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<p>1 Tuesday, 19 February 2013 2 (10.00 am) 3 MR CHOW CHI-WAI (on former affirmation in Punt) 4 (All answers via interpreter unless otherwise indicated) 5 THE CHAIRMAN: Mr Chow, may I remind you that you continue 6 to testify according to the affirmation you took at the 7 outset. Do you understand? 8 A. I understand. 9 THE CHAIRMAN: Yes, Mr Grossman. 10 Examination by MR GROSSMAN (continued) 11 MR GROSSMAN: Thank you, Mr Chairman. 12 Mr Chow, yesterday afternoon we were going through 13 your statement and I think we'd reached paragraph 52, 14 where you were about to describe the collision itself. 15 A. Yes. 16 Q. You say in paragraph 52 -- and this continues from 17 yesterday: 18 "Lamma IV was now turning quickly to starboard and 19 a few seconds later I could see No. 98 beacon through 20 the port side outboard window of the wheelhouse front 21 but also the green sidelight of Sea Smooth." 22 A. Yes. 23 Q. "This indicated to me that she was turning to port. 24 I gave a quick flick of the searchlight switch but 25 didn't have time to check the direction it was</p>	<p>1 it in any of the photographs that follow? Take your 2 time to have a look through them. Choose the one that 3 best illustrates the position. 4 Could I ask that you be given the physical bundle so 5 that you can do your own flicking through. 6 MR GROSSMAN: I think he has it. 7 A. Photo 3. 8 THE CHAIRMAN: And whereabouts on photograph 3 is this 9 switch that you flicked? 10 THE INTERPRETER: Witness is pointing at the button on the 11 left-hand side of the right button, on the right-hand 12 side of the dashboard. 13 THE CHAIRMAN: You told us yesterday where the whistle 14 button is. That's on the lower line at the right-hand 15 side, where the cursor is now. That's the whistle, is 16 it not? 17 A. Yes, correct. 18 THE CHAIRMAN: So is it on that bottom row of buttons and 19 switches, the searchlight switch? 20 A. Yes, it is on the lowest row. 21 THE CHAIRMAN: Using the horn perhaps -- the whistle, 22 I should say -- the whistle button as a reference point, 23 how many buttons to the left is the switch for the 24 searchlight? 25 A. The first one.</p>
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<p>1 pointing." 2 A. Correct. 3 Q. "The quick flash was intended to indicate that we were 4 turning to starboard. Sea Smooth was now about 5 200 metres off." 6 A. Yes, correct. 7 Q. "I was now very nervous and don't have a clear 8 recollection of my next actions." 9 A. Yes, correct. 10 THE CHAIRMAN: Before we move on, could you help us as to 11 what switch it was that you flicked for this 12 searchlight? If you have a look at the marine 13 photographs, bundle 1, the wheelhouse is depicted -- 14 first of all there's a sketch at page 139 and then there 15 are photographs that follow, to which the legend in the 16 sketch refer. 17 A. (Chinese spoken). 18 THE CHAIRMAN: Perhaps you could start to help us by telling 19 us where it was. Was it in front of you or above you, 20 the switch? 21 A. It was in the front, in front of me on the right-hand 22 side. And it was at number 4. 23 THE CHAIRMAN: Photograph 4? 24 A. It is on page 139 at location 4. Correct. 25 THE CHAIRMAN: Translating that to a photograph, do you see</p>	<p>1 THE CHAIRMAN: So it's right next to the horn? The whistle, 2 I should say -- the whistle? 3 A. No. That one is the button for starting the key, the 4 engine. 5 THE CHAIRMAN: Try again, at least for my benefit. By 6 reference to the whistle button, how many to the left 7 is it? 8 A. The first one on the right. 9 THE CHAIRMAN: You try, Mr Grossman. 10 MR GROSSMAN: I'll try. 11 A. The one on the right-most is the horn, is the button for 12 the horn. 13 THE CHAIRMAN: Yes. Right. Is it the one next to the 14 button for the horn? 15 A. The one next to the horn button is the button for the 16 key. 17 THE CHAIRMAN: Yes. Right. So where is the light? That's 18 what we're looking for, the searchlight. 19 A. The button for the light is on the row one row up, the 20 second one counting from the right. 21 THE CHAIRMAN: Right. So the row up from the bottom row has 22 an orange-coloured button or switch on the right-hand 23 side. Have we got the right row? 24 A. Yes. The first one next to the orange button. 25 THE CHAIRMAN: Right. Where the pointer is now?</p>

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<p>1 A. Yes, correct.</p> <p>2 THE CHAIRMAN: How do you operate that? What do you do</p> <p>3 to it?</p> <p>4 A. When I pull it up, the light will be on.</p> <p>5 THE CHAIRMAN: So it's a button that you raise from the</p> <p>6 console itself; is that it?</p> <p>7 A. Yes, correct.</p> <p>8 THE CHAIRMAN: And when you release it, does it fall back,</p> <p>9 or do you have to push it back?</p> <p>10 A. No, I have to use my hand to push it back, push it down.</p> <p>11 THE CHAIRMAN: Is that what you did?</p> <p>12 A. Yes, I did.</p> <p>13 THE CHAIRMAN: And where is the searchlight that is operated</p> <p>14 by the procedure you've just described? Where is it</p> <p>15 located?</p> <p>16 A. The button that I mentioned just now, the searchlight</p> <p>17 was above my head.</p> <p>18 THE CHAIRMAN: That is on top of the wheelhouse, outside the</p> <p>19 wheelhouse?</p> <p>20 A. There is a searchlight outside the wheelhouse.</p> <p>21 THE CHAIRMAN: Is it on top of the wheelhouse?</p> <p>22 A. Yes, correct.</p> <p>23 THE CHAIRMAN: Is there a directional lever that can be</p> <p>24 operated from the roof of the wheelhouse that changes</p> <p>25 the direction that the searchlight shines in?</p>	<p>1 upwards.</p> <p>2 THE CHAIRMAN: What do you mean by "upwards"?</p> <p>3 A. The glass surface of the light was pointing upwards.</p> <p>4 THE CHAIRMAN: By that do you mean vertically to the</p> <p>5 horizontal of the boat as it was going along the sea?</p> <p>6 A. Yes, correct.</p> <p>7 THE CHAIRMAN: Vertical rather than forward?</p> <p>8 A. It is vertical and forward.</p> <p>9 THE CHAIRMAN: Well, did you see any beam of light emanating</p> <p>10 from the searchlight after you manipulated the button</p> <p>11 for the searchlight?</p> <p>12 A. I didn't pay attention to that.</p> <p>13 THE CHAIRMAN: Thank you.</p> <p>14 Yes, Mr Grossman.</p> <p>15 MR GROSSMAN: Thank you, Mr Chairman.</p> <p>16 Just to remind you, in paragraph 52 you say:</p> <p>17 "I gave a quick flick of the searchlight switch but</p> <p>18 didn't have time to check the direction it was</p> <p>19 pointing."</p> <p>20 A. That's correct.</p> <p>21 Q. Then just to repeat the last sentence I think I asked</p> <p>22 you:</p> <p>23 "I was now very nervous and don't have a clear</p> <p>24 recollection of my next actions."</p> <p>25 A. That's correct.</p>
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<p>1 A. It is inside the wheelhouse, above my head and on the</p> <p>2 left-hand side.</p> <p>3 THE CHAIRMAN: Can you see that depicted in any of the</p> <p>4 photographs?</p> <p>5 A. Yes.</p> <p>6 THE CHAIRMAN: Could you tell us which photograph you're</p> <p>7 looking at?</p> <p>8 A. Photo 2.</p> <p>9 THE CHAIRMAN: Is that the toggle that has a cable running</p> <p>10 next to it, a grey cable going up towards the roof?</p> <p>11 A. Yes, the toggle that the cursor is pointing at.</p> <p>12 THE CHAIRMAN: Thank you. And is the direction of the</p> <p>13 searchlight changed by moving the position of the toggle</p> <p>14 left to right, right to left?</p> <p>15 A. That's correct.</p> <p>16 THE CHAIRMAN: When you flicked the switch of the</p> <p>17 searchlight, did you do anything with this toggle or</p> <p>18 not?</p> <p>19 A. I had no hands to do it, because my hands had to operate</p> <p>20 the joystick of the lever.</p> <p>21 THE CHAIRMAN: So is the answer that you didn't touch it?</p> <p>22 A. Yes, correct.</p> <p>23 THE CHAIRMAN: Did you notice in which direction it was</p> <p>24 pointed by relation to the angle of the toggle?</p> <p>25 A. By reference to this position, the light was pointing</p>	<p>1 Q. "I believe I next put the engine controls forward and</p> <p>2 increased engine speed to about 1,300-1,400 rpm to</p> <p>3 increase the rate of turn to starboard but then it</p> <p>4 seemed a collision was unavoidable so I stopped</p> <p>5 Lamma IV's engines in order to reduce the impact."</p> <p>6 A. That's correct.</p> <p>7 Q. What was the purpose of increasing the engine speed?</p> <p>8 A. To increase the water that goes to the propeller, in</p> <p>9 order to add weight to the rudder so that the vessel</p> <p>10 could turn to the starboard side.</p> <p>11 Q. Was this in the hope you might avoid the collision?</p> <p>12 A. That's correct.</p> <p>13 Q. Then you go on to say:</p> <p>14 "The port bow of Sea Smooth struck the port aft of</p> <p>15 Lamma IV. There was a loud bang and the vessel rocked."</p> <p>16 A. That's correct.</p> <p>17 Q. "I have no clear recollection but estimate that it was</p> <p>18 about a minute from the time I first saw the yellow</p> <p>19 flashing light of Sea Smooth until the collision."</p> <p>20 A. That's correct.</p> <p>21 Q. "My heading was about 050 degrees to 060 degrees when we</p> <p>22 were hit and we were stopped in the water. I could see</p> <p>23 the light on No. 98 beacon out on our port bow."</p> <p>24 A. Yes, correct.</p> <p>25 Q. "My last recollection was of the helm being hard to</p>

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<p>1 starboard to the utmost right, and the engine controls 2 brought down to neutral." 3 A. Yes, correct. 4 Q. Then you go on to say: 5 "I recall looking at my watch and seeing that the 6 time was nearly 8.20 pm." 7 A. That's correct. 8 Q. "It was obvious that the collision was very serious and 9 I immediately sent PS Leung and TY Leung to check the 10 damage while I used my mobile phone to call the police 11 on 999." 12 A. Yes, correct. 13 Q. Can I ask you this. Were PS Leung and TY Leung in the 14 wheelhouse at this moment when the collision occurred? 15 A. Leung Pui-sang was in the wheelhouse, and Leung Tai-yau 16 was at the back of the wheelhouse. 17 Q. Then you go on to say: 18 "When the police answered I told them that we had 19 been hit by another vessel near Yung Shue Wan and 20 requested rescue services." 21 A. Yes, correct. 22 Q. "I knew in fact that the collision had happened near Nga 23 Kau Wan but I was concerned that the police would not 24 know where that was and so I told them we were near Yung 25 Shue Wan because this is a ferry port and should have</p>	<p>1 Q. "I had no time to make any record in the log book as to 2 what had happened or the exact position of the 3 collision. By now I was only concerned about the safety 4 of the passengers and I yelled out to them to put their 5 life jackets on." 6 A. Correct. 7 Q. "Lamma IV very quickly began to tilt by the stern and 8 I estimate it was less than 30 seconds after the 9 collision when the generator stopped." 10 A. Yes, correct. 11 Q. "Seconds later the battery power failed and all the 12 lights went out." 13 A. Yes, correct. 14 Q. "Passengers were screaming and I tried to shout above 15 them telling them to put on their life jackets." 16 A. Yes, correct. 17 Q. "After about another 30 seconds the deck was angled 18 about 45-50 degrees and from my position at the 19 wheelhouse door I saw the first seats begin to tumble 20 back towards the stern and passengers falling with them 21 into the water that had now started to flood into the 22 upper passenger deck." 23 A. Yes, correct. 24 Q. "Lamma IV was sinking quickly by the stern. There was 25 no list to either port or starboard."</p>
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<p>1 been well known to the police." 2 A. Yes, correct. 3 Q. "I was asked by the officer on the phone whether any 4 persons were injured and so I rushed out through the 5 upper deck saloon and onto the sun deck to check." 6 A. Yes, correct. 7 Q. "I saw injured people lying on the floor and told the 8 police." 9 A. Yes, correct. 10 Q. When you saw -- I'll ask you this. When you saw the 11 injured people, was this on the upper deck saloon or the 12 sun deck, or both? 13 A. On the sun deck on the upper deck. 14 Q. "I looked out to the port side for the other ship but 15 couldn't see her." 16 A. Yes, correct. 17 Q. "I then rushed back into the wheelhouse and called 18 Lamma II on the trunk radio handset to ask them to come 19 and help." 20 A. Yes, correct. 21 Q. "By now I could hear PS Leung shouting from the main 22 deck passenger saloon that water was flooding into the 23 engine room so I shouted back for life jackets to be 24 distributed quickly to the passengers." 25 A. Yes, correct.</p>	<p>1 A. Yes, correct. 2 Q. "Seconds later Lamma IV had reached an angle nearly 3 vertical with the bow pointing towards the sky." 4 A. Yes, correct. 5 Q. "I couldn't hold on to my position at the wheelhouse 6 door any longer and fell down into the upper passenger 7 saloon and into the water that had now reached the 8 stairwell to the main deck passenger saloon." 9 A. Yes, correct. 10 Q. "As I tried to grab the stairwell rails I felt 11 excruciating pain in my right arm and realised my elbow 12 had dislocated." 13 A. Yes, correct. 14 Q. "I felt as though I had also broken some ribs." 15 A. Yes, correct. 16 Q. "I realised I had lost my mobile phone in the fall and 17 called out to ask if anybody had a mobile phone I could 18 use." 19 A. Yes, correct. 20 Q. "A lady passenger handed me her phone and I again 21 dialled 999." 22 A. Yes, correct. 23 Q. "I was in such pain I don't recall exactly what I said 24 to the police on this occasion but think I asked them to 25 confirm that help was coming."</p>

