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<p>1 Thursday, 20 December 2012</p> <p>2 (10.00 am)</p> <p>3 THE CHAIRMAN: Yes, Mr Beresford.</p> <p>4 MR BERESFORD: Mr Chairman, I was in the process of reading</p> <p>5 Mr Niu's statement and I had got to the end of</p> <p>6 paragraph 4, I believe.</p> <p>7 THE CHAIRMAN: Yes. Could we ask Mr Niu to come into the</p> <p>8 hearing.</p> <p>9 MR NIU GANG (on former affirmation in Punti)</p> <p>10 (All answers via interpreter unless otherwise indicated)</p> <p>11 Examination by MR BERESFORD (continued)</p> <p>12 MR BERESFORD: Good morning, Mr Niu. I'm going to continue</p> <p>13 reading your statement where I left off last night,</p> <p>14 commencing at paragraph 5.</p> <p>15 THE CHAIRMAN: May I remind you that when you give your</p> <p>16 evidence, you do so according to the affirmation that</p> <p>17 you took yesterday.</p> <p>18 A. (In English) Okay.</p> <p>19 THE CHAIRMAN: Yes.</p> <p>20 MR BERESFORD: "On board the vessel, my wife and I sat on</p> <p>21 our seats and watched my daughter's photos and videos</p> <p>22 with my iPad intently. After it had sailed for about</p> <p>23 20 minutes, at about 8.20 pm, I raised my head</p> <p>24 subconsciously and noticed that a male passenger, who</p> <p>25 was aged around 40-50, sitting on the middle row on my</p>	<p>1 the cabin. He walked and said, 'It's Hongkong Electric</p> <p>2 again.' Then he went out of the cabin to the bow.</p> <p>3 I guessed it must be a collision of vessels but I didn't</p> <p>4 see what happened exactly. My wife and I sat on the</p> <p>5 seats waiting. My wife and I also took out the life</p> <p>6 jackets under our seats respectively and put them on.</p> <p>7 The shipman, who had gone to the bow from the cabin,</p> <p>8 returned to the cabin about half minute later. I took</p> <p>9 no more notice of him after he had returned to the</p> <p>10 cabin. I want to add that before and after the shipman</p> <p>11 left the cabin, he said aloud, 'It's all right. It's</p> <p>12 all right. Sit down. Sit down', and said to the</p> <p>13 passengers, 'Calm down. Calm down.' However, I didn't</p> <p>14 see the other shipmen and the captain. Passengers</p> <p>15 started raising a hubbub. I looked around the sea</p> <p>16 outside but it was so dark that I didn't know where the</p> <p>17 vessel was. As I was inside the cabin, I didn't know</p> <p>18 the damage of the vessel. My wife and I did not get</p> <p>19 hurt and we just sat on our seats waiting.</p> <p>20 After the vessel had stopped for 3-5 minutes, the</p> <p>21 shipmen didn't explain to us about what happened or give</p> <p>22 us any instruction or broadcast anything. I only saw</p> <p>23 the passengers raising a hubbub and heard some</p> <p>24 passengers say that somebody got hurt. Yet, I didn't</p> <p>25 see that with my own eyes. Besides, some passengers</p>
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<p>1 right side, was astonished and dazed looking at the bow.</p> <p>2 Within a second, a light in warm white colour glaring</p> <p>3 from the bow at a distance of about 5-10 metres. I</p> <p>4 realised that a vessel was in front of our vessel. The</p> <p>5 light was constant without blinking. I didn't hear any</p> <p>6 horn of vessel at that time. One second after I saw the</p> <p>7 light at the bow, I heard a loud 'bang' sound from the</p> <p>8 bow. Then the vessel stopped right away and the light</p> <p>9 in front of us was off.</p> <p>10 My wife and I hit the back of the seats in front of</p> <p>11 us but we did not get hurt. I saw part of the cabin</p> <p>12 ceiling fall down and sundries scatter over the floor.</p> <p>13 Yet, when I looked out, it was so dark that I couldn't</p> <p>14 see what happened. I just knew that the vessel stopped</p> <p>15 and the engine was off because of a collision. The</p> <p>16 vessel stopped but I wasn't aware if the vessel altered</p> <p>17 the course or had any movement. I felt that the speed</p> <p>18 of the vessel was normal before the collision. I didn't</p> <p>19 feel that the vessel did accelerate, slow down or alter</p> <p>20 the course. I had no idea at all what the vessel had</p> <p>21 collided with. Some of the passengers cried while some</p> <p>22 of them walked around to check out what happened.</p> <p>23 After the vessel had stopped for 10-20 seconds,</p> <p>24 a male shipman in blue uniform (a Chinese male aged</p> <p>25 over 40) walked towards the bow from the stern through</p>	<p>1 asked, 'Why didn't you sail away?' They queried why the</p> <p>2 vessel stopped. My wife and I just sat on the seats and</p> <p>3 we didn't notice where the shipmen went.</p> <p>4 After the vessel had stopped for about 8 minutes,</p> <p>5 without any broadcast or instruction, I felt that the</p> <p>6 vessel started again. Yet, I didn't pay attention to</p> <p>7 which direction the vessel sailed at first. I only felt</p> <p>8 that the vessel started again and sailed away very</p> <p>9 slowly but the sailing of the vessel resumed normal</p> <p>10 later. I didn't take heed of the situation when the</p> <p>11 vessel started again. My wife and I didn't call the</p> <p>12 police.</p> <p>13 After the vessel had sailed away for about one</p> <p>14 minute, on the floor on the right side of my seat,</p> <p>15 an oval drain lid-like iron object in a diameter of</p> <p>16 about 60 cm loosed and bounced to a few centimetres</p> <p>17 away. Then, the seawater poured in which turned into</p> <p>18 a spout of water as high as 30 cm. The passengers</p> <p>19 around screamed. A shipman, the one walked out of the</p> <p>20 cabin before, yelled at the centre of the cabin,</p> <p>21 'Everybody put on the life jacket quickly.' The</p> <p>22 passengers started putting on the life jackets. Seeing</p> <p>23 this, my wife and I went upstairs to the cabin on the</p> <p>24 upper deck. There were about 20-30 passengers on the</p> <p>25 upper deck. I didn't take notice if the captain and</p>

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<p>1 other shipmen were there. Then my wife and I went to 2 the stern with the life jackets on us. We didn't sit 3 down but stood on the right side of the open deck at the 4 stern waiting. At that time, I was so nervous that 5 I wasn't aware of the situation outside. The atmosphere 6 was calm on the upper deck as compared with the lower 7 deck. I could feel that the vessel slightly tilted to 8 the left at about 20 degree. Yet, I could stand still 9 without any support. 10 The vessel had sailed for further 5 minutes. 11 Meanwhile, I felt that the speed of the vessel was about 12 20% slower than that before the collision. I didn't 13 take notice of the time when the vessel reached the pier 14 on Lamma Island where my wife and I took off the life 15 jackets at once and went ashore. Having gone ashore, 16 I saw that there was a hole in a diameter of one metre 17 on the left of the bow of the Sea Smooth that we just 18 took. My wife and I went ashore through the right exit 19 on the lower deck but we didn't see any water on the 20 floor of the right cabin. Besides, I couldn't see the 21 position where the seawater poured in before. As both 22 my wife and I didn't get hurt, we went to visit my 23 friend's home on Lamma Island after landing." 24 I'm going to stop there, Mr Niu. 25 Could the witness please be shown, or could the</p>	<p>1 MR BERESFORD: Yes, that's my understanding, Mr Chairman. 2 THE CHAIRMAN: Let's ask the witness to deal with it, if you 3 would. 4 MR BERESFORD: Mr Niu, you can see the photograph which is 5 page 15 of bundle I, on the screen. Can you confirm its 6 location by reference to the plan that's now on the 7 screen? We've numbered the seats, so perhaps you can 8 tell us what the nearest seat number is. 9 A. Between numbers 3 and 4. 10 THE CHAIRMAN: Thank you. 11 MR BERESFORD: There are two circles marked on the plan 12 between 3 and 4. Can you tell us which one you're 13 referring to? 14 A. The one at number 4. 15 Q. Right. And then in front of that, on the plan, there 16 are marked two rectangular boxes. On the photograph, we 17 can see some stairs that appear to lead outside. Can 18 you confirm whether the rectangular boxes represent 19 those stairs, in your memory and to your understanding? 20 A. I believe so. 21 Q. That exit is not, I think, a regular passenger exit, is 22 it; it's where the crewman goes to sort out the mooring 23 lines? Is that correct, Mr Niu? 24 A. Yes. 25 THE CHAIRMAN: Can we see the photograph once again, please</p>
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<p>1 photographs be shown on the screen, photo album I, 2 page 15. 3 Is that the kind of cover you referred to? 4 A. Yes. 5 THE CHAIRMAN: Where in the vessel is that particular cover 6 located? I'm asking you, Mr Beresford, rather than the 7 witness. 8 MR BERESFORD: That's located at the front of the vessel. 9 That door that you can see in the photograph is at the 10 front, Mr Chairman. 11 THE CHAIRMAN: That is on the main deck, is it? 12 MR BERESFORD: On the main deck, yes, Mr Chairman. 13 THE CHAIRMAN: Could we have the photograph again, please. 14 Is this described on the plan as "WTMH", or is it 15 back towards where the gangway is? 16 MR BERESFORD: My understanding is that it is precisely the 17 "WTMH" just below the stairs that are marked to the 18 right on the plan, or forward on the plan. Just in 19 front of seats 1, 2 and 3. But perhaps the witness 20 could confirm. 21 THE CHAIRMAN: Could we see the photograph again. Where do 22 those steps lead? 23 MR BERESFORD: Up onto the fore deck. 24 THE CHAIRMAN: Where are they marked on the plan as steps? 25 Is it simply two rectangular boxes?</p>	<p>1 Thank you. 2 MR BERESFORD: I have no further questions for this witness, 3 Mr Chairman. 4 MR LEE: Good morning, Mr Chairman. May I have the 5 Commission's permission to ask this witness a few 6 questions regarding what he saw? 7 THE CHAIRMAN: In which area? 8 MR LEE: Regarding what he saw around the time of the 9 collision. Also, I think there may be a translation 10 discrepancy between the Chinese version of his statement 11 and the English translation. 12 THE CHAIRMAN: Well, let's deal with the translation issue 13 first of all. What do you say is the mistake? 14 MR LEE: In paragraph 5, on page 764-3, the English 15 translation reads, about the fifth line down: 16 "Within a second, a light in warm white colour 17 glaring from the bow at a distance of about 18 5-10 metres." 19 When I was reading the Chinese version, the witness 20 actually mentioned a row of lights in yellowish colour. 21 I would just like the witness to refer -- 22 THE CHAIRMAN: Well, we don't need the witness to correct 23 a translation error. The interpreter can do that. 24 "Within a second, a row of yellow lights ..." 25 Is that what you say is the correct translation?</p>

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<p>1 MR LEE: Yes, I believe so. "Yellowish". 2 THE CHAIRMAN: "Yellowish", thank you. Just read it as you 3 say it should be interpreted. 4 MR LEE: "Within a second, a row of lights in yellowish 5 colour glaring from the bow at a distance of about 6 5-10 metres." 7 MR SUSSEX: Mr Chairman, not having the ability to read the 8 Chinese, might I enquire whether paragraph 4 of the 9 wife's statement -- and the wife is apparently not being 10 called -- should similarly read "yellow" rather than 11 "white"? 12 THE CHAIRMAN: Can I leave counsel to deal with that 13 separately? Let's deal with this witness and what's 14 there. 15 Madam Interpreter, do you confirm that the suggested 16 amendment to the English translation is accurate as 17 counsel has suggested? 18 THE INTERPRETER: Sure. Yes, I agree that it should be 19 "yellowish", the colour. 20 THE CHAIRMAN: "A row of lights yellowish in colour"? 21 THE INTERPRETER: Yes. 22 THE CHAIRMAN: Thank you. We've dealt with that one. 23 MS LOK: Mr Chairman, if I may, in fact a line is missing in 24 the translation right after that. It actually continues 25 to read "A row of strong light shone from that</p>	<p>1 Now, as to the area in which you wish to ask 2 questions, what is that area? 3 MR LEE: Yes, Mr Chairman. Further down in this paragraph, 4 the witness mentioned that he looked outside. I would 5 just like to clarify from which window he looked. 6 THE CHAIRMAN: So it's his evidence as to what he saw 7 outside? 8 MR LEE: Yes. 9 THE CHAIRMAN: Yes, you may ask questions about that. 10 Examination by MR LEE 11 MR LEE: Mr Niu, further down in paragraph 5 -- the English 12 translation is page 764-4, at the top half part, the 13 sixth row down the first paragraph: 14 "Yet, when I looked out, it was so dark that 15 I couldn't see what happened." 16 Could the witness be shown the general arrangement 17 plan of the Sea Smooth. 18 Mr Niu, would you be able to help us. From which 19 window did you look out? 20 A. The one in the front. 21 THE CHAIRMAN: Is there a photograph that helps? 22 MR LEE: Is that the window right next to seat 1 that you 23 are referring to? 24 A. No. In front. 25 MR BERESFORD: Possibly page 45 in bundle 1.</p>
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<p>1 direction", in Chinese. "(Chinese spoken)", which is 2 missing in the English translation, I'm afraid. 3 THE CHAIRMAN: "A row of strong lights shone from that 4 direction"? 5 MS LOK: That is correct. 6 THE CHAIRMAN: Thank you for your help. 7 Madam Interpreter, do you confirm that that was 8 missing on the translation? 9 THE INTERPRETER: Sorry, sir, just give me a minute, please. 10 THE CHAIRMAN: Yes. 11 MR SUSSEX: Could I also ask that we have a translation of 12 how that sentence should now read, because at the moment 13 we have phrases interposed and the sentence as I see it 14 doesn't make a lot of sense. 15 THE CHAIRMAN: As I understand it, there was a whole 16 sentence missing. We've corrected the mistranslation 17 and we've now inserted the non-translation. 18 THE INTERPRETER: Mr Chairman, I can confirm that one line 19 is missing; that is, "A row of strong light shined 20 towards me". 21 THE CHAIRMAN: "Shone towards me"? 22 THE INTERPRETER: Yes. 23 THE CHAIRMAN: "Towards me"? 24 THE INTERPRETER: Yes. 25 THE CHAIRMAN: Very well.</p>	<p>1 THE CHAIRMAN: Yes. Have a look at that, please. 2 Does that help you? 3 MR LEE: Okay, yes. 4 Mr Niu, did you see any shore lights at all when you 5 looked through that window? 6 THE CHAIRMAN: Let's establish which window it was, first of 7 all. 8 Is that the window you looked out? 9 A. The one on the right. 10 THE CHAIRMAN: Thank you. The one where the pointer is? 11 A. This one, and the one on the right as well. 12 THE CHAIRMAN: So the one above the yellow sign? 13 A. Yes. 14 THE CHAIRMAN: Is that a window to the right? 15 A. It's not only this one, but the other ones as well. 16 THE CHAIRMAN: So several windows. 17 Yes, Mr Lee? 18 A. I am not sure, but maybe two to three. 19 MR LEE: Mr Niu, did you see any shore lights when you 20 looked through that window, or it was complete darkness? 21 A. Which window are you referring to? 22 Q. The one that we just referred to. 23 A. I didn't see any other objects. 24 Q. Thank you. Just further down this paragraph, you 25 mentioned:</p>

<p style="text-align: right;">Page 13</p> <p>1 "I didn't feel that the vessel did accelerate, slow 2 down or alter the course." 3 Now, as a regular commuter or frequent traveller on 4 these fast service vessels, if the vessel had altered 5 course, would you be able to tell? 6 A. Seldom. I'm not sure. 7 MR LEE: Mr Chairman, I have no further questions for this 8 witness. 9 THE CHAIRMAN: Thank you. 10 Mr Sussex? 11 MR SUSSEX: Mr Chairman, I wonder if I might be permitted to 12 ask this witness about what he saw through the window; 13 about the state of the engines; about the speed of the 14 vessel; and also I'd like to touch upon what the 15 passengers were shouting following the collision. 16 THE CHAIRMAN: Yes, you may do so. 17 MR SUSSEX: Thank you. 18 Examination by MR SUSSEX 19 MR SUSSEX: Mr Niu, in the moments leading up to the 20 collision, the first thing that you tell us is that you 21 raised your head subconsciously. I take it you mean you 22 don't know why; is that right? 23 A. Before that, I was viewing photos and videos with my 24 wife and after viewing them, naturally I looked left and 25 right. When I looked at the right-hand side, I saw</p>	<p style="text-align: right;">Page 15</p> <p>1 the light was coming from the windows of the other 2 vessel? 3 A. In fact I only saw a row of light. And I saw that from 4 the window in the front. 5 Q. Right. But it was sufficient for you to realise that 6 there was a vessel in front of your own vessel? 7 MS LOK: "Sufficient", "(Chinese spoken)". 8 THE INTERPRETER: Sorry. 9 (Question retranslated) 10 A. Yes. 11 MR SUSSEX: Right. So may I take it that you caught at 12 least a glimpse of the vessel in front of your own 13 vessel? 14 A. I was not yet able to catch a glimpse of a vessel, but 15 usually this kind of light emanates from other vessels. 16 Q. Did you happen to see any light of any other colour? 17 A. No. But it happened very, very quickly. After the 18 collision, I could no more see any light. I could not 19 see any light anymore. 20 Q. Right. You say that this colour was "glaring from the 21 bow at a distance of about 5-10 metres". Could I just 22 understand that correctly. Are you saying that this row 23 of light that you saw was about 5-10 metres away from 24 your own vessel, from the Sea Smooth? 25 A. Yes.</p>
<p style="text-align: right;">Page 14</p> <p>1 a person whose expression was very strange. 2 Q. Are you able to describe that person? For example, was 3 he Chinese, expatriate? Perhaps you can help us with 4 a brief description. 5 A. I cannot be certain now. 6 Q. Very well. You say, having seen this man looking 7 astonished and dazed, within a second, so a very, very 8 brief time, you notice a row of strong light. 9 THE CHAIRMAN: I think "yellowish light". 10 MR SUSSEX: "Yellowish light", I'm so sorry. 11 Are you able to say where that light was coming 12 from? 13 A. I can't tell. About one second after seeing that, the 14 collision happened. 15 Q. Right. But let me suggest possibilities. Was it light 16 on your own vessel, on the Sea Smooth? Was it light 17 coming from the other vessel? Or was it light emanating 18 from the shore, do you think? 19 A. From the other vessel. 20 Q. You think it was light coming from the other vessel? 21 A. (Witness nods). 22 Q. You say it's a row of yellowish light. Was that light 23 coming from the windows, do you think? 24 A. Yes. Also from the window in the front. 25 Q. No, no, no. Sorry, what I'm suggesting is, do you think</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. You then tell us that you didn't hear "any horn of 2 vessel". Do I take that to mean you didn't hear a horn 3 from the Sea Smooth, or from the other vessel? 4 A. Neither of them. 5 Q. Right. In paragraph 5 you say: 6 "Then the vessel stopped right away ..." 7 By that you mean your own vessel, I take it, the Sea 8 Smooth? 9 A. Yes. 10 Q. You say: 11 "I just knew that the vessel stopped and the engine 12 was off because of a collision." 13 Would I be right that you wouldn't be able to tell 14 whether the engine had actually been switched off or was 15 just in neutral? 16 A. Yes, I can't tell. 17 Q. Am I also right that you're not very confident of your 18 evidence that the Sea Smooth did not slow down in the 19 moments -- and I'm talking about moments -- before the 20 collision? 21 A. I cannot tell. 22 Q. The last point I want to touch upon is this. You record 23 in paragraph 7 of your witness statement some of what 24 you describe as "hubbub". You say that some passengers 25 were asking "Why didn't you sail away?"</p>

