well, if I were to approach your purchasing department, who there would I talk to?

A. The purchasing department, you can call them and ask them and you can go approach them. You can call them and they will -- they will tell you.

Q. Right, I appreciate that. Can you just give me the name of one person who I could talk to?

A. The person who is in charge of purchasing left our company already. There's always somebody there to sign things. Are you referring to the person in charge in the past or are you referring to the person who is currently in charge?

Q. Just anybody who has ever dealt with the Farmers Association in purchasing fresh -- fresh garlic. (Interpreted). Whether they are still with the company or not?

A. You can call the County Farmers Association to ask them if they ever sold garlics to Feng Lee. You can call

them and ask them.

Q. No, but you had said earlier that I could also call your purchasing -- your purchasing department, and I just want to know if you can give me any names of anyone in your purchasing department who has ever dealt with the Farmers Association purchasing garlic?

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A. As I said, that person who was in charge has already left our company and joined other companies, and people usually change their job two to three years; it is a difficult job.

Q. Okay. Well, the person who's just left, what's that person's name?

A. I think this person who has left, he lives in Hsin Lo. He lives in Hsin Lo, but last name of Liao.

Q. Do you know the full -- do you know the full name?

A. And also -- there's also somebody by the last name of "Wang" who has already left the company for many years.

Q. Do you recall -- do you recall the full name?

There's a lot of people named "Wang"?

A. Wang Chiau. It's not that I do not want to tell you, but I do not want to make a false statement here, therefore I don't even know where to find him, and if I told you what his details were and you are not able to find him, then I will be responsible for it, and the best way for you to do is to approach the Farmers Association and ask them about Feng Lee and, as I said, I -- I do not want to make false testimony here. I do not want to be responsible for that.

Q. You testified earlier that Feng Lee invests in

Nantong machinery. Does that mean that Feng Lee gives

Nantong money and Nantong buys the machinery and provides it?

A. They did not buy machineries for us -- they did not buy machineries from us. They processed the garlics for us and, therefore, we shipped the machineries to their factory and they processed the garlics for us.

Q. So, you shipped machinery to Nantong?

A. Yes, we shipped the machineries to Nantong.

The machineries that can skin the garlics or dice the garlic.

Q. How many pieces of machinery?

A. There are many many pieces of machineries and lately they also been drying the garlic, so there's some drying machines, and so there's a -- there's a -- quite a number of machineries there.

Q. Would all the machinery that you sent over to Tong -- to Nantong Tongming from Feng Lee fit in this room?

A. They were all shipped, all those machineries were shipped by Feng Lee so that Nantong can process the garlics for us.

Q. I understand, but if you took all the machinery that Feng Lee shipped to Nantong, would it fit in this room that we're now in?

A. No, definitely not, there are many different

machineries, but if they were all packed in -- in boxes,
maybe; but if they were all assembled, no.

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Q. And, what happens when the machinery breaks
down in Nantong and needs parts?

A. If we are talking about small parts, then the
technician there will be able to -- to make some or to buy
some.

Q. How about big parts?

A. It depends on which part, and for large part
that involved high technology, that we have to ship them from
Taiwan, and also it's commercial secret; some parts are from
Taiwan, some parts are from Japan.

Q. And, do you personally know how to maintain the
machinery?

A. I'll go and teach them how to maintain the
machinery.

Q. When was this machinery sent -- first sent from Feng Lee to Nantong?

A. Is either 1993 or 1994, I'm not very sure, it's been a long while; I do not remember the exact days, it's either 1994 or 1993.

Q. When did you begin doing business with Nantong Tongming?

A. In 1993 or 1994 we were looking for somebody to process the garlies for us, and we found them, and it's 1993 or 1994.

Q. Did Mr. Tsang introduce you to Nantong

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Tongming?

A. Not through Mr. Tsang but through some trade union, trade association. This trade assoc -- through trade association I knew about Nantong Tongming; not from Mr. Tsang.

Q. What's the name of this trade association?

A. What trade association?

Q. You mentioned a trade association through which you came into contact with Nantong Tongming, and my question is; what is the name of that trade association?

A. It is at a trade fair, a trade fair in Shanghai, in Guangzhou, in Xia Men, and some in Taiwan, and they have trade fair every years.

Q. Have you met Mr. Gu, the President and Factory Manager at Nantong Tongming?

A. Yes, I've met him; when I went and visited the factory, I saw him.

Q. Did you meet him for the first time in the factory?

A. Yes, in the factory, and I carried the garlics to the factory and I saw him.

Q. But when you carried the garlic to the factory, was that the first time you ever met him?

A. Yeah, when I signed -- signed things with them I met him for the first time, and they are not our private

company; actually I'm not sure, they could be a Government company, Government association, some local Government association and since it's got Government background and, therefore, is more credible.