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<p>1 A. Yes, correct. 2 Q. "With the vessel now vertical I held on to the railings 3 around the stairs leading down to the main deck 4 passenger saloon using my left arm and tried to calm the 5 passengers." 6 A. Yes, correct. 7 Q. "They were calling to me telling me to call the police 8 but I told them I had and that rescuers were coming." 9 A. Yes, correct. 10 Q. "In the darkness I couldn't tell how many passengers 11 were around me but I called out to tell those near the 12 windows to look out for rescue boats and to bang on the 13 windows to attract their attention when they arrived." 14 A. Yes, correct. 15 Q. "The water level appeared to stabilise at about the 16 fourth window from the front of the upper passenger deck 17 saloon." 18 A. Yes, correct. 19 Q. "It was about 8.40 pm when the first inflatable boat 20 from the fire department arrived and a few moments later 21 I heard windows being smashed in the main deck." 22 A. Yes, correct. 23 Q. "The water level then began to rise again and I called 24 out to the passengers to move and look away from the 25 windows because the rescue services were now breaking</p>	<p>1 A. Yes, correct. 2 Q. "I waited until the four passengers had been helped out 3 by the fire officers and after calling out to ensure 4 there were no more passengers inside I too was helped 5 out through the window." 6 A. Yes, correct. 7 Q. "I stood on the superstructure front of Lamma IV and the 8 fire officers wanted me to get into their craft but 9 I could still see people in the water around the vessel 10 so refused to leave until I was told that all passengers 11 had been rescued." 12 A. Yes, correct. 13 Q. "I could see PS Leung helping people climb into a life 14 raft, which I assumed was from Lamma IV and had 15 automatically released and inflated as the stern of the 16 vessel sank." 17 A. Yes, correct. 18 Q. "Other passengers were being pulled into fire and police 19 launches until about 9.10-9.15 pm when I could see no 20 more persons in the water." 21 A. Yes, correct. 22 Q. "I then accepted assistance from the fire officers who 23 transferred me to a police launch and transferred to 24 Yung Shue Wan." 25 A. Yes, correct.</p>
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<p>1 windows to get people out." 2 A. Yes, correct. 3 Q. "A fire officer then broke a window on the port side of 4 the upper passenger saloon near the waterline and water 5 flooded in again raising the level of water inside." 6 A. Yes, correct. 7 Q. "I called to the passengers to wait until the water 8 level had stabilised again and then swim out." 9 A. Yes, correct. 10 Q. "Windows were then broken on the starboard side by the 11 fire service and passengers began swimming out from that 12 side." 13 A. Yes, correct. 14 Q. "Each time windows were broken the water level rose 15 again until it had reached the wheelhouse." 16 A. Yes, correct. 17 Q. "The last survivors in the upper passenger saloon were 18 myself, three female passengers and a male passenger." 19 A. Yes, correct. 20 Q. "Two of the female passengers were wearing life jackets 21 but the rest of us weren't." 22 A. Yes, correct. 23 Q. "We entered the wheelhouse and a window was broken on 24 the port side to the left of the main console by one of 25 the fire officers."?</p>	<p>1 Q. "Even then I still didn't know what ship had collided us 2 with. It was only after I had been taken to Yung Shue 3 Wan ferry pier that I saw the Sea Smooth damaged and 4 assumed that this had been the vessel that had collided 5 with Lamma IV." 6 A. Yes, correct. 7 Q. "I was taken to Queen Mary Hospital and admitted for 8 treatment for my arm and a broken rib. I was discharged 9 from hospital on 6 October 2012." 10 A. Yes, correct. 11 Q. And just to clarify this. Is it your evidence that you 12 were the last person to be rescued? 13 THE CHAIRMAN: From the vessel. 14 MR GROSSMAN: From the vessel, yes. 15 A. Yes, correct. 16 Q. Then you go on to deal with some other matters. At 17 paragraph 63, you say this: 18 "I have been asked whether I should have realised 19 that the approaching high-speed craft was bound for Yung 20 Shue Wan and therefore should have anticipated its turn 21 to port in a position where the vessels met." 22 A. Yes, correct. 23 Q. "My response is that there are many high-speed craft 24 operating in Hong Kong waters and that it would be 25 dangerous to make such an assumption."</p>

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<p>1 A. Yes, correct.</p> <p>2 Q. Then you deal with the Collision Regulations, and you</p> <p>3 say that "assumptions should not be made when</p> <p>4 determining if risk of collision exists".</p> <p>5 A. Yes, correct.</p> <p>6 Q. I skip the next sentence. Then you go on to say:</p> <p>7 "In this case I could clearly see Sea Smooth's red</p> <p>8 and green sidelights ahead indicating that it was</p> <p>9 a head-on or nearly head-on situation."</p> <p>10 A. Yes, correct.</p> <p>11 Q. Just to summarise, was it your view that both vessels</p> <p>12 should have turned to starboard, as yours did?</p> <p>13 A. Would you please repeat your question?</p> <p>14 Q. Yes. Is it your view that both vessels in that</p> <p>15 situation should have turned to starboard, as yours in</p> <p>16 fact did?</p> <p>17 A. Yes, correct.</p> <p>18 Q. I want to ask you a few questions about the Marine</p> <p>19 Department Notice that was issued on 28 September last</p> <p>20 year, and it's miscellaneous bundle, page 63-1.</p> <p>21 THE CHAIRMAN: Were there not two dates for its issue, one</p> <p>22 being 19 September?</p> <p>23 MR GROSSMAN: Yes. There was one on the 19th and one on the</p> <p>24 28th.</p> <p>25 THE CHAIRMAN: Yes. Which one was the Chinese version?</p>	<p>1 see the date of that, if we just go down, please. Yes,</p> <p>2 that's dated 14 September.</p> <p>3 THE CHAIRMAN: Yes.</p> <p>4 MR GROSSMAN: That's dated 14 September 2012. Yes, that is</p> <p>5 the one.</p> <p>6 You say in paragraph 64:</p> <p>7 "During my last day on duty prior to 1 October, on</p> <p>8 28 September, I had met with Johnson Chan and Tang</p> <p>9 Wan-on to discuss the day's events."</p> <p>10 A. Yes, correct.</p> <p>11 Q. "Although I was aware that Marine Department Notice</p> <p>12 No. 131/2012 had been issued it wasn't specifically</p> <p>13 discussed at this meeting."</p> <p>14 A. Yes, correct.</p> <p>15 Q. "As was the normal practice Johnson Chan had placed</p> <p>16 a copy of the Chinese version in a 'crew to read' file</p> <p>17 in the crew room on the pier at the power station and</p> <p>18 had another placed on file in the wheelhouse of both</p> <p>19 Lamma II and Lamma IV about a week earlier."</p> <p>20 A. Yes, correct.</p> <p>21 Q. "Instructions are given to the duty crew at the time to</p> <p>22 read it and draw the attention of the relieving crew</p> <p>23 to it."</p> <p>24 A. Yes, correct.</p> <p>25 Q. "The file on board ..."</p>
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<p>1 MR GROSSMAN: Can I just check that?</p> <p>2 THE CHAIRMAN: Yes.</p> <p>3 MR GROSSMAN: The one in Chinese relates specifically to</p> <p>4 1 October.</p> <p>5 THE CHAIRMAN: Do they not both relate to the same topic?</p> <p>6 MR GROSSMAN: Yes. The one that's on the screen is No. 131</p> <p>7 of 2012.</p> <p>8 THE CHAIRMAN: No, the issue is simply which one was issued</p> <p>9 on the 19th. Was that an English one? And was there</p> <p>10 then a separate one issued on the 28th in Chinese? Or</p> <p>11 the other way around?</p> <p>12 MR GROSSMAN: Can we just check, please. If we can just</p> <p>13 scroll down. I think they're both at page 63-1. If we</p> <p>14 can just scroll down, please. Just carry on scrolling,</p> <p>15 please, till we get to the English.</p> <p>16 I'm sorry, I better check. My learned friend has</p> <p>17 the bundle.</p> <p>18 THE CHAIRMAN: Well, I'm holding one in English that's dated</p> <p>19 14 September.</p> <p>20 MR GROSSMAN: Yes. I thought it was around about then.</p> <p>21 Yes, there was one on 14 September, but I can't see</p> <p>22 the page number.</p> <p>23 MR SHIEH: Miscellaneous bundle, pages 53 and 54.</p> <p>24 MR GROSSMAN: I'm grateful.</p> <p>25 Could we just go to page 53, please. Can we just</p>	<p>1 THE CHAIRMAN: How were those instructions given? How were</p> <p>2 they conveyed?</p> <p>3 A. It was from Mr Chan Chun-shing. I don't know where he</p> <p>4 got it, but it was him who handed them over to us.</p> <p>5 THE CHAIRMAN: I'm asking about the instructions that were</p> <p>6 given to read it. How were they communicated?</p> <p>7 A. Would you please repeat your question?</p> <p>8 THE CHAIRMAN: Yes. You see in your statement, and I'll</p> <p>9 just read it out from the English translation:</p> <p>10 "Instructions are given to the duty crew at the time</p> <p>11 to read it ..."</p> <p>12 How were those instructions given?</p> <p>13 A. It was taken out by Mr Chan Chun-shing and handed over</p> <p>14 to us, and we were asked to read them.</p> <p>15 THE CHAIRMAN: By Mr Chan?</p> <p>16 A. Yes, correct.</p> <p>17 THE CHAIRMAN: Did he ask you to read it?</p> <p>18 A. Yes. He asked us to read the content of the documents.</p> <p>19 THE CHAIRMAN: Thank you.</p> <p>20 MR GROSSMAN: Did you yourself read it?</p> <p>21 A. Yes.</p> <p>22 Q. You then go on to say --</p> <p>23 THE CHAIRMAN: Before you move on.</p> <p>24 When did you do that, in relation to being handed</p> <p>25 the document?</p>

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<p>1 A. Immediately. 2 THE CHAIRMAN: So this was about a week prior to 1 October; 3 do I understand you correctly? 4 A. One week prior to that. 5 THE CHAIRMAN: Thank you. 6 MR GROSSMAN: Thank you. 7 Then in the last sentence of paragraph 64, you say: 8 "The file on board containing any newly issued 9 Marine Department Notices is also handed over to the 10 relief crew at a change of shift." 11 A. Yes, correct. 12 THE CHAIRMAN: But does that simply mean that it remains in 13 the wheelhouse, or is there some ceremony of handing the 14 file over? 15 A. There is a handing-over ceremony. It was placed in 16 a box. 17 MR GROSSMAN: If the new shift have not seen the Marine 18 Department Notice, is there any communication to them to 19 read it? 20 A. Yes. 21 Q. You say: 22 "I noted the obligatory sections dealing with 23 specified zones in Victoria Harbour for the fireworks 24 display and opening times of the landing facilities." 25 A. Yes, correct.</p>	<p>1 Lamma IV because they travelled every day on board and 2 I had seen TY Leung showing the location of life jackets 3 earlier in the day whenever passengers had asked." 4 A. Yes, correct. 5 Q. "There were also easily noticeable pictures and diagrams 6 of donning instructions posted in the passenger saloons 7 and escape routes." 8 A. Yes, correct. 9 Q. Then: 10 "Concerning children's life jackets I didn't know 11 for sure there were children involved in the day's 12 activity (although from experience there might have 13 been) until they boarded that day." 14 A. Yes, correct. 15 Q. "In any event Lamma IV is not an open boat and I would 16 not expect children to wear life jackets all the time." 17 A. Yes, correct. 18 Q. "Children have access to our regular life jackets (which 19 would not [fit as well] but could still be worn), 20 lifebuoys and lift raft, which met with the Marine 21 Department's licensing requirements." 22 A. Yes, correct. 23 Q. "Indeed, we had more number of life jackets than the 24 'one for each passenger' as required." 25 A. Yes, correct.</p>
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<p>1 Q. "I had been duty coxswain for a similar event arranged 2 on 1 July 2012 so these details were well known to me." 3 A. Yes, correct. 4 Q. "The rest of the notice was advisory." 5 A. Yes, correct. 6 Q. "Indeed, from experience such as the similar activity on 7 1 July 2012, I myself am also aware that these advisory 8 measures are not strictly adhered to by most ships 9 watching fireworks." 10 A. Yes, correct. 11 Q. How did you become aware of this? 12 A. I learned from my counterparts in the industry. 13 Q. Then you go on at paragraph 66: 14 "Concerning the passenger list no specific 15 instructions had been given by the company in this 16 regard and I thought the recreation team leaders, Leung 17 Kwok-wai and Lai Ho-yin, would have had a list of 18 passengers." 19 A. Yes, correct. 20 Q. "Similarly no specific instructions had been given by 21 the company regarding a life jacket demonstration, which 22 was part of our usual routine as mentioned at 23 paragraph 27 [above]." 24 A. Yes, correct. 25 Q. "There were passengers on board who were familiar with</p>	<p>1 Q. I just want to ask you a bit about the children's life 2 jackets, or the absence of them. Did Lamma IV or 3 Lamma II ever carry children's life jackets, to your 4 knowledge? 5 A. No. 6 Q. Have you ever been present or involved when the annual 7 surveys were carried out by the Marine Department? 8 A. I have been present on one occasion. 9 Q. Do you remember what year that was? 10 A. On 8 May 2012. 11 Q. I think you may know that the Marine Department official 12 who gave evidence about that survey said he was shown 13 children's life jackets. 14 A. I haven't shown him. 15 Q. Were there any to show him? 16 A. No. 17 Q. Did he ever ask to see children's life jackets? 18 A. He didn't make such request. 19 Q. You said, lastly, that there were more life jackets than 20 the "one for each passenger" as required. 21 For how many years has this been the position? 22 A. I don't remember. 23 Q. Several years? 24 A. More or less. 25 Q. So if it was to be suggested, as it has been, that there</p>

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<p>1 were only 90 life jackets on board that evening, on 2 1 October, what would you say about that? 3 A. On that night, there was one life jacket underneath 4 every seat. 5 Q. What about the sun deck? 6 A. There wasn't any on the sun deck. 7 Q. But do you confirm that on 1 October when this tragedy 8 happened, there were more life jackets than passengers? 9 In fact, more than were required by the licence? 10 A. Yes, correct. 11 MR GROSSMAN: Thank you. I have no further questions to ask 12 you. Please stay there; someone else may. 13 THE CHAIRMAN: Mr Sussex, do you have an application? 14 MR SUSSEX: Yes, sir. With your permission I'd like to ask 15 Mr Chow questions. My questions concern a number of 16 topics: what's come to be known as the fog light on the 17 breakwater; the yellow flashing light which this witness 18 says he saw from his vessel, the yellow flashing light 19 on top of the Sea Smooth; the status of the navigation 20 lights and how they operate -- 21 THE CHAIRMAN: On Lamma IV? 22 MR SUSSEX: -- on Lamma IV; the course he was following and 23 why he was following it; whether he was using the wheel 24 or the joystick; when exactly he first saw the Sea 25 Smooth; and some additional --</p>	<p>1 you sailed into the Hongkong Electric typhoon shelter by 2 night? 3 A. Correct. 4 Q. And you gave evidence yesterday that you've never 5 experienced a problem with visibility by reason of that 6 fog light? 7 A. Yes, correct. 8 Q. So is it your evidence that you'd never had any occasion 9 to talk to the management about the fog light? 10 A. I did previously. 11 Q. Why was that? 12 A. Because previously it was pointing directly to the 13 north, and it affected our vision. So we requested that 14 it should be changed to another direction, and now it is 15 pointing directly towards south horizon. 16 MR McGOWAN: I'm told there was a translation difficulty, 17 Mr Chairman -- 18 THE CHAIRMAN: Very well. Perhaps we could try again. 19 You say, Mr Chow, that previously it had pointed to 20 the north and that affected your vision, and it was 21 changed. What was the change? Could you just repeat 22 that bit of your evidence? 23 A. Both lights pointed towards the sea at the typhoon 24 shelter. 25 THE CHAIRMAN: Originally they pointed towards the north.</p>
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<p>1 THE CHAIRMAN: That will -- 2 MR SUSSEX: That will keep us going for a while. 3 THE CHAIRMAN: -- indicate your general interest. Please 4 ask questions. 5 Examination by MR SUSSEX 6 MR SUSSEX: Mr Chow, as you've told us in your statement you 7 worked for Hongkong Electric for many years. 8 A. Yes. 9 Q. As you know, there's a light on the breakwater by the 10 entrance to the Hongkong Electric typhoon shelter. 11 A. Yes. 12 Q. I'm not referring to the red flashing light; I'm 13 referring to the two bulbs that are quite bright. 14 A. I understand. 15 Q. Right. As far as you remember, how long has that light 16 been there? 17 A. Should be there for about 20 years. 18 Q. About 20 years. It's come to be known in these 19 proceedings as a fog light. Is it actually a fog light? 20 A. Correct. 21 Q. But you gave evidence yesterday that it's on all the 22 time, not just in conditions of fog. 23 A. Correct. It was turned on by the company and I don't 24 have much knowledge about the system of the company. 25 Q. Right. Would I be right to infer that on many occasions</p>	<p>1 Do we understand you correctly? 2 A. Yes. 3 THE CHAIRMAN: And the light direction was changed so that 4 it pointed in what direction? 5 A. It was still pointing towards the north, but it was 6 pointing at an angle, pointing downwards and towards the 7 sea at the typhoon shelter. 8 THE CHAIRMAN: Thank you. 9 MR SUSSEX: You say that the direction of the light was 10 changed in the sense that it was directed more downwards 11 than it had been hitherto; is that right? 12 A. Yes, correct. 13 Q. And when did this happen? 14 A. I have no recollection. 15 Q. Are you able to give us some idea? One year, 16 five years, 10 years, 15 years? 17 A. It should have been five years ago. 18 Q. So it wasn't right, was it, that you'd never had 19 a problem with visibility by reason of this light? 20 A. Yes. 21 Q. So you're agreeing with me? 22 MR SHIEH: I think the question is "it wasn't right", 23 "(Chinese spoken)." 24 THE CHAIRMAN: Let's put it in the positive. 25 The fact is you have had a problem with visibility</p>