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<p>1 A. Yes. 2 Q. First of all, in which language was that being said, do 3 you remember? 4 A. In Chinese. 5 Q. And to whom was it directed? 6 A. I don't know. 7 Q. Were there many people saying things like that? 8 A. I couldn't tell. 9 MR SUSSEX: Thank you, Mr Niu. 10 THE CHAIRMAN: Thank you, Mr Sussex. 11 MS LOK: Mr Chairman, I seek leave to question this witness 12 on three areas. The first is I will try to help to 13 clarify the windows from which he was looking out by 14 showing him the photograph; the second is in relation to 15 the life jacket that he wore; and the third is in 16 relation to the manhole that he saw burst. 17 THE CHAIRMAN: Yes, please ask questions in those areas. 18 MS LOK: Thank you. 19 Examination by MS LOK 20 MS LOK: Mr Niu, can you please be shown a photograph at 21 police album I, page 26. 22 Are these the windows you were referring to when you 23 said you looked out and saw the row of light? 24 A. No -- yes. 25 MS LOK: That was a mistranslation, right? You said "yes".</p>	<p>1 Q. I see. So you saw the manhole burst open when you were 2 standing at 14? 3 A. Yes. 4 Q. And you were referring to the manhole next to number 4? 5 A. Yes. 6 Q. How about the one next to 3? Did you see it burst open? 7 A. I didn't pay attention to this. 8 Q. I see. You were quite sure that the manhole next to 9 number 4 burst open after Sea Smooth sailed off? 10 A. Yes. 11 Q. Did you notice any seepage of water around your seats 12 before this manhole burst open? 13 A. No. There's no water seepage. 14 Q. So your feet were completely dry before the manhole 15 burst open? 16 A. Yes. 17 Q. My last question -- 18 A. (In English) Sorry. 19 A. At that time, I was wearing slippers. 20 Q. My last question is, you referred to seeing a man 21 looking shocked right before the collision. 22 A. Yes. 23 Q. Can you, by reference to the seating plan, tell us about 24 which seat that man was sitting in? 25 A. It should be number 4 or 5.</p>
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<p>1 THE INTERPRETER: Yes. 2 MS LOK: I will move on to the life jackets. You said in 3 your statement that after the collision, very soon you 4 and your wife put on life jackets. 5 A. Yes. 6 Q. You knew where to find them? 7 A. In fact, it was my wife who retrieved them. 8 Q. So she just, after the collision, went to retrieve the 9 life jackets? 10 A. It was located underneath the seat. 11 Q. Did you or your wife have any difficulty wearing or 12 putting on the life jacket? 13 A. I don't think so. 14 Q. You told us in your statement that about one minute 15 after Sea Smooth sailed off, a manhole cover burst open. 16 Can the witness be shown the seating plan, please. 17 You see there are two manholes next to seat 18 numbers 1, 2 and 3. First of all, where were you 19 sitting? 20 A. Previously, I was sitting at seat 13. 21 Q. You said "previously" because you told us that after the 22 collision, you went to the upper deck; right? 23 A. (Chinese spoken). 24 Q. (Chinese spoken)? 25 A. After the collision, I stood at seat 14.</p>	<p>1 Q. I see. So when the manhole next to 4 burst open, did 2 you see that man do anything? 3 A. I didn't pay attention. 4 MS LOK: I have no further questions. 5 THE CHAIRMAN: Thank you. 6 Mr Beresford? 7 MR BERESFORD: No re-examination. 8 THE CHAIRMAN: Thank you, Mr Niu, for coming back today to 9 continue your evidence from yesterday. Thank you for 10 taking the time to assist this Commission with our 11 Inquiry. Your evidence is now complete, and you're free 12 to go, with our thanks. 13 (The witness withdrew) 14 THE CHAIRMAN: Yes, Mr Beresford? 15 MR BERESFORD: Mr Chairman, the next witness is Mr Chung 16 Kin-hing. 17 MR CHUNG KIN-HING (affirmed in Punti) 18 (All answers via interpreter unless otherwise indicated) 19 Examination by MR BERESFORD 20 MR BERESFORD: Mr Chung, thank you very much for coming 21 along today. I have some questions to ask you on behalf 22 of the Commission. 23 Mr Chung, you have previously given statements to 24 the police, I believe, which may be found in our 25 bundle B at pages 823 to 826, the translations being at</p>

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<p>1 pages 826-1 to 826-6. 2 Mr Chung, do you recognise that statement at 3 page 823? 4 A. Yes. 5 Q. Have you been given an opportunity to look through it 6 today and remind yourself of its content? 7 A. Yes. 8 Q. Are there any amendments that you would wish to make? 9 A. No. 10 Q. So are the contents of that statement true? 11 A. Yes. 12 Q. Mr Chung, you are aged 39 and your occupation is 13 a digital colour specialist; is that correct? 14 A. Yes. 15 Q. And you've been educated to tertiary level? 16 A. Yes. 17 Q. I'm going to read from the English translation of your 18 statement and the Chinese original will be shown on the 19 screen. If you hear anything that seems inaccurate or 20 which you wish to question, then please stop me. 21 A. Okay. 22 Q. I'm going to read from paragraph 4: 23 "At 20:00 hours on 1 October 2012, I took a ferry 24 [later known as the Sea Smooth] operated by Hong Kong 25 & Kowloon Ferry Ltd at the Outlying Islands Ferry Pier</p>	<p>1 front and felt a great impact. We were almost thrown 2 off the seats. Some passengers fell down. I had no 3 idea what happened at the time, but I could sense that 4 something was going to happen. So, I took out two life 5 jackets from under the seats and told my girlfriend that 6 we each should get hold of a life jacket for emergency. 7 I then went [aft] of the ferry and looked to the port 8 side, the starboard side and the stern, to check the 9 surrounding environment, only to find that it was pitch 10 black on all three sides and I knew that our ferry was 11 in the middle of the sea, not near the store at all. 12 So, I returned to my seat and told my girlfriend to put 13 on the life jacket. At that time, a crew member in 14 a blue shirt came out from the steering compartment and 15 shouted, 'Don't worry. No need to put on life jacket.' 16 Then the crew member went to other part of the ferry to 17 repeat what he had just said. Shortly afterwards, 18 I felt that the engine of the ferry started and the 19 ferry sailed in an intermittent manner. The ferry 20 sailed faster before long. However, I could feel that 21 the bow tilted a bit to the port side. At that juncture 22 a foreign lady [aged between 30 and 40, about 1.7 metres 23 tall, of thin build, with blond hair] in a black dress 24 went to the steering compartment from the stern. I saw 25 that she kept speaking in English from outside the</p>
<p>1 in Central with my girlfriend So Wai-nga to get back to 2 her home in Yung Shue Wan. We sat in the middle of the 3 third row on the upper deck of the ferry ..." 4 And you refer to annex 1. I'll come back to that in 5 a second. 6 "... with my girlfriend on my left-hand side. We 7 had been chatting with each other since the ferry set 8 sail. The lights inside the passenger compartment were 9 on. There were about 20 passengers or so inside the 10 passenger compartment and about 10 passengers or so 11 outside the passenger compartment on the upper deck. It 12 was dark outside the ferry, with waves at sea, and the 13 vision was clear." 14 Pausing there, Mr Chung. Can we just refer to the 15 seating plan of the Sea Smooth. When you say that you 16 sat in the middle of the third row on the upper deck of 17 the ferry, is that around about seat 52 marked in blue 18 on the upper deck? 19 A. I was sitting at seat 53. 20 Q. 53. And your girlfriend? 21 A. 52. 22 Q. Thank you. Continuing, then: 23 "The ferry had sailed for a period of time before it 24 was across from the light tower off Yung Shue Wan of 25 Lamma Island. Suddenly I heard a loud sound from the</p>	<p>1 steering compartment, telling the skipper, who was 2 wearing a white shirt, 'We should go back,' and pointing 3 her finger towards the stern. I then went [aft] of the 4 ferry to take a look. I asked the male next to me what 5 happened. He pointed into distance [distance unknown] 6 and said that a ship was sinking. So, I looked in that 7 direction to find that both decks of the ship were lit 8 and the stern was sinking. I immediately returned to my 9 seat. I then saw a crew member in blue shirt coming out 10 of the steering compartment. He shouted at everybody to 11 put on life jackets immediately. Then all people on the 12 ferry helped each other with putting on life jackets and 13 comforted each other. While people were putting on life 14 jackets, I could see that the ferry was sailing near the 15 shore. Before long the ferry docked at Yung Shue Wan 16 pier. It was around 8.36 pm. We went back to my 17 girlfriend's home as soon as we went ashore." 18 Then you were asked a series of questions, Mr Chung. 19 "Question. When the collision occurred, did the 20 engine of the ferry stop? 21 Answer: Yes. Only the lights on the ferry were on. 22 Question: Did you see that water was leaking into 23 the ferry or hear anybody saying so? 24 Answer: I only heard somebody on the lower deck 25 saying that water was leaking into the ferry but I don't</p>

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<p>1 know who he/she was. 2 Question: What do you think about the speed of the 3 ferry at the time? 4 Answer: I felt that the speed of the ferry was 5 higher than usual. 6 Question: Before the accident happened, did you see 7 anything special happen to the staff of the ferry, such 8 as the skipper or sailors? 9 Answer: No. 10 Question: Did you tell the skipper to sail away or 11 hear anybody making such a request? 12 Answer: No. 13 Question: Did you see who were inside the steering 14 compartment? 15 Answer: I did not. 16 Question: After the collision, were you aware 17 whether the ferry set sail again or reversed? 18 Answer: I was aware that the ferry set sail again 19 after the collision but I did not know if it reversed. 20 Question: Did the ferry ever slow down or blow the 21 whistle during its journey until the time the collision 22 happened? 23 Answer: No. 24 Question: In this incident, did you shoot video or 25 take photo that showed what happened during the</p>	<p>1 portside, the starboard side and the stern, to check the 2 surrounding environment, only to find that it was pitch 3 black on all three sides ..." 4 Could the witness be shown the plan of the Sea 5 Smooth. 6 THE CHAIRMAN: I think perhaps the word "apt" should be 7 "aft", because he's already said he went to the stern. 8 MR LEE: Yes. 9 THE CHAIRMAN: That's right, is it not, Mr Chung? You went 10 to the stern deck to check what was happening outside? 11 A. Yes, correct. 12 THE CHAIRMAN: Yes. 13 MR LEE: Mr Chung, could you identify on the plan 14 whereabouts you were when you were at the stern, by 15 reference to the plan in front of you? 16 A. I was at about 182, 174 and 159. 17 Q. So am I right, Mr Chung, that you actually walked to all 18 three sides and looked? 19 A. Correct. 20 THE CHAIRMAN: Could we see a photograph that makes this 21 clearer? 22 MR BERESFORD: Page 34 of bundle I. 23 THE CHAIRMAN: Thank you. 24 MR BERESFORD: There's another one at page 35, Mr Chairman. 25 THE CHAIRMAN: Thank you. I think, Mr Beresford, at some</p>
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<p>1 incident? 2 Answer: No. 3 Question: In this incident, did you get injured or 4 lose any personal property? 5 Answer: No. 6 Question: Do you know what the foreign lady meant 7 by saying to the skipper, 'We should go back'? 8 Answer: I thought she meant that we should go back 9 to rescue people." 10 That was your statement, Mr Chung. 11 A. (Witness nods). 12 MR BERESFORD: I have no questions for you. 13 THE CHAIRMAN: Mr Lee? 14 MR LEE: Mr Chairman, could I ask this witness a few 15 questions of what he saw after the collision? 16 THE CHAIRMAN: Inside and outside the vessel? 17 MR LEE: Yes. 18 THE CHAIRMAN: Yes, very well. 19 MR LEE: Thank you, Mr Chairman. 20 Examination by MR LEE 21 MR LEE: Mr Chung, in paragraph 5 of your statement, the 22 English translation is at page 826-2, about the middle 23 of the paragraph. 24 You said: 25 "I then went apt of the ferry and looked to the</p>	<p>1 stage it would assist if a selection of the photographs 2 are marked with the rather elementary device of putting 3 an arrow in the direction the camera is pointing, and 4 then identifying in a circle from which the arrow 5 emanates the number of the photograph. Then one could 6 see, by matching up plan with photograph, exactly what 7 is being depicted. That would help perhaps. Just with 8 a small selection of photographs. 9 MR BERESFORD: Yes, Mr Chairman. We will try and do that. 10 THE CHAIRMAN: So does that depict the area where you went 11 to have a look-out, outside the ship? 12 A. Yes, correct. 13 MR LEE: Mr Chung, when you looked out it was just complete 14 darkness without any shore lights? 15 A. Yes, it was pitch dark. I couldn't see anything. 16 Q. You weren't able to see any vessel around, were you? 17 A. Yes, I couldn't see any. 18 Q. Did you then go back to the cabin? 19 THE CHAIRMAN: That's what he told us. 20 MR LEE: Further down in your statement, you mentioned: 21 "Shortly afterwards, I felt that the engine of the 22 ferry started ..." 23 A. Yes. 24 Q. Would you be able to tell us roughly how long that was? 25 THE CHAIRMAN: After the collision, is that your question?</p>

<p style="text-align: right;">Page 29</p> <p>1 MR LEE: Yes. 2 THE CHAIRMAN: Thank you. 3 A. I'm not sure. 4 MR LEE: You said that you felt that the engine started. 5 What do you mean? Do you mean you felt some sort of 6 vibration? 7 A. Correct. 8 Q. Mr Chung, how often do you travel on this ferry service? 9 A. About eight times in a week. 10 MR LEE: I have no further questions, Mr Chairman. 11 THE CHAIRMAN: Thank you. 12 MR SUSSEX: Mr Chairman, I wonder if I might be permitted to 13 ask this witness some questions about what he saw both 14 inside and outside the vessel, and also I want to 15 explore the state of the engines, as it were. 16 THE CHAIRMAN: Yes. 17 Examination by MR SUSSEX 18 MR SUSSEX: Mr Chung, you can confirm, can you not, that you 19 saw absolutely nothing of another vessel before the 20 collision occurred? 21 A. Yes, I didn't see it. 22 Q. So your first knowledge of the collision was a loud 23 sound and the feeling of a great impact? 24 A. Yes. 25 Q. Am I right that after the impact, your own vessel</p>	<p style="text-align: right;">Page 31</p> <p>1 A. Yes. At that time I did look to the right. 2 Q. Right. You say that it was pitch black on all three 3 sides? 4 A. Yes. 5 Q. So can you confirm that you didn't see any coloured 6 lights in any direction? 7 A. At that time, I didn't see any of that. 8 Q. Right. In answer to the very first question that was 9 posed to you, "did the engine of the ferry stop", and 10 your answer was "Yes". Would I be right to suggest that 11 you wouldn't be able to tell the difference between the 12 engine actually being turned off and the engine being 13 placed in neutral? 14 A. Maybe I can say something about my understanding in 15 respect of the engine being turned off and the engine 16 being placed in neutral. 17 THE CHAIRMAN: Yes, please do so. 18 A. Normally when we boarded the ship, the engine was not 19 on. So there is a big difference; when the ferry sets 20 sail, the engine was on. 21 MR SUSSEX: Well, when the ferry sets sail, the engine goes 22 into reverse, for example, to come out of the pier, and 23 then it's placed to move forward. 24 Would I be right that in fact you can't say anything 25 about the state of the engine, but you can certainly say</p>
<p style="text-align: right;">Page 30</p> <p>1 stopped, came to a standstill -- Sea Smooth? 2 A. Yes, correct. 3 Q. You then describe taking life jackets from under your 4 seat and telling your girlfriend she should get hold of 5 a life jacket, and then you say you went aft, you went 6 to the stern of the ferry. 7 A. Yes. 8 Q. Can you confirm that when you went to the stern of the 9 ferry, your own vessel, the Sea Smooth, was still not 10 moving? 11 A. Yes, it was not moving. 12 Q. You've told us that you looked to the port side, the 13 starboard side and the stern. How wide do you think was 14 the angle of your inspection at that time? 15 A. I am unable to measure the angle. I only went to the 16 three directions to look around, and I am unable to 17 measure the angle. 18 Q. When you went to the vessel's port side, that is 19 essentially to your right when you were going aft, did 20 you look forward? 21 A. I don't understand the question. 22 Q. All right. I think you told us that you got to seat 159 23 on the open after deck. Were you, when you looked to 24 the vessel's port side, looking along the vessel's side? 25 So were you looking to your right?</p>	<p style="text-align: right;">Page 32</p> <p>1 that the vessel stopped? 2 A. I agree. 3 Q. You tell us that at a later stage, after the vessel had 4 started to move away, you were again at the stern of the 5 vessel and you spoke to somebody who indicated that 6 a ship was sinking. 7 A. Yes. 8 Q. You tell us he pointed into the distance, and you say 9 frankly you can't assess what that distance was, and 10 then you tell us what you saw. You said: 11 "So, I looked in that direction [that is, the 12 direction to which he was pointing] to find that both 13 decks of the ship were lit and the stern was sinking." 14 A. In fact I am not sure that it was a vessel, but this 15 person was saying that a vessel was sinking. And I saw 16 two rows of lights. 17 Q. Did you happen to see any other vessels around that 18 sinking vessel at the time? 19 A. I saw some lights in the distance, but I'm not sure 20 whether they are vessels. 21 Q. All right. In answer to question 8, you were asked: 22 "Did the ferry ever slow down ... until the time the 23 collision happened? 24 Answer: No." 25 Can you help us. In moments before the collision,</p>

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1 do you recall whether the vessel reduced speed or
2 whether the engine sound changed?
3 A. I don't feel any change in the sound and feeling of the
4 engine.
5 Q. So you have no recollection of the vessel slowing down;
6 is that right?
7 A. Yes.
8 Q. And you were also asked did the ferry blow the whistle,
9 and you said "No".
10 Can I ask, did you hear the sound of the horn from
11 the other vessel in the moments leading up to the
12 collision?
13 A. I didn't see any sound of the horn before and after.
14 THE CHAIRMAN: I take it you mean you didn't hear that?
15 MR SUSSEX: Didn't hear the sound?
16 MS LOK: Sorry to interrupt. It was a mistranslation.
17 THE CHAIRMAN: Thank you.
18 Just so we've got it right, you didn't hear the
19 sound of a horn before or after the collision?
20 A. (Witness nods).
21 A. No.
22 MR SUSSEX: Thank you, Mr Chung.
23 MS LOK: Mr Chairman, I have no questions for this witness.
24 THE CHAIRMAN: Thank you.
25 Mr Beresford?

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1 MR BERESFORD: I have no further questions, Mr Chairman.
2 THE CHAIRMAN: Thank you, Mr Chung, for coming to help this
3 Inquiry by giving evidence. Your evidence is now
4 complete, and you're free to go. Of course, you're also
5 free to stay in the public gallery if you wish to hear
6 what others have to say in their testimony. Thank you.
7 (The witness withdrew)
8 THE CHAIRMAN: Yes?
9 MR BERESFORD: Mr Chairman, the next witness is
10 Mrs Catherine Tating Marsden.
11 MRS CATHERINE TATING MARSDEN (sworn)
12 Examination by MR BERESFORD
13 MR BERESFORD: Good morning, Mrs Marsden. Thank you very
14 much for coming this morning. I have some questions to
15 ask you on behalf of the Commission.
16 Mrs Marsden, you've previously given a statement to
17 the police which we may find at bundle B, page 684.
18 Could the witness please be shown a copy of that
19 statement.
20 Do you recognise this statement as your statement,
21 Mrs Marsden?
22 A. Yes, sir.
23 Q. Have you been shown a copy of it this morning and given
24 an opportunity to remind yourself of what it says?
25 A. Yes, I was.

