

BETWEEN: Public Prosecutor

AND: Chen You and Yang Da Chao
Defendants

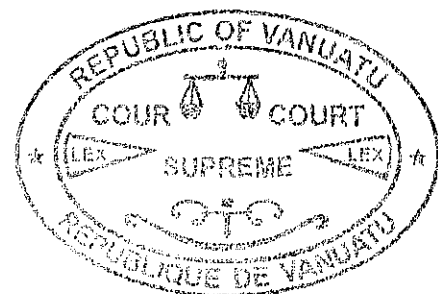
Trial: 8 – 12, 15 – 17, 23 – 26 May 2023
By: Justice Robert Spear
Counsel: Simcha Blessing with Felix Toa for the Public Prosecutor
Stephani Mahuk for Chen You
Nigel Morrison for Yang Da Chao
Verdicts 26 May 2023

VERDICTS

CHEN YOU is found Not Guilty of Counts 1 and 3
YANG DA CHAO is found Not Guilty of Counts 2 and 4

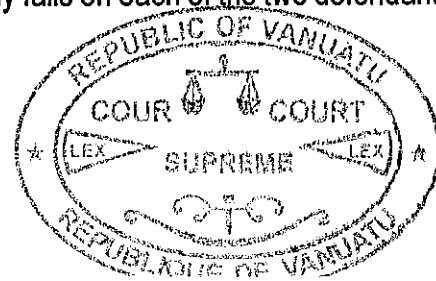
REASONS FOR THE VERDICTS

1. The defendants are captains of two foreign fishing vessels flagged for China and owned by a company of a Mr Li who gave evidence in this case. Captain Chen was the captain of the vessel known as D16 and Captain Yang was the captain of the vessel D13. The defendants are each charged that, as the operators of their respective fishing vessel between 1 December 2020 and 21 January 2021:
 - a. They used their respective vessels for fishing or related activities within Vanuatu waters without a foreign fishing licence and for a purpose not recognised by the provisions of the United Nations Convention on the Law of the Sea - an offence under section 53(1) of the Fisheries Act 2014 (The "Act").
 - i. Captain Chen is charged with that offence under count 1
 - ii. Captain Yang is charged with that offence under count 2.



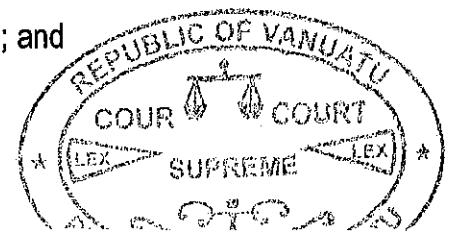
- b. They are also charged that they failed to ensure that all gear on board the vessel was stowed in such a manner that it was not readily available for use for fishing an offence pursuant to section 53(5) of the Act.
- i. Captain Chen is charged for that offence under count 3
 - ii. Captain Yang is charged for that offence under count 4.
2. They have pleaded not guilty to these four charges.
3. There has been substantial evidence given in this case and it has taken the best part of 4 weeks for that evidence to be concluded. Today, I have received the closing addresses of Mr Blessing for the prosecution, Mr Morrison for Captain Yang and Ms Mahuk for Captain Chen. I am grateful to counsel for the care with which Counsel have put those submissions together.
4. I also wish to express my thanks to our interpreter, Ms Constance Wei who has been quite superb. Not only was Ms Wei with the defendants at all times during the trial to ensure that they were able to follow the court proceedings, she was also available to translate any evidence given in Bislama to English and then to Mandarin.
5. I have reached a concluded view on this case and I will explain that in the course of this oral decision. I may need to amplify some of the stated conclusions with reference to the evidence when I come to sign off on the record of this decision. However, the defendants have been on bail in Vanuatu now for over two years and I do not want to delay a delivery of the verdicts while I prepare a written decision.
6. This is a case that requires some considerable analysis of the evidence but, in the end, as with all criminal cases, the obligation remains on the prosecution to prove the essential elements of a charge to the high criminal standard of beyond reasonable doubt before a verdict of guilty can be reached. That means of course that the Court is left sure of guilt.
7. In this case there is a presumption¹ that when any foreign fishing vessel enters Vanuatu waters and fails to report under section 54(1) of the Act in a number of particular respects, it is presumed that all fish on board that vessel has been caught in Vanuatu waters in contravention of the Act. That presumption is, of course, rebuttable. The onus to rebut it naturally falls on each of the two defendants

¹ Section 54(3) Fisheries Act 2014



but to the standard of the balance of probabilities. Accordingly, if the defendants are able to satisfy the Court that it was more probable than not or more likely than not that fish found on board their respective vessels in the circumstances was not caught within Vanuatu waters then the presumption will have been rebutted.