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<p>1 caused by this light in the way you've described? 2 A. No. 3 THE CHAIRMAN: That's why you asked it to be pointed 4 downwards, because you were having a problem with it; is 5 that how we are to understand your evidence? 6 A. Yes, this happened in the past, in the early stage. 7 THE CHAIRMAN: Yes. Thank you. 8 Yes, Mr Sussex. 9 MR SUSSEX: But is it your evidence that now, the fog 10 light's direction having been changed, there is no 11 problem of visibility arising from the fog light? 12 A. Yes, you can put it that way. 13 Q. So is it your evidence that the fog light can be 14 discounted as a factor contributing to this collision? 15 A. I don't think so. 16 Q. Right. And would you also say that the coxswain of any 17 vessel -- 18 MR SHIEH: "Not sure". "Not certain". 19 THE CHAIRMAN: Yes. In fact this is really a matter for the 20 Commission, not for the witness, to decide. 21 MR SUSSEX: Of course. Of course. But, I mean, we have 22 here an experienced mariner who's covered that ground on 23 many occasions. 24 Your evidence is, as I understand it, that the first 25 you saw of the vessel which you now know to be the Sea</p>	<p>1 A. Yes, it's not that often. 2 Q. Right. So it's a reasonable assumption to make, is it 3 not, that if you see a yellow flashing light off Shek 4 Kok Tsui, you are looking at a high-speed ferry making 5 for Yung Shue Wan? 6 THE CHAIRMAN: Well, he's agreed with that. 7 MR SUSSEX: Okay. Fair enough. 8 When do you say you first knew that you had hit 9 a Hong Kong & Kowloon Ferry? 10 A. Would you please repeat your question? 11 Q. Yes. When do you say that you first became aware that 12 your vessel, Lamma IV, had collided with a Hong Kong 13 & Kowloon Ferry, a high-speed ferry? 14 A. When the vessel was 1 nautical mile away from my vessel. 15 Q. Sorry, there must be a misunderstanding. 16 THE CHAIRMAN: Is your question directed to the identity of 17 the vessel with whom the collision occurred? 18 MR SUSSEX: Not the specific identity in terms of the name, 19 but the fact that it was a ferry operated by Hong Kong 20 & Kowloon Ferry. 21 THE CHAIRMAN: Very well. 22 MR SUSSEX: When did you first become aware that the vessel 23 with which you eventually collided was a ferry operated 24 by Hong Kong & Kowloon Ferry? 25 MR SHIEH: "(Chinese spoken)" may suggest a very early</p>
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<p>1 Smooth was of her yellow flashing light in combination 2 with other navigation lights; is that right? 3 A. Yes. 4 Q. In paragraph 51 of your latest statement, you say: 5 "... I saw for the first time the yellow flashing 6 light of a high-speed craft dead ahead of us." 7 A. Yes. 8 Q. In paragraph 63 of your statement you give reasons why 9 that yellow flashing light didn't warn you that the 10 approaching vessel was a high-speed ferry heading for 11 Yung Shue Wan. 12 A. I don't make any assumption because, by making any 13 assumption, it has to be in accordance with the 14 International Anti-Collision Regulation, and it has to 15 stay to the right. 16 Q. You say there are many high-speed craft operating in 17 Hong Kong. 18 A. Yes. 19 Q. That's of course true, but it's right, isn't it, that 20 a yellow flashing light on a vessel off Shek Kok Tsui 21 indicates a high-speed ferry making for Yung Shue Wan? 22 A. Yes. 23 Q. And that you don't see many yellow flashing lights off 24 Shek Kok Tsui except on high-speed ferries making for 25 Yung Shue Wan?</p>	<p>1 stage. "(Chinese spoken)". 2 THE CHAIRMAN: Thank you. 3 A. When I saw the yellow flashing light 1 nautical mile 4 away from me. 5 MR SUSSEX: And from your experience, you must have known, 6 must you not, that Hong Kong & Kowloon Ferry operate the 7 ferry service to Yung Shue Wan on Lamma Island? 8 A. Yes. 9 Q. So it's a fact, is it not, that when you saw that 10 flashing light, you knew that that ferry was heading for 11 Yung Shue Wan? 12 A. I will not make this assumption. 13 Q. Is the reason why you won't make that assumption because 14 of the Collision Regulations? 15 A. Yes. 16 Q. Well, I suggest to you that that's recent invention. 17 Now, could we get -- 18 THE CHAIRMAN: Give the witness time to deal with that. 19 MR SUSSEX: Yes, react to that. 20 THE CHAIRMAN: He suggested to you that you've invented that 21 evidence recently. Is there anything you wish to say? 22 A. No. 23 MR SUSSEX: Could I just clarify: are you disagreeing with 24 my observation, or do you have no comments to make? 25 A. I have no comments to make.</p>

<p style="text-align: right;">Page 33</p> <p>1 MR SHIEH: Perhaps a better way of translating "(Chinese 2 spoken)" is "invented", because "(Chinese spoken)" could 3 well suggest to the witness that he made the statement 4 recently, which of course he made the statement recently 5 by writing it. I think the allegation is a sinister 6 one, namely that he fabricated it. I think "(Chinese 7 spoken)" would be better. 8 THE CHAIRMAN: Thank you, Mr Shieh. 9 MR SUSSEX: Could the question be put again. 10 THE CHAIRMAN: The important part about this is that you've 11 invented this evidence; that's what's being put to you, 12 that you've invented it. And secondly, that you've done 13 that recently. But it's the first part that's the 14 important bit: you've invented the evidence that you 15 were complying with the Collision Regulations -- 16 MR SUSSEX: In not making assumptions. 17 A. It was not fabricated. 18 Q. At paragraph 44 of your most recent statement, you 19 discuss the switches for the navigation lights on the 20 Lamma IV. 21 Could I ask you to take out marine bundle 1, and 22 I want to go to page 146. 23 At paragraph 44, you tell us: 24 "The individual switches for the steaming lights" -- 25 by which I take it you mean the navigation lights --</p>	<p style="text-align: right;">Page 35</p> <p>1 THE CHAIRMAN: Can you help us about this alarm. Where is 2 it located? 3 A. The black button that the cursor is pointing at. 4 THE CHAIRMAN: Is that an audio alarm? 5 A. Yes, it makes sounds. 6 THE CHAIRMAN: Thank you. 7 MR SUSSEX: It's possible to mute that alarm, is it not? 8 A. No. 9 Q. But it's right, is it not, that that alarm will only 10 sound if the navigation lights fail; it won't sound if 11 they're not switched on? 12 A. It will still sound even if it was not on in the cases 13 when the bulb was burnt out. 14 Q. If we could go to photograph 13, do we not see, at the 15 bottom right-hand side of that distribution box, 16 a switch with the words above it "alarm mute"? It's the 17 bottom right-hand side. 18 A. Yes. 19 Q. And that is a switch which you can raise either up or 20 down; is that right? 21 A. Yes. 22 Q. If the mute is on, it would be in the position that we 23 see in that photograph, would it not? 24 A. No. This position indicated that it was on. 25 Q. The mute was on?</p>
<p style="text-align: right;">Page 34</p> <p>1 "are routinely left in the on, or up, position ..." 2 A. Yes. 3 Q. Could we go to marine bundle 1 at page 146, and I want 4 to look at photo 13. 5 A. I can see it. 6 Q. The switches with which we are concerned I believe are 7 the four to the left of photo 13, are they not? 8 A. Yes, correct. 9 Q. If I could put that in context, that navigation light 10 distribution board which we see in photo 13 is actually 11 located behind you if you're sitting in the conning 12 position, on the port-hand side. Is that right? 13 A. Yes, on the left-hand side at my back. 14 Q. Right. So that you wouldn't see the lights which appear 15 above those navigation light switches if you're looking 16 forward steering the vessel? 17 A. There is a dimmer and I can regulate the light until it 18 could be visible. 19 THE CHAIRMAN: The point being made to you is it's behind 20 you, not in front of you, and if you're concentrating on 21 steering, you can't see the light that tells you that 22 the particular navigation light is on. That's the 23 point. 24 A. I turned back and checked whether it was on from time to 25 time, and when it was off, the alarm would sound.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. No. When it is on, it will sound, the alarm will sound. 2 When it was off, there will be no alarm. 3 Q. So it's your evidence, is it, that a switch which is 4 marked "alarm mute" is on when it's switched to "off", 5 and off when it's switched to "on"; is that right? 6 A. No. If it was not -- 7 THE INTERPRETER: Sorry. 8 A. If the alarm is on, the switch will show "on", and the 9 alarm will sound. 10 THE CHAIRMAN: So what is the position of the switch 11 displayed in this photograph? 12 A. That means if the light is out -- if the light fails, 13 the alarm would sound. 14 THE CHAIRMAN: Thank you. 15 MR SUSSEX: In paragraph 44 of your statement, you tell us 16 that the navigation lights "are routinely left in the up 17 position" and that "the main switch is used to switch 18 them all on or off". 19 A. Yes, correct. 20 Q. Can you identify for us the "main switch" that you're 21 there referring to? 22 THE INTERPRETER: Witness is pointing at the right bottom 23 corner, the black square. 24 MR SUSSEX: Are you pointing at photo 14 or at photo 13? 25 A. Photo 13.</p>

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<p>1 Q. Right. Which button are you pointing to?</p> <p>2 A. The position where "0" is shown. When "0" is shown, it</p> <p>3 means it is off.</p> <p>4 THE CHAIRMAN: That's the black rectangular square above</p> <p>5 which is the label "transformer" on the left-hand side,</p> <p>6 and "batt" -- presumably "battery" -- on the right-hand</p> <p>7 side. Is that right?</p> <p>8 A. The first one is the transformer, the second one is the</p> <p>9 battery, and the third one shows that all the navigation</p> <p>10 lights are off.</p> <p>11 THE CHAIRMAN: There is a dial, is there not, that can be</p> <p>12 manoeuvred between the various positions "1", "0" and</p> <p>13 "2". Is that the position?</p> <p>14 A. Yes, there is a dial.</p> <p>15 THE CHAIRMAN: Can you help us as to what happens when you</p> <p>16 move between those various positions? What power are</p> <p>17 you engaging or disengaging?</p> <p>18 A. When I dial it to "2", it goes to the battery.</p> <p>19 MR SUSSEX: And when you dial it to "1", it's powered by the</p> <p>20 vessel's generator; is that right?</p> <p>21 A. Yes, correct.</p> <p>22 Q. And when it's in the "0" position, the navigation lights</p> <p>23 are off; is that correct?</p> <p>24 A. Yes, correct.</p> <p>25 MR SUSSEX: Mr Chairman, I wonder if that would be</p>	<p>1 that the navigation lights -- if we could scroll</p> <p>2 slightly higher, please -- are indeed in the on or up</p> <p>3 position.</p> <p>4 A. Yes, correct.</p> <p>5 Q. You say "the main switch is used to switch them all on</p> <p>6 or off", and you've identified the "main switch" as</p> <p>7 being the black dial to the left of the "alarm mute"</p> <p>8 button.</p> <p>9 A. Yes, correct.</p> <p>10 Q. When that dial is turned to "0", all the navigation</p> <p>11 lights are off; is that correct?</p> <p>12 A. Yes, correct.</p> <p>13 Q. So when you're steaming in daytime, we'd expect to see</p> <p>14 that dial in the "0" position, would we not?</p> <p>15 A. Yes, correct.</p> <p>16 Q. So for daytime steaming, all the switches for the</p> <p>17 navigation lights would be switched in the "on"</p> <p>18 position, but the dial would be turned to "0"?</p> <p>19 A. Yes, correct.</p> <p>20 Q. You've explained to us that position "1" is the</p> <p>21 transformer, or the power comes from the vessel's</p> <p>22 generator; is that right?</p> <p>23 A. Yes, correct.</p> <p>24 Q. And if the dial is turned to position "2", the power is</p> <p>25 coming from an auxiliary or emergency battery; is that</p>
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<p>1 a convenient moment.</p> <p>2 THE CHAIRMAN: Yes, if it's convenient to you.</p> <p>3 Mr Chow, we're going to take our morning break now,</p> <p>4 but may I ask you to be back in your witness seat, if</p> <p>5 you would, in 20 minutes' time so that we can continue</p> <p>6 with your testimony then.</p> <p>7 20 minutes.</p> <p>8 (11.31 am)</p> <p>9 (A short break)</p> <p>10 (11.51 am)</p> <p>11 THE CHAIRMAN: Mr Chow, may I remind you again you continue</p> <p>12 to testify according to your original affirmation.</p> <p>13 Mr Sussex.</p> <p>14 MR SUSSEX: Mr Chow, before the mid-morning break we were</p> <p>15 looking at the pictures on page 146 of marine bundle 1.</p> <p>16 You had explained to us the positions on the black dial</p> <p>17 that we see to the left of the "alarm mute".</p> <p>18 A. Yes.</p> <p>19 Q. Let's just make sure that I understand your evidence.</p> <p>20 In paragraph 44 you say:</p> <p>21 "The individual switches for the steaming lights [or</p> <p>22 navigation lights] are routinely left in the on, or up,</p> <p>23 position ..."</p> <p>24 A. Yes, correct.</p> <p>25 Q. And we see at page 146 of marine bundle 1, photo 13,</p>	<p>1 correct?</p> <p>2 A. Yes, correct.</p> <p>3 Q. If we go to page 147, photo 15, we see the DC main</p> <p>4 switchboard that again is situated behind you in the</p> <p>5 wheelhouse.</p> <p>6 A. Yes, correct.</p> <p>7 Q. If we go to police photo bundle III, page 154, we see</p> <p>8 clearly the position of that main switchboard behind you</p> <p>9 in the wheelhouse.</p> <p>10 A. Yes, correct.</p> <p>11 Q. It's situated, is it not, immediately beneath the</p> <p>12 navigation light distribution board?</p> <p>13 A. Yes, correct.</p> <p>14 Q. If we peer very closely at photograph 15 on page 147 of</p> <p>15 marine bundle 1, we see, do we not, that a fuse or</p> <p>16 circuit breaker for the navigation lights, which is</p> <p>17 situated to the right of the picture, where we see a red</p> <p>18 dot, has tripped; do you agree with that?</p> <p>19 A. It is a power button.</p> <p>20 Q. But it's right, is it not, that the fuse has tripped?</p> <p>21 A. I have no recollection due to the lapse of time.</p> <p>22 THE CHAIRMAN: You're being asked just to look at the</p> <p>23 photograph for the moment. Perhaps you're familiar with</p> <p>24 the position of various equipment in the wheelhouse.</p> <p>25 The first question perhaps is, does the colour red</p>