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1 Q. Do you have any amendments to make?
2 A. So far, nothing.
3 Q. So are the contents true?
4 A. Yes, sir.
5 Q. Mrs Marsden, you're aged 33 and your occupation is
6 a drama teacher; is that correct?
7 A. It's actually 34 now, it's not 33.
8 Q. You have a degree from a university in the Philippines?
9 A. Yes, sir.
10 Q. Mrs Marsden, I'm going to read from your statement in
11 order to save time asking lots of questions. But if, as
12 you hear me read it, you hear any inaccuracy or anything
13 that's wrong, please stop me.
14 A. Yes, sir.
15 Q. Mr Beresford, may I just remind you to take things
16 a little bit slower so that the simultaneous
17 interpretation can keep up with what it is you read.
18 MR BERESFORD: Certainly. I'm going to read from
19 paragraph 3:
20 "I got on board the Hong Kong & Kowloon Ferry
21 Company ferry at Pier 4 Central at 20:00 hours on
22 1 October 2012 with my husband and my son. I paid by
23 personal Octopus card and I did not remember the serial
24 number. When I was on board, I sat at the open area on
25 the upper deck and I had a cross marked on the seating

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1 plan of the ferry, annex A. My husband and my son sat
2 on the lower deck. The circle marks which showed
3 passengers sat on the open area at that time. I knew
4 one of them who sat on the middle part of left side of
5 the open area and his name is Frank."
6 Pause, there, Mrs Marsden. Can we just turn to the
7 plan marked annex A to your statement. If we can focus
8 on the open area at the rear, which is the hatched area
9 on the plan, we see your cross in the middle of the
10 middle three seats.
11 THE CHAIRMAN: Just pause, if you would, whilst that's
12 brought up on the screen.
13 MR BERESFORD: Thank you, Mr Chairman.
14 The open area is currently top left of the screen.
15 If we can make it a bit larger, please, focusing on the
16 hatched area.
17 Now I think we can see your cross. You've also
18 marked some circles, indicating the location of people
19 that you knew.
20 Can we turn now to the seating plan with the
21 numbered seats.
22 Would that be seat 163 on the upper deck, where you
23 were sitting?
24 A. Yes, sir.
25 Q. You said that you knew someone called Frank who sat in

<p style="text-align: right;">Page 37</p> <p>1 the middle part of the left side of the open area. Can 2 you approximate a seat number for him? 3 A. It's at 150. 4 Q. While we're here, perhaps I can just flash on the screen 5 a photograph we've seen before, photograph 1, page 34. 6 Does that show the area where you were sitting? 7 A. Yes, sir. 8 Q. Thank you. Now I'm going to continue reading: 9 "Around 20:20 hours on the same day, I was sitting 10 alone. Suddenly, there was a great impact and some of 11 the passengers seated on the front seat of the open area 12 fell to the ground and one of them hit the front wall. 13 I thought our ferry hit a rock and Frank shouted that he 14 saw a ferry cut in front of our ferry and we hit on its 15 back side. I rushed to the left side and saw a boat on 16 the left. I was sure it was a ferry as I could see the 17 upper open area with people sitting and looking back at 18 us. I thought the opposite ferry is all right and light 19 was on at that time. When I first saw that ferry, it 20 was about 30 metres far from us. Two crews came to the 21 open area for checking if any persons got injury. After 22 they checked the passengers were all right, they went to 23 the lower deck. 24 I went to the lower deck to check with my husband 25 and my son and they were all right. I stood on the left</p>	<p style="text-align: right;">Page 39</p> <p>1 Then you were asked a series of questions. 2 "Question. Did you see any water on the accident? 3 Answer: No, I didn't. 4 Question: Did you hear any broadcasting from the 5 crews? 6 Answer: No. I only saw the crews went around 7 speaking to people in Chinese. 8 Question: Did you feel the ferry suddenly take 9 a turn before the impact? 10 Answer: No. 11 Question: Did you ask the crews or hear any 12 passenger asking crews to move back to the pier after 13 the impact? 14 Answer: No, I did not ask and I did not hear any 15 passenger asking crews to move back to pier in English. 16 Question: What is the name of your family member? 17 Answer: My husband is Stephen Paul Marsden and my 18 son is David Marsden. He is 12 years old. 19 Question: What was the speed of the ferry move to 20 the pier? 21 Answer: A slower speed than normal." 22 Mrs Marsden, you attached to your statement 23 a diagram at page 687 showing the relative position of 24 the two vessels after the impact. We can see it now on 25 the screen. It's in two halves. The upper half of the</p>
<p style="text-align: right;">Page 38</p> <p>1 beside the staircase. I saw a part of ceiling fallen. 2 One crew was looking out at the left bow and another 3 crew was checking on the injured people on the right bow 4 where some passengers fell to the ground. At that time, 5 I did not see any water on the left bow. 6 After I went back to the open area of upper deck. 7 I was shocked. I found the opposite ferry vertically 8 sunk and only a part of bow floated on water. At the 9 time, I felt our ferry moving away from the sinking 10 ferry. The sinking ferry was around 100 metre far from 11 us at that time. There was another ferry stayed around 12 the sinking ferry. It was fully lit and I thought they 13 were trying to rescue. I asked others why we were 14 moving away and Frank said to me our ferry was also 15 sinking. All the passengers had life jacket at that 16 time and two crews on the cabin of upper deck helped the 17 passenger to put on life jacket. After a while, my 18 husband and my son went to meet up with me at the open 19 deck. I then put on a life jacket. About 5 minutes, 20 our ferry got to Yung Shue Wan pier. I walked down to 21 the lower deck with my family. I saw the captain asked 22 us 'Is everybody all right' because we were the last to 23 exit. When we got off the ferry, we passed the life 24 jacket to the crews. I did not get injured on the 25 accident."</p>	<p style="text-align: right;">Page 40</p> <p>1 page shows two vessels, the one on the left marked 2 "Maybe Lamma IV" with "open deck" at the back, and 3 a distance marked of "approximately 30 metres" between 4 the Lamma IV and the Sea Smooth. Would that cross 5 indicate your position? 6 A. Yes, sir. 7 Q. Then in the lower half of the page -- 8 THE CHAIRMAN: Just pausing there. 9 That's the view that you had, if I understood your 10 evidence, after the impact, and you rushed across to the 11 port side to look at what had happened, and that's what 12 you saw? 13 A. Yes, sir. 14 THE CHAIRMAN: Having rushed there? 15 A. Not really rushing. I think it's the term that the 16 policeman wrote. 17 THE CHAIRMAN: Yes. 18 A. It wasn't rushing, because I stood still after that one, 19 and I asked Frank, I said, "Frank, what happened?" And 20 he said, "I saw the ferry try to cut in front of us." 21 He was taking photograph, actually, and that's the time 22 that I went to see what he was taking -- yes. 23 THE CHAIRMAN: Right. 24 A. And I saw the ferry in that position, your Honour. 25 THE CHAIRMAN: Can you estimate the time gap between the</p>

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<p>1 impact, the collision, and when you first got your view 2 of the other vessel? 3 A. Maybe around 30 minutes. 4 THE CHAIRMAN: Minutes? 5 A. Seconds, sorry. Seconds, yes. 6 THE CHAIRMAN: Thank you. 7 A. You're welcome. 8 THE CHAIRMAN: Yes, Mr Beresford? 9 MR BERESFORD: Then proceeding to the lower half of the 10 page, the next diagram, which is headed "After a minute 11 or two", and subheaded "(When I came back to the open 12 deck after checking my family at the lower deck)". This 13 shows two boats, one of which is vertical on the left 14 and the other of which is marked "a well lit ferry 15 (I can't see where it's facing)", and then below is the 16 vessel marked "Sea Smooth", again with a cross on its 17 port quarter, which I take it is the position where you 18 were standing? 19 A. Yes, sir. 20 MR BERESFORD: Thank you, Mrs Marsden. I have no further 21 questions. If you'd wait there, please. 22 THE CHAIRMAN: Could you help us as to the identity of this 23 person Frank? 24 A. He is an African guy. 25 THE CHAIRMAN: I take it you don't know his surname?</p>	<p>1 collision. 2 THE CHAIRMAN: Yes. 3 Examination by MR LEE 4 MR LEE: In paragraph 4 of your statement, after you went to 5 the left side of your ferry, you saw the opposite ferry 6 and then you mentioned that the light was on at that 7 time. Were you able to see the entire open area of that 8 other ferry? 9 A. Yes, I did. 10 Q. Where was this light that you saw on that ferry? 11 A. The whole ferries were lighted. 12 Q. Then later on in that same paragraph, you mention "two 13 crews", but without reference to the name of the ship, 14 "came to the open area". Were the two crews on your 15 ferry or the -- 16 A. Our ferry. 17 MR LEE: Mr Chairman, I have no further questions. 18 THE CHAIRMAN: Thank you. 19 MR SUSSEX: Mr Chairman, I wonder if I might be permitted to 20 question Mrs Marsden about what she saw when she looked 21 out from the vessel. 22 THE CHAIRMAN: Certainly. 23 MR SUSSEX: Thank you. 24 Examination by MR SUSSEX 25 MR SUSSEX: Mrs Marsden, you very helpfully told us where</p>
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<p>1 A. I don't know his surname, sir. 2 THE CHAIRMAN: Is he a resident of Lamma? 3 A. He is a resident of Lamma. 4 THE CHAIRMAN: In Yung Shue Wan? 5 A. Yes, sir. 6 THE CHAIRMAN: Does he still live there? 7 A. He does. Actually I saw him yesterday. 8 THE CHAIRMAN: You say that he took some photographs. Have 9 you ever seen those photographs? 10 A. I tried to look, but nothing there, because I think the 11 light was not sufficient enough to take photographs. 12 THE CHAIRMAN: What kind of equipment was he using? 13 A. He was just using his iPhone. 14 THE CHAIRMAN: Do you have any contact details so that we 15 can contact Frank? 16 A. Yes, sir, I do. 17 THE CHAIRMAN: Can I ask that you provide them to counsel 18 for the Commission. That's the one who has been asking 19 you questions. 20 A. Okay, sir. Is it right now, sir, or afterwards? 21 THE CHAIRMAN: No, you can do that afterwards. 22 A. Okay. 23 THE CHAIRMAN: Yes, Mr Lee. 24 MR LEE: Mr Chairman, I just have a couple of questions for 25 this witness of what she saw after the impact, the</p>	<p>1 you were sitting when the collision occurred. You've 2 told us you had a brief conversation with Frank. 3 A. Yes, sir. 4 Q. And then you think within 30 seconds, you went to the 5 port side of the vessel? 6 A. Yes, I did. 7 Q. On page 687, there is a depiction of what you saw. Is 8 that your handwriting? 9 A. Yes, sir. 10 Q. Right. An X indicates where you were standing? 11 A. Yes, sir. 12 Q. And you were looking at -- what you saw was the stern of 13 the other vessel? 14 A. Yes, sir. 15 Q. Would it be right that you saw two decks lit up? 16 A. Actually I just saw one ferry, so I'm not so sure if 17 that's the one that we hit. Because it seems like the 18 passengers there were all right. They were seated and 19 looking back at us. So I thought, oh, they were okay. 20 If that's the ferry that we hit, they were okay. So 21 I went down to check on my husband. 22 So I'm not sure if there were two ferries or just 23 one. 24 Q. I see. 25 THE CHAIRMAN: The view that you had of them were of</p>

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<p>1 passengers who were still seated and they seemed to be 2 all right? 3 A. Yes, sir, and they were looking back at us. So 4 I thought, oh, maybe they were okay. So I went down to 5 check on my husband. 6 Q. I see. Did you happen to see two decks on that vessel, 7 or just one? 8 A. Just one. 9 THE CHAIRMAN: I'm sorry? 10 A. One, sir. I just looking at the upper deck, actually. 11 The opposite ferry, you are talking about, sir? 12 THE CHAIRMAN: Yes, that's right. 13 A. Yes. 14 THE CHAIRMAN: Was it a two-deck vessel or a one-deck 15 vessel? 16 A. Oh, the open deck, you mean? 17 THE CHAIRMAN: No, the vessel itself. Did it have one deck 18 or two decks? 19 A. I think just the upper one. It's one deck, as 20 I remember it. 21 THE CHAIRMAN: Your vessel -- 22 A. Sorry. Lower and upper deck? 23 THE CHAIRMAN: Yes. 24 A. Yes, it was two-deck. 25 THE CHAIRMAN: A two-deck vessel.</p>	<p>1 THE CHAIRMAN: So very much closer than Sea Smooth? 2 A. Very much closer to the sinking one. 3 THE CHAIRMAN: And presumably stationary? 4 A. Stay stationary. 5 THE CHAIRMAN: Mrs Marsden, thank you very much for coming 6 to testify to help this Commission, and giving such 7 concise and helpful evidence. Your evidence is now 8 finished, and you're free to go. But of course you may 9 wait in the public gallery to hear other testimony if 10 you wish. 11 A. Okay. 12 THE CHAIRMAN: Thank you. 13 A. You're welcome, your Honour. 14 (The witness withdrew) 15 THE CHAIRMAN: Mr Beresford? 16 MR BERESFORD: I don't know if it's your intention to take 17 a break this morning? 18 THE CHAIRMAN: Yes, it is, and this is obviously 19 a convenient moment. The next witness is to be? 20 MR BERESFORD: Mr Marsden. 21 THE CHAIRMAN: I think that's Mr Marsden directly behind 22 you. 23 We're going to take our normal 20-minute break, 24 Mr Marsden. We'll hear your testimony then at 11.55. 25 Thank you.</p>
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<p>1 A. Yes. 2 THE CHAIRMAN: Thank you. 3 MR SUSSEX: Do you happen to remember seeing anybody in the 4 lower deck? 5 A. I was just focused on the upper deck, the open deck at 6 the back side. 7 Q. Right. I see. Would I be right that the depiction 8 which appears in the second half of the diagram which 9 you drew indicates what you describe in paragraph 6 of 10 your statement, namely your ferry separated from the 11 sinking vessel by about 100 metres? 12 A. Yes, sir. 13 MR SUSSEX: Thank you, Mrs Marsden. 14 A. You're welcome. 15 MS LOK: Mr Chairman, I have no questions. Thank you. 16 THE CHAIRMAN: Thank you. 17 Mr Beresford? 18 MR BERESFORD: I have no further questions, Mr Chairman. 19 Questions by THE COMMISSION 20 THE CHAIRMAN: Looking at that sketch that you drew, if you 21 estimate that Sea Smooth was about 100 metres away from 22 the sunken vessel, could you tell whether the other 23 well-lit ferry, as you describe it, how far away that 24 was from the sunken vessel? 25 A. It's quite close, maybe around 5 metres.</p>	<p>1 (11.35 am) 2 (A short break) 3 (11.55 am) 4 THE CHAIRMAN: Yes, Mr Beresford. 5 MR BERESFORD: Mr Chairman, I call Mr Stephen Paul Marsden. 6 MR STEPHEN PAUL MARSDEN (sworn) 7 Examination by MR BERESFORD 8 MR BERESFORD: Good morning, Mr Marsden. 9 A. Good morning. 10 Q. Thank you very much for coming this morning. I have 11 some questions to ask you on behalf of the Commission. 12 Mr Marsden, you've previously given a statement to 13 the police. This is to be found at page 689 in our 14 bundle B. Have you been given a copy of this statement 15 this morning and reminded yourself of its content? 16 A. I have. 17 Q. Are there any amendments that you would wish to make? 18 A. No. 19 Q. So the contents are true? 20 A. True. 21 Q. Mr Marsden, you're aged 63 and your occupation is as 22 a printing manager; is that correct? 23 A. That's correct. 24 Q. You've been educated to technical school level, 25 specialising in printing?</p>

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<p>1 A. Yes.</p> <p>2 Q. Mr Marsden, your statement is in manuscript. Whose</p> <p>3 handwriting is the statement in?</p> <p>4 A. It was the police officer in the Lamma police station</p> <p>5 that took it.</p> <p>6 Q. I'm going to attempt to read it.</p> <p>7 A. That's not easy.</p> <p>8 Q. If you think I've gone wrong or if any inaccuracy occurs</p> <p>9 to you as I read it, then please stop me.</p> <p>10 A. Yes.</p> <p>11 Q. I'm going to read from numbered paragraph 4.</p> <p>12 "At about 20:00 hours on 1 October 2012, I got on</p> <p>13 board the Hong Kong & Kowloon Ferry Company ferry at</p> <p>14 Pier 4, Central, intending to go back to Lamma. After</p> <p>15 I got on board the ferry, I sat on the lower deck, at</p> <p>16 the middle part of left-hand side of the ferry. I sat</p> <p>17 close to the window. My son, David Marsden, age 12, sat</p> <p>18 next to me, and my friend David McFarlane and his family</p> <p>19 (his wife Ligaya and his kids Kyle and Reoryd) just sat</p> <p>20 behind me. I remembered I got on board the ferry by</p> <p>21 Octopus."</p> <p>22 Just pausing there, Mr Marsden. If we can establish</p> <p>23 the location. We have a plan of the Sea Smooth.</p> <p>24 Perhaps I can show you yours first. Page 695. There's</p> <p>25 a plan annexed to your statement, but I can't see if</p>	<p>1 photocopied plan attached to your statement. I'll just</p> <p>2 show you that for completeness at page 695. In fact</p> <p>3 it's halfway down the page. We can see a line going</p> <p>4 across the page which appears to be a fold, and just</p> <p>5 underneath that is a cross. Unfortunately some of the</p> <p>6 seats seem to have been blocked out, so perhaps that's</p> <p>7 not very helpful.</p> <p>8 A. I thought it was marked on the original. Oh, yes.</p> <p>9 THE CHAIRMAN: May I ask you to speak into the microphone.</p> <p>10 A. Yes. Anyway, I think I was on ...</p> <p>11 MR BERESFORD: Around about 74?</p> <p>12 A. 74, yes.</p> <p>13 Q. "Around 20:20 hours on the same day, when I was talking</p> <p>14 with my friend, suddenly, I heard a very big sound which</p> <p>15 came from the front of the ferry. The big sound was</p> <p>16 caused by a great impact. After the big sound, some</p> <p>17 people fell on to the ground, and there was a part of</p> <p>18 ceiling fallen down. Besides, the ferry was a little</p> <p>19 bit listing and seawater was coming up from a cover at</p> <p>20 the ground of the front part of the ferry."</p> <p>21 Can I just pause there and ask you to look at</p> <p>22 a photograph, please, Mr Marsden. First of all, photo</p> <p>23 bundle I, page 15, please. That appears to be at the</p> <p>24 very front of the ferry --</p> <p>25 A. Yes.</p>
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<p>1 you've marked it. Can you help us, please? Did you</p> <p>2 mark this plan? If not, we'll go straight to my larger</p> <p>3 plan.</p> <p>4 A. I think go straight to the larger one.</p> <p>5 MR BERESFORD: In that case, if we can show the big seating</p> <p>6 plan on the screen, please.</p> <p>7 THE CHAIRMAN: Mr Beresford, can I remind you again perhaps</p> <p>8 to take things a little more slowly so that the</p> <p>9 simultaneous translation can be made.</p> <p>10 MR BERESFORD: I'm sorry. Thank you, sir.</p> <p>11 Can you help us with the seat number where you were</p> <p>12 sitting, Mr Marsden?</p> <p>13 A. It seems like it wasn't marked on -- I was on the port</p> <p>14 side, I think about four rows back from the stairs.</p> <p>15 Was it?</p> <p>16 Q. So around about the row commencing 63?</p> <p>17 A. Yes, 74, 75, 76 --</p> <p>18 Q. 74, 75, 76?</p> <p>19 A. Yes.</p> <p>20 THE CHAIRMAN: Thank you.</p> <p>21 MR BERESFORD: You said you sat close to the window, so you</p> <p>22 would put yourself in about seat 74, is that right, on</p> <p>23 the main deck?</p> <p>24 A. Yes.</p> <p>25 Q. My attention has been drawn to a cross on the</p>	<p>1 Q. -- by the stairs leading up to the bow. Is that where</p> <p>2 you meant, or did you mean one further back?</p> <p>3 A. Oh, no, no. It's past the stairs.</p> <p>4 MR BERESFORD: That's the one?</p> <p>5 THE CHAIRMAN: If you have a look at the plan, you'll see</p> <p>6 the two manhole covers and the manhole exposures are to</p> <p>7 be found in the plan towards the bow end of the vessel,</p> <p>8 just --</p> <p>9 A. Yes, I was -- it -- on the stairs going up to the upper</p> <p>10 deck, so behind -- past those stairs.</p> <p>11 THE CHAIRMAN: Whereabouts was the water seepage that you</p> <p>12 saw?</p> <p>13 A. Before I say anything, the way it was written down by</p> <p>14 the police, it sounded like -- the way it's written</p> <p>15 down, that everything happened at once, like the ceiling</p> <p>16 fell in, water came up, but actually it wasn't quite</p> <p>17 like that.</p> <p>18 THE CHAIRMAN: Well, you can tell us the sequence and the</p> <p>19 time gaps.</p> <p>20 A. Yes. For a start, I didn't see the collision because</p> <p>21 I was leaning backwards, in this way, actually</p> <p>22 (indicates) talking to David McFarlane at the time of</p> <p>23 the impact. So at the time of the impact, I wasn't</p> <p>24 looking forward.</p> <p>25 So after the impact, then probably -- after the</p>