8. There is something of a back story to these matters but effectively the prosecution case is that the two ships - D13 and D16 - entered Vanuatu waters in late December 2020 and remained in those waters through to 21 January 2021 when they were apprehended. The ships were seized and the crew arrested for unlawful fishing. The evidence as to when the vessels arrived in Vanuatu waters is not entirely clear but certainly by mid-January 2021 they had been noticed by villagers from Hiu Island, the northern most island in the Vanuatu archipelago, who had travelled over to the western side of that island and noticed the ships not that far off-shore. Whether it was a 20 meter paddle or 200 meters or 2 miles off Hiu Island is of course beside the point. Vanuatu waters are clearly defined in section 1 of the Act and it means the water of the exclusive economic zone, the territorial sea, the archipelagic waters and the internal waters is defined in the Maritime Zones Act 2010 and any other waters over which Vanuatu claims jurisdiction under international law. The exclusive economic zone of course is contained within a boundary of 200 nautical miles off the base line around the archipelagic area of Vanuatu. That is, indeed, in accordance with the United Nation Convention on the Law of the Sea.
9. At the commencement of this case, a number of admissions were made for the defendants. The two captains formally admitted through their counsel:
 - a. That Captain Chen was the operator of D16 and Captain Yang 13 was the operator of D13. The term "*operator*" is defined in s. 1 of the Act to mean, "... *any person who is in charge of or who directs or controls a vessel, and includes the master, owner and charterer*";
 - b. That they did not have a foreign fishing licence when the vessels entered Vanuatu waters;
 - c. That they did not report as required under section 54 of the Act when they entered Vanuatu waters;
 - d. They admit that when approached by the Police Maritime Wing officers, on board the vessel *Tukoro* on 21 January 2021, they were within Vanuatu waters; and

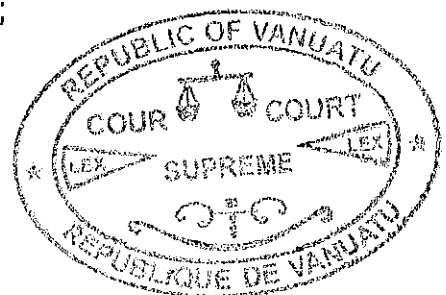


e. That, for the purposes of charges 1 and 2, no activity was undertaken by them which amounted to a purpose permitted by the United Nation Convention on the Law of the Sea nor pursuant to an access agreement or licence issued under the act.

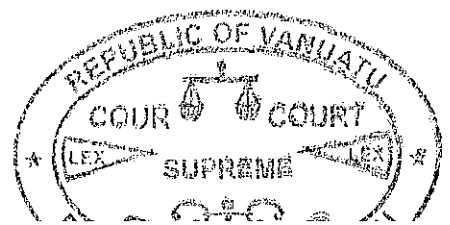
10. This case comes down primarily to an assessment of the evidence as to when it is proven that the vessels entered Vanuatu waters, how long were they here for, and whether any fishing was undertaken on either vessels while they were in Vanuatu waters. Also, whether all fishing gear on board had been stowed so as not be readily available for fishing when in Vanuatu waters. There is an issue that has been raised by Mr Morrison in that latter respect that I will return to in due course.