Q. Did you enter into a written agreement with Nantong Tongming to process garlic?

A. Yes, we signed something so that they can process garlies for us. It's got two parties involved.

Q. How do you get the garlic from -- from Taiwan to Nantong?

A. They processed the garlies for us; we sign something so they process the garlies for us. It's not a transaction. They only do the processing for us.

Q. My question, sir, is; how do you -- how do you get the raw materials over to Nantong? Is it by boat, is it by truck, is it by airplane?

A. It's by boat. It's by boat.

Q. What boat company do you use?

A. These are small boats, small fishing boats, not big ship -- not big shipping companies. Since it's got only several miles apart, therefore we use small fishing boats.

Q. And what kind of -- in what containers do you pack the garlic?

A. There's no container used. These are usual ordinary fishing boats, very small ones. We don't use

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containers.

Q. So, is there any -- any mechanisms that are used to keep the garlic fresh if there are no containers?

A. We cannot put them all in a container because they were brought. If they were all put in container, it requires very good ventilation to prevent garlicks from rotting, so then we use plastic nets.

Q. I'm going to show you with letter which I'm

marking as -- I'll start over -- as Exhibit 1. This is Bates 5294. Is this a letter to Feng Lee from East Trade Enterprises?

(Exhibit 1 - Bates 5294 marked for identification)

A. I know of this Ms. Chou but I think she has left the company. I think she is married currently. I do not know where to find her, but yes, she was with our company and there was a contact person. This is only for internal contact. Things -- things were packed and somebody needs to be informed, and the QC Department was informed, and this is only for internal contact, not for external use.

Q. In fact what Feng Lee did was, Feng Lee provided East Trade Enterprises with documentation, and East Trade Enterprises would tell Feng Lee what to include in the documentation; isn't that right?

THE INTERPRETER: Sorry, is there a Chinese name for "East Trade"? He looks puzzled when I mention "East

Trade".

MR. WANG: Okay; say "Daniel Tsang's company".

THE INTERPRETER: I'm sorry, can you repeat the question again?

MR. WANG: Sure. What Feng Lee -- what the Feng Lee company did was, provide documents only to Daniel Tsang's companies, and Daniel Tsang's company instructed Feng Lee what to put in the documents; isn't that right?

A. Our customers specify the name of the recipients of the cargo or the goods. There is a custom clearance company that handles all the documentation. They ask if the shipment has arrived etc, and we use this custom -- custom clearance company; we do not do things like that.

Q. So, this is not an instruction of what to include in the packing list? (Interpreted) And when I say "instruction", an instruction by Daniel Tsang's company directly to Feng Lee?

A. It's about packing and labelling, the co-ordination, and I think is handled by the quality control department; they have to ship the things.

MR. HOROWITZ: We need to take a tape break. Is that okay?

MR. WANG: Sure.

(Off the record)

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MR. WANG: All set? Okay, this is Exhibit 2 which is Bates 3996. If you could please look at that. This is a letter to East Trade Enterprises from the Feng Lee Food Corporation?

(Exhibit 2 - Bates 3996 marked for identification)

A. This -- this letter was sent by Feng Lee but I've never seen it. This Ms. Chou, she's from Taipei office. It is about a packing list but I've never seen it before. It is about Customs issues, the lower level people handle this. I've never seen it before.

Q. Okay, there's four -- four numbered paragraphs, I think the numbers don't show up very well in this document.

A. There are four different paragraphs. This is -- this is an export -- an export document. It is coordination with the customers, is related to packing, and but there's no specification of which shipment it is. The quality control department co-ordinates with the Customs clearance companies. This letter was sent by Ms. Chou.

Q. This letter is dated September 1994; is that right?

A. Yes, the dates is correct but she's already left the company. I think she left the company in 1994 or 1995 after she got married. She's in Hong Kong or somewhere else.

Q. Okay, but it was about -- it was about this

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time period when the Feng Lee Food Corporation became involved in the garlic business between Nantong Tongming and Daniel Tsang's companies; isn't that right?

A. This is when we processed the garlic. 1994.

Q. This is when you began processing the garlic; is that right?

A. It could be; it's either July 1994 or October 1994, but it's dated July 1994. This letter doesn't specify which shipment; there's many different batches, but it doesn't specify which batch it is. We do -- we handle a lot of different batches; it doesn't have a batch number, therefore I can't tell.

Q. Paragraph 3 states that this is the first co-operation between Feng Lee and East Trade; isn't that right?

A. I'm not sure. It doesn't have the batch number, it doesn't specify the export time and, therefore, I can't tell.

Q. But paragraph 3 does say "this is our first co-operation". Isn't that what the letter says? (Indicates paragraph to witness).