<p style="text-align: right;">Page 53</p> <p>1 impact, the ceiling panels basically fell in, fell down, 2 and the ferry came to a halt. It was actually pretty 3 quiet then. 4 The water started coming in actually later, after my 5 wife had come down to see if we were okay. Because 6 myself and my son had decided to go up to the top deck 7 so we could get off the back if necessary. As I was 8 about to go up the stairs, then the front hatch popped, 9 the one that's on the picture here, and a column of 10 water shot up, maybe 3 feet high, something like that, 11 from the floor. 12 MR BERESFORD: Right. So we can see from the plan, if we 13 look at the plan, that the stairs on the main deck -- 14 there's an arrow marked "up"? 15 A. Yes. 16 Q. So you had to go to the forward end of those stairs in 17 order to ascend them? 18 A. That's correct. 19 Q. Whereas on the upper deck the arrow is on the opposite 20 side and in the reverse direction marked "down"? 21 A. Yes. So it was going up the stairs, at the bottom of 22 the stairs, that the hatch popped and the water came 23 out. 24 Q. Yes, I see. 25 Can we also please have a look at a photograph in</p>	<p style="text-align: right;">Page 55</p> <p>1 Q. And then in fact you do go on to say that you and your 2 son were wearing a life jacket? 3 A. I wasn't. My son was. 4 Q. Okay. 5 A. I attempted to get one from the top. 6 Q. Just tell us about that, please. Did you find one? 7 A. After about three tries, I managed to get a life jacket 8 out. 9 Q. Did you know where to look for one? 10 A. Yes: under the seat. But they were kind of wrapped in 11 Velcro and very difficult to find the, you know -- 12 THE CHAIRMAN: Just take your time, because this is 13 an important matter. So did you look under your own 14 seat? 15 A. I think I looked under the seat upstairs. I can't 16 remember looking under my seat downstairs. My son had 17 a life jacket on. 18 THE CHAIRMAN: Was that at your direction that he put a life 19 jacket on? 20 A. No. He's quite sensible. He did it himself. 21 MR BERESFORD: Did he put the life jacket on before the 22 water started gushing out of the -- 23 A. Yes. 24 Q. Were you prompted to look for one yourself after the 25 water or by the water coming out?</p>
<p style="text-align: right;">Page 54</p> <p>1 the same bundle at page 95. That appears to be another 2 shot of the same hatch. 3 A. Yes. 4 Q. I'm just going to carry on reading from the statement as 5 it was given to the police for the moment, and we can 6 come back and fill in any details if necessary 7 afterwards: 8 "I immediately carried my son walking to the upper 9 deck of the ferry." 10 A. I didn't carry him. He was -- 11 THE CHAIRMAN: He's a 12-year-old. 12 A. Yes. Yes, I didn't carry him. In fact, he'd already 13 put his own life jacket on. At that stage -- 14 MR BERESFORD: He managed to put his own life jacket on by 15 himself, did he? 16 A. Yes. 17 Q. And -- 18 A. At that stage, everything was quite calm. Even though 19 the ceiling panels had fallen down, there wasn't a huge 20 amount of commotion at that point. As soon as the 21 water -- the boat was listing slightly. As soon as the 22 water came up, I think that's when the commotion really 23 started. 24 Q. Yes, I understand. 25 A. But by that time, we were going up the stairs.</p>	<p style="text-align: right;">Page 56</p> <p>1 A. Probably, yes. I think so. 2 Q. So that would explain why you were looking upstairs? 3 A. Yes. 4 Q. So you were just looking under any seat upstairs? 5 A. I was actually looking in the upstairs, around about 6 seats -- the row before the open deck, 131, 130, 129, 7 that row, those two rows there. I had to struggle with 8 two life jackets before I actually found one that was 9 easy to open. 10 Q. What were the difficulties that you encountered? 11 A. I couldn't find the fastener. You know, they're kind of 12 done with Velcro. I just -- fiddling around underneath, 13 it was very kind of difficult to get the end, to find 14 out where to undo the package under the seats. 15 Q. Can you estimate how long it took you to get a life 16 jacket on once you had found one? 17 A. I think two or three minutes, I guess. But even then, 18 in a panicked situation, they're very difficult to put 19 on because there's a tiny little loop that you have to 20 thread, and some of the ends of the things are tangled 21 up and you have to untangle the thing before you can get 22 it on. 23 THE CHAIRMAN: That is in order to put the tapes around your 24 body -- 25 A. Yes.</p>

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<p>1 THE CHAIRMAN: -- through a loop and tie it off? 2 A. Yes. 3 THE CHAIRMAN: And that was difficult? 4 A. It's not easy in a rushed situation, no, it's not. 5 THE CHAIRMAN: Do we have a photograph that would show the 6 position on the upper deck of a life jacket or the 7 housing for a life jacket? 8 MR BERESFORD: I'll have that checked, Mr Chairman. 9 A. On some of the ferries, the life jackets are visible, 10 totally visible under the seat. But these are wrapped 11 in a canvas packet or something like that. 12 THE CHAIRMAN: With a Velcro fastening? 13 A. Yes. 14 THE CHAIRMAN: Do move on in the meantime. We can come back 15 to that, Mr Beresford. 16 MR BERESFORD: Thank you, Mr Chairman. 17 You then go on to deal with the question of what you 18 saw outside, and you say: 19 "I did not see anything outside the ferry. Later, 20 the ferry was ..." 21 A. Did I -- 22 Q. Yes, please do. I know we're coming to some questions 23 later on where you come back to this point. 24 A. After the impact, I did see a vessel. I think I've 25 written it down here, I think on a diagram.</p>	<p>1 A. No, no difficulty with that. 2 Q. But the difficulties arose sorting out the tapes once 3 you had got it there, and working out where to fasten 4 them, how to tie them? 5 A. Yes, basically. Actually by the time I'd done it, we 6 were already back at the pier. I had to untangle the 7 tapes first, because the tapes were tangled up. 8 Q. The tapes were tangled as well? 9 A. Yes. 10 Q. That implies that the life jackets hadn't been put away 11 properly? 12 A. It could imply that, yes. 13 Q. Perhaps if I can just simply ask you, what, if anything, 14 did you see outside the vessel before the collision? 15 A. Before the collision, I wasn't paying any attention 16 outside of the vessel. I was talking to my friend 17 behind. We'd been away for the weekend camping, and we 18 were just talking about it. 19 Q. Did you see anything during the collision? 20 A. No. No, I didn't. 21 Q. What did you see outside the vessel in the immediate 22 aftermath of the collision? 23 A. Immediately after the collision, I saw another vessel 24 lighted on the back deck at about 10 o'clock from my 25 position.</p>
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<p>1 THE CHAIRMAN: Take your time to find it. 2 A. Yes. 3 THE CHAIRMAN: Well, in answer 2 you deal with a vessel at 4 the left-hand side of the ferry: 5 "There was another vessel in front of my ferry." 6 A. Yes. 7 MR BERESFORD: Perhaps before we come on to that, we can 8 just tidy up the point on life jackets. I've now found 9 a couple of photographs that may assist, with the help 10 of Mr Lui. 11 Page 32 of the photograph album. This is 12 a photograph of the upper deck passenger cabin. Under 13 the darker blue seats, we can just about make out some 14 dark grey canvas pouches. 15 A. Yes. 16 Q. Is that what you found the life jacket in? 17 A. Yes. 18 Q. Then at page 318 of the same bundle, we see a photograph 19 of the instructions. This is photograph bundle V. Yes, 20 there we are. It illustrates what you have to do with 21 the tapes to secure the life jacket once you've got it 22 on. 23 A. Yes. 24 Q. Just taking it in stages, did you have any difficulty 25 putting the life jacket over your head?</p>	<p>1 Q. So you were standing where? 2 A. I was still sitting at the window then. 3 Q. Still sitting at the window? 4 A. Yes, yes. Immediately after the collision. 5 Q. So it appeared to be behind you? 6 A. No, it was in front. 7 THE CHAIRMAN: 10 o'clock, you said. 8 MR BERESFORD: Yes. 9 A. Yes. If I'm looking towards the bow, the vessel was 10 about 10 o'clock. 11 Q. Yes, I see. I understand. A little more slowly than 12 Mr Chairman, I think. 13 A. Sorry. 14 Q. So you saw another vessel. Did you see any lights? 15 A. The vessel was lit, yes. 16 Q. Is that just cabin lights, or did you see any navigation 17 lights? 18 A. I didn't see navigation lights. But it would have been 19 a stern light, so amongst -- I was looking at the back 20 of the boat, so it might have been lost in the cabin 21 lights or the back deck lights. I mean, I looked 22 briefly and then I turned back because my son was there 23 and we were, you know -- 24 THE CHAIRMAN: So your view of the other vessel was of its 25 stern; is that what you're saying?</p>

<p style="text-align: right;">Page 61</p> <p>1 A. Stern-on, yes. I was viewing its stern, yes, from my 2 position. But at the time, I didn't think we'd -- 3 because it was -- you know, there didn't seem to be 4 anything wrong with it and I thought we'd just clipped 5 the rocks outside Lamma, that's all. That was my 6 impression at the beginning. No idea we'd hit another 7 vessel. 8 MR BERESFORD: So when you saw that vessel, whatever vessel 9 it was, you didn't know that you might have collided 10 with it? 11 A. At that stage I didn't -- I wasn't 100 per cent sure 12 we'd collided with it. I know we'd hit something, but 13 I couldn't be sure it was that. 14 THE CHAIRMAN: Can you help us as to your estimate of the 15 distance that this vessel was away from your own vessel? 16 A. I mean, it's probably 50 metres, maybe. I looked at it 17 for an instant and then I turned back to my son. 18 THE CHAIRMAN: Yes. 19 MR BERESFORD: Did you see anything else in the aftermath of 20 the collision? 21 A. No. 22 Q. What about when you went upstairs? 23 A. Actually, when I went upstairs, I didn't go out on the 24 back deck. I stayed inside looking for the life jackets 25 and putting life jackets on. I didn't see anything.</p>	<p style="text-align: right;">Page 63</p> <p>1 abrasion or -- you said you thought it had hit a rock. 2 A. Well, you know -- 3 Q. Did you think it was stranded or -- 4 A. I knew we'd hit something but I just wasn't sure what it 5 was, whether it was a boat or we'd clipped the reef 6 coming in, or ... 7 Q. So when -- 8 A. When my wife came down, then she told me we'd hit the 9 other ferry. 10 Q. Yes. But I'm just asking you to focus on what you felt 11 at the moment. 12 A. That's all I felt. I felt the impact. 13 Q. You felt the impact? 14 A. And the boat coming to a stop. 15 Q. And the boat coming to a stop. 16 A. Yes. 17 Q. Was there anything impeding the boat as it came to 18 a stop, apart from the water? 19 A. I don't think so. But it wasn't, like, "bang" like 20 that. It was kind of a bit of a protracted crunch kind 21 of thing. 22 Q. That's what I'm trying to get into, the detail of that 23 protracted crunch. Can you go through it stage by 24 stage? 25 A. Well, it was just like that. I was more or less</p>
<p style="text-align: right;">Page 62</p> <p>1 Q. As you've told us, that occupied you until you got back 2 to Yung Shue Wan? 3 A. Basically, yes. 4 Q. Can we turn our attention to what, if anything, you felt 5 before the collision. Did you feel any change of speed? 6 A. There was no change of speed. 7 Q. Did you feel -- 8 A. It was a normal cruising speed. 9 Q. Did you feel any change of direction? 10 A. There was no obvious change of direction. There was no, 11 you know, quick change of direction, no. 12 Q. You felt the collision, obviously? 13 A. Yes. Yes. 14 Q. Can you describe that? 15 A. Just a big crunch, basically. 16 Q. Did it seem to bring the vessel to a halt? Or did the 17 vessel seem to carry on moving? 18 A. I guess we carried on for a few yards and then it came 19 to a halt. 20 Q. After the collision, did you feel anything, for example 21 any tilting of the vessel or -- 22 A. Yes, the vessel did start to list to the port side 23 slightly. 24 Q. What about between the impact and the completion of the 25 journey to Yung Shue Wan, did you feel anything, any</p>	<p style="text-align: right;">Page 64</p> <p>1 concentrating on my son and that was it. It didn't go 2 on for a long time, put it that way. 3 Q. Can you estimate how long? 4 A. A couple of seconds at most. 5 THE CHAIRMAN: If you can't, say so. 6 A. No, not really. But it wasn't, say, five seconds or 7 anything like that. It was one or two seconds, one and 8 a half seconds. 9 MR BERESFORD: What about what you heard? Did you hear 10 anything before the collision? 11 A. No. No, it was just like a normal ferry trip. 12 Q. Did you hear a sound signal? 13 A. No sound signal. 14 Q. What about at the collision, what did you hear? 15 A. Most of the sound was from inside the -- immediately 16 after the collision, it was very quiet downstairs, you 17 know, as I said. After that, most of the sounds were 18 from inside the cabin. 19 Q. When you say it was very quiet, had the engine stopped? 20 Could you hear the engines before? 21 A. Maybe they were idling. I don't know if they were 22 idling or stopped. But normally those engines, they're 23 quite big, you can feel them start up again. I didn't 24 feel the engines start up again. So I guess they were 25 idling, the engines. But there again, I don't know.</p>

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<p>1 That's my feeling. 2 Q. Yes. 3 THE CHAIRMAN: You didn't hear them start up? 4 A. I didn't, well, feel them start up or ... but I could 5 have missed that. I'm not sure. I couldn't answer that 6 100 per cent, but I don't think so. 7 I think the water started coming in probably 8 a minute and a half to a couple of minutes after the -- 9 the water started coming through the hatch about -- as 10 I was going up the stairs, so it would have been maybe 11 a minute and a half after the impact or something like 12 that. 13 MR BERESFORD: Okay. 14 A. From what I remember. 15 Q. You said that after the collision, the Sea Smooth seemed 16 to halt. 17 A. Yes. 18 Q. And then at some point it proceeded to Yung Shue Wan? 19 A. Yes. Yes. 20 Q. How long after the collision, the moment of impact, did 21 it start moving again? 22 A. I would think it was when I was -- maybe two minutes. 23 It may have been what caused the hatch to -- the 24 pressure from moving forward that caused the hatch to -- 25 the water to come in the boat. I'm not sure. I think</p>	<p>1 Q. I'm representing Hongkong Electric and the crew of the 2 Hongkong Electric Lamma IV. 3 A. Yes. 4 Q. You were asked in the questions and answers at the end 5 of your statement at page 692, question 4, whether 6 you -- the question about the speed of the ferry, and 7 you gave the answer: 8 "The ferry was still at normal speed before the 9 impact. I did not feel the ferry turning left or right. 10 It kept moving straight." 11 A. Correct. 12 Q. That was your recollection at the time you made the 13 statement. 14 A. Yes. 15 Q. Is that your recollection now? 16 A. Yes, I think -- yes. 17 Q. So there was no alteration of course, that you felt, by 18 the Sea Smooth? 19 A. No. I mean, there could have been a very minor 20 alteration, but there was no large alteration at all. 21 Q. There was nothing dramatic that you can recollect? 22 A. Nothing dramatic, no. 23 Q. Thank you. You were asked about the engines and whether 24 you heard them start up again. Did you hear them start 25 up at any stage after the collision?</p>
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<p>1 it's two minutes, a minute and a half. 2 Q. Obviously English is your mother tongue. Do you speak 3 Cantonese? 4 A. Not enough to understand what was going on around me. 5 Q. Did you see or hear any communications in the aftermath 6 of the collision that might be relevant? Did the crew 7 say anything? 8 A. The crew members were talking in Cantonese. There was 9 no -- nothing came over the sound system. 10 Q. Did anybody give you any instruction as to what to do? 11 A. No. 12 Q. Did you hear any passengers say anything in particular 13 to the crew? 14 A. Not in English. 15 MR BERESFORD: Okay. Thank you, Mr Marsden. 16 I have no further questions, Mr Chairman. 17 MR McGOWAN: Good morning, Mr Chairman. Could I ask some 18 questions, please, relating to the movement or absence 19 of change in direction of Sea Smooth, and also the 20 engines? 21 THE CHAIRMAN: Yes. 22 MR McGOWAN: Thank you. 23 Examination by MR McGOWAN 24 MR McGOWAN: Mr Marsden, good morning. 25 A. Good morning.</p>	<p>1 A. I don't recollect it, no. 2 Q. But when the Sea Smooth moved to the Yung Shue Wan pier, 3 that was done under its own power? 4 A. Yes. 5 Q. So the engine must have had to start for that? 6 A. Well, no. If they were idling, they just put it in gear 7 and -- 8 Q. Right. Do you hear or feel the engine being put into 9 gear? 10 A. I can't recollect, no. Can't recollect it. 11 MR McGOWAN: Thank you. Thank you very much. 12 MR SUSSEX: Mr Chairman, I wonder if I might be permitted to 13 ask Mr Marsden just a few questions about what he saw 14 when he looked through the window and also about the 15 engines. 16 THE CHAIRMAN: Yes, please do. 17 Examination by MR SUSSEX 18 MR SUSSEX: Mr Marsden, do you have any nautical experience? 19 A. A little, yes. 20 Q. Sufficiently you were able to know that what you would 21 have seen in terms of navigation light was a stern 22 light? 23 A. Yes. 24 Q. And you weren't able to discern any distinct round stern 25 light, as far as you're aware?</p>

<p style="text-align: right;">Page 69</p> <p>1 A. It was a quick glance at the ferry through the window. 2 That's it. 3 Q. Right. The other thing I'd like to ask you is this. In 4 the seconds before the collision, and I am talking about 5 moments before the collision, as far as you're aware, 6 were the vessel's engines put in reverse? 7 A. No, no. 8 Q. But you nevertheless say that she carried on for only 9 a few yards after the collision before coming to a halt; 10 is that right? 11 A. Yes. 12 MR SUSSEX: Thank you very much. 13 MS LOK: I have no questions. 14 THE CHAIRMAN: Thank you. 15 Mr Beresford? 16 MR BERESFORD: No further examination. 17 THE CHAIRMAN: Mr Marsden, thank you for coming to assist us 18 with your testimony. That's now finished and you're 19 free to go. Of course you can wait in the public 20 gallery. Thank you for coming to help us. 21 A. Thank you, Mr Chairman. 22 (The witness withdrew) 23 THE CHAIRMAN: Mr Beresford? 24 MR BERESFORD: Mr Chairman, I call Fung Wai-shan, Tammy. 25</p>	<p style="text-align: right;">Page 71</p> <p>1 shown on the screen. If there is anything that occurs 2 to you that is inaccurate or wrong, then please stop me 3 and let me know. 4 A. (In English) Okay. 5 Q. I'm going to read from paragraph 2: 6 "Around 8.30 am on 30 September 2012, my husband and 7 I travelled by train from Hong Kong to China for 8 pleasure. On the evening of 1 October 2012, my husband 9 and I came back to Hong Kong and went to Central my MTR 10 train. At 8 pm sharp the same day, intending to get 11 back to Lamma Island, my husband and I boarded a ferry 12 at Pier 4 of the Outlying Islands Ferry Pier in Central. 13 It was a double-decker ferry, named Sea Smooth. After 14 boarding the ferry, my husband and I sat down on the 15 first-row bench at the starboard bow on the lower deck. 16 I took the second seat from the window, with my husband 17 sitting on my left-hand side." 18 Pausing there, Madam Fung. Could we just please 19 look at the seating plan of the vessel. Am I right in 20 saying that you were sitting in the seat numbered 10 on 21 main deck; that is, the lower deck? 22 A. Yes. 23 Q. And your husband was in the seat numbered 9? 24 A. Yes. 25 Q. Thank you. So, continuing to read, then:</p>
<p style="text-align: right;">Page 70</p> <p>1 MADAM FUNG WAI-SHAN, TAMMY (affirmed in Punti) 2 (All answers via interpreter unless otherwise indicated) 3 Examination by MR BERESFORD 4 MR BERESFORD: Good morning, Madam Fung. Thank you very 5 much for coming. I have some questions to ask you on 6 behalf of the Commission. 7 Madam Fung, you have previously given a statement to 8 the police on 7 October which is contained in our 9 bundle B at pages 724 to 728. The English translation 10 of which is at pages 728-1 to 728-5. 11 Have you been shown a copy of that statement this 12 morning and been given an opportunity to remind yourself 13 of what it says? 14 A. Yes. 15 Q. Is there anything that you might wish to amend in that 16 statement? 17 A. No. 18 Q. So the contents of that statement are true? 19 A. Yes. 20 Q. Thank you. Madam Fung, you're aged 48 and your 21 occupation is as a clerk. You've received primary 6 22 education in Hong Kong. Is that right? 23 A. Yes. 24 Q. Madam Fung, I'm going to read from the English 25 translation of your statement and the Chinese will be</p>	<p style="text-align: right;">Page 72</p> <p>1 "At that time, around 40 people or so were on the 2 lower deck. I only found one crew member near the 3 gangplank on the starboard side of the lower deck 4 helping people board the ferry, but I did not see other 5 crew or the skipper. After all passengers had boarded 6 the ferry, no staff showed the escape route or pointed 7 out the survival equipment to the passengers. 8 Around 8 pm the same day, the ferry sailed away from 9 the pier. The wind was not strong and the sea was not 10 rough either, but it was pitch black outside the window. 11 After the ferry set sail, my husband and I sometimes 12 fell into a doze, and sometimes played video games on 13 our mobile phones. About 20 minutes later, while my 14 husband and I were both playing video games on our 15 mobile phones, without paying attention to what happened 16 outside the window, suddenly a loud bang was heard from 17 the port bow. The impact was so strong that I was 18 thrown forward, hit the rail near the bow and got my 19 right thigh bruised. Apart from me, I found that other 20 passengers had also fallen on to the floor. It was 21 chaotic. Part of the lower deck ceiling fell down. 22 Most of the passengers were asking what happened and 23 whether anybody got hurt. About two minutes later, on 24 the port side of the lower deck, an oval cover about 25 40 cm by 60 cm was forced into the air by water. Then</p>