11. I mentioned that there is a back story to these matters and that is because the company that owns these two vessels had been in direct negotiations and discussions with the Minister of Agriculture, Livestock, Forestry, Fisheries and Biosecurity well before the vessels set sail from China for Vanuatu. Mr Li Qitu, is the owner of the Chinese fishing company that owns the two vessels. Mr Li also registered a business in Vanuatu to be known as *Mega East Ocean Fishing* and that was apparently for a fishing fish processing business licence. That followed a visit by Mr Li to Vanuatu to discuss matters of mutual interest with Government officials and it is abundantly clear that Mr Li had was prepared to make a significant investment in Vanuatu to develop a fishing and fish processing business. This indeed was not only covered by a letter sent to him on the 17th of May 2019 by the relevant Minister but there was also a formal and detailed Memorandum of Understanding entered into and bearing date the 24th of May 2019. That MOU between the Republic of Vanuatu and Mega East Ocean Fishing (noted to have been incorporated in Vanuatu on 22 May 2019) related to a joint venture that would deal with the following:

- Coastal fisheries in partnership with coastal communities;
- Tuna fisheries in partnership with Vanuatu Government;
- The supply of 20 fishing vessels to fish in Vanuatu waters;
- The construction of a slipway at Palekula in partnership with the Government;
- An aqua business development;
- Farming or purchase process and export of sea cucumber;
- Fish processing plant in Vanuatu; and
- The export of processed sea food.



12. Clearly, this was a joint venture that was seen as highly attractive to Vanuatu as it was obviously highly attractive to Mega East Ocean Fishing, the Vanuatu company registered by Mr Li. What followed was a reference to Mr Li by the Minister to a former Director of Fisheries to act as the agent in Vanuatu for Mega East Ocean Fishing. That was a Mr Kalo Pakoa who gave evidence in this case. It appears that Mr Kalo prepared his own statement which was read out to the Court. It acknowledged that he was currently working as an advisor to the Minister of Agriculture, Livestock, Forestry, Fisheries and Biosecurity. He was the Director of the Department of Fisheries from 2015 to the end of January 2019 and before that he was at the Secretariat of the Pacific Community in Noumea providing advice to regional governments in relation to coastal fisheries management. He stated that he holds post graduate qualifications that relating to marine studies and environmental studies.
13. Mr Pakoa states that he left the Public Service in January 2019 and established a consultancy service called Blue Coast Enterprises Limited which was registered on 30th September 2019 as a business in Vanuatu with Mr Pakoa being the sole director. Clearly, Mr Pakoa was a person whom the Minister obviously and justifiably felt would be an appropriate person to be the local agent for Mega East Ocean Fishing to ensure that this joint venture proceeded. Unfortunately, the relationship between Mr Pakoa and Mr Li in China and Mr Pakoa broke down for reasons not clear. There appeared to be two explanations to the cause of the breakdown. One from Mr Pakoa and the other from Mr Li. This is a side issue and as such it was not necessary for it to be explored in any great detail. However, as best as I understood it, Mr Pakoa stated that he stopped working for Mega East Ocean Fishing because he wasn't being paid. Whereas, Mr Li's evidence was to the effect that he was relying on Mr Pakoa to obtain the foreign fishing licences, he had paid Mr Pako \$2000 (I assume US dollars) at his request to further that exercise, and Mr Li stated that he thought that his business had a local agent who could be trusted to work for Mr Li's business in Vanuatu towards obtaining the relevant foreign fishing licences. Furthermore, that Mr Li had received written confirmation from the Minister that the Republic would provide support for Mr Li's company to ensure that the joint venture was able to proceed without difficulty.
14. Mr Li explained that his company in China owned eight fishing vessels at that time. These are large fishing vessels, quite new, built in about 2018 and about 45 meters in length. They each operate with a crew of 5. Mr Li explained that five of his vessels had been sent for fishing in Africa and three of the vessels were sent to Vanuatu. Even though the fishing licences had not been obtained, Mr Li indicated that he had received an assurance, either from the Minister or Mr Pakoa (the evidence was not clear



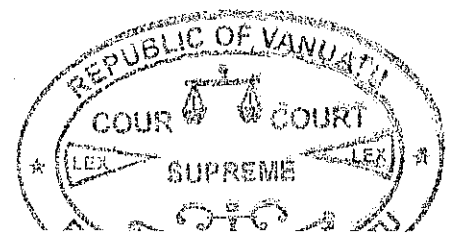
on that point), that the fishing licences would be available by the time the vessels reached Vanuatu waters.