A. It doesn't say so. This "Ms. Chou", she was the English secretary, she used to handle the document. In theory she could not have sent something like that. In

theory she could not have sent something like that; she did

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not dare to. There's no batch number on this letter. It's not very clear.

Q. Okay, this is Exhibit 3, which is Bates 3941.

This is a letter to the Feng Lee Food Company from Mr. Tsang at East Trade Enterprise.

(Exhibit 3 - Bates 3941 marked for identification)

A. The packing was finished and there was some questions; the result was not clear. It is a co-ordination between packing and quality control. I have never seen it. This letter was addressed to Ms. Chou. How to pack, not very clear. I have never seen it. There's no batch number. I've never seen it, not very clear.

Q. And this discusses -- this letter discusses discrepancies in quantities between the different documents supplied by Feng Lee; isn't that right? Isn't that what it

says?

A. It is not very clear. I cannot say if it's valid. It doesn't say which shipping company, which boat, it's not very clear. Ms. Chou has already left the company. She's probably living in the United States now. She speaks very good English.

Q. Okay, this is number 4, which is 4402 Bates.

(Exhibit 4 - Bates 4402 marked for identification)

A. It specifies some details. It talks about "certificate of origins". I have never seen this letter. It

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is low level issues that I do not usually handle on a daily basis. It requires a chop from the commerce -- Chamber of Commerce.

Q. In fact, this -- in this letter Mr. Tsang is instructing Feng Lee how to certify a Certificate of Origin in Taiwan. Isn't that what -- what this letter says?

A. It is telling us what to fill out in the form of -- in the form of Certificate of Origin in relations to the quantity and quality. It tells us the content, how many containers etc; it is very clear. It was sent by Mr. Tsang and addressed to Ms. Chou and it should have been handled by a Mr "Li" in the export department.

Q. The letter -- the letter instructs Ms. Chou to contact Mr. Lu; is that you?

A. Not necessarily; there is another Mr. Lu in the Finance Department. The Quality Control Department handled it and then was also handled by the Audit Department, and the Audit Department passed it on and, therefore, the two departments could have handled it without me and has got something to do with packing and quantity.

Q. Now, earlier, sir, you mentioned someone named Chou; Ms. Chou. What was Ms. Chou's title?

A. English secretary. English secretary; she's filling out forms that required to be filled out in English. She did all the typing, she left the company and currently

the English secretary is somebody by the last name of "Li".

Q. At the time who did Ms. Chou report to?

A. She was the English secretary, so she had to type things in English. She had to translate things from Chinese into English.

Q. Who was her supervisor at the time?

A. The Export Department, which is part of Feng Lee. She's a secretary -- English secretary of the Export Department.

Q. Who was her direct supervisor?

A. There was a factory manager and then there is an Export Department, and she used to work for the Export Department.

Q. Who was the factory manager, and is the factory manager still with Feng Lee?

A. There was a "Mr Li", who was a factory -- our factory manager, but he's left the company, and currently the factory manager is somebody by the last name of "Li".

Q. All right, this is Exhibit 5, which is 4397.

Produced. And I appreciate your explanations, but if --
please wait until I ask a question to begin an answer.

(Exhibit 5 - Bates 4397 marked for identification)

A. Okay.

Q. And the question is: and this is a letter to
Feng Lee to East Trade Enterprises, and in the letter East

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Trade is -- is discussing with Feng Lee discrepancies within
shipping documents. Is that correct?

A. I've never seen this document, I cannot answer
you before I could read it.

Q. In fact, all the correspondence between Feng
Lee and Daniel Tsang's companies deal only with shipping
documents and nothing else; isn't that right?

A. They talked about different packing and it was
not handled by the supervisor.

Q. Here is Exhibit 6, Bates 59 -- excuse me,

5293 -- to Mr. Tsang at East Trade Enterprise from Feng Lee.

Again, discussions about how to prepare invoices and shipping documents. (Interpreted).

(Exhibit 6 - Bates 5293 marked for identification)

MR. HOROWITZ: I have an objection to counsel's characterization of all of these series of documents. I differ with the characterization and suggest that, although the law is that the question is not the witness's answer, it still may be misleading the witness and the jury.

(Interpreted and witness starts to speak).

MR. WANG: There's no question before the witness. Actually, the question before the witness is, this -- this document -- this document concerns paperwork for shipping?

A. Yes, it's about shipping document, but I've never seen it before.

Q. Okay. This is Exhibit 7, Bates 5292. Have

you seen this one before?