<p style="text-align: right;">Page 73</p> <p>1 the water kept pumping out. All passengers immediately 2 went aft of the ferry. At the same time, the ferry 3 tilted to the port side by about 10 degrees. Then 4 a crew member came down from the upper deck, but I did 5 not notice what he did. Then somebody behind me 6 (I don't know whether he was a crew member or 7 a passenger) told the passengers to stand on the 8 starboard side of the ferry to act as a balance. All 9 passengers then went to the starboard side of the ferry 10 and the ferry regained the balance. Water stopped 11 pumping out from the area where the cover had been sent 12 flying away and water had been coming out like 13 a fountain. Then I heard several voices from behind 14 shouting that somebody had got hurt, that the ferry was 15 about to reach the pier and that the ferry should be 16 sailed to the pier if the ferry was all right. However, 17 I did not notice any people giving any response. 18 I looked out of the window and I could see that Yung 19 Shue Wan pier was near. 20 After 2 to 3 minutes, I felt that the ferry started 21 to sail forward with power. The ferry docked at Yung 22 Shue Wan pier at about 8.45 pm the same day. At the 23 gangplank on the starboard side of the lower deck, 24 a crew member helped the passengers leave the ferry. 25 During that time, no crew or staff approached the</p>	<p style="text-align: right;">Page 75</p> <p>1 Kong? 2 A. Yes. 3 Q. Thank you. When you were travelling back from Central 4 to Lamma on 1 October, was there any screen in front of 5 you on the forward windows of the ferry? By "screen", 6 I mean either a curtain or a shade cutting off the light 7 going out through the window or coming in from the 8 outside. 9 A. No. 10 Q. You told the police in your statement, and that's at 11 paragraph 7 on page 728-3: 12 "That evening I did not feel the ferry I took had 13 accelerated, slowed down or swerved sharply before the 14 collision." 15 A. Yes, because I have been taking this kind of ferry very 16 often and I don't feel any acceleration. 17 Q. Right. So that was your recollection on 7 October when 18 you made the statement? 19 A. Yes. 20 Q. And that's your recollection now? 21 A. Yes. 22 MR MCGOWAN: Thank you very much. 23 THE CHAIRMAN: Mr Sussex? 24 MR SUSSEX: Mr Chairman, if I may, I'd like to ask some 25 questions about what happened immediately after the</p>
<p style="text-align: right;">Page 74</p> <p>1 passengers. My husband and I went home as soon as we 2 went ashore." 3 Then, Madam, I'm going to leave out a couple of 4 paragraphs. Continuing at paragraph 7: 5 "That evening I did not feel that the ferry I took 6 had accelerated, slowed down or swerved sharply before 7 the collision. The lights on the ferry had never gone 8 out since the ferry left the pier in Central. I did not 9 pay attention to the sea traffic condition. During the 10 whole journey, I did not see the skipper and I did not 11 take photos or shoot videos." 12 That was your statement to the police, Madam Fung? 13 A. Yes. 14 MR BERESFORD: If you would just kindly wait there, please. 15 MR MCGOWAN: I've just got two matters, Mr Chairman, I'd 16 like to deal with with the witness. One is the question 17 of shades on the windows, and the other one is 18 confirmation of any change of course or speed. 19 THE CHAIRMAN: Yes, very well. 20 Examination by MR MCGOWAN 21 MR MCGOWAN: Madam Fung, I think you live on Lamma. 22 A. Yes. 23 Q. How long have you lived there? 24 A. About 30 to 40 years. 25 Q. And you use the ferries as your regular travel to Hong</p>	<p style="text-align: right;">Page 76</p> <p>1 collision and the sequence of events, including the 2 water coming from the oval manhole cover. 3 THE CHAIRMAN: Yes, please do. 4 Examination by MR SUSSEX 5 MR SUSSEX: Madam Fung, will you confirm that you saw 6 nothing of another vessel, for example at or before the 7 collision? 8 A. Yes. 9 Q. It's right, is it not, that following the collision, the 10 Sea Smooth came to a halt? 11 A. Yes. 12 Q. Is it right that while the vessel was halted, the oval 13 manhole cover that you describe in paragraph 3 was 14 forced open by water? 15 A. Yes. 16 Q. You say that you then heard several voices shouting that 17 somebody got hurt, and the ferry should be sailed to the 18 pier. 19 A. Yes. 20 Q. As far as you remember, were those voices speaking in 21 Cantonese? 22 A. Yes. 23 Q. Are you able to remember any of the words that were 24 used? 25 A. They said, "We are almost arrived at the pier. Somebody</p>

<p style="text-align: right;">Page 77</p> <p>1 got hurt. Go to get onto the shore quickly. We are 2 reaching the pier soon." 3 Q. Is it right that it was after that that the vessel then 4 started moving again towards the pier? 5 A. Yes. It started to move and set sail towards the pier. 6 Q. You've said in paragraph 7 that you didn't feel the 7 vessel slow down. This is the Sea Smooth I'm talking 8 about. 9 A. Yes. I don't feel that. 10 Q. But it's right, is it not, that the vessel came to 11 a very swift stop following the collision? 12 A. Yes, it stopped. 13 MR SUSSEX: Thank you very much. 14 MS LOK: Mr Chairman, may I have leave to ask this witness 15 a few questions about the manhole, in particular the 16 timing when it burst open? 17 THE CHAIRMAN: Very well. 18 Examination by MS LOK 19 MS LOK: Madam Fung, we are going to show you a seating plan 20 of Sea Smooth, which you have seen before. You told us 21 that before the collision, you were sitting at seat 10. 22 A. Yes. 23 Q. You described to us that about two minutes after the 24 collision, a manhole burst open. 25 A. Yes.</p>	<p style="text-align: right;">Page 79</p> <p>1 A. Yes. 2 Q. I just want to clarify with you, would it be that in 3 that state of chaos, you wouldn't notice even if the 4 vessel was moving? 5 A. No, because after the collision, it came to a halt and 6 people were asked whether anybody has got hurt. 7 MS LOK: I have no further questions, Mr Chairman. 8 THE CHAIRMAN: Thank you. 9 Mr Beresford? 10 MR BERESFORD: No further questions. 11 Questions by THE COMMISSION 12 THE CHAIRMAN: Madam Fung, you said that prior to the 13 manhole bursting from its cover and this fountain of 14 water coming out from seat 3 or the position near 15 seat 3, there was water seepage that you'd already 16 noticed? 17 A. Yes. 18 THE CHAIRMAN: Could you tell us about that? 19 A. After the collision, the ceiling inside the cabin fell 20 down and a little while afterwards, it tilted a little 21 bit. And then water seeped from the cover. 22 THE CHAIRMAN: From the cover that eventually blew up in the 23 air when the fountain of water came? 24 A. Yes. 25 THE CHAIRMAN: Thank you very much.</p>
<p style="text-align: right;">Page 78</p> <p>1 Q. There are quite a few manholes close to your seat. 2 A. Yes. 3 Q. Can you tell us which one? Was it the one close to 4 number 8, number 9, number 4 or number 3? 5 A. You mean the one that pumped -- that comes up? 6 Q. The one that you described in your statement bursting 7 out, with water pouring in. 8 A. It's seat number 3, the seat on the left-hand side in 9 the first row. 10 Q. Can you help us whether it was the one close to seat 3, 11 or the one close to seat 4, or you can't tell? 12 THE CHAIRMAN: She just told us seat 3. 13 MS LOK: I beg your pardon, Mr Chairman. 14 Just one more thing before we leave that. Was there 15 any water seepage, to your knowledge, before that 16 manhole burst open? 17 A. Yes. 18 Q. At paragraph 4 of your statement, you told us: 19 "After 2 to 3 minutes, I felt that the ferry started 20 to sail forward with power." 21 Can you tell us how did you feel that? Was it by 22 way of vibration or what? 23 A. The vessel moved. It set sail. 24 Q. I see. Before paragraph 4 of your statement, you 25 described that the main deck was in a bit of chaos.</p>	<p style="text-align: right;">Page 80</p> <p>1 Your evidence is complete now. Thank you for coming 2 to help us with your testimony. You're now free to go, 3 or you can remain in the public gallery if you wish to 4 hear other evidence. But thank you very much. 5 (The witness withdrew) 6 THE CHAIRMAN: Yes, Mr Beresford? 7 MR BERESFORD: Mr Chairman, the next witness on the list is 8 Mr Yip Man-fai, who is Madam Fung's husband. 9 THE CHAIRMAN: Yes. 10 MR BERESFORD: Having heard Madam Fung's evidence, it 11 doesn't appear to me that there's any significant 12 additional evidence in Mr Yip's evidence. So unless my 13 learned friends want me to call him and read his 14 evidence, then I would propose to move on to the next 15 witness, who is Mr Rebanks, and Mr Rebanks has been 16 asked to come at 2.30. 17 THE CHAIRMAN: Just give us a moment to reacquaint ourselves 18 with Mr Yip Man-fai's statement. 19 What is the position of counsel? Mr McGowan? 20 MR MCGOWAN: I don't see any need to read his statement out. 21 As I understand the position, Mr Chairman, these 22 documents will be part of the evidence in the tribunal 23 anyway, whether they're read out in -- 24 THE CHAIRMAN: No. That's not going to be the position. 25 MR MCGOWAN: Right. Thank you for clarifying that.</p>

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<p>1 THE CHAIRMAN: Because we have 40 box files of materials. 2 The material will be that which is read out in the 3 hearing. 4 MR McGOWAN: Thank you. 5 THE CHAIRMAN: This is a transparent hearing. 6 MR McGOWAN: Yes. Thank you for clarifying that. 7 MR SUSSEX: My Lord, I'm sorry to be difficult, but I wonder 8 if this witness might be called. 9 THE CHAIRMAN: I don't think you're being difficult, because 10 we want to hear him about one matter in any event. 11 MR BERESFORD: Perhaps Mr Yip can be called now then. 12 THE CHAIRMAN: Yes. The matter we wish you to raise with 13 him is at paragraph 13 and it's on that first line. 14 MR BERESFORD: Concerning the water, Mr Chairman? 15 THE CHAIRMAN: No, concerning the uproar. I think this is 16 a matter that we want to have in context. 17 MR BERESFORD: Very well. 18 MR YIP MAN-FAI (affirmed in Puntì) 19 (All answers via interpreter unless otherwise indicated) 20 Examination by MR BERESFORD 21 MR BERESFORD: Good afternoon, Mr Yip. Thank you very much 22 for coming along. I have some questions to ask you on 23 behalf of the Commission. 24 Mr Yip, you've previously give an statement to the 25 police which is to be found at our bundle B, page 729;</p>	<p>1 "On [5 October 2012] ..." 2 I'm sorry, I don't need to read that. Paragraph 6, 3 sorry. 4 THE CHAIRMAN: Well, you could begin -- we have his wife's 5 evidence as to their position. I think you perhaps 6 could beginning at paragraph 10. 7 MR BERESFORD: Very well, Mr Chairman. Thank you. 8 So I'm taking it from the middle, Mr Yip, at 9 paragraph 10, and you're on the vessel: 10 "In about 20 minutes, at 8:20 pm, all of a sudden a 11 loud 'bang' came from the port side of the bow. That 12 was a big plunge. I did not get hurt. However, lots of 13 passengers were thrown on the floor. Some people ran to 14 the cabin windows to check what happened. It was 15 a state of chaos. Screams could be heard everywhere. 16 My wife got bruises on the thigh. 17 The lower deck ceiling of the vessel slumped onto 18 the floor. Passengers were shouting out questions, 19 'What happened?', 'Is anyone hurt?'" About 2 minutes 20 later, the pressure of the water pulled a round cover 21 (40 cm x 60 cm in size) at the most left on the front of 22 the lower deck up to the ceiling. Later water was 23 gushing out. Passengers on board then quickly ran over 24 to the stern. 25 The vessel began tiling to its port side by about 10</p>
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<p>1 English translation, page 734-1. It's dated 17 October 2 2012. Have you been shown a copy of that statement this 3 morning and reminded yourself of what it says? 4 A. Yes. 5 Q. Do you have any amendment you would wish to make? 6 A. No. 7 Q. Have you read it this morning and reminded yourself of 8 the content of that statement? 9 A. Yes. 10 Q. Are the contents of that statement true? 11 A. Yes. 12 Q. Mr Yip, you're aged 47 and your occupation is as 13 a mechanic with the Lamma Power Station; is that right? 14 A. Yes. 15 Q. And you've been educated to secondary 3 standard in 16 Hong Kong? 17 A. Yes. 18 Q. You're married to Madam Fung Wai-shan, and you've just 19 heard her give evidence? 20 A. Yes. 21 Q. I'm going to read from your statement. I'm going to 22 read from the English translation, and the Chinese 23 original will be shown on the screen. If there's 24 anything at all you think is inaccurate or incorrect, 25 please stop me. I'm going to read from paragraph 3:</p>	<p>1 degrees. A crew member went from the upper deck down to 2 the lower deck. I paid no heed to what he was doing. 3 Soon I heard people screaming. All passengers needed to 4 stand on the starboard side on the vessel to keep the 5 vessel's balance. 6 Water stopped gushing from the cover thrown. 7 Subsequently, I heard uproars of people, 'For what it 8 stopped right here. This is [a] request to sail to the 9 pier.' I did not notice who had said so. I looked out 10 of the window. I saw Yung Shue Wan pier not far away. 11 A couple of minutes later, I heard sounds of 12 starting engine and the vessel started sailing in its 13 course ahead with power. At 8.45 pm, Sea Smooth docked 14 in Yung Shue Wan pier. Later a crew member helped 15 passengers disembark on the gangplanks on the right side 16 on the lower deck." 17 Moving on to paragraph 18: 18 "I could not feel whether Sea Smooth had accelerated 19 or decelerated. I could not hear any alarm. Nor did 20 I feel the sudden steering to the port side or the 21 starboard side." 22 Mr Yip, if you'd just wait there, please. 23 MR McGOWAN: As Mr Yip has been called, perhaps I can just 24 ask him one or two questions dealing with the movement 25 of the vessel and the lights.</p>

<p style="text-align: right;">Page 85</p> <p>1 THE CHAIRMAN: If we're going to embark upon that kind of 2 questioning, we'll take it after the luncheon break. 3 MR MCGOWAN: Certainly. 4 THE CHAIRMAN: Mr Yip, we've reached the hour at which we 5 take lunch and I'm afraid I'm going to have to ask you 6 to come back at 2.30 when we resume. But your evidence 7 will be finished early this afternoon. 8 So can I ask you to be back here so that we can 9 resume, by that clock, at 2.30. 10 A. (In English) Okay. 11 THE CHAIRMAN: 2.30. 12 (1.03 pm) 13 (The luncheon adjournment) 14 (2.30 pm) 15 THE CHAIRMAN: Could we have Mr Yip. 16 Good afternoon, Mr Yip. May I remind you that you 17 continue to give your evidence according to your 18 affirmation. 19 Examination by MR MCGOWAN 20 MR MCGOWAN: Mr Yip, I'm representing Hongkong Electric and 21 also the crew of the Lamma IV. 22 A. (In English) Yes. 23 Q. I have some questions I'd like to ask you on their 24 behalf. 25 You said in your witness statement that you're</p>	<p style="text-align: right;">Page 87</p> <p>1 quite noisy, isn't it? 2 A. The sound of the engine could be heard. 3 Q. Yes. It is a noisy engine, isn't it? 4 A. It could be heard even when I was seated at the bow. 5 Q. Right. And you were seated at the bow, which is quite 6 a long way from any open window? 7 A. There is no open window. All the windows could not be 8 opened. 9 Q. Right. But any access to the open air is behind you and 10 either at the stern on the lower deck, or up the stairs, 11 at the stern on the higher deck? 12 A. Yes. 13 Q. In paragraph 14, you say: 14 "A couple of minutes later, I heard sounds of 15 starting engine and the vessel started sailing in its 16 course ahead with power." 17 A. Yes. 18 Q. Was that the engine actually starting up, ie it had been 19 stopped and was then being restarted, or merely 20 an increase in the engine noise and then Sea Smooth 21 started to move? 22 A. It stopped and then restarted. 23 Q. So it was actually not quite like turning a key in 24 a car, but it was that sort of start-up you're talking 25 about?</p>
<p style="text-align: right;">Page 86</p> <p>1 a mechanic with Lamma Power Station? 2 A. I'm a contractor. 3 Q. Right. I just wanted to confirm that. You're not 4 actually an employee of Hongkong Electric? 5 A. No. 6 Q. And you live on Lamma yourself? 7 A. Yes. 8 Q. You don't then travel to work at the power station on 9 the Hongkong Electric ferries? 10 A. No. 11 Q. You're much more used to travelling on the normal 12 passenger ferries to Yung Shue Wan from Central? 13 A. Yes. 14 Q. In your statement, you said at paragraph 18: 15 "I could not feel whether Sea Smooth had accelerated 16 or decelerated. I could not hear any alarm. Nor did 17 I feel the sudden steering to the port side or the 18 starboard side." 19 A. Yes. 20 Q. And that was your recollection when you made that 21 statement on 7 October? 22 A. Yes. 23 Q. And that's your recollection now? 24 A. Yes. 25 Q. When the ferry is in normal running operations, it's</p>	<p style="text-align: right;">Page 88</p> <p>1 Was there no noise and then you heard the engine 2 start, or was the engine running but the engine noise 3 increased? 4 A. I am not sure whether it had come to a complete stop, 5 because there were other noises in the background. But 6 I feel that there was no power, no vibration and no 7 sound. But then when the engine started, I felt the 8 vibration, the movement and the sound. 9 Q. Thank you. Just one last thing. You were in the 10 downstairs cabin and the lights were on; is that 11 correct? 12 A. Yes. 13 Q. I understand there were no blinds or curtains drawn 14 across any of the windows? 15 A. No. 16 Q. So were there reflections from the lights inside the 17 cabin back towards you from the glass? 18 A. Yes, I can see the reflection of the light. 19 Q. Which would make seeing things outside more difficult, 20 wouldn't it? 21 A. Yes. 22 MR MCGOWAN: Thank you very much, Mr Yip. 23 THE CHAIRMAN: Mr Sussex? 24 MR SUSSEX: Mr Chairman, I wonder if I might be permitted to 25 ask this witness some questions about the position</p>