15. So, the vessels D13, D16 and another vessel D17 were provisioned, and they set sail for Vanuatu in late November 2020. The three vessels encountered a severe storm off the coast of the Philippines and tragically D17 sunk. Fortunately, the crew escaped and were picked up from their life-boat by D13 supported by D16. The five crew members from D17 were then eventually shared between the two vessels who carried on towards Vanuatu.
16. Mr Li explained that his repeated efforts to contact Mr Pakoa as the ships approached Vanuatu were unsuccessful. That indeed was confirmed by Mr Pakoa who claimed that he decided that he didn't want to be Mr Li's agent but without actually telling Mr Li. This was apparently because there had been some difficulty he thought with payments of his fees. And so, a somewhat untidy situation arose whereby the ships were on their way to Vanuatu, provisioned and crewed for fishing and also carrying supplies that would be used for the fish processing plant that was to be built as part of the joint venture. The situation was untidy as that they did not have foreign fishing licences and the attempts by Mr Li to contact Mr Pakoa were quiet unsuccessful because Mr Pakoa was not responding to those inquiries even though he acknowledged receiving them. That was indeed quite unfortunate and it put Mr Li and his company in a most difficult situation.
17. Additionally, and about the time that the two vessels were approaching Vanuatu waters in December 2020, the Covid 19 virus epidemic was starting to make its presence felt around the world, including in Vanuatu. Mr Li's evidence is that the two skippers, the two defendants, were instructed to get close to Vanuatu waters but not to enter Vanuatu waters without further instructions. They had originally been making for Luganville on the island of Espiritu Santo. They did not, however, have enough fuel to return to China and the Covid 19 issue meant that they were serious difficulties for them if they attempted to enter any port.
18. So that is the untidy situation that developed. Indeed, both defendants acknowledged in the course of their evidence that they had been directed by the owner to stay at a particular place, a location, that had been advised to them by Mr Li or somebody from his company, and to drift and wait until further instructions but that they were not to enter Vanuatu waters and they were not to fish.
19. Part of the provisions that they carried was a large quantity of bait fish that was stored in white plastic trays, frozen and kept in freezers on the two ships. The evidence for the defence was that these bait

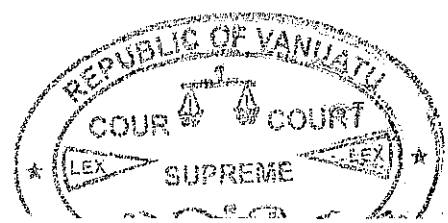


fish supplies had been purchased in China and were not only for bait but also for consumption by the crew.

20. The issue and real dispute in this case is whether was there any fishing activity undertaken by either of these vessels within Vanuatu waters.
21. The prosecution evidence included evidence of the tracking of the two fishing vessels. The expert in this area who gave evidence was a Mr Jino Suaki who is a vessel and monitoring surveillance officer of the Vanuatu Fishing Department. He explained that his background was initially as an observer on the United States fishing vessels out of American Samoa, that he had received training and had considerable experience of surveillance and tracing devices and indeed has work involved the tracking vessels on a daily basis. He said that he had tracked thousands of vessels since 2014 and received training on specialised equipment for surveillance and tracking both here and overseas. T
22. Mr Suaki said that on 30th December 2020, a Mr Richard Colman the CEO of Vanuatu Maritime College contacted him and asked him to locate a Chinese fishing vessel (D13) believed to in northern Vanuatu waters. There was no objection to the hearsay evidence from Mr Suaki in that respect. Mr Coleman was not called and so there was no evidence as to what may have prompted that contact with Mr Suaki.
23. What is relevant and material here is that Mr Suaki was starting to become interested in one of the two fishing vessels around 30 December 2020.
24. He explained that there are two main surveillance systems, one called AIS (Automatic Identification System) and the other VMS (Vessel Monitoring System).
25. The AIS system uses a satellite system designed to provide the location and the bearing of other vessels in a particular area. It appears to be used primarily to make sure that vessels do not collide with each other. The AIS system can be turned on and off manually by those on the ship.
26. This is in contrast of what is called the VMS system that enables authorities to track a vessel. A transponder on the vessel connects to two satellites and enables AIS monitoring systems to identify the location of a particular vessel. Mr Suaki said that it was a very reliable system, the data was encrypted so that it could not be manipulated and that the VMS transponder could not be turned off.