(Exhibit 7 - Bates 5292 marked for identification)

A. It is about co-ordination; I've never seen it before.

Q. Okay, never seen that before?

A. Never seen it before.

Q. Okay.

A. It's related to packing.

Q. Now, the types of documents that you were discussing with Mr. Horowitz before, the Certificate of Origin -- and the example I'm holding up is Bates 3798 -- and Phytosanitary Certificate, example 4447, and also the invoice example is 4395 -- (holds up pages to the witness). These were shipped separately by Feng Lee to Daniel Tsang's companies, weren't they? (Interpreted). And when I say "separate", I mean separate from any garlic?

A. I'm not sure because I did not handle this.

Q. Feng Lee sent these documents to Daniel Tsang, at Daniel Tsang's request, in a UPS Express envelope separate from the garlic; isn't that right?

A. It could be. I did not see it, I have no

memory of these. They were handled by my subordinates.

Q. Okay, I'm gonna -- show you Bates 4395, which is an invoice for \$27,300. Did you ever receive this payment

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from Daniel Tsang?

A. It could be. It could be true; I am not the person in charge of this and I was not in charge of this. It was in charge by the Finance Department. It has been a long time, it will be difficult to locate the documents.

Q. What payment arrangement did you have with -- did you have with Daniel Tsang?

A. Mr. Tsang buy things from us and then we issue an invoice to him and the invoice will specify all the details telling him where to send the money to. Sometimes the money has to be sent to China, sometimes to Taiwan, but because of the relationship between Taiwan and China, sometimes it is difficult to send the money to China.

Sometimes the money has to be sent to other countries, and sometimes the money has to be sent to Taiwan. It has been a long time since and I'm not very sure.

Q. Well, how did Feng Lee get paid?

A. Get paid?

Q. Uh-huh?

A. In full or in partial?

Q. Any. Any payment?

A. Sometimes part of the money has to be remitted to China, sometimes a full amount has to be remitted to Taiwan. I know this is how they do it, but I'm not very sure about the amount of money.

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Q. So, if money was remitted to China, then how did Feng Lee get paid?

A. Well, we have to pay for different expenses, for instance processing expenses etc.

Q. But how did you receive payments?

A. Well, if the money is sent to Taiwan, then we get the money in Taiwan. The money is sent to our company account; not to my personal account.

Q. If I told you that the first -- the first payment that Feng Lee ever received from Daniel Tsang or any of his companies was in April of 1984; would that surprise you?

THE INTERPRETER: I'm sorry, '84...?

MR. WANG: Excuse me, April of '95.

MR. HOROWITZ: I object to that statement as a fact not in evidence. I'm not saying you can't ask the question, because maybe at trial you will present that, but as far as we know now, I object to that. It is a fact that we have no evidence.

A. I'm not very sure. Lately business is not good and, therefore, we have different payment period or credit period. Sometimes three months or sometimes five months. It has been a long time and it was handled by the Finance Department. We may be able to find the books but it will be very difficult.

Q. I'm sorry; the credit period is how long?

A. It depends and I -- and I was, and I was a bit reluctant to specify. Sometimes it's even six months. It really depends.

Q. So, when it says on all the invoices, "payment due 60 days"; that's not enforced?

A. No, there's no way for us to enforce this strictly. It says 60 days or 90 days; sometimes it's 120 days.

Q. So, if a customer didn't pay you for eight months, that would not be unusual?

A. Nothing unusual; in fact some customers in the US, they have not paid us for a whole year. Nothing unusual.

Q. Okay, on this document -- this is document Bates 4446, which is a Certificate of Origin. It says "this merchandise left Keelong Taiwan port". Is that an accurate statement?

A. Yes, this is a true and the shipping company have prepared all the documents. This is true.

Q. So, it's true -- it's true that the shipment of garlic went from Keelong Taiwan to Vancouver Canada?

A. Usually this is the case, the shipping company prepares all the document. I only get to see the documents, I don't get to see the goods, therefore, I'm not 100%.

MR. WANG: All right, I'm going to suggest we take

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our lunch break now, and when we get back I'm only going to have just a few more and then I'll be done.

MR. HOROWITZ: Okay; I have about five minutes, and how about you, Jerome?

MR. MATTHEWS: Well, can we keep going? I'd rather, for Mr. Lu's sake, get it concluded it if we can.

MR. HOROWITZ: Michael, do you think maybe we should ask Mr. Lu and find out what's going on with him?

MR. WANG: The thing is, I have a whole -- I have a whole stack of documents, but I'm going to go through them during lunch break and probably leave most of them out. The reason why is because, he's saying he hasn't seen many of them, but I think it would be -- it would be more efficient for me to do it during lunch instead of shuffling through papers in front of everybody; everyone can rest and when we get back I'll just have a few more minutes.

MR. HOROWITZ: Okay, let's explain that to Mr. Lu and get his agreement; that's all I'm saying. (Interpreted).