<p style="text-align: right;">Page 89</p> <p>1 inside the cabin following the collision, and whether he 2 actually saw anything outside. 3 THE CHAIRMAN: Yes, please do so. 4 Examination by MR SUSSEX 5 MR SUSSEX: Mr Yip, you told us that the first thing of 6 which you became aware in relation to the collision was 7 a loud bang. 8 A. Yes. 9 Q. And you said some people ran to the cabin windows to 10 check what happened. 11 A. Yes. 12 Q. Did you yourself attempt to look through a window and 13 see what had happened? 14 A. Yes, I did try. 15 Q. What did you see? 16 A. I couldn't see anything. I couldn't see outside of the 17 glass. 18 Q. Right. Is it your recollection that screams were heard 19 immediately following the collision? 20 A. Yes. 21 A. (In English) Yes. 22 Q. In paragraph 13 of your statement, you give evidence of 23 water, you say, gushing from the manhole cover that 24 opened up, and then you said "Subsequently, I heard 25 uproars of people", and then you quote, "For what it</p>	<p style="text-align: right;">Page 91</p> <p>1 MR SUSSEX: Thank you, Mr Yip. 2 MS LOK: Mr Chairman, I have no questions. 3 THE CHAIRMAN: Thank you. 4 Mr Beresford? 5 MR BERESFORD: No further questions. 6 Questions by THE COMMISSION 7 THE CHAIRMAN: Just one matter, Mr Yip. 8 The people who were saying, the several people, you 9 say, "Why have we stopped here? Request to sail to the 10 pier", what was the tone of voice in which that was 11 being said, as you judged it? 12 A. It was like questioning why didn't the master start the 13 vessel. 14 THE CHAIRMAN: Merely questioning, not demanding? Do you 15 understand the difference? 16 MR BERESFORD: Mr Chairman, I'm told there may be 17 a translation point. 18 THE CHAIRMAN: Perhaps you can ask the witness to repeat 19 what he said. 20 A. They asked the captain in a loud voice why the vessel 21 was stopped there and not sailed back to the pier. 22 THE CHAIRMAN: And the question that I was asking you was to 23 help me as to this: was this a demand the vessel be 24 sailed to the pier, or merely questioning? 25 A. I feel that they were questioning, but it is because</p>
<p style="text-align: right;">Page 90</p> <p>1 stopped right here". May I take it that the words "for 2 what" should be "why", "Why are we stopped right here?" 3 A. Yes. 4 Q. You also say: 5 "This is [a] request to sail to the pier." 6 So is it your recollection that there were many 7 people asking for the vessel to sail straight on to the 8 pier? 9 A. I heard several people saying such things, and not all 10 of them, because it was very noisy at that time. So 11 I heard several of them saying such things. 12 Q. When you heard people saying such things, were they 13 speaking in Cantonese or English or a variety of 14 dialects? 15 A. Cantonese. 16 Q. Could I just move on to paragraph 18, where you say: 17 "I could not feel whether Sea Smooth had accelerated 18 or decelerated." 19 Could I ask, do you have any recollection of the 20 vessel's engines being put into reverse or a change in 21 sound immediately before the collision? 22 A. No. 23 Q. But it's right, is it not, that the vessel came to 24 a stop very soon after the collision? 25 A. Yes.</p>	<p style="text-align: right;">Page 92</p> <p>1 they wanted him to sail the vessel back to the pier, and 2 that is why they put up such questions. 3 THE CHAIRMAN: Thank you for that. 4 Your evidence is complete now. Thank you for coming 5 to help us with your testimony. You're free to go, or 6 you can sit in the back of the public gallery and watch 7 the proceedings. But thank you for participating. 8 (The witness withdrew) 9 THE CHAIRMAN: Yes, Mr Beresford? 10 MR BERESFORD: Mr Chairman, the next witness is Leander 11 Piers John Rebanks. 12 MR LEANDER PIERS JOHN REBANKS (affirmed) 13 Examination by MR BERESFORD 14 MR BERESFORD: Good afternoon, Mr Rebanks, and thank you 15 very much for coming and helping us. I have some 16 questions to ask you on behalf of the Commission. 17 A. Yes. 18 Q. I understand that you have made a statement to the 19 police. 20 A. That's right. 21 Q. You've been provided a copy of that. We can find that 22 in our bundle B at page 711. 23 Could the witness please be shown a copy of that 24 statement. 25 A. Thank you.</p>

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<p>1 Q. Have you been shown a copy of this earlier today and 2 reminded yourself of what it says? 3 A. Yes. Yes, I have. 4 Q. Do you have any amendments to make? 5 A. No, I haven't. 6 Q. Are the contents true? 7 A. Yes. 8 Q. Thank you. Mr Rebanks, I understand that you're aged 52 9 and your occupation is a market research consultant? 10 A. Yes. 11 Q. Educated to tertiary level? 12 A. Yes. 13 Q. To save time and to save my asking you a lot of 14 questions, I'm going to read from your English 15 statement. I'm going to read slowly, because there's 16 going to be some simultaneous translation into Chinese. 17 A. Yes. 18 Q. If you should hear anything that you feel does need 19 amendment or that's incorrect, please stop me. 20 A. Yes. 21 Q. I'm going to start from the words "At 8 pm". 22 "At 8 pm on 1st October 2012, I took the Hong Kong 23 & Kowloon ferry for Yung Shue Wan by myself at Pier no. 24 4 at Central, and sat on the front in the centre of the 25 ferry, which I have marked with a blue cross on the</p>	<p>1 force that it was a massive crash, and I was thrown out 2 of my seat. I hit my right torso against the ledge in 3 front, but I remained fully conscious. I stood up 4 immediately and looked out of the front window and saw 5 both ferries had already disengaged. I saw serious 6 damage at the left rear part of the oncoming ferry, 7 which powered away and made a U-turn to the right and 8 disappeared to the right side of my vision, after that 9 I did not see that ferry again. I have plotted the 10 course of the opposite ferry in a dotted line at 11 appendix II." 12 Could we please see appendix II on the screen at 13 page 714. 14 Mr Rebanks, at the bottom of the screen we see the 15 shape of the catamaran with the cross and the legend 16 says "This is where I was seated". 17 A. Correct. 18 Q. Then we see two shapes joined by a dotted line and 19 a continuing line going after that. That is the 20 Lamma IV, is it, or at any rate, the vessel that you 21 saw, the oncoming vessel that you saw? 22 A. Yes, that's correct. In the two positions, yes. 23 Q. "After the collision, my ferry was stationary. The 24 passengers around me were crying and screaming in panic. 25 For about one minute I saw the crew running about in the</p>
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<p>1 seating plan at appendix 1." 2 I'm just going to pause there, Mr Rebanks, and ask 3 you to identify that on our seating plan on the screen. 4 You can look at your appendix if you like. 5 A. Right. How do I identify it? 6 Q. The appendix can be shown on the screen. It's page 713. 7 A. Right. 8 Q. It looks as though -- 9 A. The front row, the centre aisle on the left-hand side. 10 Where the mouse is, right there. That's exactly where 11 I was sitting. 12 Q. So on our seating plan, then, it's number 4? 13 A. Number 4. 14 Q. On the main deck? 15 A. Yes. That's the lower deck? Yes, the lower deck. 16 Q. The lower deck. 17 A. Yes. 18 Q. Thank you. Continuing, then: 19 "At about 8.20 pm, I was looking out the window 20 directly in front of me and saw the lights from the 21 upper cabin of an oncoming ferry which was travelling 22 head-on towards my ferry slightly from the right. After 23 about 10 seconds the oncoming ferry turned to its right, 24 and my ferry immediately crashed into the back of the 25 oncoming ferry. It was apparent from the noise and</p>	<p>1 cabin, and I sat back down on my seat. Then a crew 2 opened the left front door of the ferry and water rushed 3 in and I was immediately knee deep in water. 4 I immediately moved away from the rush of water to the 5 right of the ferry and tried to get a life jacket from 6 underneath a seat. Meanwhile, water continued to flood 7 into the cabin from the open door, and I felt the ferry 8 was tilting. I had difficulty removing the life jacket 9 from the canvas bag underneath the seat. After about 10 one minute, I took the life jacket out but there were so 11 many strings attached to it and it is not clear how the 12 life jacket should be worn. I put the life jacket on 13 without tying the strings and ran out the front door and 14 went to the right-hand side of the deck, where one of 15 the strings got caught on the railings. Some other 16 passengers also came out to the deck, we saw that the 17 ferry was tilting and all of us thought the ferry was 18 going to sink. After what seemed like 2 or 3 minutes, 19 the ferry powered up. I stayed on the deck in front, 20 ready to jump off at any moment, until the ferry berthed 21 at Yung Shue Wan pier. I then returned to the cabin and 22 alighted, and I gave my life jacket to a staff member 23 once I alighted through the gangway. 24 I suffered a bruise on my right torso, and have not 25 sought medical treatment."</p>

<p style="text-align: right;">Page 97</p> <p>1 Then moving on to the question and answer, you were 2 asked: 3 "Question: Have you asked, or have you heard anybody 4 asking the crew to bring the ferry to the pier? 5 Answer: No, but there were some passengers asking 6 the crew what was going on, together with the fact that 7 the cabin was flooded, that had put pressure on the crew 8 to bring the ferry to the pier." 9 Mr Rebanks, can you just help us, please. In 10 relation to the plan, the seating plan that I've shown 11 you, you said there was a door opened by crew. Is that 12 the door marked on the plan in front of your seat 13 number 4? 14 A. Yes, that's right. 15 Q. Is that the door you exited when you went out onto the 16 deck? 17 A. Yes, that's correct. 18 Q. So you went onto that deck at the bow -- 19 A. Yes. 20 Q. -- and that's where you stayed until you got to Yung 21 Shue Wan? 22 A. Absolutely, yes. 23 Q. How many of you were there out there? 24 A. On the deck, there were three passengers and one crew. 25 Q. Presumably you stayed on the starboard side?</p>	<p style="text-align: right;">Page 99</p> <p>1 we can see the pictures of the exterior of the Sea 2 Smooth. There's one. 3 Just hold it there for a moment. 4 In that photograph, we're looking across the bow 5 from the left side to the right side, from port to 6 starboard, and so you were on the far side in that 7 picture; is that right? 8 A. After. When I went up onto the deck, yes. 9 Q. Yes. I'm sorry, that's what we're talking about. 10 A. Yes. 11 THE CHAIRMAN: But you went up to the deck through the 12 doorway that has the open door; is that right? 13 A. That's right, yes. 14 THE CHAIRMAN: And that's the door through which water was 15 pouring? 16 A. Well, the water came rushing in as soon as the cabin 17 crew opened the door -- 18 THE CHAIRMAN: Yes. 19 A. -- but then it stopped. Once the door had been opened, 20 there was a rush of water and then the water stopped. 21 THE CHAIRMAN: Yes. 22 A. But it still came up -- it seemed to be filling, the 23 inside of the cabin was filling, and as I said in my 24 statement, I was about knee-deep in water. But it 25 wasn't rushing through the door after that. So I walked</p>
<p style="text-align: right;">Page 98</p> <p>1 A. Is that the right-hand side? 2 Q. Yes. 3 A. Yes. 4 Q. The right-hand side, facing forward. 5 A. Yes. 6 THE CHAIRMAN: Could we see some photographs of these 7 positions? 8 MR BERESFORD: I'll try and identify them, Mr Chairman. In 9 the meantime, perhaps we could just see the photograph 10 at bundle I, page 15. 11 Mr Rebanks, is that the stairwell leading up to the 12 bow? 13 A. Yes. Yes, it is. 14 Q. Just a couple of steps. Was that manhole cover in place 15 when you went up? 16 A. Yes, that was in place. The only thing that I've 17 realised since the accident and today is that on my 18 statement, I thought most of the water was coming in 19 through the actual door, which indeed it did at the 20 time, but I realise from the weeks that have passed that 21 it must have come up through the floor as well. But 22 I didn't put that in my statement. 23 Q. But that's something you've realised subsequently? 24 A. Yes. Yes. 25 Q. Then I think if we go to the beginning of that bundle,</p>	<p style="text-align: right;">Page 100</p> <p>1 out through the door, the open door, and onto the deck 2 to the right-hand side of the vessel, with a life jacket 3 on. 4 Q. I think we've got a picture of the door at page 26. 5 THE CHAIRMAN: Is there any photograph that would show us 6 whether or not that area of the deck, if it had been 7 pushed below water level, would retain water that would 8 flow for a while and then stop? Is there anything that 9 would show that? 10 MR BERESFORD: Possibly at page 29, but before we move to 11 that, could I just ask Mr Rebanks to identify if that is 12 in fact the door? 13 A. That's correct, yes. 14 Q. On the right, is that the window you were looking 15 through when you were in your seat? 16 A. Yes, exactly. 17 Q. Moving on to page 29, then. Is that the portion of deck 18 that you were standing on? 19 A. Yes. 20 MR BERESFORD: Thank you, Mr Rebanks. Please wait there. 21 THE CHAIRMAN: Is there any photograph that shows us the 22 sides of the deck, to address the issue that I was 23 raising? 24 MR BERESFORD: Well, we can see in that photograph, 25 Mr Chairman, the coil of rope there and the space for</p>

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1 the rope to go through. 2 THE CHAIRMAN: Yes. 3 MR BERESFORD: I thought that was addressing your question, 4 because that would allow some water to escape. 5 THE CHAIRMAN: No, what I had in mind was, was it possible 6 that the water was trapped outside the door, so that 7 when the door was open the water flooded in, but no more 8 water was coming in to where it was trapped, and that's 9 why it stopped. 10 A. That's what I think happened. 11 MR BERESFORD: I don't know whether the photograph at 12 page 27 will assist. 13 THE CHAIRMAN: Is that a photograph looking from the 14 starboard side towards the damaged port side on the bow 15 deck? 16 MR BERESFORD: Its description is "Open deck at the bow", 17 but it does look as though it's looking to the port 18 side, Mr Chairman, yes. 19 THE CHAIRMAN: Yes. Well, that does help. 20 MR McGOWAN: I don't know whether one taken from the 21 starboard side would show what would be intact in 22 between -- 23 THE CHAIRMAN: One taken from the port side looking at the 24 starboard side? 25 MR McGOWAN: Or one outboard on the starboard side, showing	1 You were sitting, as you say, in the forward row of 2 seats. 3 A. Yes. 4 Q. The lights were on in the cabin. 5 A. Yes. 6 Q. And there would have been some reflection back off the 7 front windows of those lights into the cabin? 8 A. Yes. 9 Q. That would make it quite difficult for you to see too 10 much ahead of you without getting right up to the glass 11 and trying to shield the reflection? 12 THE CHAIRMAN: Do you agree with that? 13 A. Well, to a certain extent, yes. But, I mean, I've done 14 the trip many, many times because I've lived on Lamma 15 for 20 years, and I've been aware of the lights of other 16 vessels passing in the past. 17 MR McGOWAN: Yes. 18 A. I was immediately struck by this light directly in 19 front, coming towards the centre of the boat, as soon as 20 I saw the light. And it wasn't a question that I got 21 confused with the reflection or anything like that. 22 I mean, it was a bright light on the outside of the 23 boat. So it wasn't a reflection. 24 Q. No, I'm not suggesting you were confused by it; I'm just 25 trying to establish what your viewing conditions were,
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1 which -- 2 THE CHAIRMAN: If you can tell us which photograph to look 3 at, Mr McGowan. 4 MR BERESFORD: Well, that's 28 and 29, Mr Chairman. 5 THE CHAIRMAN: Thank you. 6 MR BERESFORD: 28 is looking at the port side; 29 is the 7 starboard side. 8 THE CHAIRMAN: Yes, I think we've got the picture. Thank 9 you. 10 MR BERESFORD: Just wait there, please, Mr Rebanks. 11 MR McGOWAN: Mr Chairman, could I ask come some questions, 12 please, about what Mr Rebanks saw in the period shortly 13 before the collision? 14 THE CHAIRMAN: Yes. 15 MR McGOWAN: And also about his difficulties with his life 16 jacket? 17 THE CHAIRMAN: Yes, certainly. 18 MR McGOWAN: Thank you. 19 Examination by MR McGOWAN 20 MR McGOWAN: Mr Rebanks, I'm representing Hongkong Electric 21 and the crew of the Lamma IV. 22 A. Right. 23 Q. I have some questions I'd like to ask you. As you'll 24 gather from my remarks to the Chairman, you'll have some 25 idea of what I'm going to ask you about.	1 if I can put it like that. 2 A. Right. But I'm very familiar with sitting -- I always 3 sit in the same place every time and quite often look at 4 reflection to see other people in the ferry as well. So 5 I'm quite accustomed to adjusting my eyesight to look at 6 a reflection or what's outside. I'm 100 per cent 7 certain that I saw the light where I saw it, when I saw 8 it. 9 Q. And that was for a fairly short time before the actual 10 collision occurred? 11 A. Yes, that's right. 12 Q. So you couldn't tell us where that ferry had come from? 13 A. Not from -- no. I mean, at first I thought it might be 14 just a navigation light, a safety thing in the Lamma 15 Channel. 16 Q. You've described it as travelling head-on towards your 17 ferry, slightly from the right. 18 A. That's right. 19 Q. And that, after 10 seconds, turned to its right? 20 A. Yes. I mean, initially, when I first saw it, I didn't 21 think it was a ferry. I thought it was just 22 a navigation buoy as they have, because quite often, 23 when you see that light, it's time to stand up and walk 24 to the exit to get ready to disembark. But in this 25 case, it was (a) a bit too soon, and also it was right

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1 -- instead of being on one side, it was coming directly
2 for one. I thought, "That's strange. We're going to
3 hit this navigation buoy." Then I realised it was a
4 ferry, and then I had time to think, "Well, shall I run
5 to the back of the ferry?" But I thought "No, I'll sit
6 and brace myself".
7 Q. And you saw it for about 10 seconds?
8 A. About 10 seconds, yes.
9 Q. And the movements that you've described in your
10 statement and your evidence are effectively the relative
11 movements of the two targets?
12 A. Exactly, yes.
13 Q. The oncoming ferry appeared to you to be turning to its
14 right?
15 A. As a last resort. I mean, at first it was just coming
16 straight for -- you know, just like a head-on collision,
17 and then at the last moment it tried to avert and turn
18 to the right.
19 Q. Again, that's a short view of two moving objects
20 approaching each other?
21 A. Yes.
22 Q. You go on to describe that after you'd got up and looked
23 out of the front window, you saw the oncoming ferry
24 powered away and making a U-turn to the right.
25 A. That's right, yes.

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1 Q. When you say "powered up", did you hear an engine?
2 A. Well, no, I couldn't hear an engine at all. I could
3 hear screaming, for sure, a lot of screaming on our
4 ferry, and even on the outside, I could hear the
5 screaming on their ferry. And I could tell instantly
6 from -- I mean, the crash was very, very strong and also
7 when our ferry bounced back off or when they came apart,
8 we were very close so I could see the damage on the
9 other ferry, on the Lamma IV, and I was thinking, "My
10 gosh, somebody's really, really got hurt. There's
11 definitely going to be -- you know, something's happened
12 here." That was all sort of like, if you like, in
13 slow-motion, stationary.
14 And then, from my relative point of view, the
15 Lamma IV moved forward and then turned further to the
16 right and then back off to the right.
17 THE CHAIRMAN: Could I ask you to just pause there whilst
18 the translation is completed.
19 Thank you.
20 MR McGOWAN: That was not necessarily done under her own
21 power, was it? It was just a movement of the Lamma IV
22 relative to Sea Smooth?
23 A. Well, don't forget the Sea Smooth is a very, very big
24 vessel. So it would have had to have -- I take your
25 point about the relativity of what I saw. But if you

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1 think, you know, for that action to have taken place,
2 the Sea Smooth would effectively had to have turned on
3 itself, which is pretty unlikely. I think the movement
4 came from the Lamma IV. That's my view.
5 Q. But not --
6 A. Because at first -- I mean, I didn't know whether -- the
7 fatalities of the accident, although it looked very
8 serious from the damage I saw on the boat, and I just
9 thought, you know, "Crazy drivers". I just thought
10 "They're making a quick U-turn and running away from the
11 scene." That's what it sort of looked like. It
12 definitely looked like they were powering up, turning
13 around and off. And then they just disappeared out of
14 sight and we didn't see them again.
15 Q. So there was a fast movement of the Lamma IV. That's,
16 I'd suggest, all you can really say.
17 A. I wouldn't say fast, but sort of normal ferry speed. It
18 wasn't like they were really taking off at full gallop.
19 But it looked like a serious crash and then they moved
20 off and went off to the right. I honestly don't think
21 that the vision that I saw was a movement of the Sea
22 Smooth, the one I was on. Because our boat was so big.
23 For us -- for that kind of thing to be observed, then
24 the Sea Smooth would have had to have turned on itself,
25 which is pretty much impossible, I would have thought.