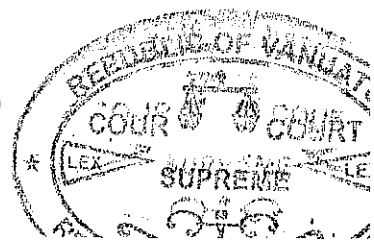
27. Mr Suaki dealt primarily by D13 although he did appear to have become aware of D16 in the early stages. He was able to say that D13 could be observed by AIS tracks alone on its passage from China to Vanuatu and once it arrived in Vanuatu waters it never left. He referred to exhibit OPPEE which is the AIS track plotter which was taken from the bridge of D16 which showed that D13 came close to the Torres Islands in Vanuatu waters and then, after it was apprehended, it progressed first to the port at Luganville on Santo and finally to Port Vila.
28. What Mr Suaki's evidence establishes quite emphatically is that once both vessels entered Vanuatu waters, they never left. That is the clear evidence of Mr Suaki and I accept his evidence.
29. The possibility that the vessels left Vanuatu waters at some stage is not established. What will be of credible importance here is the date that they arrived in Vanuatu waters and in that respect Mr Suaki fairly acknowledged that the tracking showed the passage of the vessels only from the 18th of January 2021.
30. The best evidence, to use that old and now out-dated expression, in relation to the vessels is that they can be taken to have been in Vanuatu waters from the 18th of January. The villagers from Hiu Island confirmed, however, that they were there before that date. This is relevant because part of the prosecution case is the CCTV footage taken from D16 and D13 shows fishing activity on board the ships and that footage is date stamped.
31. In relation to D13 there is video footage dates stamped 31 December 2020 showing a crew member fishing off the stern of the vessel D13 using a hand-held line.
32. In relation to D16 there is a log that has been produced relating to the events identified on the CCTV cameras on board that vessel. It records the date that crew members are captured fishing off the stern of D16 being the 14th and 15th of January 2021. Again, that is fishing using a hand-held line. In one case a small gill net was deployed.
33. The issue raised by the defence questions whether the fishing activity undertaken by crew members was at the time that the vessels were in Vanuatu waters. It is in this area that I consider there is some doubt. I am highly suspicious to the point where I consider it probable that the fishing activity identified and shown in the CCTV footage occurred while these vessels were in Vanuatu waters but I cannot



say that I am brought to the point where I am sure of that, which is the conclusion that is required. It is a point that has been taken by the defence and it is one that I need to address.

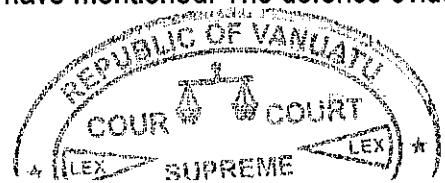
34. I should mention that a crew member fishing off the stern of the vessel, using either a hand-held line or even a gill-net, is “fishing” for the purposes of charges 1 and 2 as this activity is defined in Section 1 of the Act. That indeed, has been made abundantly clear by the Court of Appeal². Any fishing activity, any attempt to catch a fish is caught by that definition. The issue is whether the fishing identified on the CCTV footage is proven to have been undertaken in Vanuatu waters and, in that respect, I do not consider that the evidence establishes that to the high point of proof beyond reasonable doubt. As I have said, I think it probable that this happened in Vanuatu waters but I cannot say that I am sure that it happened in Vanuatu waters.
35. The two ship’s captains stated that that they were never in Vanuatu waters until, obviously, they were apprehended on 21 January 2021, as they have admitted. They were asked repeatedly what did they understand to be “Vanuatu waters” and they adopted a common approach, evading the question, by simply responding that they were told by the company to go to a particular location and to stay there allowing for drift. I don’t believe their evidence at all. I don’t believe them when they say that there was no fishing off the back of the boat that they knew about. In any event, pursuant to section 145 of the Act, they are criminally liable for any offence committed by any crew member from their vessel. I do not believe them when they say that they did not enter Vanuatu waters until about the time that they were apprehended. The evidence from the Hiu Islanders has them close to Hiu Island by mid-January 2021. The two defendants were experienced skippers of two large fishing trawlers. They would have known exactly where they were at any time. They would have known whether or not they were in Vanuatu waters. They had charts of Northern Vanuatu waters and they had their GPS systems.
36. But it comes down again to the question of proof - is the fishing depicted in the CCTV footage proven to the requisite standard to have happened in Vanuatu waters?
37. Beside the evidence of Mr Suaki and the inquiry that he received from Mr Coleman, I note that the next reference to the vessels appears to be from the evidence of Mr Naviti, then the Director of Fisheries. He stated that he first became aware of the vessels by way of an email from Mr Suaki dated 4 January 2021. However, there was no evidence as to exactly where the vessels were at that time. Certainly, Mr Suaki does not assist in that respect. He stated that he was asked to look for D13