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<p>1 signify that a circuit breaker has tripped? 2 A. It is off at the position, at the downward position. 3 THE CHAIRMAN: If one looks at the legend at the top, above 4 the red tripped switch as it appears on the right-hand 5 side, does that say "emergency light"? 6 A. Which one are you referring to, please? 7 THE CHAIRMAN: The right-hand side of the photograph, if 8 you're looking at the photograph. 9 A. Yes, it is a button for the emergency light. 10 THE CHAIRMAN: Mr Shieh, do we have any better photographs 11 that demonstrate this area? 12 MR SHIEH: I'm trying to locate some references. Perhaps 13 Dr Armstrong, when he was making his comments on the 14 various circuit boards, had referred to photographs. 15 I was looking at exactly the same point. 16 THE CHAIRMAN: Yes. Thank you. 17 MR SUSSEX: Dr Armstrong's evidence is on Day 28 at 18 page 117, and he expresses the view that the circuit 19 breaker to the left says "nav lights" underneath. 20 I'm looking at -- 21 MR SHIEH: I think there's a very long excursion on Day 28 22 from page 113 onwards where Dr Armstrong explained his 23 view as to his deciphering of the wiring and the -- 24 THE CHAIRMAN: Yes. But the vessel is still available to be 25 photographed, Mr Shieh. Could we not have photographs</p>	<p>1 A. I cannot remember because of the lapse of time. 2 MR SUSSEX: Well, can you then help us with this. We've 3 seen from page 146 of marine bundle 1 that the black 4 dial that I've referred to in photo 13 can be set either 5 in position "1", in which case the navigation lights 6 will be powered by the vessel's generator; or position 7 "2", in which case the navigation lights will be powered 8 by the auxiliary or emergency battery. 9 A. Yes. 10 Q. Can you help us with this. When you go to the main 11 switch with the intention of turning on the nav lights, 12 in what circumstances would you turn the dial to "1" and 13 in what circumstances would you turn the dial to "2"? 14 A. Usually because if we dial to "1", then the power will 15 be too high and would often lead to failing of the light 16 bulbs. And we are concerned that during the -- while we 17 are steaming, we have no time to change the bulbs. So 18 we usually dial it to "2", which is the reserve battery, 19 because it would be charged by the generator. 20 Q. Am I right then that if you turn the dial to "1", your 21 experience with Lamma IV is that that generates too much 22 power; is that right? 23 A. Yes, as told by the engineer. 24 THE CHAIRMAN: And the engineer's name? 25 A. Leung Pui-sang.</p>
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<p>1 taken now so that we can work from something we can 2 actually read? 3 MR SHIEH: Perhaps Ms Lok could try and -- 4 MS LOK: There is a better photo at police photo album, 5 page 550. 6 THE CHAIRMAN: Thank you. 7 MR SHIEH: Dr Armstrong also referred to page 547, so 8 perhaps we can look at those two. 9 THE CHAIRMAN: I see page 550, but it's not a great 10 improvement. You wouldn't put it up to advertise 11 a camera, would you. 12 Could we have that done, Ms Lok? Could someone take 13 a photograph now? 14 MS LOK: Yes, we will see it done. 15 THE CHAIRMAN: It simply requires someone to board the 16 vessel and then email us the photograph. 17 MS LOK: We will do it as soon as possible. 18 MR SUSSEX: Mr Chow, are you able to help us with this. As 19 far as you're aware, does that fuse relate to navigation 20 light power as generated by the generator? 21 THE CHAIRMAN: When you say "that", you're talking about the 22 one on the left? 23 MR SUSSEX: The one on the left, yes, the one that's 24 tripped. 25 THE CHAIRMAN: Thank you.</p>	<p>1 THE CHAIRMAN: Thank you. 2 MR SUSSEX: Is the consequence of there being too much power 3 that the circuit breaker serving the navigation lights 4 tends to trip? 5 A. It will cause the bulb to fail, and not the circuit 6 breaker to trip. 7 Q. Was this a regular problem? 8 A. Yes. It happened quite frequently. 9 Q. When you say it happened frequently, how recently had it 10 happened? 11 THE CHAIRMAN: Prior to 1 October? 12 MR SUSSEX: Well, obviously. 13 A. Usually there will be two incidents of light bulb 14 failure in a week. 15 THE CHAIRMAN: When you say "light bulb failure", do you 16 mean navigation light bulb failure? 17 A. Yes, the navigation light bulb. 18 THE CHAIRMAN: And to answer the question, when, then, in 19 relation to 1 October 2012 had the most recent light 20 bulb failure of navigation lights occurred? 21 A. I don't remember. 22 THE CHAIRMAN: Does the failure of a light bulb and its 23 replacement by a new light bulb generate any 24 documentation recording what's happened? 25 A. It was recorded in the maintenance book.</p>

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<p>1 THE CHAIRMAN: By whom? 2 A. By Leung Pui-sang, the engineer. 3 THE CHAIRMAN: And where is this book maintained? 4 A. Before making the entry, it was placed on the vessel. 5 After entries were made, it would be put into the small 6 room at the pier. 7 MR SUSSEX: Could I ask then that that be produced. 8 MR GROSSMAN: Yes, I've already asked that it be produced. 9 THE CHAIRMAN: Yes. 10 Perhaps we can ask you. Do you know if this 11 maintenance book was on board the vessel at the time it 12 sank? 13 A. It should be. 14 MR GROSSMAN: We'll check. 15 THE CHAIRMAN: Thank you. 16 MR SUSSEX: As far as you are aware, is there any manual or 17 book of words that explains the operation of the "alarm 18 mute" button that we see at photo 13 on page 146? 19 A. I haven't seen one. 20 MR SUSSEX: Could I ask, if any exists, that it be produced. 21 THE CHAIRMAN: Mr Grossman, could you make those enquiries? 22 MR GROSSMAN: We will. 23 THE CHAIRMAN: Just dealing with that matter, Mr Shieh, it 24 may be that this was equipment and probably was 25 installed by Cheoy Lee when the vessel was built. Can</p>	<p>1 will go off. 2 THE CHAIRMAN: By that you mean that you operate the mute 3 device on the audio alarm after it's sounded; is that 4 what you're saying? 5 A. No. If one of the lights was not on, then I just turned 6 off the buttons. 7 THE CHAIRMAN: For that particular light; is that what 8 you're saying? 9 A. Yes. 10 THE CHAIRMAN: Thank you. 11 MR SUSSEX: Were there any particular navigation lights that 12 were prone to failure? 13 A. There is no fixed pattern. 14 Q. What did you do when you were in the course of a voyage 15 and a navigation light failed? 16 A. I will instruct the engineer and the deckhand to have it 17 replaced. 18 Q. So is it right that you would have it replaced in the 19 course of the voyage, or after you completed your 20 voyage? 21 A. During the course of the voyage, I would stop the vessel 22 so that it won't roll so much. 23 Q. And you would instruct your crew to replace these 24 navigation lights irrespective of whether you were 25 dealing with a masthead light or a stern light or</p>
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<p>1 we make the same enquiries of them as to whether they 2 have any literature which would throw light on the 3 operation of the equipment? 4 MR SHIEH: The mute button in particular? 5 THE CHAIRMAN: Yes. 6 MR SHIEH: Yes, we will. 7 MR SUSSEX: Now, given that problems with navigation lights 8 were a regular occurrence, is it not the case that you 9 were in the habit of turning the "alarm mute" on so that 10 the alarm was disabled and relied solely on the lights 11 behind you? 12 A. No, I still rely on the alarm. 13 THE CHAIRMAN: By that you mean the audio alarm, you relied 14 on it? 15 A. Yes, and also whether the light was on. 16 THE CHAIRMAN: Can you just help us as to the nature of this 17 audio alarm, what it sounds like, its volume? 18 A. Due to the lapse of time, I am unable to recall what 19 kind of sound it is. 20 THE CHAIRMAN: Can you help us as to how loud it is? 21 A. It was very -- it hurts the ears. 22 THE CHAIRMAN: And is there a button that turns it off, or 23 do you then simply mute the alarm if you want to turn it 24 off? 25 A. Usually we just put the button to "off" and the sound</p>	<p>1 wherever the navigation light happened to be; is that 2 right? 3 A. Yes, correct. 4 Q. Going back to photograph 15 in marine bundle 1 on 5 page 147, is it right that you can't help us concerning 6 when the fuse to the left of that picture tripped? 7 A. I have no idea. 8 MR SUSSEX: Sorry, I think I may have misled the witness. 9 I think the thrust of Dr Armstrong's evidence was 10 it's the fuse that we see to the left, so the 11 penultimate to the left, where the cursor now is. 12 THE CHAIRMAN: Yes, I think that's what the witness has 13 dealt with, and he's said, "No idea". 14 MR SUSSEX: Okay. 15 Let me understand your evidence. You say that there 16 were usually, on average, two incidents of navigation 17 light failure per week; is that right? 18 A. Yes. 19 Q. Would it be right that those failures were occurring 20 irrespective of where the dial on page 146, photo 13, 21 was positioned? 22 A. There is -- no such failure would occur if the dial was 23 positioned to "2". 24 THE CHAIRMAN: Meaning the auxiliary batteries; that wasn't 25 a problem?</p>

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<p>1 A. Yes.</p> <p>2 THE CHAIRMAN: The problem was surges of power from the 3 generator providing electricity?</p> <p>4 A. I believe so.</p> <p>5 MR SUSSEX: This practice of turning the dial to auxiliary 6 battery, was that something that depended upon the 7 engineer on board the vessel, or was there a general 8 instruction to that effect?</p> <p>9 A. There is no general instruction. Sometimes the engineer 10 did that.</p> <p>11 Q. Right.</p> <p>12 THE CHAIRMAN: Did you ever do this, turn it to battery or 13 was it always the engineer?</p> <p>14 A. Sometimes when Leung Pui-sang was not there, I would 15 dial it to that position and inform him afterwards.</p> <p>16 MR SUSSEX: Do we see at page 146, photo 13, that the dial 17 is turned to auxiliary battery?</p> <p>18 A. Yes, the battery.</p> <p>19 Q. Can you tell us who turned the dial to that position on 20 1 October of last year?</p> <p>21 A. It was by me.</p> <p>22 THE CHAIRMAN: I'm sorry?</p> <p>23 THE INTERPRETER: "By me".</p> <p>24 MR SUSSEX: When did you do that?</p> <p>25 A. When I did the inspection before I set sail.</p>	<p>1 THE CHAIRMAN: Are you putting it to him that that's what he 2 did, as opposed to summarising his evidence? Because it 3 was his evidence, when I posed the question to him, that 4 he switched off the particular switch for the failed 5 bulb --</p> <p>6 MR SUSSEX: Yes.</p> <p>7 THE CHAIRMAN: -- not the audio alarm.</p> <p>8 MR SUSSEX: I'm sorry. I misunderstood.</p> <p>9 So your evidence is, is it, that you switch off the 10 particular navigation light switch, not the audio alarm?</p> <p>11 A. We have to replace the navigation light immediately 12 after turning off the switch, otherwise there will 13 certainly be no navigation light.</p> <p>14 Q. Yes, but the effect of turning off the particular 15 navigation light switch is to stop the alarm; is that 16 right? That also happens?</p> <p>17 A. Yes, correct.</p> <p>18 Q. And would I be right to infer that in order to ensure 19 that in the meantime no other navigation lights fail, 20 your practice would be to turn the dial that we see in 21 photo 13 from "1 to "2" after a navigation light 22 failure?</p> <p>23 A. I don't understand the question. Would you please 24 repeat your question?</p> <p>25 Q. Yes. As I understand your evidence, it is that this</p>
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<p>1 THE CHAIRMAN: At which time?</p> <p>2 A. At night, when the sun went down.</p> <p>3 THE CHAIRMAN: Can you be more specific about the time when 4 you did this?</p> <p>5 A. Sometime after 6 pm.</p> <p>6 MR SHIEH: "6ish" perhaps would be a better way because 9 pm 7 is also after 6 pm.</p> <p>8 THE CHAIRMAN: Thank you.</p> <p>9 Do you agree with that, "6ish"?</p> <p>10 THE INTERPRETER: Yes, Mr Chairman.</p> <p>11 THE CHAIRMAN: Thank you.</p> <p>12 MR SUSSEX: Would I be right to infer that you have yourself 13 been serving as coxswain of the Lamma IV when there has 14 been a power surge such as to cause a navigation light 15 failure?</p> <p>16 A. Correct.</p> <p>17 Q. And if I understand your evidence correctly, the result 18 of a navigation light failure is that the alarm will 19 sound?</p> <p>20 A. Correct.</p> <p>21 Q. And you deal with that unpleasant noise by muting the 22 alarm button?</p> <p>23 THE CHAIRMAN: If you're suggesting that you're summarising 24 his evidence, that's not his evidence.</p> <p>25 MR SUSSEX: No.</p>	<p>1 problem of navigation light failure only occurs when the 2 dial which we see in photo 13 is placed pointing to 3 position "1", is placed in position "1".</p> <p>4 A. Yes, and this has never occurred when it was dialled to 5 position "2".</p> <p>6 Q. Right. But let us assume, then, that the dial is in 7 position "1" and that a navigation light fails.</p> <p>8 A. In that case, we would immediately switch off the button 9 and find somebody to go up and replace the bulb.</p> <p>10 Q. What I'm suggesting to you is that while you're in that 11 position, with one light having failed, there is 12 a continued risk that another light might fail.</p> <p>13 A. That is why, as I have said earlier on, because the 14 failure occurs when the dial is turned to position "1", 15 so we turn it to position "2", which is the auxiliary 16 battery, to prevent it from failing.</p> <p>17 Q. Yes, but what I'm suggesting to you now is that you turn 18 it to position "2" following the failure of a navigation 19 light.</p> <p>20 A. Yes, correct.</p> <p>21 MR SUSSEX: I shall, I think, want to return to this 22 subject, subject to anything that we can get hold of 23 over the lunch adjournment.</p> <p>24 THE CHAIRMAN: Very well.</p> <p>25 But so that I understand your evidence, it's your</p>