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1 So the movement must have come from the Lamma IV.
2 THE CHAIRMAN: Just pause there. We're trying to do
3 simultaneous translation, if I can explain that to you,
4 so everyone wearing headphones can follow this in
5 Cantonese. It's a difficult enough job interpreting,
6 let alone trying to do it simultaneously.
7 A. Yes.
8 MR McGOWAN: What you believed was Lamma IV moving under its
9 own power could have been the effect of being struck by
10 Sea Smooth, couldn't it?
11 A. Well, my opinion is that it took a heavy impact. Both
12 vessels were stationary at that point. They dislodged
13 themselves. And then Lamma IV powered up on its own
14 power and moved forward and then round to the right and
15 back. That's what I think happened.
16 Q. Do you have any marine or maritime experience?
17 A. No.
18 Q. And this was an impact to the port quarter of the
19 Lamma IV?
20 A. Mm'hm.
21 Q. And your ferry was travelling at full speed, wasn't it,
22 at the time of that impact?
23 A. Yes.
24 Q. Just before I move on, one last question. Was the turn,
25 the movement of the Lamma IV which you've described to

<p style="text-align: right;">Page 109</p> <p>1 us as turning to the right, was that a sharp turn to the 2 right or was it just swinging round to the right? This 3 is before the crash. 4 A. Well, it's as sharp as you can. Boats don't turn that 5 instantly. I know that the Lamma IV was smaller, so it 6 had a more responsive turning circle. But it turned as 7 quickly as it could, really, at the last moment. But it 8 couldn't -- 9 THE CHAIRMAN: I think you're beginning to speculate there, 10 because I think all you're really -- and it is helpful 11 -- able to tell us is what you saw. 12 A. Yes. 13 THE CHAIRMAN: Why it happened is perhaps a secondary issue. 14 A. Yes. 15 THE CHAIRMAN: We will be helped again later by a captain, 16 an Elder Brother of Trinity House, and by a naval 17 architect whose fields of expertise these are. 18 A. Okay. Right. 19 MR McGOWAN: Thank you. 20 You also mentioned your difficulty putting your life 21 jacket on -- I think initially getting the life jacket 22 out. Why exactly was that, or how did you have 23 difficulty? 24 A. Well, apart from the actual fact of the shock of the 25 accident, you never really think you ever need to use</p>	<p style="text-align: right;">Page 111</p> <p>1 caught on the railing at the front, so that added to my 2 concern. 3 Q. Thank you. You later on in the same paragraph of your 4 statement on page 2 went on to say: 5 "After what seemed like 2 or 3 minutes, the ferry 6 powered up. I stayed on the deck in front ..." 7 A. Yes, that's right. 8 Q. When you say "the ferry powered up", what do you mean by 9 that? 10 A. Right. Well, firstly what I don't mean is I don't think 11 the engine was ever switched off, because the police did 12 ask me that question and I was pretty sure that they 13 left the engine running, because all the lights were on 14 and so on. It would obviously be better to keep the 15 engine running. 16 But then the boat, the vessel, the Sea Smooth, was 17 stationary for about two or three minutes after the 18 impact and there was general confusion on the ferry by 19 the crew. 20 THE CHAIRMAN: Can I ask you to just take your evidence 21 a little bit slower. You speak quite quickly, and it's 22 difficult, I think, for the interpretation. 23 A. Sorry. Yes. 24 THE CHAIRMAN: So you don't think the engine was switched 25 off, the lights were running, and then what else?</p>
<p style="text-align: right;">Page 110</p> <p>1 life jackets, and then when you have to, you don't know 2 how to get them out. So it was a combination of panic 3 as well. 4 But, you know, I'm quite a strong, active, athletic 5 person and I found it very difficult to get the jacket 6 out. It was tucked away in a very old-fashioned kind of 7 canvas, probably never been opened for five years or 8 whatever, and I just couldn't -- I gather from other 9 people they had the same problem. I found it very 10 difficult to get the pouch open to get the life jacket 11 out. 12 Then once I got it out, it was just sort of 13 a meaningless thing with lots of strings and with a hole 14 in the centre, so I presumed I had to put my head 15 through the part, the hole, and had no clear idea how to 16 tie it up. It wasn't like a waist jacket or anything, 17 there was an obvious buckle at the front or anything 18 like that. 19 Obviously, still sort of relatively panicking, 20 because the main deck was sort of full of water on one 21 side up to sort of knee level, at the front, I was 22 thinking, "Well, the boat's filling up with water. It's 23 going to sink any second. I've got to get out." So 24 I didn't even do the string up. I walked out onto the 25 deck still with the strings flying around, and they</p>	<p style="text-align: right;">Page 112</p> <p>1 A. Can you remind me of the question again, please? 2 MR McGOWAN: Yes. I was asking you what you meant by 3 "powered up". 4 A. What I was trying to explain is I don't actually think 5 the engine was switched off, although I was asked the 6 question by the police. And then I think the decision 7 was made because of the sheer panic on our own ferry, 8 because there were children, women and children on our 9 ferry, we had a lot of water on our boat, that the crew 10 decided that they better get back to Lamma with our 11 vessel. So it went from stationary to standing still in 12 the water, and then they just decided to turn the engine 13 on full thrust towards Yung Shue Wan ferry pier. 14 Then once that happened, everything seemed to be -- 15 it was a big relief, because the front of the vessel 16 lifted up, the water dissipated, and it just -- we felt 17 more secure. But before that, we felt as though we were 18 just about to sink, really. That was what the feeling 19 was. Then it took about two or three minutes to 20 actually get back to Yung Shue Wan. 21 Q. And the other ferry was left behind? 22 A. I didn't see. After the initial part that we've already 23 talked about, and it disappeared from my field of vision 24 before I even got to the front deck, I never saw the 25 ferry again. I didn't see it anywhere. I was on the</p>

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<p>1 deck, looking left and right -- couldn't see it 2 anywhere. 3 MR McGOWAN: Thank you very much indeed. 4 A. My pleasure. 5 MR BERESFORD: Mr Chairman, may I have permission to ask 6 a further question as I've omitted to ask about 7 a supplemental status in which the witness clarified his 8 plan, which is at pages 714-1 to 714-3. 9 THE CHAIRMAN: I think it's probably better that you do so 10 now so that this information can be available for other 11 counsel who may wish to question -- 12 MR BERESFORD: Indeed. Thank you, Mr Chairman. 13 Further examination by MR BERESFORD 14 MR BERESFORD: Mr Rebanks, you made a supplemental statement 15 on 9 November 2012, did you not? 16 A. Yes. 17 Q. In that statement, you drew some additions to your plan 18 which can be found at page 714-3. 19 A. Yes. 20 Q. It's coming up on the screen now. 21 There are two additions, as I understand it. One is 22 the distance you estimate between the vessels when you 23 first saw the oncoming vessel, ie about 40-50 metres? 24 A. That's correct. 25 Q. You have also marked a light that you didn't mark in the</p>	<p>1 Smooth, the vessel you were travelling on. 2 A. Okay. 3 Q. If I understand your evidence correctly, the first time 4 you saw what you later learnt to be the oncoming ferry 5 was at a distance of some 40-50 metres; is that right? 6 A. That's correct, yes. 7 Q. And the time that you put between your first observing 8 what you later found to be the oncoming ferry and the 9 collision is about 10 seconds; is that right? 10 A. Right, yes. 11 Q. In your first statement, you say you were looking 12 through the window in front of you and you saw the 13 lights from the upper cabin of an oncoming ferry. 14 A. (Witness nods). 15 Q. As I understand it, appendix III is your drawing, is it 16 not? 17 A. That's right. 18 Q. And you have drawn something on the oncoming vessel with 19 the word "Light"? 20 A. That's right. 21 Q. Are you saying that you saw cabin lights or a single 22 light? 23 A. I believe I saw a single light. 24 Q. Are you fairly confident of the angle that the oncoming 25 vessel bore to your own vessel, the Sea Smooth?</p>
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<p>1 first sketch. 2 A. That's correct. 3 Q. What was that light? 4 A. Sorry? 5 Q. Can you describe that light, please? 6 A. Yes. It was not a green light or a red light. It was 7 a white light on top of the mast. That's why 8 I initially thought, when I first saw the approaching 9 accident, that it was just a channel -- one of the 10 channel markers. So it was a white light or appeared to 11 be a white light. Could have been on the top of the 12 mast or it could have been a light from the top of the 13 cabin. But it was a white light. 14 MR BERESFORD: Okay. Thank you, Mr Rebanks. 15 THE CHAIRMAN: Mr McGowan, does anything arise from that? 16 MR McGOWAN: No, it doesn't. 17 THE CHAIRMAN: Thank you. 18 Mr Sussex? 19 MR SUSSEX: Mr Chairman, with your permission, I'd like to 20 ask this witness about what he observed through the 21 window. 22 THE CHAIRMAN: Yes. 23 Examination by MR SUSSEX 24 MR SUSSEX: Mr Rebanks, perhaps I should introduce myself. 25 I act for the owner, operator and crew of the Sea</p>	<p>1 A. Yes. 2 Q. You told us just now that the light that you saw wasn't 3 a green light, it wasn't a red light; it was a white 4 light. 5 A. Exactly. 6 Q. Right. From where you were, did you ever see a green 7 light or a red light? 8 A. No. 9 Q. Were you watching this vessel continuously as it came 10 towards you, or this object? 11 A. Once I was aware there was something approaching, yes, 12 I was. 13 Q. So your eyes were on it for 10 full seconds? 14 A. Yes. 15 Q. You're confident that you didn't see a red or a green 16 light? 17 A. Absolutely confident. 18 Q. You say that the oncoming ferry turned to its right 19 about 10 seconds after you first saw it; is that right? 20 A. That's right, yes. 21 Q. And you say: 22 "... and my ferry immediately crashed into the back 23 of the oncoming ferry." 24 A. That's right. 25 Q. So you were only conscious of a turn by the other vessel</p>

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<p>1 at the very last minute; is that correct? 2 A. Exactly, yes. 3 Q. You described earlier your vessel as bouncing back from 4 the other vessel. 5 A. After the impact, yes. 6 Q. Yes. So there was no question of the two vessels ever 7 being stuck together; is that right? 8 A. Don't think so, no. 9 Q. You say that you were conscious of the collision, you 10 were thrown forward out of your seat, you hit your right 11 torso, you stood up immediately, and the ferries had 12 already disengaged. How much time are we talking about? 13 A. Well, the crash, I suppose, and hitting things, about 14 one second, and then I stood up and looked, and by the 15 time I stood up, it was sort of disengaged. 16 Q. So in a second or not much more, the vessels had 17 separated? 18 A. Yes. 19 Q. When you looked, how far away was the other vessel? 20 A. Probably a little bit further away than where you are 21 now. A bit further. 22 THE CHAIRMAN: For the record, 15 feet? 23 A. Yes. Yes, Mr Chairman. 24 MR SUSSEX: Right. So about 5 metres. 25 Shortly before the collision, were you aware of any</p>	<p>1 Q. So you couldn't be confident that you would understand 2 everything that was being said on board at the time? 3 A. Oh, not at all. I pick up 10 per cent. 4 MR SUSSEX: Thank you very much. 5 A. My pleasure. 6 MS LOK: I have no questions. 7 THE CHAIRMAN: Thank you. 8 Mr Beresford? 9 MR BERESFORD: No further questions, Mr Chairman. 10 THE CHAIRMAN: Mr Rebanks, we thank you for coming to 11 testify before us, to assist us in our duties in this 12 Inquiry. Your testimony is now complete and you're free 13 to go, but of course you're also free, as a member of 14 the public, to sit in the public gallery and listen to 15 testimony if you wish. But you're free to go now. 16 A. Thank you very much, Mr Chairman. Thank you. 17 (The witness withdrew) 18 THE CHAIRMAN: Mr Beresford? 19 MR BERESFORD: Mr Chairman, I've been asked to change the 20 order a bit to accommodate the witnesses. 21 THE CHAIRMAN: Yes, of course. 22 MR BERESFORD: The next witness will be Wan Ho-yin. 23 MR WAN HO-YIN (affirmed in Puntì) 24 (All answers via interpreter unless otherwise indicated) 25 Examination by MR BERESFORD</p>
Page 118	Page 120
<p>1 change in the sound of the engines on your vessel? 2 A. Sorry, could you repeat that question, please? 3 Q. Immediately before the collision, were you aware of any 4 change in the sound of the engines on your vessel? 5 A. No. No. 6 Q. But it's right, is it not, that your vessel came to 7 a stationary position quite quickly? 8 A. Yes. 9 Q. You've said that water came through a manhole. Was that 10 manhole opened by a crew or did the water come out 11 naturally? 12 A. Well, at the time, I didn't realise the water came up 13 through the manhole. That's only something that I've 14 sort of realised since. When the accident happened, 15 I thought the water had come in through the front. But 16 it certainly did come in, and it came in fast. 17 Q. But you didn't see a crew member open that manhole? 18 A. No way. No. 19 THE CHAIRMAN: So you exclude that as a possibility, that 20 someone had deliberately opened that -- 21 A. Yes. Yes, I do, Mr Chairman. 22 THE CHAIRMAN: Thank you. 23 MR SUSSEX: Do you speak Cantonese? 24 A. Very little. I mean, local people would think I can, 25 but not really. Not very much.</p>	<p>1 MR BERESFORD: Mr Wan, thank you very much for coming in 2 this afternoon to help this Commission. I have some 3 questions for you on behalf of the Commission. 4 Mr Wan, you have made a statement previously to the 5 police, have you not, which we can find in our bundle at 6 bundle B, page 855 to page 860; the English translation 7 is at page 860-1 to page 860-5? 8 Have you been shown your statement today and given 9 an opportunity to remind yourself of what it says, 10 Mr Wan? 11 A. Yes. 12 Q. Do you have any amendment you would wish to make? 13 A. No. 14 Q. So are the contents true? 15 A. Yes. 16 Q. Mr Wan, you're aged 28 years old, with the occupation of 17 merchandiser, and education to university level; is that 18 right? 19 A. I have changed my occupation. 20 Q. To? 21 A. I am now working in the Immigration Department. 22 Q. Okay. Mr Wan, I'm going to read from your statement to 23 save me asking you a series of questions. I'm going to 24 read from the English statement, and the Chinese 25 statement is going to be shown on the screen.</p>

<p style="text-align: right;">Page 121</p> <p>1 A. Okay. 2 Q. I'm just going to read extracts of the key parts, but if 3 there is anything that I read that you feel is incorrect 4 or inaccurate, then please stop me and let me know. 5 A. (In English) Okay. 6 Q. I'm going to start at the words "At about 8 pm that 7 day". 8 "At about 8 pm that day, my girlfriend and I boarded 9 a ferry at Central Piers to return to Lamma Island. The 10 two of us sat on the third or fourth row of seats on the 11 upper deck near the window on the port side." 12 Just pausing there. May I show you the seating plan 13 of Sea Smooth. Can you please help us identify, by 14 reference to the numbered seats on that plan, where you 15 and your girlfriend were sitting? An approximate 16 location is okay. 17 A. 19 and 20. 18 Q. 19 and 20. And you were in which one? 19 A. 20. 20 Q. Thank you. Continuing, then: 21 "Then, the ferry set sail, and we intended to take 22 a rest. After the ferry had sailed for about 15 to 23 20 minutes, I felt that the ferry decelerated. 24 I thought that it had reached Lamma Island, and so 25 I intended to stand up to take a look. Suddenly, the</p>	<p style="text-align: right;">Page 123</p> <p>1 the unoccupied seats nearby, and put them on. Then, 2 (some) sailor(s) and passenger(s) said that water was 3 coming in and the ferry was beginning to tilt, and we 4 were asked to stand on the starboard of the ferry as the 5 port side of the ferry began to sink. A few moments 6 later, the ferry reached Lamma Island ferry pier. 7 When we arrived at the ferry pier, some staff 8 members of the ferry company motioned us to disembark 9 from the ferry and take off our life jackets. My 10 girlfriend and I then followed their instructions. 11 After that, we left on our own." 12 Then you were asked some questions: 13 "Question: Before the collision occurred, had you 14 felt the ferry accelerate or decelerate? 15 Answer: Yes, I had once felt it decelerate. At 16 first, I thought that it decelerated because it was 17 going to reach the pier soon. However, after it had 18 decelerated, the collision occurred in less than one 19 minute or two. 20 Question: Did you see the number or name of the 21 opposite party's vessel? 22 Answer: I saw neither, because it was very dark at 23 that time. I only took a glance at the opposite party's 24 vessel, and saw that some light bulbs were hung up on 25 it. I don't know anything else about it.</p>
<p style="text-align: right;">Page 122</p> <p>1 ferry seemed to have crashed into something, and 2 I toppled forward. Luckily, I was able to hold myself 3 in position with my hands. The men and women sitting on 4 the first row of seats ahead of me bumped into some 5 wooden boards in the cabin. Then, I looked out of the 6 window on the port side, and saw a vessel stop out there 7 with its lights on. However, I don't know the name of 8 the vessel. 9 At this time, a foreigner who was sitting nearby 10 shouted, 'Someone fell to the downstairs cabin.' So 11 I looked at the stairs to see whether anyone got 12 injured. At that time, I saw that a male foreigner was 13 sitting at the bottom of the stairs, and that his hand 14 was bleeding. Then, I looked out of the window again, 15 but the aforesaid vessel had gone out of sight, and 16 there was no lighting out there. Then, someone shouted 17 downstairs, 'Sail to the pier first.' After several 18 minutes' tumult, the ferry started moving again. 19 Meanwhile, I saw a female foreigner knock at the 20 door of the wheelhouse and lodge a complaint. A man in 21 a blue sailor tunic then followed the female foreigner 22 to the open area of the upper deck in the stern. Then, 23 I heard someone downstairs say that water was coming in, 24 and that it was necessary to put on life jackets. So my 25 girlfriend and I took two life jackets from underneath</p>	<p style="text-align: right;">Page 124</p> <p>1 Question: Before the collision, had you heard the 2 ferry which you were travelling on sound a siren or make 3 any announcement? 4 Answer: No." 5 Then at the end, you were asked: 6 "When you were travelling on the ferry, were the 7 lights in its cabin on? 8 Answer: Yes. 9 Question: What was the weather on the night in 10 question? 11 Answer: The weather was fine. The sea was calm." 12 Can I just show you a photograph, please, Mr Wan. 13 Photo bundle I, page 33. Does this give an indication 14 of where you were sitting? 15 A. Yes. 16 Q. Would I be correct in saying that it would be near the 17 back of that photograph on the left? 18 A. Should be on the left, in the front. 19 Q. Yes. Around about where the cursor is hovering now? 20 A. Yes. 21 Q. Thank you. Among the questions you were asked, you were 22 asked if you heard the ferry on which you were 23 travelling sound a siring siren or make any 24 announcement. 25 A. No.</p>