A. My body is not too well, my health has not been very good lately and I'm more than willing to come to here to explain things that I know to you. I don't know about the significance of this, what is going on, but I hope that this time will not be too long.

MR. HOROWITZ: Maybe we can go to lunch; we can buy lunch and have lunch together if you are willing, and then

come back maybe at 1.15, spend another hour or so; is that all right?

A. I hope that --

MR. WANG: And, if you could just tell him that I have quite a large stack of Feng Lee documents, and given that he's saying he hasn't seen many of them or doesn't remember many of them, I don't want to waste his time given his health situation showing him many many documents; and so, what I'm going to do during lunch is go through them and hopefully set most of them aside. Can you tell him that, please? (Interpreted).

A. Thank you.

MR. HOROWITZ: Maybe we can eat somewhere where they have some of your spices.

(12.15 pm)

(Recess)

(1.20 pm)

MR. WANG: Good afternoon. The transshipping of the garlic, starting in July or August of 1994 through either Vancouver or Hong Kong; was that your idea?

A.

Yes, it was my idea through Hong Kong, Taiwan or the United States.

Q. How did you come up with that idea?

A. We still have a lot of products that use

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transshipment; for instance, a lot of vegetables. Still a lot of products.

Q. For example, in Hong Kong, the off-loading of garlic from some refrigerated containers into new refrigerated containers; that was your idea?

A. Yes, all containers go to Taiwan and then go out and that's what I tell the shipping company.

Q. What containers went to Taiwan?

A. Which shipment are you referring to?

Q. Any shipment, whether any shipment -- were there any shipments that went through Taiwan?

A. Most contract that we signed with shipping companies go to Taiwan and every single shipment.

Q. Are you talking about garlic?

A. Not only garlicks, also other products; for instance vegetables, other products.

Q. Okay, I'm talking only about garlic in the second half of 1994 and the first half of 1995.

A. This is the arrangement with the shipping company; all shipment from Taiwan had to go through Hong Kong and then -- and then go to Taiwan and then go to the United States. That was the shipping arrangement.

Q. How about Vancouver? In 1994/1995, garlic?

A. Same conditions as with the shipping company.

Q. And were these transshipments set up by you or

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by Mr. Tsang?

A. I arranged that with the headquarters.

Q. What headquarters?

A. It says clearly, it states clearly on the bill of lading; you can look at it.

Q. But your statement was that you arranged the shipping through headquarters, and I want to know what headquarters you are referring to?

A. I was referring to the headquarters of the shipping company.

Q. Who did you deal with in Hong Kong at either On Kon or Glory Source?

THE INTERPRETER: Didn't get the name, I'm sorry.

MR. WANG: Oh, at the On Kon company or the Glory Source company?

A. I was contacting them and then I tell them what to do and then I follow them up.

Q. Can you give me the name of anyone you dealt with at either company?

A. Names, I will have to go home and look at the bill of lading. If you can get a hold of the bill of lading, you can look at them.

Q. And, did you deal directly with anyone at Fok Loong in Canada?

A. Direct contact, yes; after we finished the

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packing we have to get in contact with the shipping company and to tell them the date, and then they will have to schedule the date.

Q. And, can you tell me who at Fok Loong you dealt with?

A. I cannot remember clearly now. I remember vaguely that this is somebody with the last name of Lin, L-I-N.

Q. And do you have -- do you maintain files concerning any correspondence you might -- may have had with these shipping companies?

A. Yes, we do maintain -- we do maintain files but I think we only can maintain them for five years according to tax office in Taiwan. According to law in Taiwan we only have to maintain the files for five years, and whether or not

we still have it, I need to check.

Q. And I take it, you didn't bring any documents with you today?

A. No, nothing; you didn't tell me what issues you were going to talk about, therefore, I did not bring any documents with me.

Q. But you may have documents back in Taiwan?

A. If we're talking about seven or eight years ago, in theory we should not keep those documents, but I'll go back and check.

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Q. Well, were you aware, sir, that Mr. Tsang, your business partner, was under indictment in the United States?

MR. HOROWITZ: I object to the use of the word "business partner" as a fact not in evidence, and leading and misleading. (Interpreted).

A. I am not aware of the indictment.

MR. WANG: So, you didn't take steps to retain documents in light of Mr. Tsang's legal situation in the United States?

A. That's correct; I do not keep any documents.

Q. So, would you be willing to come to the United States to testify at the trial in this matter?

A. I have been travelling quite frequently lately and my body is not too good. I cannot say to you for sure when I'm 100% for sure that I will be able to go. I am aging and my body is not good and it takes me to travel more than 20 hours to go to the United States, therefore I cannot be 100% sure.

Q. Well, I appreciate that. So, is what you are saying, you are not certain you could come, but it might be theoretically possible?