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<p>1 evidence that at some time after sunset, 6ish, you had 2 turned to dial to "battery" on this switchboard? 3 A. Yes, correct. 4 THE CHAIRMAN: Did it remain in that position throughout the 5 journey, until the vessel sank? 6 A. Yes, correct. 7 THE CHAIRMAN: Thank you. 8 MR SUSSEX: And is your evidence to this Commission that the 9 dial on page 146, photo 13, was never in position "1" 10 during that voyage? 11 A. Yes, correct. 12 MR SUSSEX: I shall wish to return to this. 13 In paragraph 34 of your witness statement, you 14 explain that recommended tracks between Lamma Island and 15 Central and between Lamma Island and Ap Lei Chau are set 16 out in Hongkong Electric's operations manual. 17 A. Yes, correct. 18 Q. You then go on to explain the usual tracks recommended, 19 as you say, between Lamma Island and Ap Lei Chau. 20 A. Yes, correct. 21 Q. But on 1 October, you were actually heading for Central, 22 weren't you? 23 A. Yes, correct. 24 Q. It's right, is it not, that up to the beacon off Shek 25 Kok Tsui, what you call the recommended track appearing</p>	<p>1 A. Yes, correct. 2 Q. In 2012, magnetic deviation in Hong Kong was 3 approximately 2 degrees and 28 seconds west, wasn't it? 4 A. I didn't pay attention to this. 5 Q. But if you were paying attention to magnetic deviation, 6 you'd compensate by steering a course 2 degrees to the 7 east to achieve true north; is that right? 8 A. Yes. 9 Q. So in order to steer a course true north, you'd have to 10 follow a compass course of 2 degrees or so? 11 A. Yes, but if I followed that course, then I might end up 12 in grounding, if I -- grounding might occur at No. 98 13 beacon off Shek Kok Tsui. 14 Q. But if you were following the company's instructions, we 15 would expect to see you settling on a course of about 16 2 degrees; is that right? 17 THE CHAIRMAN: I think he agreed with that before. He 18 qualified it by reference to grounding in danger. 19 MR SUSSEX: Thank you. 20 You have made reference in your statement to Mr Lai 21 Ho-yin, who was one of the event organisers. 22 A. Yes, correct. 23 Q. Do you agree that he was standing in the wheelhouse in 24 the moments leading up to the collision? 25 A. I don't agree.</p>
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<p>1 in the operations manual is exactly the same for 2 a passage to Central as it would be for Ap Lei Chau? 3 A. Yes, correct. 4 Q. And the operations manual that you're referring to 5 I think is in the Reed Smith Richards Butler bundle 2, 6 in Chinese and page 282, and in translation at page 303. 7 A. Yes, correct. 8 Q. If we go to page 281 in the Chinese, under the heading 9 "Log Book and Course Direction" -- this is page 302 in 10 the English -- we see the words, do we not "Instructions 11 below and abbreviations used in log book must be 12 followed"? 13 A. Yes. 14 Q. That's certainly not phrased as a recommendation, is it? 15 A. Yes. 16 Q. You are required to follow that instruction? 17 A. Yes, correct. 18 Q. And if you go to page 282, when dealing with the passage 19 from Lamma Power Station to Central, you are required to 20 steer true north from the passenger pier to Shek Kok 21 Tsui? 22 A. Yes. 23 Q. Would I be right that the reference to the "passenger 24 pier" is actually to the exit from the Hongkong Electric 25 typhoon shelter?</p>	<p>1 MR SHIEH: "In the moments leading to" could well be better 2 translated to -- 3 THE CHAIRMAN: I'm sorry? 4 MR SHIEH: There might be a better way of putting the point, 5 because the translation might have given the impression 6 of "the moment immediately prior to the collision". The 7 question, I understand, would be "in the period leading 8 to". 9 MR SUSSEX: Yes. 10 THE CHAIRMAN: In the period prior to the collision, what's 11 being suggested to you is that Mr Lai Ho-yin was 12 standing actually inside the wheelhouse. What do you 13 say about that? 14 A. I didn't see him in the wheelhouse. I know that he was 15 behind me, but at that time I was focusing on steering 16 and so I didn't pay attention to where he was. 17 MR SUSSEX: So would I be right that you didn't turn round 18 while you were steering? 19 A. I don't agree. 20 Q. Mr Lai Ho-yin says that he saw you with your hands on 21 the vessel's wheel. 22 A. It might be a mistake, because it was dark at that time. 23 I don't use the wheel; I use the joystick. 24 Q. He also says that he saw you turn the wheel sharply to 25 the right in the moments before the collision.</p>

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<p>1 A. I don't understand why he said this. 2 Q. Is it your evidence that throughout, you were steering 3 using the joystick? 4 A. Yes, correct. 5 Q. Now, is it not right that whilst the joystick will 6 respond rapidly to an extreme change of course -- 7 A. Yes, if you go to the extreme. 8 Q. -- it responds less reliably to a subtle or gradual 9 change of course? 10 A. Yes. The joystick goes rather slow when the vessel was 11 sailing at a low speed. 12 THE CHAIRMAN: What's being put to you is that an extreme 13 movement in the joystick produces a rapid change of 14 course in the vessel, whereas small changes in the 15 joystick produce a -- the way it was put -- "less 16 reliable" change of course. 17 A. Yes, correct. 18 MR SUSSEX: And I suggest to you that you were actually 19 steering throughout using the wheel. 20 A. I was using the joystick, not the wheel. As I have said 21 previously, the wheel was very heavy, so I didn't 22 use it. 23 Q. Going back to your statement. At paragraph 53, you 24 estimate that the time between your first sighting of 25 the vessel that you now know to be the Sea Smooth and</p>	<p>1 A. Because the light No. 98 beacon was less than 1 nautical 2 mile away from the pier, and I have sailed for three 3 minutes, and so it should be about 3 cables. 4 MR SUSSEX: The beacon we're talking about is the one off 5 Shek Kok Tsui that flashes three times every 21 seconds. 6 I think it's three every 21 seconds. Is that the one 7 we're talking about? 8 A. No. No, the one at Shek Kok Tsui flashes three times in 9 15 seconds. 10 THE CHAIRMAN: Yes, that's what the chart says. 11 MR SUSSEX: That's better than my recollection then. 12 So that's the one we're talking about. 13 THE CHAIRMAN: When you first sighted the vessel that you 14 later learned was Sea Smooth, was she adjacent to that 15 light off Shek Kok Tsui? 16 A. Yes, correct. 17 THE CHAIRMAN: And it's by using that that you calculate the 18 3 cables; is that it? Because you had covered 6 or so 19 cables, and therefore it was 3 cables away from you. 20 Is that the arithmetic? 21 A. Yes, correct. 22 MR SUSSEX: Do you accept that the collision between 23 Lamma IV and Sea Smooth occurred at about 20:20:17? 24 A. I don't agree. 25 Q. That's the evidence of Captain Pryke. We're talking</p>
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<p>1 the collision was approximately one minute? 2 A. Yes, correct. 3 Q. And the passage of 60 seconds actually is quite a long 4 period of time in the context of a collision, is it not? 5 A. I don't agree. 6 Q. All right. In paragraph 51, you say that you estimate 7 that Sea Smooth was about 3 cables away when you first 8 saw her. 9 THE CHAIRMAN: That is, away from Lamma IV? 10 MR SUSSEX: Away from Lamma IV, sorry, yes. 11 A. Yes, correct. 12 Q. And we're agreed that 3 cables is three-tenths of 13 a nautical mile? 14 A. Yes, 0.3 nautical miles. 15 Q. Right. Am I right that you arrive at that estimate in 16 this way: Sea Smooth appeared to be adjacent to the Shek 17 Kok Tsui beacon? 18 A. No. 19 Q. Sorry, beacon No. 98. 20 A. The light of beacon No. 98 was white in colour, while 21 that light was a yellow flashing light. 22 THE CHAIRMAN: No. All Mr Sussex is trying to understand 23 from your witness statement is how it is that you arrive 24 at your estimate that the two vessels were 3 cables 25 apart when you first sighted Sea Smooth.</p>	<p>1 20 minutes and 17 seconds past 8 in the evening. Do you 2 agree or disagree? 3 A. Agree. 4 Q. You agree. Right. Now, your estimate of "one minute 5 before the collision" as your first sighting of Sea 6 Smooth would take us to 20:19:17 -- we just take one 7 minute away from 20:20:17. Do you agree with that? 8 A. I don't agree. 9 Q. Well, it's a matter of arithmetic. If we agree that the 10 collision occurred at 20:20:17, one minute before would 11 be 20:19:17. 12 A. But at the time when I watched my watch, I saw that it 13 was 20:20. 14 THE CHAIRMAN: At which point in time? What event was 15 occurring when you looked at your watch? 16 A. After the collision took place. 17 MR SUSSEX: Right. Does your watch record seconds? 18 A. Yes. 19 Q. It has a sweep second hand? 20 A. Yes. 21 Q. Did you happen to notice the position of the sweep 22 second hand? 23 A. At that time, I didn't see it. 24 Q. Right. So you do accept, as I understand it, that the 25 collision occurred at 20:20:17, so 17 seconds after</p>

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<p>1 20:20? 2 THE CHAIRMAN: He's agreed with that. 3 MR SUSSEX: Yes. 4 What I want to do is explore the position one minute 5 before, one minute being your estimate of when you first 6 saw Sea Smooth. 7 A. Yes. 8 THE CHAIRMAN: I think to be fair to Mr Chow, the statement 9 does make it clear that he's saying it was "about" 10 a minute. 11 MR SUSSEX: Yes. I'll explore on that basis. 12 Perhaps the best thing to do is approach this after 13 lunch? 14 THE CHAIRMAN: Yes, with a fresher mind. 15 Mr Chow, we're going to take our lunch break now and 16 we'll resume this afternoon at 2.30. May I ask you to 17 be back here ready to continue your evidence at that 18 time. 19 Thank you. 20 (12.59 pm) 21 (The luncheon adjournment) 22 (2.30 pm) 23 THE CHAIRMAN: Good afternoon, Mr Chow. May I remind you 24 that you continue to testify according to your original 25 affirmation.</p>	<p>1 page 4901. 2 MR SUSSEX: Of what, Mr Chairman? Is that marine bundle 12? 3 THE CHAIRMAN: Someone else will have to answer that. I'm 4 just reading the number I see on the page. 5 MR SUSSEX: I see. 6 THE CHAIRMAN: But if you don't put the numbers on the 7 transcript, you've no idea what it is when you look at 8 it later on. 9 MR SUSSEX: Yes, of course. 10 MR SHIEH: It should be at 12. 11 THE CHAIRMAN: Marine? Thank you. 12 MR SUSSEX: Marine bundle 12, page 4901. 13 Now, it does appear from that photograph that at 14 some stage the navigation light fuse tripped. 15 A. Yes. 16 Q. Are you able to help us as to when that happened? 17 A. It should have happened after the collision. 18 Q. When you say "it should have happened after the 19 collision", are you able to, from your own knowledge, 20 tell us when it did happen? Or are you merely 21 speculating? 22 A. It did happen, because you can see that the side of the 23 switch was corroded, which suggests that it has been 24 soaked in seawater. 25 Q. Well, we know that everything was in seawater for some</p>
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<p>1 Yes, Mr Sussex. 2 MR SUSSEX: Mr Chairman, before I resume with Mr Chow, 3 I understand that over the luncheon adjournment some 4 photographs were taken of the main switchboard, the one 5 that was in photo 15. 6 THE CHAIRMAN: Yes. 7 MR SUSSEX: I don't know what the fate of that is. 8 THE CHAIRMAN: I'm told that they're being prepared for 9 distribution. So if there's something else you could 10 deal with first. 11 Perhaps they're coming now. 12 (Image shown on screen) 13 MR SUSSEX: That's not even the same distribution. 14 What I was looking for was -- hang on, what's that? 15 Yes, that one. That one there. 16 If I could just revert to this topic very briefly. 17 THE CHAIRMAN: Yes. 18 MR SUSSEX: I think we can now see, can we not, Mr Chow, 19 that on the main switchboard, the one we were previously 20 looking at on photo 15 in marine bundle 1, page 147 -- 21 we have a better picture and we see that there is a fuse 22 which is tripped, and that is indicated as being 23 navigation light. Do you see that? 24 A. Yes. 25 THE CHAIRMAN: Just for the record, this is paginated as</p>	<p>1 time. 2 If we go back to page 146 of marine bundle 1, am 3 I right that if the navigation lights are powered by the 4 ancillary or emergency battery, that bypasses the fuse 5 box that we're looking at at page 4901 of marine 6 bundle 12? 7 A. Yes. 8 Q. So it's perfectly possible that this fuse might have 9 already occurred before the start of the voyage? 10 A. This shouldn't be the case, because we had already 11 checked it before we set sail. 12 Q. Well, if it's correct that powering the navigation 13 lights by means of the ancillary or emergency battery 14 bypasses the fuse box that we're talking about, then 15 there can be no explanation for that fuse while the 16 nav lights were powered by the ancillary battery, can 17 there? 18 A. If the fuse tripped, the navigation light would go off. 19 The white light on the dashboard would also go off. 20 Q. Am I right that the fuse box that we have been talking 21 about is connected to the electricity supply from the 22 vessel's generator? 23 THE CHAIRMAN: By that do you mean the one that is marked 24 "24 V DC main SW board"? 25 MR SUSSEX: It's the main switchboard.</p>

<p style="text-align: right;">Page 65</p> <p>1 THE CHAIRMAN: Let's give it a title, so that if we ever 2 need to find what we've been talking about ... 3 MR SUSSEX: Right. 4 Am I right that the fuse box which appears with the 5 words "24-volt DC main switchboard" contains fuses and 6 is connected to the supply of electricity generated by 7 the vessel's transformer or generator? 8 A. I'm sorry, I don't have much knowledge about 9 electricity. The chief engineer would be the more 10 suitable person to comment on that. 11 Q. Right. I'll deal with that with him then, if I may. 12 Can we go back to the topic that we were discussing 13 before the luncheon adjournment. What I wanted to 14 consider with you is the position of your vessel, 15 Lamma IV, and Sea Smooth in the minute leading up to the 16 collision. 17 A. I don't know how to answer this question. 18 Q. It's not the question: it's an explanation of where 19 we're going next. 20 Could I ask you to go to the expert bundle 1, at 21 page 316. 22 On page 316, we have VTC tracking records which 23 helpfully juxtapose records relating to the Sea Smooth, 24 identified as "786", and the Lamma IV, identified as 25 "7622".</p>	<p style="text-align: right;">Page 67</p> <p>1 attaches to the course that's given at every 2 three-second intervals. He's taken issue with the 3 accuracy of that, which is why he's plotted them at 4 half-minute and one-minute intervals. 5 MR SUSSEX: Yes. The difficulty with that approach, of 6 course, is that the courses are calculated by reference 7 to the positions -- 8 THE CHAIRMAN: Yes. 9 MR SUSSEX: -- and if you're choosing odd positions, then 10 you're going to end up with a course that is not 11 strictly right. These are related. 12 THE CHAIRMAN: The inaccuracy is obvious, Mr Sussex, is it 13 not, and it's this. The accuracy of the position is 14 plus/minus 10 metres. 15 MR SUSSEX: Yes. 16 THE CHAIRMAN: If you take every three seconds and the 17 position was out 10 metres to, say, west in one, out 18 10 metres to east in the other, if that's the way to 19 look at it, then you're going to exaggerate error if you 20 take three-second snapshots, which you iron out if you 21 take longer periods? 22 MR SUSSEX: I accept that entirely. But the fact is we are 23 seeing a gradual change here in course. 24 THE CHAIRMAN: I think for the purposes of questioning this 25 witness it would be perhaps more productive to put to</p>
<p style="text-align: right;">Page 66</p> <p>1 A. I can see it. 2 Q. If we go to the entry at 20:19:17, which is exactly one 3 minute before the collision, we see that your course is 4 given as 353 degrees. 5 THE CHAIRMAN: Do you follow this? 6 A. Yes. 7 MR SUSSEX: And we can see that over the past minute, so if 8 we go to 20:18:17, and indeed a minute and a half back 9 to 20:17:59 on page 315, your course had been gradually 10 altering to starboard. At 20:17:59 we see you at 343. 11 You remained fairly constantly at that until 20:18:26. 12 And then gradually, gradually, gradually your course 13 alters to starboard. Do you agree with that? 14 A. I agree. Because at that time, water was high. The 15 vessel might have been pushed to the right by the 16 current. 17 Q. Right. But the fact is that your course over the ground 18 had changed by about 7 degrees to starboard in the 19 minute leading up to 20:19:17. Do you agree with that? 20 A. I agree by reading from here. 21 Q. But it's plausible, isn't it, that that's in fact what 22 happened? You've no reason to disagree with these 23 records produced by radar, have you? 24 THE CHAIRMAN: Well, I think we ought to remind the witness 25 of the caveat that Captain Pryke has put in, and that</p>	<p style="text-align: right;">Page 68</p> <p>1 him what I think is his case anyhow: that he was 2 altering course to starboard throughout the period. If 3 that's what you're seeking to put to him. 4 MR SUSSEX: Yes. Well -- 5 THE CHAIRMAN: Rather than getting him to play some kind of 6 part-time expert. 7 MR SUSSEX: Right. 8 Mr Chow, it's right, is it not, that from about 9 20:18:17 through to 20:19:17, ie in the minute before 10 the time when you say approximately you saw the Sea 11 Smooth, your course had gradually been changing to 12 starboard; is that right? 13 A. Agree. 14 Q. And such tide as there was was behind you, was with you, 15 wasn't it? 16 A. Yes. 17 Q. So it wasn't buffeting you sideways; it was actually to 18 your stern? 19 A. No, the current came from the quarter of the stern at 20 the port side. 21 Q. So you're saying the current was coming from the port 22 quarter? 23 A. Yes, correct. 24 Q. At 20:19:17, which is a minute before the collision, 25 your course is given as 353, which is about right, is it</p>