² Public Prosecutor v Chen You [2022] VUCA; Criminal Appeal Case 2088 of 2022 (18 November 2022)



on 30 December 2020. He then proceeds to explain GPS tracking systems placed the vessels but his evidence is silent on a location prior to 18 January 2021. I expect that this was an oversight on the part of the prosecution not to have this clarified. This would have been evidence of critical importance to the prosecution.

38. The prosecution was then left with the evidence of the two Hiu Islanders that gave evidence. They do not provide sufficient proof that the vessels were in Vanuatu waters when the crew were recorded fishing off the stern of the vessels.
39. Mr Fedson Julien said that he saw the vessels off Hiu Island on 10 January 2021 but then accepted that he couldn't remember the day of the week. The impression that I was left with was that Mr Fedson was not entirely sure about the date that he stated that he saw the vessels. He also stated that he reported the sightings to the Police which, if corroborated, would most certainly have provided greater clarity on this issue as to the date of sighting. Given that the CCTV footage has the crew members fishing on 10 and 14 January 2021, a few days' mistake either way on the part of Mr Fedson about the date that he went fishing on the West Coast of Hiu must put the accuracy of his evidence as to date into question. Again, if there was a record of his call to the police, that would have lifted the reliability of his evidence significantly. Corporal Joe Meto was the local police officer for the Torba Province at the time but all he could say is that the first that he heard about the vessels was from a call that he received from Mr Naviti sometime in January asking him to confirm that there were two Chinese fishing vessels off Hiu Island. Corporal Meto left the next day and sighted the ships – that was on 19 January 2021. It accordingly seems probable that Mr Fedson did not see the vessels nor contact the police until later than 10 January 2023.
40. Ms Marita Richard said that she went to the West side of Hiu Island on 17 January 2021 and saw the two vessels. That, of course, is after the dates on which the CCTV footage showed crew fishing off the stern of the boat.
41. Accordingly, I do not consider that the evidence is sufficient for me to be sure that the fishing by crew members using hand-held lines off the stern of the vessels, or using the gill net, was at a time when the vessels were in Vanuatu waters. I consider that this was probably so but that is not sufficient to amount to proof beyond reasonable doubt.
42. I now turn to the fish that was found stored in white plastic trays in the freezers of the two ships. It is in this respect that of course there is the presumption that I have mentioned. The defence evidence,



not just from the two ship's captains, is that this was bait fish purchased in China and not caught in Vanuatu waters. Mr Li, the owner of the vessels, explained the transaction that resulted in the bait fish supplies being purchased, paid for and delivered to the vessels. This was confirmed by his company accountant and with reference to the records of that transaction. Additionally, another Mr Li stated that he was the supplier of the bait fish. WE also heard from the man with the truck in China who delivered the bait fish to D13, D16 and D 17 on the day before they set sail for Vanuatu.