A. In theory, yes, but I don't know when I'm going to get sick; I'm pretty old. I do not know if I'm going to be sick tomorrow.

Q. Just a couple more questions. Have you visited

the Nantong Tongming factory?

A. Yes, when they were processing stuff for us, I -- I have been to visit them, but I have never lived there. I would go in the morning and look at the processing work that they were doing for us and then I would leave in the evening.

Q. How many trips have you taken to Nantong Tongming?

A. Many many different -- many many times; I do not remember clearly how many times.

MR. WANG: Just a second. (Pause). Counsel, may I thank the witness in Chinese?

MR. HOROWITZ: Of course, yes, thank you.

MR. WANG: (Thanks the witness in Chinese). I'm finished.

MR. MATTHEWS: I have a couple of follow-up questions.

MR. HOROWITZ: Do you mind if I go first and just

finish mine?

MR. MATTHEWS: Oh, by all means.

Re-examination by MR. HOROWITZ:

MR. HOROWITZ: All right, thanks; if I may. Let me show you 5705, which is a Certificate of Origin, and on this it shows that the shipments started in Keelong and ended up in Vancouver. Now, could it stop in between those two

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places, at Nantong or Hong Kong, or did it go directly from Keelong to Vancouver without ever stopping?

A. (Witness answers before the second sentence is interpreted). Yes, this document does exist. (Second sentence interpreted). They're agree -- the agreement with my company with the shipping company is to ship the shipment from Keelong to Vancouver and how the boat is going to move, we have no control, and I have no knowledge.

Q. And would it go from Keelong to Nantong at any

time?

A. It doesn't say so on the contract; so, no.

Q. Would it go -- what city would it go to, to get to China?

A. The shipping company, according to them, no, it should go directly from Keelong to -- to the North America.

Q. Okay. Now, sometimes I see ships coming from Hong Kong to North America, or sometimes I see ships going from Chinese Ports to North America; who -- how does that work?

MR. WANG: Objection, vague.

A. I don't know what you are objecting to. If you object, I also object; the cost between shipping from Taiwan and shipping from China is very, very huge. I don't know what you're objecting and I would also like to object because the shipping cost is very different between Taiwan and China.

MR. HOROWITZ: Okay. Okay, I have no further questions then, thank you.

Cross-examination by MR. MATTHEWS:

MR. MATTHEWS: Mr. Lu, Mr Wong asked you a number of questions about the operations of Feng Lee and I'd like to ask you a few more.

A. Yes.

Q. Do you know whether any representatives of the United States Government have ever visited Feng Lee?

A. Yes, some representatives visited our Taipei office. There were three people. They were investigating about garlics and I was somewhere else; I think I was in Singapore, and I was told on the phone and so I did not get to meet them.

Q. Do you know what agency they were representing?

A. Yes, they were investigating business. I was not in Taiwan; I think I was in Indonesia, but my English secretary call me up and I was in Singapore. Yes, they were there for a few days.

Q. How many days?

A. A few days; four to five days. A few days.

Q. When did this visit happen?

A. It has been two to three years, it's been a long while, I do not remember clearly. Will have to ask about it from our staff in Taipei.

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Q. Do you know whether these representatives representing were United States Customs agents?

MR. WANG: Objection, hearsay.

A. As far as I know, they were sent from the United States.

MR. MATTHEWS: Do you know whether they were associated with the United States Customs agency?

MR. WANG: Objection to the extent it calls for hearsay.

A. They did not say they -- it was from the American Customs, but they were sent from the United States.

MR. MATTHEWS: Do you know whether they were prevented from examining anything that they wanted to

examine?

MR. WANG: Same objection.

A. I was not in -- I was not in Taiwan and I do not know. There was one African-American and two caucasian guys, and my English secretary told them that they were talking to the wrong -- wrong party. They were asking about the Certificate of Origin; they should have approached the Government. We did not create the Certificate of Origin and if they wanted to see the bill of lading they should have approached the shipping company.

Q. Did they take any documents from Feng Lee?

MR. WANG: Same objection.

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A. No.

MR. MATTHEWS: Did they examine any documents that belonged to Feng Lee?

MR. WANG: Same objection.

A. I was not in Taiwan; I know only that they were looking at Certificate of Origin and some shipping documents.

MR. MATTHEWS: But you don't know one way or the other whether they took any?

A. I'm not sure but in theory, if they were to take away any document, my approval should be sought before they did it, but I did not give any approval for them to take away any documents.

Q. Did they leave -- do you know whether they left any documents with the English speaking secretary?

MR. WANG: And, same objection, the witness -- (witness begins speaking) -- wait, wait, let me give my objection. The witness has repeatedly said he was not in the country and this is eliciting hearsay and speculation. (Interpreted).