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<p>1 not?</p> <p>2 A. Yes, correct.</p> <p>3 Q. And the course of the Sea Smooth is given as due south:</p> <p>4 180 degrees?</p> <p>5 A. Yes, judging from here.</p> <p>6 Q. Right. Now, would you agree that on those courses, you</p> <p>7 would have seen Sea Smooth to your starboard?</p> <p>8 A. It is two vessels head-on, that are heading towards each</p> <p>9 other.</p> <p>10 THE CHAIRMAN: So what lights did you see of Sea Smooth?</p> <p>11 A. I saw the same light; that is, the white masthead light,</p> <p>12 the red light, and the green light. And the yellow</p> <p>13 flashing light.</p> <p>14 MR SUSSEX: Could I ask you to go to police bundle M at</p> <p>15 page 3324-7 which is in the English. I'm going to need</p> <p>16 some help as to where it is in the Chinese.</p> <p>17 THE CHAIRMAN: What is the nature of the document?</p> <p>18 MR SUSSEX: It's the police statement given on the day</p> <p>19 following the collision.</p> <p>20 THE CHAIRMAN: Thank you.</p> <p>21 MR SUSSEX: It starts at page 3318 in that bundle. This is</p> <p>22 in the English at page 3324. It's in answer to</p> <p>23 question 5. You say this:</p> <p>24 "After getting out of the entrance to the typhoon</p> <p>25 shelter, I accelerated the speed of my vessel to about</p>	<p>1 A. Correct.</p> <p>2 Q. It's right, isn't it, that in that statement given the</p> <p>3 day following the collision, you make no reference of</p> <p>4 having seen both sidelights of Sea Smooth?</p> <p>5 A. Yes, I didn't mention that previously.</p> <p>6 Q. And it was only when you were interviewed by the Marine</p> <p>7 Department over a month later, on 7 November 2012, that</p> <p>8 you actually mentioned seeing both sidelights of Sea</p> <p>9 Smooth; is that right?</p> <p>10 A. Yes, correct.</p> <p>11 Q. Now, I suggest to you that if at any stage you did see</p> <p>12 both sidelights of Sea Smooth, she wasn't dead ahead.</p> <p>13 A. Yes, but when I provided the statement to the police,</p> <p>14 I said that it was dead ahead of me.</p> <p>15 THE CHAIRMAN: Sorry, just so I can understand you. You're</p> <p>16 saying that in the statement to the police, you</p> <p>17 described the vessel as being dead ahead?</p> <p>18 A. Yes, correct. But I forgot to mention about the light.</p> <p>19 THE CHAIRMAN: So although you only described seeing the</p> <p>20 green light, you also said, "I saw the vessel dead</p> <p>21 ahead"?</p> <p>22 A. Yes, correct.</p> <p>23 MR SHIEH: It actually is on the screen. Three Chinese</p> <p>24 characters. I don't think it's capable of being</p> <p>25 disputed, the three Chinese characters "(Chinese</p>
Page 70	Page 72
<p>1 12 knots."</p> <p>2 Do you see where I am in the Chinese?</p> <p>3 A. Yes.</p> <p>4 Q. You say:</p> <p>5 "(I) drove up to the nearby area of Shek Kok Tsui</p> <p>6 Lamppost [that's the beacon] in about 2-3 minutes."</p> <p>7 A. Yes, correct.</p> <p>8 Q. You recount that Leung Pui-sang arrived in the</p> <p>9 wheelhouse, and then this narrative follows --</p> <p>10 A. Yes, correct.</p> <p>11 Q. It says:</p> <p>12 "At that time, a vessel approached at a high speed</p> <p>13 from a distance of 500-600 m right in front of my</p> <p>14 vessel. As the navigation course would cause danger to</p> <p>15 both (vessels), I sounded a short blast to alert the</p> <p>16 other party once (that is we swerved to our starboard</p> <p>17 side respectively). I helmed hard to starboard for</p> <p>18 about 35 degrees to the starboard side."</p> <p>19 A. Yes, correct.</p> <p>20 Q. It's right, isn't it, that in this narrative the only</p> <p>21 reference to navigation lights on board Sea Smooth is</p> <p>22 two references to the starboard green light of the other</p> <p>23 vessel: "Moreover, I could only see the starboard green</p> <p>24 light of the other vessel"; and then below that, "(I)</p> <p>25 saw the starboard light of the other vessel".</p>	<p>1 spoken)" meaning "dead ahead".</p> <p>2 THE CHAIRMAN: Yes, and which answer is that, Mr Shieh?</p> <p>3 MR SHIEH: It's the answer to question 5. It's at the top</p> <p>4 of this page. If I may try to locate the English</p> <p>5 version?</p> <p>6 THE CHAIRMAN: Yes, that would help. If you would just take</p> <p>7 a moment.</p> <p>8 Perhaps the English is "right in front of my</p> <p>9 vessel"? That is at the top of page 3324-7.</p> <p>10 MR SHIEH: Yes, "right in front of my vessel".</p> <p>11 THE CHAIRMAN: Just so you can confirm that is what you are</p> <p>12 describing, Mr Chow. The Chinese characters -- which</p> <p>13 line is it on the screen, Mr Shieh? Can we put the</p> <p>14 cursor on them?</p> <p>15 MR SHIEH: Line 8, immediately before the reference to</p> <p>16 500-600 metres.</p> <p>17 THE CHAIRMAN: That's what you're referring to as telling</p> <p>18 the police in that interview that the vessel was dead</p> <p>19 ahead; is that what you mean?</p> <p>20 A. Yes, correct.</p> <p>21 THE CHAIRMAN: Thank you.</p> <p>22 Yes, Mr Sussex.</p> <p>23 MR SUSSEX: It's right, isn't it, that it's your evidence</p> <p>24 that immediately upon seeing Sea Smooth, you applied</p> <p>25 full rudder to starboard?</p>

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<p>1 A. Correct.</p> <p>2 Q. And you say that you saw Sea Smooth at a distance of</p> <p>3 some three-tenths of a nautical mile, and about</p> <p>4 one minute before the collision?</p> <p>5 A. Yes, correct.</p> <p>6 Q. So at that time, about a minute before the collision,</p> <p>7 you applied full rudder to starboard?</p> <p>8 A. Yes, correct.</p> <p>9 Q. And you say you did that by putting the joystick hard</p> <p>10 over to starboard?</p> <p>11 A. Yes, correct.</p> <p>12 Q. And you say that it was only a couple of seconds before</p> <p>13 your vessel started responding to that helm. Do you</p> <p>14 agree with that?</p> <p>15 A. Correct.</p> <p>16 Q. Just to remind you of the words, you say in paragraph 51</p> <p>17 of your statement:</p> <p>18 "There was only a one-second delay as the rudder</p> <p>19 indicator showed the helm being applied and another</p> <p>20 second passed before Lamma IV began turning."</p> <p>21 A. Yes, correct.</p> <p>22 Q. If there was a period of a minute or thereabouts between</p> <p>23 the time when you saw the Sea Smooth and the collision,</p> <p>24 we could reasonably expect, could we not, to see your</p> <p>25 change of course reflected in the VTC tracking?</p>	<p>1 356, 356, 356, 357, 357, taking us through to 20:20.</p> <p>2 A. Because my vessel was pushed by the current, I needed to</p> <p>3 helm my joystick to commensurate with it.</p> <p>4 Q. No. You say that the current is from your port quarter.</p> <p>5 A. Yes.</p> <p>6 Q. That ought to assist any attempt to turn to starboard,</p> <p>7 should is not?</p> <p>8 A. Yes.</p> <p>9 Q. So in the 40 seconds from 20:19:17, exactly 60 seconds</p> <p>10 before the collision, we only see a continued gradual</p> <p>11 change of course to starboard, in this case of some</p> <p>12 5 degrees?</p> <p>13 A. Yes, correct.</p> <p>14 Q. We certainly don't see anything that would corroborate</p> <p>15 your evidence that your heading at the time of the</p> <p>16 collision was 50-60 degrees when you were hit. This is</p> <p>17 paragraph 53 of your witness statement.</p> <p>18 A. Yes, correct.</p> <p>19 Q. And indeed between 20:19:59 and 20:20:17, the moment of</p> <p>20 impact, we only see a change of course of some</p> <p>21 3 degrees.</p> <p>22 A. Yes, correct.</p> <p>23 Q. So would you accept that none of these tracking records</p> <p>24 reflects your story that about a minute before the</p> <p>25 collision, you put the helm hard to starboard?</p>
Page 74	Page 76
<p>1 A. I don't agree.</p> <p>2 THE CHAIRMAN: I think all this being put to you is obvious,</p> <p>3 really. If you've applied the joystick hard to</p> <p>4 starboard, within two seconds the vessel starts to move</p> <p>5 to starboard. If we've got the best part of something</p> <p>6 like a minute to go, we can expect to see your position,</p> <p>7 your course, changing to starboard during that period.</p> <p>8 A. Yes, correct.</p> <p>9 MR SUSSEX: So you agree with that? And if, as you say, you</p> <p>10 applied full helm to starboard, we could expect to see</p> <p>11 a fairly dramatic change of course, could we not?</p> <p>12 A. It's not only my vessel that changed. The other vessel</p> <p>13 also changed.</p> <p>14 Q. Well, I'm only concerned with your vessel at the moment</p> <p>15 because your vessel is reflecting radar signals, and we</p> <p>16 have independent radar tracking records from your</p> <p>17 vessel.</p> <p>18 A. I understand.</p> <p>19 Q. So if we go to page 316 of expert bundle 1, and we go to</p> <p>20 20:19:17, which is precisely 60 seconds before the</p> <p>21 collision --</p> <p>22 A. I can see it.</p> <p>23 Q. -- we see your vessel, as you've already agreed, on 353.</p> <p>24 If we just follow down that page, every three seconds,</p> <p>25 we get 353, 351, 353, 353, 354, 354, 355, 355, 356, 356,</p>	<p>1 A. I agree, but at that time I really did helm hard to</p> <p>2 starboard.</p> <p>3 Q. The question is at what time?</p> <p>4 A. At the first time I spotted Sea Smooth.</p> <p>5 Q. Yes. But what I'm going to suggest to you is that you</p> <p>6 saw Sea Smooth very much later than one minute before</p> <p>7 the moment of impact.</p> <p>8 A. No.</p> <p>9 THE CHAIRMAN: We'll just make sure that there's no</p> <p>10 translation error.</p> <p>11 What's being suggested to you is that it wasn't</p> <p>12 about a minute that you saw Sea Smooth before the</p> <p>13 collision; more like a matter of seconds. Have you got</p> <p>14 that?</p> <p>15 A. I understand.</p> <p>16 THE CHAIRMAN: And what do you say to that suggestion?</p> <p>17 A. As I have said, I saw --</p> <p>18 THE INTERPRETER: Sorry.</p> <p>19 A. I have spotted it from the radar when it was 1 nautical</p> <p>20 mile away from us, but it's only that I haven't taken</p> <p>21 action yet.</p> <p>22 THE CHAIRMAN: So you saw Sea Smooth first of all on the</p> <p>23 radar, not by sight; is that what you're telling us now?</p> <p>24 A. I first spotted it on the radar and subsequently by</p> <p>25 sight.</p>

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<p>1 THE CHAIRMAN: And from radar, you're saying that that was 2 at 1 nautical mile? Do we understand you correctly? 3 A. Yes, within 1 nautical mile. 4 THE CHAIRMAN: But as you put it, you didn't take any action 5 yet. 6 A. Yes, correct. 7 MR SUSSEX: But do you accept that you make no mention of 8 seeing Sea Smooth on your radar in your most recent 9 statement? 10 A. Yes. 11 Q. You agree with that? 12 A. Yes, I agree. 13 Q. You say in paragraph 50: 14 "Visibility was good and I was now navigating by 15 line of sight." 16 A. That's correct. 17 Q. And you say: 18 "I clearly recall that it was at this time I saw for 19 the first time the yellow flashing light of a high-speed 20 craft dead ahead of us." 21 A. After looking at the radar, I stopped looking at the 22 radar and then I spotted it by sight. 23 Q. So are you saying, if we are to believe your story that 24 you looked at the radar, that you then looked up and 25 actually saw with your eyes the Sea Smooth?</p>	<p>1 it visually and took action? 2 A. When I saw it visually. 3 THE CHAIRMAN: So after you'd first seen it at 1 nautical 4 mile, did you continue monitoring its progress towards 5 you on the radar? 6 A. Yes. 7 THE CHAIRMAN: Continually? 8 A. I looked at it every now and then, because the radar was 9 at my side. If I looked at it and then looked forward 10 and looked at it and looked forward, I would feel very 11 tired. 12 THE CHAIRMAN: So you saw the target moving across the 13 1-mile ring on your radar, coming closer and closer to 14 you; is that what we're to understand is your evidence? 15 A. Yes, correct. 16 MR SUSSEX: So when do you say you started taking avoiding 17 action? 18 A. When it was about 3 cables away from me. 19 THE CHAIRMAN: And that coincided with your first visual 20 sighting, as you've told us -- yellow flashing light, 21 white masthead light, and green and red sidelights? 22 A. Yes, correct. 23 MR SUSSEX: So when do you say, in terms of time before the 24 collision, you started taking avoiding action? 25 A. When it was 3 cables away from me.</p>
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<p>1 A. Yes, correct. 2 Q. So the story that you then go on to tell in your witness 3 statement is of taking immediate action by putting the 4 helm hard to starboard. 5 A. Yes, correct. 6 Q. Yet you said just now that you didn't take avoiding 7 action immediately. 8 A. What I said just now was that I haven't taken action 9 when I spotted it on the radar. I took action after 10 I saw it with my own eyes. 11 Q. But your evidence just now was that you saw it on the 12 radar, looked up, saw the Sea Smooth with your own eyes, 13 and then the story goes on that you took immediate 14 avoidance -- 15 THE CHAIRMAN: No, I think he's put a gap between the two. 16 He said, "I saw it on the radar at 1 nautical mile but 17 I've not taken action yet" -- he didn't say avoiding -- 18 "and I stopped looking at the radar, and then I saw the 19 yellow flashing light." So a series of steps is what he 20 suggested. 21 MR SUSSEX: How long do you say you were looking at the 22 radar? 23 A. I had been looking at it since I emerged from the 24 typhoon shelter until I saw the vessel and took action. 25 THE CHAIRMAN: By that you mean saw it on the radar or saw</p>	<p>1 Q. Yes, but I'm talking about time. How much time elapsed 2 between your first sighting of the Sea Smooth, and the 3 collision? 4 A. At that time I didn't pay attention to time. 5 Q. So would I be right to conclude that the gradual change 6 of course to starboard that we see following 20:19:17 -- 7 that is, during the minute before the collision -- 8 leading up to 20:20, was a navigational manoeuvre, 9 a continuation of a change of course to starboard, and 10 was not a collision avoidance manoeuvre? 11 A. No. 12 Q. So you're saying I'm wrong to draw that conclusion, are 13 you? 14 A. Yes, that should be the way to put it. 15 Q. So that you say in the minute leading up to the 16 collision, what we see is a collision avoidance 17 manoeuvre to starboard rather than a continuation of 18 a preceding navigational manoeuvre? 19 THE CHAIRMAN: I don't think he's putting it in terms of 20 time. You asked him, but he's unable to say about time. 21 MR SUSSEX: All right. 22 THE CHAIRMAN: He's saying in the journey of the two vessels 23 towards each other, at the distance he says was about 24 3 cables of Sea Smooth from his vessel, that's when he 25 was doing collision avoidance, as I understand it.</p>