43. The evidence provided by the defence in this respect was compelling. The oral evidence was supported by documentary proof of the transaction whereby Mr Li's company purchased some 1200kg of bait fish from the other Mr Li for an amount of RMB 3,900. The financial transactions involved were documented and presented as evidence in this case.
44. The prosecution argument was that the presumption had not been rebutted. Reference was made by Mr Blessing to the evidence of Ms Sokach who is a well-qualified and experienced marine biologist. Mr Blessing summarised her evidence as casting doubt on this bait fish supply having been purchased in China. Ms Sokach's evidence was to the effect that the various species of bait fish found on the vessels were fish that would be found in tropical waters and not the temperate waters around China. However, Ms Sokach did not assert that the bait fish supplies were of fish species that could only have been caught in Vanuatu waters. While she was familiar with most types of various species within the bait fish, the highest point that her evidence reached was that they were likely to have been caught in tropical waters. Of course, that does not necessarily exclude the possibility that the fish supplied in China had been caught in tropical waters and bought into the market. It was all frozen when the vessels were apprehended on 21 January 2021.
45. There were a number of fisheries officers, who had worked on various fishing vessels as observers, and they gave evidence that bait fish is generally packaged not in white plastic trays such as this but in some other form. Again, their evidence has to be considered as evidence of their experience, and I accept it, but cannot be taken as conclusive evidence that bait fish purchased and supplied in this part of China was never supplied in white plastic trays.
46. Mr Blessing submitted that I should view the evidence as to the bait fish origins from the defence witnesses with suspicion and reject it as unreliable. However, Mr Blessing was unable to point to any inconsistency with that evidence to support that submission. Indeed, given that no commercial catch was found on board either vessel when apprehended and the explanation that the frozen bait fish had



been purchased and supplied in China, it is surprising that this extensive joint investigation by Police and Fisheries did not think to make inquiries about the origins of the bait fish.

47. I was, indeed, impressed with that evidence about the origins of the bait fish. I accept without hesitation the evidence of the two Mr Li's, the accountant and indeed the truck driver who delivered the bait fish. I find not just that it was probable but clearly and emphatically proven that the bait fish was supplied in plastic trays to the three fishing vessels destined for Vanuatu. The delivery was on the 27th of November 2020 and the ships departed on the 28th of November 2020.
48. I consider that the presumption has been fairly and squarely rebutted.
49. I find that the case for the prosecution on counts 1 and 2 cannot succeed as neither charge has been proven beyond reasonable doubt. **Captain Chen is not guilty on count 1 and Captain Yang is not guilty on count 2.**
50. I turn now to charges 3 and 4. This is for the offence that, as the operators of foreign fishing vessels in Vanuatu waters without a foreign fishing licence, the defendants failed to ensure that all gear on board the vessels were stowed in manner that it was not readily available for use for fishing. Again this offence has to be considered within the same enquiry about where the fishing off the stern of the boats occurred, has it been proven to have happened in Vanuatu waters. Fishing gear is defined in the Act as meaning "*any equipment implement or other thing that can be used in the act of fishing and includes any fishing net robe, line, float, trap, hook, winch or associated boat or aircraft*" - about as wider definition as could be devised.
51. Without question, if the vessels were in Vanuatu waters and crew members were fishing off the stern of the vessels, even with hand-held lines or a gill net, that would qualify as meeting the offence under Section 53(5) of the Act. However, as I have already stated, I have not been taken to the point where I am left sure that the fishing observed and taken from the CCTV footage was in Vanuatu waters.
52. There is also no evidence that, when the boats were apprehended in Vanuatu waters on 21 January 2021, there was any fishing gear not stored away with the exception of a large net that was said to have been found by fisheries officers in a deep fishing well on one of the ships. I am not sure how accessible that net was, or how readily accessible or available it might have been when stored in this way. However, gear has to be stowed somewhere and one would have thought when a boat is not fishing that a fishing well might well be an appropriate place for a net to be stowed during transit.



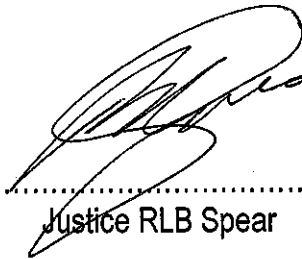
There is no evidence to the contrary. There was evidence that the net was to be used as a waste net to be cut up for other tasks rather than fishing. However, it is still a net that could have been used for fishing and if it wasn't stowed in a manner such that it was not readily available for use then that offence would have been committed. However, I find that it has not been proven beyond reasonable doubt that that net was not stowed in such a manner. It expect that this offence is designed to deal with fishing equipment, fishing gear, perhaps on deck and perhaps connected to some of the winches and such like.

53. So, in that respect I also find Captain Chen not guilty of count 3 and Captain Yang not guilty of count 4.

54. That brings this case to an end. The defendants are discharged.

Dated at Port Vila this 26th day of May 2023

BY THE COURT


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Justice RLB Spear