A. You're right, I was not in Taiwan. If I were in Taiwan I would have met them.

MR. MATTHEWS: Okay. Well, my question is; do you know whether they left any documents? Did they bring any documents with them and leave them with the English speaking secretary?

A. My English speaking secretary did not tell me so.

Q. Do you know whether they examined the facilities at Feng Lee?

MR. WANG: Objection, hearsay.

A. They did not go to the factory; they were only in the Taipei office.

Q. Okay. What's located in the Taipei office?

A. There was a department that handled issues related to foreign language. There was also a department handling orders. There was another department that handled shipment, and there was also a department that handles translation.

Q. Were there copy machines in the Taipei office at Feng Lee? (Interpreted). Like, a xerox?

A. Yes, there were. Yes, there are.

Q. Do you know, other than your English speaking secretary, whether they spoke with anybody at the Taipei office?

A. I'm not sure. I'm not sure.

MR. MATTHEWS: I don't have anything further.

MR. HOROWITZ: I got a question, sort of, both counsel; under Rule 16(a)(1)(c), aren't we entitled to inspect and copy and look at any records or documents material to the preparation of our defence, which would

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include --

MR. MATTHEWS: Well, absolutely; I'm trying to lay the foundation for this.

MR. HOROWITZ: Mr. Wang, what's the story with this?

MR. WANG: Well, this is not the forum to be discussing discovery. We can discuss this -- we can discuss

any discovery issues you want away from witness proceedings.

MR. HOROWITZ: All right, do you think we could take a break so that we can figure out what's going on here? I mean, so we can maybe just ask the witness to be excused, because we've got a witness here, and if his place was looked at, and if there's documents; I'm not sure even -- you're keeping a good poker face, but I don't even know if you know about this, because one of your questions was asking him if he preserved any documents as if you didn't have them -- any, and now, and then -- I don't know, do you think we could talk off the record, or discuss so we can know what's going on?

MR. WANG: We can certainly talk off the record, but I'm not prepared to resolve all these things while the witness is here.

MR. HOROWITZ: You understand my concern; once he's gone, I don't know what you guys got, and whether it's something we should have gotten, and I don't even know if you know about this.

I'm not demanding in the sense that I can't force you to do anything, but it seems that if there were documents taken and examinations done and things that should have been produced; you either knew about it or you didn't. I presume you did not, and this is news to you, so maybe --

MR. WANG: I know of no documents obtained from Taiwan that were not produced.

MR. HOROWITZ: You see okay, as far as I can tell, and I may be wrong, I'm not aware of any documents in my file that were obtained from Taiwan, but maybe they weren't so identified; I just assumed that they came from the same.

Do you know if any were produced? I mean, this could be a pretty major issue, and if we could resolve it maybe by talking to somebody involved, it might be the time to do it.

MR. WANG: I think at this time -- at this time I'm going to represent that there are no documents obtained from Taiwan that I'm aware of that have not been produced. That's -- that's all I'm comfortable saying at this time.

MR. HOROWITZ: Okay, but I --

MR. WANG: I can share -- I can share with you informally, off the record, my speculation as to a couple -- as to a couple of documents that -- that I've seen, but I don't want to do that on the records -- on the record; I don't want to make firm representations, and I certainly

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don't think that, that with a witness sitting here waiting this is the time to be doing that.

MR. HOROWITZ: I agree to a large extent, but let me tell you my recollection of this. I got a whole batch of documents early on; I got little dribbles, nothing, but some packets afterwards from Arthur Boersch, B-O-E-R-S-C-H. If those are the Taiwan documents, maybe they were, they were not as I recall explained to me like that.

MR. MATTHEWS: I'm in a similar position only insofar as I'm coming into the case late. My understanding was, there was a wealth of discovery produced shortly after

indictment, which would have been some time back in '98 or so, and he's speaking of a visit maybe two to three years ago, which could put us as late as the year 2000. So, I think we need to establish what the universe of documents are and if we've got them.

MR. HOROWITZ: You see, what I'm doing, just so everybody knows, I'm looking at my documents moving backwards, and they're all labelled. Let me give you an example, I got three packets that I looked at; 6430 has like a little label on the side, it says, "bar dash K inc. second on Tsang's home" and then it has a bunch of documents. Then -- and I have not looked at every document in that package. Then I go to 6493, and that starts with California National Bank, and again it's a photocopy of a label that you

stick on, and then it's got bank stuff. And then going to the latest number, 7022, it starts "Guangdong Cannery", and

that's one of Daniel Tsang's names, that's not related to Feng Lee.

So, it's pretty quick, off-the-cuff, and -- and I think we all know that Martha Boersch would have given us everything that she had, and as you would Mr. Wang, but I'm just saying that I'm not seeing it. So, it may be there, but I don't see it.