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<p>1 MR SUSSEX: About 3 cables. 2 THE CHAIRMAN: Would you confirm that with the witness? 3 Collision-avoidance measures were taken by you at 4 a 3-cable distance between the two vessels; is that your 5 evidence? 6 A. Yes, correct. 7 MR SUSSEX: Could we go to marine bundle 1, page 89-5. 8 THE CHAIRMAN: Are we now at the Marine Department notes of 9 interview of this witness? 10 MR SUSSEX: The Chinese starts at page 68. 11 What I want is the section of your statement -- 12 THE CHAIRMAN: Let's just establish what document we're 13 looking at first. 14 MR SUSSEX: We're looking at the notes of the interview that 15 you gave to the Marine Department on 7 November 2012. 16 THE CHAIRMAN: Thank you. 17 Do you understand, Mr Chow? 18 A. Yes. 19 MR SUSSEX: What you say there at page 89-5, the main 20 paragraph on that page, the second paragraph: 21 "On the material day, (I) greeted the member of the 22 recreation unit, the person in charge of the cruise when 23 (he) embarked in Tsim Sha Tsui. I did not see him at 24 the wheelhouse. Nor did I know whether he had broadcast 25 on board on the material day. Three minutes after</p>	<p>1 of collision, I did not check the radar picture." 2 THE CHAIRMAN: Do you agree that that's what is recorded as 3 being your answer in this record of interview? 4 A. Agree. 5 MR SUSSEX: I suggest to you that the story that you're now 6 telling of seeing Sea Smooth on the radar is something 7 which you have invented today. 8 A. No. 9 Q. It's not mentioned in your statement to the police. 10 A. Yes, correct. 11 Q. It's not mentioned in the report of interview with the 12 Marine Department. 13 A. I forgot to mention about it. 14 Q. But it's not an omission, because you say the exact 15 opposite. You say specifically that you did not look at 16 the radar. 17 A. I don't agree. 18 Q. And you don't mention this radar sighting in your 19 statement prepared by Reed Smith Richards Butler? 20 A. Agree. Probably I have forgotten about it. 21 THE CHAIRMAN: In this lengthy statement that was prepared 22 and served on the Commission of a week or two ago, you 23 forgot about it? That's your testimony, is it? 24 A. Yes. 25 MR SUSSEX: Now, you give evidence that in the moments</p>
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<p>1 leaving the pier, about 6 cables from the pier, I saw 2 the other vessel appearing at the lighthouse in Shek Kok 3 Tsui. I visually saw (it). When seeing the other 4 vessel, I did not check its position with the radar. 5 I estimated that she was about 3 cables from the 6 lighthouse in Shek Kok Tsui." 7 There's no mention there of seeing the Sea Smooth 8 earlier by radar. On the next page -- 9 THE CHAIRMAN: Do you agree with that, first of all? No 10 mention in this account, in the interview conducted of 11 you by Marine Department officers, of having seen Sea 12 Smooth on radar prior to seeing her visually; do you 13 agree? 14 A. Agree. 15 THE CHAIRMAN: Why not? 16 A. Probably I have forgotten about this at that time. 17 THE CHAIRMAN: Give me a moment, please. 18 Thank you. 19 MR SUSSEX: Not only did you not mention it, but you stated 20 the exact opposite. Because if we go to page 86-6, you 21 say: 22 "(I) had checked the radar (picture) when my vessel 23 left the typhoon shelter but shortly afterwards, 24 I reversed the vessel by visual contact. Therefore, 25 (I) did not notice the radar picture. Up to the moment</p>	<p>1 leading up to the collision, you heard Mr TY Leung shout 2 that there was a vessel coming at speed on your port 3 side. 4 A. Yes, correct. 5 Q. Is it your evidence that you had already seen the Sea 6 Smooth before Mr TY Leung, your engineer, said that 7 there was a vessel coming at speed on your port side? 8 A. Yes, correct. 9 THE CHAIRMAN: I'm sorry, can we just establish which Leung 10 it is. Is this the engineer or the sailor shouting this 11 out? 12 Mr Chow, is it the sailor or the engineer who 13 shouted this out? 14 A. He is the sailor. 15 MR SUSSEX: I'm sorry, it's my mistake. That's quite right. 16 Now, the sequence which you describe in paragraph 51 17 is you put the joystick hard over to starboard, there's 18 a one-second delay as the rudder indicator shows helm 19 being applied, another second passes before the Lamma IV 20 began turning, and you say: 21 "About this time I heard TY Leung shout that there 22 was a vessel coming at speed on our port side ..." 23 A. When I heard it, I was already helming. 24 Q. Yes, but all of these things happened at about the same 25 time, didn't they?</p>

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<p>1 A. No.</p> <p>2 Q. So how much after the application of full helm to</p> <p>3 starboard do you say you heard TY Leung shout?</p> <p>4 A. After the application.</p> <p>5 THE CHAIRMAN: Yes. The question was how long afterwards?</p> <p>6 A. About a few seconds.</p> <p>7 MR SUSSEX: Let's investigate your story that you started --</p> <p>8 do I correctly understand that you say you applied full</p> <p>9 helm to starboard when you saw Sea Smooth about 3 cables</p> <p>10 away?</p> <p>11 A. Correct.</p> <p>12 Q. And would you agree that that would be about 30 seconds</p> <p>13 or so before the collision?</p> <p>14 A. More or less so.</p> <p>15 Q. Let's go to page 317 of the expert bundle 1, if we may,</p> <p>16 please.</p> <p>17 At 20:19:47, which is 30 seconds before the</p> <p>18 collision, we see that your course over the ground is</p> <p>19 356 degrees.</p> <p>20 A. Because after applying the helming, the vessel slowed</p> <p>21 down and it hadn't yet changed its course.</p> <p>22 Q. But you tell us in your witness statement prepared by</p> <p>23 Richards Butler that the vessel started to respond to</p> <p>24 your helm within a couple of seconds; is that not right?</p> <p>25 MR GROSSMAN: I'm sorry to interrupt, Mr Chairman, but</p>	<p>1 than half a minute.</p> <p>2 A. I don't agree.</p> <p>3 Q. And when you saw her for the first time, she was very</p> <p>4 much closer than 3 cables away.</p> <p>5 A. No. At that time, it was within 3 cables.</p> <p>6 Q. It was within 3 cables?</p> <p>7 A. Yes.</p> <p>8 Q. I'm suggesting to you that when you first saw her, she</p> <p>9 was very much less than 3 cables away; indeed she was no</p> <p>10 more than a few boat-lengths away.</p> <p>11 A. I don't agree.</p> <p>12 Q. And that you saw her on your port side.</p> <p>13 A. No. From dead ahead.</p> <p>14 Q. And she was showing a green starboard light to you.</p> <p>15 A. Because I have helmed -- I have applied full helm, and</p> <p>16 she also did that, and that was why I saw her starboard</p> <p>17 light.</p> <p>18 Q. What I suggest to you is that you saw her so shortly</p> <p>19 before the collision that there wasn't much time to</p> <p>20 react.</p> <p>21 A. No.</p> <p>22 Q. You didn't put the helm over to starboard until seconds</p> <p>23 before the collision.</p> <p>24 A. No.</p> <p>25 Q. And that is why your change to starboard does not show</p>
<p>Page 86</p> <p>1 haven't we been through all this?</p> <p>2 THE CHAIRMAN: We have, Mr Grossman. Yes.</p> <p>3 MR SUSSEX: If we're bored with it, I can move on.</p> <p>4 THE CHAIRMAN: No, but we have been through it. If you</p> <p>5 think there's something that is important to bring out,</p> <p>6 by all means pursue the line.</p> <p>7 MR SUSSEX: All right.</p> <p>8 What I'd like you to do is go to page 317 in expert</p> <p>9 bundle 1. I want to pick up your course from 20:19:47,</p> <p>10 which is 30 seconds before the collision. This records</p> <p>11 your course at three-second intervals. We see 356, 356,</p> <p>12 356, 357, 357, 358, 358, 358, 0, 0.</p> <p>13 A. Yes, correct.</p> <p>14 Q. Do you agree that that does not corroborate the rapid</p> <p>15 application of full starboard helm 30 seconds before the</p> <p>16 collision?</p> <p>17 A. No.</p> <p>18 Q. Do you agree with me or do you disagree with me?</p> <p>19 A. I agree, but it was different from what happened at that</p> <p>20 time because at that time, I did apply -- I did helm to</p> <p>21 the right.</p> <p>22 Q. Right. But what I'm going to suggest to you is the fact</p> <p>23 is you didn't even see Sea Smooth until a very few</p> <p>24 seconds before the collision, considerably fewer seconds</p> <p>25 than one whole minute, and considerably fewer seconds</p>	<p>Page 88</p> <p>1 up on the VTC records.</p> <p>2 A. The VTC did reflect that I had changed course. It's</p> <p>3 only that the changing was slow.</p> <p>4 Q. But if, as you say, you put the helm hard to starboard,</p> <p>5 there would have been no slow change of course, would</p> <p>6 there?</p> <p>7 A. No. At that time, when it was 12 nautical miles away,</p> <p>8 we were sailing at slow speed.</p> <p>9 MS LOK: I think the witness said that "We were travelling</p> <p>10 at 12 nautical miles speed", not "away".</p> <p>11 THE CHAIRMAN: Yes, 12 knots.</p> <p>12 MR SUSSEX: You claim that you sounded one short blast on</p> <p>13 the vessel's whistle.</p> <p>14 A. Yes, correct.</p> <p>15 Q. Do you agree that if you did in fact sound one short</p> <p>16 blast, it should have been audible to others on the</p> <p>17 Lamma IV?</p> <p>18 A. Yes, that should be the case.</p> <p>19 Q. Yet we know that nobody says they heard that short</p> <p>20 blast.</p> <p>21 A. Probably it was because people were listening to</p> <p>22 headphones, listening to audio devices, or having</p> <p>23 a game, or not paying attention. But I myself heard it.</p> <p>24 The horn was facing -- was directed to the front.</p> <p>25 THE CHAIRMAN: There's no need for you to speculate, because</p>

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<p>1 we've heard from these various witnesses where they were 2 and what they were doing. 3 A. (In English) I'm sorry. 4 MR SUSSEX: Just a last couple of topics. 5 In paragraph 52 of your statement given to Richards 6 Butler, you say that in addition to the sound signal 7 that you give evidence of, you gave a quick flick of the 8 searchlight switch. 9 A. Yes, because the vessel has been travelling. 10 Q. Yes, but that light signal, a single light signal is 11 equivalent to a single sound signal, is it not? 12 A. Yes, correct. 13 Q. And it means "I am altering course to starboard"? 14 A. Yes, correct. 15 Q. Could I ask you to go to page 3324-12, which is the 16 report of your interview by the police on the day 17 following the collision. The Chinese is at page 3323. 18 I'd ask that question and answer 13 be translated. 19 THE INTERPRETER: "No. I didn't use flashlight." 20 MR SUSSEX: Could you also translate the question. 21 THE INTERPRETER: Okay. 22 "Besides warning the other party with a short blast, 23 did you also apply other methods? 24 Answer: No. I didn't apply flashlight ..." 25 MR SUSSEX: The reason I ask for the translation is --</p>	<p>1 Q. So would I be right that that reference to the battery 2 includes the battery that was powering the navigation 3 lights? 4 A. I am not sure. I think you should ask the engineer. 5 MR SUSSEX: Thank you, Mr Chow. 6 THE CHAIRMAN: Ms Lok? 7 MS LOK: I have no application. 8 THE CHAIRMAN: Thank you. 9 Mr Shieh? 10 MR SHIEH: Mr Chairman, I have quite a few areas to explore 11 with Mr Chow. 12 THE CHAIRMAN: Yes. 13 MR SHIEH: First of all, the question concerning -- would 14 the Chairman prefer me to outline the areas? 15 THE CHAIRMAN: Yes, I think in broad terms. As Mr Sussex 16 indicated, you obviously have many areas to cover, but 17 just give us an idea of what it is you wish to cover. 18 MR SHIEH: Where various people were shortly before the 19 collision; then the question as to the first time 20 Mr Chow saw the Sea Smooth; and the question of the use 21 of radar, broadly along similar lines but not exactly 22 the same lines as Mr Sussex has taken; the effect of the 23 light on the ships in the anchorage area; life jackets 24 and where they were placed; the loud hailer; the use of 25 batteries; a question about use of mobile phone to call</p>
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<p>1 THE INTERPRETER: "... and I didn't use the radio because 2 the channels were different, and I was unable to -- 3 I didn't use the radio because the channels were 4 different." 5 THE CHAIRMAN: Yes. 6 MR SUSSEX: So it's right, isn't it, that on 2 October, you 7 told the police specifically that you didn't employ 8 a light signal? 9 A. Yes, correct. 10 THE CHAIRMAN: Why did you tell them that, since you tell us 11 something quite different? 12 A. Because at that time, I didn't remember it. I was still 13 lying in the hospital. 14 THE CHAIRMAN: Thank you. 15 MR SUSSEX: In paragraph 55 of your statement, you're 16 recounting events following the collision. 17 A. Yes. 18 Q. You say: 19 "... I estimate it was less than 30 seconds after 20 the collision when the generator stopped." 21 A. Yes, correct. 22 Q. And you say: 23 "Seconds later the battery power failed and all the 24 lights went out." 25 A. Yes, correct.</p>	<p>1 the police. 2 THE CHAIRMAN: Very well. That gives us a flavour of where 3 you're going. Thank you very much. 4 MR SHIEH: It's quite a long menu. 5 Examination by MR SHIEH 6 MR SHIEH: Mr Chow, I represent the Commission. There are 7 a number of areas I would like to explore with you. 8 First of all, I would like to ask you questions 9 concerning where the two Mr Leungs were whether you 10 first sighted the Sea Smooth visually. First of all, is 11 it correct to say that when you first visually saw the 12 Sea Smooth, you were alone in the wheelhouse? 13 A. No, at that time Engineer Leung and Leung Pui-sang were 14 also in the wheelhouse. 15 THE CHAIRMAN: That's the sailor, TY Leung, and Engineer 16 Leung, did you say? 17 A. Leung Tai-yau was at my back. He was outside the 18 wheelhouse. He just came back after conducting a patrol 19 in the cabin. 20 MR SHIEH: Bear with me because sometimes, when you say 21 "behind me", we know if the door is open, somebody may 22 be behind you and outside the wheelhouse. Do you 23 understand what I mean? 24 A. Yes. 25 Q. So Mr Leung Pui-sang, the engineer, was inside the</p>

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<p>1 wheelhouse; correct? 2 A. Yes, correct. 3 Q. Leung Tai-yau, the sailor, was outside the wheelhouse at 4 your back, at a distance? 5 A. No, he was immediately outside the doorframe of the 6 wheelhouse. 7 Q. Very well. Would it be fair to say that none of them 8 alerted you to the sighting of the Sea Smooth? In other 9 words, you saw it yourself? 10 A. Yes, correct. 11 Q. And of course, after you had seen the Sea Smooth, 12 I think you mentioned that Leung Pui-sang also shouted 13 that he saw a vessel coming ahead. 14 A. It was Leung Tai-yau. 15 Q. Leung Tai-yau. Thank you. 16 A. (In English) Sorry. 17 Q. I wish to ask about Lai Ho-yin. You mentioned that he 18 was behind you at one stage? 19 A. Yes, correct. 20 Q. Was he speaking to you? 21 A. No. We were not speaking. 22 Q. I believe, according to Mr Lai Ho-yin, he uttered 23 something to you to the effect that there was still 24 ample time. Do you recall that? 25 A. It happened before we set sail.</p>	<p>1 A. Yes. 2 Q. Could I ask you to look at the Reed Smith Richards 3 Butler bundle. 4 You know Mr Tang Wan-on, do you? 5 A. Yes. He is my supervisor. 6 Q. Could I ask you to look at the Reed Smith Richards 7 Butler bundle, page 374. That's the Chinese version. 8 I'm trying to locate the English equivalent. 9 THE CHAIRMAN: What is the document we're looking at? 10 MR SHIEH: I think it is a training manual devised or 11 designed by Mr Tang Wan-on. It was attached to his 12 witness statement. 13 THE CHAIRMAN: Thank you. 14 MR SHIEH: The English version is page 410. The Chinese 15 version is page 374. 16 You can see the introduction: 17 "The frequent occurrence of vessel collision and 18 running aground is due to the improper use of radar 19 installed on the vessel." 20 First of all, have you seen this document before? 21 A. No. 22 Q. If you look at page 373, it's a kind of training manual. 23 You have no recollection of seeing this? 24 A. I haven't attended this course. 25 Q. So according to what the company has told you, whether</p>
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<p>1 Q. Right. So after the vessel had set sail, Lai Ho-yin had 2 not uttered anything to you? 3 A. Yes, correct. 4 Q. Although you were aware that he was outside the 5 wheelhouse, behind you? 6 A. Yes, correct. 7 Q. How would you know that he was outside the wheelhouse, 8 behind you, if he had not spoken to you? 9 A. He just said he is going to retrieve the gifts for 10 a lucky draw, but I didn't answer him. 11 Q. So could you have been distracted by him in your 12 manoeuvring or navigation? 13 A. No. 14 Q. In relation to the radar, has the company, Hongkong 15 Electric, impressed upon you the importance of regular 16 use and monitoring of the radar? 17 A. It didn't mention about the importance, but they just 18 said it has to be turned on when the fog is thick and 19 when it was raining. 20 Q. So the company had not impressed upon you the importance 21 to regularly monitor and use the radar, let's say, at 22 night? 23 A. Yes, correct. 24 Q. Or perhaps when lights from the ships in the anchorage 25 areas might have affected your vision?</p>	<p>1 formally or informally, under what circumstances were 2 you to use the radar? You mentioned to us when it's 3 foggy or when -- I thought you mentioned when it's 4 raining, did you? 5 A. Yes, correct. 6 Q. There was no attempt to emphasise the use or utility of 7 radar even where, let's say, the visibility was good? 8 A. They didn't emphasise it was for us to manoeuvre. 9 Q. And was there any attempt to emphasise or educate you as 10 to the importance of complementing visual navigation or 11 navigation by sight by the use of radar? 12 A. I haven't attended this kind of course. 13 Q. So basically it's really training yourself on the job, 14 learning by yourself? 15 A. Yes, correct. 16 THE CHAIRMAN: When the new radar equipment was purchased 17 for Lamma IV, I think in 2009, did anyone give you 18 instructions about how to use the new facilities on this 19 machine? 20 A. No. 21 THE CHAIRMAN: Were you given a manual? 22 A. The manual was in English, and because my English 23 standard is not good so I didn't refer to it. 24 MR SHIEH: I was about to go there, Mr Chairman. 25 THE CHAIRMAN: Yes. Thank you.</p>

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<p>1 MR SHIEH: Mr Tang Wan-on in fact in his witness statement 2 said that a copy of the manual was left on the bridge, 3 I think. 4 Could the witness be shown Richards Butler bundle, 5 page 464. This is appendix 8 to Mr Tang Wan-on's 6 statement. According to him, this is a copy of the 7 operator's guide for the new radar placed on board 8 Lamma IV. 9 Mr Chow, do you recall having seen a document which 10 looks something like this, at page 454? 11 THE CHAIRMAN: Perhaps he ought to be given the physical 12 paper, then he can flip through it more quickly. 13 MR SHIEH: He has it, yes. From page 454, page 455 -- a few 14 pages. 15 Do you remember seeing something like this on board 16 Lamma IV? 17 A. Yes, but this is not the model used on Lamma IV. 18 MR SHIEH: Oh. Mr Chairman, according to Mr Tang Wan-on's 19 statement, which is page 264 of the same bundle, 20 paragraph 17, he says: 21 "A copy of the operator's guide for the new radar, 22 which was placed on board Lamma IV, is attached at 23 appendix 8." 24 Which is the one we have just seen. 25 THE CHAIRMAN: Yes. But if we have a look at the</p>	<p>1 A. Mr Tang Wan-on. 2 THE CHAIRMAN: Was anything done to help you? 3 A. No. He didn't make any response. 4 THE CHAIRMAN: Thank you. 5 MR SHIEH: So you felt your way through by relying on your 6 knowledge of how the old model was operated? 7 A. Yes, correct. 8 Q. For example, if there were slight differences in the 9 layout of the buttons, you just did it by trial and 10 error? 11 A. You can put it that way. 12 MR SHIEH: Could I have one moment, Mr Chairman. I'm just 13 trying to locate a reference. 14 THE CHAIRMAN: Yes, of course. 15 MR SHIEH: Mr Chow, I now wish to explore with you the 16 question as to the position of your vessel when you say 17 you first saw the Sea Smooth. 18 First of all, can I just tell you that I fully 19 appreciate that you qualified a lot of the estimates in 20 your witness statement by using the phrase "about". Not 21 "appreciate"; I understand. And I fully understand 22 sometimes it's difficult to attach a numerical value to 23 things such as distance and time, especially in 24 traumatic circumstances like this. But let's try our 25 best.</p>
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<p>1 photographs in marine bundle 1, there is a description 2 of the nature of the radar machine. Page 139. 3 "Furuno NavNet GPS chart plotter & radar". It doesn't 4 give the model number. Perhaps we can see that in the 5 photograph. 6 MR SHIEH: It's page 144. 7 THE CHAIRMAN: It's the one at the top. 8 MR SHIEH: Yes. 9 THE CHAIRMAN: Can we zoom in on that. 10 MR SHIEH: Just to see the model number, Mr Chairman. We 11 can see the brand name. 12 But be that as it may, Mr Chow, you said that if 13 it's in English you would have difficulty in 14 understanding it or in being able to go through it? 15 A. Yes. 16 Q. So even if it's got the function of, for example, 17 electronic map which will actually show you where your 18 vessel was in respect of, let's say, the beacon, you 19 were not told how to use that function? 20 A. You can put it that way. 21 THE CHAIRMAN: Did you raise this difficulty with anyone, 22 that the new equipment, smart and shiny as it was, came 23 with a manual that you couldn't read? 24 A. Yes, I have reflected to my superior. 25 THE CHAIRMAN: To whom?</p>	<p>1 Leaving aside the question whether you saw the radar 2 image at 1 nautical mile away -- leave that to one side 3 because I'm going to explore that with you later. Now, 4 you had mentioned seeing the Sea Smooth about 3 cables 5 away. 6 A. Yes. 7 Q. You had once mentioned that. Also you had mentioned in 8 some other part of your statement that from the time 9 when you first saw the Sea Smooth by sight, and the time 10 of collision, the time gap was about one minute? 11 A. Yes, correct. 12 Q. You also explain how you came to estimate the distance 13 of 3 cables, and it was because when you first saw it, 14 the Sea Smooth appeared to be adjacent to No. 98 beacon 15 off Shek Kok Tsui. 16 A. That's correct. 17 Q. Could I ask for expert bundle 1, page 361. Let me tell 18 you what this is, Mr Chow. The Commission has retained 19 a maritime expert, Captain Pryke, to interpret the data 20 captured by the radar system of the VTC. 21 You know how radars work? Radars send out a signal 22 and then an echo comes back and it detects the position 23 of an object by reference to its longitude and latitude? 24 A. Yes. 25 Q. And the radar did a scan every three seconds, so there</p>

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<p>1 would be a whole host of numerical data about the 2 longitude and latitude of the two vessels. 3 What Captain Pryke did was to take the positions 4 captured by the VTC radar system and then plot the 5 respective tracks of the Sea Smooth and also Lamma IV. 6 Do you understand that? 7 A. Yes. 8 Q. If you look at this, he didn't do it by every three 9 seconds; he did it by, I think, 10-second intervals. Or 10 he did it by longer intervals, leaving aside -- 11 THE CHAIRMAN: I thought they were 30 seconds and one 12 minute. 13 MR SHIEH: Yes. 14 You will see two tracks there, one in red and one in 15 black, but we can disregard that difference because 16 slightly different systems were used. But the broad 17 shape of the tracks were shown in this chart. 18 We know that the collision occurred at 20:20:17. So 19 could the cursor be taken to that point, 20:20:17. Can 20 we zoom in closer. 21 That's around about where the collision took place, 22 Mr Chow? You can see that, where the cursor or the 23 arrow is? 24 A. Yes. 25 Q. One minute before that would be 20:19:20, or</p>	<p>1 when you first saw the Sea Smooth? Working backwards 2 from your estimate of one minute. 3 THE CHAIRMAN: Do you agree, looking at the chart, seeing 4 the positions as they've been plotted, that it's more 5 than 3 cables' distance between the vessels a minute 6 prior to the collision? 7 MR SHIEH: Would you agree with that? 8 A. Agree. 9 Q. But if we take 3 cables to be the distance, then 10 logically the time from that point to collision would be 11 shorter. You would accept that, would you? 12 A. Agree. 13 Q. Let's perform a little bit of arithmetic before we break 14 for the day. 15 You have estimated the speed of Lamma IV as about 16 12 knots? 17 A. Yes, correct. 18 Q. And you have estimated -- this is your witness 19 statement -- the speed of Sea Smooth to be about 20-25 20 knots? 21 A. Yes, correct. 22 Q. Let's take a combined speed of, say, 36 knots, because 23 Captain Pryke actually used that figure. The combined 24 speed of the vessels, let's assume that to be 36 25 knots -- 36 nautical miles per 60 minutes. At that</p>
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<p>1 thereabouts? Look at 20:19:20. 2 Could the cursor be moved up to show where the Sea 3 Smooth would be around about 20:19:20. Further up. 4 THE CHAIRMAN: We have 20:19:20 on the left in black. 5 MR SHIEH: Yes, 20:19:20 in black. That would be where Sea 6 Smooth was at 20:19:20, about one minute prior to the 7 collision, quite a way from No. 98 beacon, and not 8 adjacent. You can see that? 9 A. Yes. 10 Q. If you try to identify the corresponding position of 11 Lamma IV at around about that time -- I know there isn't 12 a precise match, but if the cursor can move down to 13 somewhere between 20:19:32 and 20:19:02, somewhere in 14 between. Do you see that? 15 A. Yes. 16 Q. Now, the distance between that point and 20:19:20 up 17 there for Sea Smooth would be longer or larger than 18 3 cables. 19 Just to help you, if you look at the extreme left of 20 this chart, you will see Captain Pryke has kindly 21 indicated "one nautical mile". Do you see that? 22 A. Yes. 23 Q. So what I'm trying to show to you is that if we work 24 backwards from your one minute or about one minute 25 estimate, the vessels would be more than 3 cables apart</p>	<p>1 combined speed, we can work out readily that a distance 2 of 1 cable could be achieved in 10 seconds. 3 A. Yes. 4 THE CHAIRMAN: Do you follow? 5 A. Yes, correct. 6 MR SHIEH: So if it's about 3 cables away, then the time it 7 would take from the time of first sighting to collision 8 would be 30 seconds? 9 A. Yes, correct. 10 Q. Which would be half the time of your estimate, in terms 11 of time. You would accept that? 12 A. Yes. 13 MR SHIEH: I will explore further with him his estimate and 14 evidence as to the time and distance, probably tomorrow, 15 Mr Chairman. 16 THE CHAIRMAN: Very well. 17 MR SHIEH: We have had some news about the technician from 18 Cheoy Lee. 19 THE CHAIRMAN: Yes? 20 MR SHIEH: We understand he is able to give evidence 21 tomorrow. So what we propose is, rather than call him 22 after all the crew has been called, since he is 23 immediately available tomorrow, after finishing 24 Mr Chow's evidence, we will interpose Mr Hui. 25 THE CHAIRMAN: That seems sensible. That will then give the</p>

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<p>1 remaining crew the opportunity to have heard that 2 evidence first before they're called upon to answer it 3 themselves. 4 Does anybody have any objection to that? Thank you. 5 Mr Chow, we're going to take our adjournment now 6 overnight. We'll resume again tomorrow at 10 o'clock. 7 So can I ask you to return to continue your testimony 8 then. 9 A. (In English) Yes. 10 THE CHAIRMAN: Obviously, Mr Shieh, the various distances 11 can be calculated by the known latitude and longitude 12 references on the GPS. So, for example, when the two 13 vessels were within 1 nautical mile will be something 14 that can be calculated. 15 MR SHIEH: Yes. 16 THE CHAIRMAN: For example, dealing with the radar issue. 17 And then the same can be dealt with, rather than the 18 broad brush we've just done about closing speeds, it can 19 actually be calculated from those figures. 20 MR SHIEH: Yes. In terms of precise numerical calculation 21 and analysis, I'm not going to take that up with this 22 witness because obviously that's hard data. Mr Chairman 23 obviously knows what I'm getting at. I'm going to get 24 at the point about use of radar -- 25 THE CHAIRMAN: Yes.</p>	<p>1 I N D E X 2 MR CHOW CHI-WAI (on former affirmation in Punti)1 3 Examination by MR GROSSMAN (continued)1 4 Examination by MR SUSSEX26 5 Examination by MR SHIEH92 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
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<p>1 MR SHIEH: -- because whatever may be the time or distance 2 between the two vessels at the time of the alleged first 3 sighting, if he had used 1 nautical mile, that would 4 obviously have given more time and obviously there will 5 be a question as to whether he did use the radar. 6 THE CHAIRMAN: That is now his evidence, that he did use it, 7 and he saw it at 1 nautical mile -- 8 MR SHIEH: We'll explore that. 9 THE CHAIRMAN: -- but we'll hear more about that tomorrow. 10 10 o'clock tomorrow. 11 (4.34 pm) 12 (The hearing adjourned until 10 am on the following day) 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	