MR. WANG: Well, I don't -- I don't want to have any more discussions on the record on this. We can talk informally. My suggestion is that, Mr Li -- if Mr. Lu is not travelling till tomorrow, you can -- tomorrow's witness should be brief in the length of the examination, and you can recall Mr. Lu then if you want, but -- but this is not something that I'm comfortable clearing up right now, having not provided -- having not been the one to provide the discovery, being here in Hong Kong, not having access to much of it, and having only my own -- my own speculation and my own limited knowledge. I'm happy to discuss this with you informally off the record in a meeting -- in a meet and confer, but I don't think this is the time to do it.

MR. HOROWITZ: Let me ask you this: Let's just

assume for the sake of theory that there were documents that we don't have, and they exist -- and, I know that you're not

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representing that, that's true -- is there any possible way we could get them between when we break now or some time tomorrow, or is that...?

MR. WANG: If there's any documents that don't -- if there's any documents you don't have, then I know no more about -- I know no more about them than you do.

MR. HOROWITZ: You see, you gave me a new set, a brand new set of documents, and that's what we've scanned and that's what I have here, and that was about a year, year and a half ago. So, that would be the most up-to-date set. So, that would include anything you had and it would include anything I have.

Now, I don't think -- I mean, I have a paralegal, just telling you this, you know, with CJA, and I go through

every page and make a database, and as far as she can tell, she never made an indication of these documents, and I can try to reach her, although I think she's in Brazil or somewhere. Well, I don't know. Ideas? I'm out of ideas.

MR. WANG: I stand by my earlier statement.

MR. MATTHEWS: Is there any way you could check and find out whether documents may have been generated by this contact and let us know that? I mean, I would imagine that your -- I don't know what kind of shape Mr. Baxter's in but maybe there's somebody else you can call?

MR. HOROWITZ: Maybe I -- maybe I can call Brazil;

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I don't care what time it is, I've got her cellphone number, I'll see if I can reach --

MR. WANG: Right now we're on the record in the middle of a witness deposition. I have no follow-up questions and I suggest that, if there's no more questions,

that we release the witness and we'll talk about this -- I'll talk about this with you informally.

MR. MATTHEWS: Why don't we recess very briefly and then maybe you can make your phone call.

MR. WANG: Just to see if there are documents I'm missing; this is why I'm going to make the call. I mean, whether I can reach this person in Brazil and whether she knows. I mean, if there's documents here and I'm making a mountain out of a molehill, I think we'd all like to know. If I can take one minute, with everyone's permission. May I?

MR. MATTHEWS: Sure.

MR. WANG: Off the record.

(Off the record)

MR. WANG: Back on the record.

MR. HOROWITZ: Does somebody want to characterize --

MR. WANG: I have no further questions.

MR. HOROWITZ: And, neither do I.

MR. MATTHEWS: Yeah, I have no further questions, and we've all agreed to release Mr. Lu. We did have an

informal discussion about some possible documents that may or may not have been disclosed to the defence. We have accepted Mr. Wang's representation that he has disclosed everything that he's aware of, and that he's graciously agreed to contact Agent Baxter at the earliest convenient time to follow-up on some of the issues that we thought were necessary to follow-up on given Mr. Lu's testimony that there appeared to be a visit by either Customs Agents or somebody connected with Customs Agents to Feng Lee in Taipei a couple of years ago.

MR. HOROWITZ: We should also add that we're all aware that Agent Baxter went home a couple of days ago feeling quite ill and we're all concerned about him, and it's 10 at night California time right now; we're not going to call him.

MR. MATTHEWS: I guess, at the earliest convenient time, that we'll take some account of his physical condition.

Is that a fair summary of the situation?

MR. WANG: It's a fair summary except for the statement that -- and this is technical -- but, when you say that "Mr. Wang has disclosed", what you really mean is that the United States Government has disclosed, because most the disclosures were made before I was involved with the case, and I think virtually all -- all of this was disclosed before I even joined the office. So, although I did not disclose

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the -- make the disclosure, I did go through it to the best of my ability and make sure that -- that everything that I or Mr -- Agent Baxter were aware of were Bates numbered and disclosed to the defence.

MR. HOROWITZ: All right, and I'll go back and look, and I'll look with an eye for this; I mean, there's only 8,000 pages, maybe I'll find the pages if I looked tonight. We're breaking early, so I guess I know what I'll have to do; I'll look for it. Okay, are we done?

MR. MATTHEWS: We are.

MR. HOROWITZ: All right, thank you everybody.

(2.07 pm)

(Deposition concluded)

(By agreement with counsel, Mr. Wang is
to retain copies of Exhibits 1-7 so produced)