<p style="text-align: right;">Page 125</p> <p>1 Q. Did you hear any siren before the collision, or horn, or 2 any other sound signal? 3 A. No. 4 Q. Could you hear sounds from outside, where you were 5 sitting? 6 A. No. 7 MR BERESFORD: Okay. Thank you very much. Please wait 8 there. 9 MR McGOWAN: Mr Chairman, I'd like to ask some questions 10 about the deceleration, and also what the witness saw 11 after the crash. 12 THE CHAIRMAN: Yes. Please ask questions in those areas. 13 MR McGOWAN: Thank you. 14 Examination by MR McGOWAN 15 MR McGOWAN: Mr Wan, you have told us that you felt the 16 ferry decelerate. 17 A. Yes. 18 Q. What exactly did you feel? 19 A. When the vessel was sailing, I could hear the sound of 20 the engine. But at that time, I couldn't hear the sound 21 of the engine. So I believed that it was decelerating. 22 Q. Right. Did you feel it slow down, or just miss the 23 noise of the engine, miss hearing the noise of the 24 engine? 25 A. I just missed hearing the noise of the engine.</p>	<p style="text-align: right;">Page 127</p> <p>1 that starts "At about 8 pm"? 2 A. Yes. 3 Q. In that, you appear to be suggesting that this was 4 almost immediately after the deceleration. Do you 5 understand what I'm suggesting to you? 6 A. There was a time interval between the deceleration and 7 the collision, but I don't remember the exact time. 8 Q. Yes. I'm suggesting to you that it was a very short 9 interval, rather than the one to two minutes you 10 suggested later on in the questions and answers. Do you 11 agree? 12 A. Agree. 13 Q. Thank you. You also said that you saw a vessel stopped 14 with its lights on, on the port side. 15 A. Yes. 16 Q. Was your ferry still moving at that time? 17 A. No. 18 Q. And neither was the other ferry? 19 A. Yes. 20 MR McGOWAN: Thank you. Could you wait there, please. 21 THE CHAIRMAN: Thank you. 22 Yes, Mr Sussex? 23 MR SUSSEX: Mr Chairman, with your leave, I'd like to ask 24 questions on exactly the same topics as my learned 25 friend Mr McGowan.</p>
<p style="text-align: right;">Page 126</p> <p>1 Q. Right. You went on to say that that had a time interval 2 which you described in the questions which followed: 3 "However, after it had decelerated, the collision 4 occurred in less than one minute or two." 5 A. Yes. 6 Q. Are you able to give a better estimate of the time 7 between the deceleration or the noise of the engine 8 disappearing, and the collision? 9 A. About one minute. 10 Q. Wasn't it almost immediate? A very short time distance 11 between one or the other? 12 THE CHAIRMAN: Before you answer that question, let me 13 invite you, Mr McGowan, to take the witness to 14 an earlier passage in his statement where he gives us 15 a sequence of events: 16 "After the ferry had sailed for about 15 to 17 20 minutes, I felt that the ferry decelerated. I 18 thought that it had reached Lamma Island, and so 19 I intended to stand up to take a look. Suddenly, the 20 ferry ... crashed into something ..." 21 Please put that part of the statement in front of 22 him. 23 MR McGOWAN: Yes. 24 Have you seen the bit, Mr Wan, that the Chairman has 25 just mentioned to you, which will be in the paragraph</p>	<p style="text-align: right;">Page 128</p> <p>1 THE CHAIRMAN: Yes, please do. 2 Examination by MR SUSSEX 3 MR SUSSEX: Mr Wan, you say that you felt the vessel 4 decelerate and you say that you thought it had reached 5 Lamma Island. What I want to explore with you is the 6 nature of your memory in relation to this. Is it your 7 recollection that there was a change in the noise of the 8 engine such as to give you the impression that you'd 9 reached your destination? 10 A. Yes. Because I do travel quite a bit on these ferries, 11 and every time when the vessels approach the pier, the 12 sound of the engine will die down and that's the time 13 when it reached the destination, and that is why I have 14 such impression. 15 Q. Thank you. You say that you looked out of the window on 16 the port side. How soon after the sound of the 17 collision did you look out of the window, as far as you 18 remember? 19 A. I think it was within a minute that I looked out of the 20 window. 21 Q. So within a minute. And how far away from your vessel 22 was the other vessel when you saw it? 23 A. I remember that it stopped at the position near the bow 24 of our vessel, and I believe that it was less than 25 10 metres.</p>

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<p>1 Q. Right. Which part of the other vessel was closest to 2 you when you looked out? Were you looking at the back 3 of the vessel, the side, the front; can you remember? 4 A. It is the side of the vessel. If this is the bow, then 5 it is on the left-hand side. 6 Q. The left-hand side, towards the bow or towards the 7 stern? 8 A. I don't quite understand the question. 9 Q. You're looking at the side of the vessel. Are you 10 looking at it amidships, towards the bow, towards the 11 stern? I'm trying to get some idea of what part of the 12 vessel you're looking at. 13 A. I believe that it was the area between midship and the 14 bow. 15 Q. The area between midships and the bow? 16 A. Yes. 17 Q. Did you see any coloured lights on the vessel? 18 A. Yellow. 19 Q. No other colours? 20 A. No, because at that time the environment was very dark 21 and all I could see were the lights. 22 MR SUSSEX: Thank you very much. 23 MS LOK: I have no questions. 24 THE CHAIRMAN: Thank you. 25 Mr Beresford?</p>	<p>1 vessel, and saw that some light bulbs were hung up on 2 it. I don't know anything else about it." 3 When you refer to the yellow light, are you 4 referring to those light bulbs? 5 A. Yes. 6 MR SUSSEX: Thank you. 7 THE CHAIRMAN: Mr Wan, thank you for coming to give 8 testimony to assist us in our Inquiry. Your testimony 9 is now finished, and you are free to go. Alternatively, 10 you can wait in the public gallery and watch the 11 proceedings. That's up to you. But thank you for 12 coming. 13 (The witness withdrew) 14 THE CHAIRMAN: Yes, Mr Beresford? 15 MR BERESFORD: The next witness, Mr Chairman, is Madam Wong 16 Wing-see. 17 THE CHAIRMAN: Where do we find this witness's statement? 18 MR BERESFORD: The English translation is at page 846-1 of 19 bundle B, and the Chinese, Mr Commissioner, is at 20 page 840. 21 MADAM WONG WING-SEE (affirmed in Puntì) 22 (All answers via interpreter unless otherwise indicated) 23 Examination by MR BERESFORD 24 MR BERESFORD: Good afternoon, Madam Wong. Thank you very 25 much for coming in to assist the Commission today. On</p>
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<p>1 MR BERESFORD: No further questions. 2 Questions by THE COMMISSION 3 THE CHAIRMAN: Whereabouts on the other vessel was this 4 yellow light that you've described? 5 A. They were evenly distributed along the midship to the 6 bow. 7 MS LOK: I believe the witness also said "(Chinese spoken)". 8 THE INTERPRETER: Yes. 9 A. It was illuminated. 10 THE CHAIRMAN: Are you saying these were decorative lights? 11 A. I believe it was for illumination. 12 MR SUSSEX: Mr Chairman, might I just ask -- there may be 13 a linkage to the answer at page 860-4 where the witness 14 says he saw some light bulbs were hung up on the other 15 vessel. Might I ask whether it's those? 16 THE CHAIRMAN: Please do. 17 Further examination by MR SUSSEX 18 MR SUSSEX: Mr Wan, in answer to a question -- 19 THE CHAIRMAN: Can you find this in the Chinese so that 20 Mr Wan can follow this. 21 MR SUSSEX: Page 858, the second-last line. You were asked: 22 "Did you see the number or name of the opposite 23 party's vessel? 24 Answer: I saw neither, because it was very dark at 25 that time. I only took a glance at the opposite party's</p>	<p>1 behalf of the Commission, I have some questions to ask 2 you. 3 You have previously given a statement to the police 4 on 17 October 2012. 5 Could a copy of that statement please be given to 6 the witness. It's at page 840 of bundle B, running 7 through to page 846. 8 Do you recognise that as your statement, Madam Wong? 9 A. Yes. 10 Q. Has a copy been given to you today to enable you to 11 remind yourself of what was said there? 12 A. Yes. 13 Q. Do you have any amendments you might wish to make? 14 A. No. 15 Q. So are the contents true? 16 A. Yes. 17 Q. Madam Wong, you are aged 35, occupation: housewife, 18 educated to form 5; is that correct? 19 A. Yes. 20 Q. Madam Wong, to save me asking a long series of 21 questions, I'm going to read from the English 22 translation of your statement. The Chinese will be 23 shown on the screen as I read. If you hear anything 24 that is inaccurate or incorrect, then please stop me and 25 let me know. I'm going to read from the part beginning</p>

<p style="text-align: right;">Page 133</p> <p>1 "As my family and I live". 2 "As my family and I live in Wang Long Village, Yung 3 Shue Wan, Lamma Island, I always commute by the ferry of 4 Hong Kong & Kowloon Ferry going between Lamma Island and 5 Central. I have also travelled on a catamaran which was 6 of the same type of the one in the collision to return 7 to Lamma Island. As far as I know, the voyage takes 8 about 25 minutes. 9 Around 7.40 pm on 1 October 2012 I, together with my 10 elder son Chow Tze-tung, travelled on a Hong Kong 11 & Kowloon Ferry catamaran at Pier 4 in Central on Hong 12 Kong Island to return to our home in Lamma Island. 13 After boarding the catamaran, my elder son and I took 14 the first and the second seats of the 12th row on the 15 right in the lower deck in the middle near the staircase 16 to the upper deck. [Positions of our seats are recorded 17 in the attached sketch.]" 18 Pausing there. Can I just turn to page 846-6. That 19 shows where you've marked your position on the plan 20 annexed to your statement. If I understand it 21 correctly, that's you in the middle and your son in the 22 window seat; is that right? 23 A. Yes. 24 Q. Can you please have a look at our numbered seating plan. 25 In the lower plan, which is the main deck, can you</p>	<p style="text-align: right;">Page 135</p> <p>1 floor between seats. I carried my son up at once and 2 checked whether he was injured. He was not injured and 3 I felt that I was all right. I found that a passenger 4 in the cabin was injured. It was a male expatriate, 5 aged about 40. He had an injury on the head and he was 6 lying on the floor. The engine of my ferry had become 7 silent. I believed that the engine of my ferry had 8 stopped. The passengers in the cabin remained calm. 9 There was nothing unusual. I stayed at my seat to look 10 after my son. 11 About four minutes later, a man aged 40 to 50 at the 12 lifting board at the passenger loading and unloading 13 area on the lower deck suddenly shouted, 'Get sailing. 14 It is pointless for you to stay here. The pier is 15 within sight. Why don't you get sailing?' Besides, 16 a female expatriate aged about 40, carrying a baby, 17 shouted and kept saying something in English. I did not 18 pay attention to what she said. Then a male expatriate 19 aged about 40 said to the female expatriate, 'Shut up.' 20 Thus, the female expatriate did not say anything again. 21 I heard the sound of the engine again after a minute or 22 two and saw water rushing into the lower deck from the 23 left side of the bow. We passengers became panic. 24 I stood up and left my seat at once. 25 At that juncture a crew member in blue uniform came</p>
<p style="text-align: right;">Page 134</p> <p>1 confirm that the seats that you've marked are 105 for 2 you and 106 for your son? Is that correct? 3 A. Yes. 4 Q. Thank you. While we're on the point of position, we've 5 also got some photographs at pages 32 and 33 of the 6 photograph bundle. Does this look familiar, Madam Wong? 7 This is looking towards the stern of the ferry. I think 8 according to what you've just told us, you would be 9 seated about halfway down on the left; is that right? 10 A. This is of the upper deck, this photo. 11 Q. Oh. Thank you. I'll have that checked while I'm 12 reading, Madam Wong. We'll see if we can find a better 13 picture. Meanwhile, I'll carry on: 14 "Later, the ferry on which I was travelling sailed 15 off Central Pier to Lamma Island. When the ferry was 16 sailing, from what I felt, the speed of the ferry was 17 the same as that of those I had usually travelled on. 18 It was not sailing particularly fast or slowly. As 19 I was looking after my son, I did not pay attention to 20 what was happening outside the ferry. Nor did I notice 21 whether there was any navigation light outside the ship. 22 When my ferry had sailed for about 20 minutes, 23 suddenly there was a loud 'bang' from the left side of 24 the bow. Then we were thrown forward. I bumped into 25 the back of the front seat and my son fell onto the</p>	<p style="text-align: right;">Page 136</p> <p>1 to our lower deck, advising us not to be panic but to 2 put on life jackets and stand at the stern in order to 3 keep the ferry balance. [When the engine was started 4 after the collision, water rushed in and caused our 5 ferry to lean a bit leftwards.] I, together with my 6 son, took life jackets from the bottom of the chairs and 7 put them on at once. We also followed the instruction 8 to stand at the stern. [The crew did not announce the 9 collision with a speaker.] 10 Later, my ferry headed for Yung Shue Wan pier in 11 Lamma Island. It arrived at Yung Shue Wan pier after 12 about five minutes. I went onshore with my son and we 13 returned home." 14 Then you were asked some questions: 15 "Question: Before and after the collision, did you 16 notice the movement of the crew and the captain of your 17 ferry? 18 Answer: No, I did not. 19 Question: Did you see any instruction/explanation 20 of life-saving apparatus/escape route and position on 21 the ferry? 22 Answer: I did not notice it. 23 Question: Before and after the collision, did you 24 hear any blare of horns or special sound and did your 25 ferry change its sailing route or speed?</p>

<p style="text-align: right;">Page 137</p> <p>1 Answer: I did not hear any blare of horns. Nor was 2 there any change of sailing route or speed." 3 Then question 6: 4 "Question: Before and after the collision, did you 5 notice what was happening outside the ferry and did you 6 see any navigation light? 7 Answer: I did not notice it." 8 We've now found, I think, the relevant photograph. 9 That is at page 37 of the photographs bundle. 10 THE CHAIRMAN: Is this the right deck now? 11 A. Yes. 12 MR BERESFORD: And the right side? 13 A. Yes. Yes, it's correct. 14 Q. From what you've told us, you would have been sitting on 15 the other side of the stairs that are visible there, 16 down on the left? 17 A. Yes. 18 Q. I should say "on the far side of the stairs", rather 19 than "on the other side". On the far side of the 20 stairs, on the left. 21 A. Do you mean facing -- this is the correct one. 22 Q. Yes. Perhaps the cursor can be placed where I've just 23 described. 24 Around about there, Madam Wong? 25 A. Yes, that's the place.</p>	<p style="text-align: right;">Page 139</p> <p>1 Yes, Mr McGowan. 2 MR MCGOWAN: Yes, sir. Can I make an application, sir, to 3 deal with what she heard and observed about the horns, 4 change of course, and speed? 5 THE CHAIRMAN: Yes, very well. 6 MR MCGOWAN: Thank you. 7 Examination by MR MCGOWAN 8 MR MCGOWAN: Madam Wong, you made this statement on 9 17 October 2012. 10 A. Yes. 11 Q. You were asked some questions at the end of the 12 statement. One of them was at question 3, which is on 13 page 846-4 in the English: 14 "Question: Before and after the collision, did you 15 hear any blare of horns or special sound and did your 16 ferry change its sailing route or speed?" 17 Do you see that question? 18 A. Yes. I didn't hear any horn before that, and after 19 that, I heard the bang sound. 20 Q. Yes. I think the answer you gave is: 21 "I did not hear any blare of horns." 22 That, I think, means before and -- does that mean 23 before and after the collision? 24 A. Yes. 25 Q. You also said:</p>
<p style="text-align: right;">Page 138</p> <p>1 MR BERESFORD: Okay. Thank you very much. If you'd just 2 wait there, please. 3 MR MCGOWAN: Mr Chairman, I wonder if I could ask this 4 witness some questions. 5 THE CHAIRMAN: Just give me a moment, if you would. 6 MR MCGOWAN: Certainly. 7 THE CHAIRMAN: I'm trying to orientate myself. 8 Mr Beresford, I understood the witness had said that 9 she sat in seats 105 and 106 with her son. Is that not 10 on the starboard side of the vessel? 11 MR BERESFORD: Yes, it is, Mr Chairman. 12 THE CHAIRMAN: Therefore, when one looks at the photograph, 13 is she not on the left-hand side? 14 MR BERESFORD: Yes, Mr Chairman. It's on the left-hand 15 side, beyond -- 16 THE CHAIRMAN: Where the cursor is now? 17 MR BERESFORD: Where the cursor is now, yes. That's where 18 the witness identified. 19 THE CHAIRMAN: I was misled by your saying "on the far 20 side". 21 MR BERESFORD: The far side of the stairs. 22 THE CHAIRMAN: Well, it's on this side of the stairs as the 23 camera is pointing. Beyond the stairs? 24 MR BERESFORD: Beyond the stairs, yes. 25 THE CHAIRMAN: It shows you how language can mislead.</p>	<p style="text-align: right;">Page 140</p> <p>1 "Nor was there any change of sailing route or 2 speed." 3 A. Yes. 4 Q. By that I understand that you mean you didn't believe 5 that your ferry had altered course in any way? 6 A. No. 7 Q. And that was your recollection when you made this 8 statement and that's your recollection now, isn't it? 9 A. By "course", do you mean direction? 10 Q. Yes. Before the collision. 11 A. It is difficult for us as passengers to tell whether 12 there is any change in the course. It is possible that 13 it could deviate a little bit to the left or to the 14 right. But as far as the direction is concerned, it was 15 heading towards Yung Shue Wan because we could see the 16 pier. 17 Q. Yes. And if it does turn, you can feel it? 18 A. In fact, at the moment of collision, it was taking 19 a turn to the Yung Shue Wan pier. 20 Q. Did you see the lights of the pier change before the 21 collision, the aspect, the direction of the lights of 22 the pier change? 23 A. I didn't pay attention to that. 24 MR MCGOWAN: Just one other matter. I didn't actually ask 25 for permission about this. It's the question of the</p>

<p style="text-align: right;">Page 141</p> <p>1 injured on the ferry which appears on page 846-3. 2 THE CHAIRMAN: Yes. 3 MR McGOWAN: Madam Wong, how many injured people did you see 4 on the ferry? 5 A. I don't know the number, but I am sure that there was 6 an expatriate who fell from the staircase and was lying 7 on the floor. And I heard a lot of screaming. And 8 I also saw an expatriate woman holding a baby and kept 9 talking. I believe that the baby was hurt. And a lot 10 of people jostled to the front. 11 Q. Were they taken off the ferry on stretchers or were they 12 just assisted off the ferry? 13 A. I don't know whether they were taken away with 14 stretchers, because I was hurrying home. But the people 15 on board the vessels had been very helpful, and they 16 were helping each other. 17 Q. Thank you. 18 Just going back to the question and answer you gave, 19 you said at the time of the collision, the Sea Smooth 20 was heading towards the Yung Shue Wan pier -- altered 21 course towards the Yung Shue Wan pier. 22 THE CHAIRMAN: "Turned", I think she said. She had to ask 23 you what "course" meant, so she used the word "turned". 24 MR McGOWAN: Yes. 25 You said:</p>	<p style="text-align: right;">Page 143</p> <p>1 THE CHAIRMAN: Mr Sussex? 2 MR SUSSEX: Mr Chairman, I wonder if I might be permitted to 3 ask this witness about the reaction of passengers on 4 board, sound signals, and the engine? 5 THE CHAIRMAN: Yes, please do. 6 Examination by MR SUSSEX 7 MR SUSSEX: Madam Wong, you've described in your statement 8 a man aged between 40 to 50 "at the lifting board at the 9 passenger loading and unloading area". I take that to 10 mean the board which goes down when you embark and 11 disembark; is that right? 12 A. Yes. 13 Q. You record that man as saying: 14 "Get sailing. It is pointless for you to stay here. 15 The pier is within sight. Why don't you get sailing?" 16 What language was that gentleman speaking? 17 A. Cantonese. 18 Q. Right. And you say you heard an expatriate lady saying 19 something in English. She was the one, I think, who you 20 say had the baby whom you think was hurt? 21 A. Yes. 22 Q. And a male expatriate says to her "Shut up". May I take 23 it that those words were said in English? 24 A. Yes. 25 Q. In relation to the engine, you've said that, for</p>
<p style="text-align: right;">Page 142</p> <p>1 "In fact, at the moment of collision, it was taking 2 a turn to the Yung Shue Wan pier." 3 A. Because after the event, after the incident happened, we 4 stayed and sat there, and it is difficult for us to tell 5 when it started to make the turn, because we were out 6 there at sea and not on a road. So we couldn't tell. 7 But for those who always travel on this ferry would know 8 that once the pier can be seen, the ferry is making 9 a turn into the pier. 10 Q. The ferry is heading towards the pier, is that what you 11 mean? 12 A. Yes. 13 Q. And that's what it was doing at the time of the 14 collision? 15 A. Do you mean that at the time of collision, it was 16 heading towards the pier? 17 Q. I'm asking you whether that's what you believed it was 18 doing, Madam Wong. 19 A. Yes, it was heading towards the pier. 20 Q. And any turn it made was to take it towards the pier 21 rather than a sharp turn? 22 A. No, absolutely no. 23 Q. There was no sharp turn? 24 A. No. 25 MR McGOWAN: Thank you.</p>	<p style="text-align: right;">Page 144</p> <p>1 example, you believed the engine had stopped -- this is 2 immediately after the collision -- and then you state 3 later on: 4 "When the engine was started after the 5 collision ..." 6 Would it be fair to say that you don't know whether 7 the engine was idling or had actually turned off? 8 A. It has turned off. There was no sound whatsoever. 9 Q. Right. Could I ask you this. We've heard from some 10 witnesses who suggest there was a change in the sound 11 from the engine immediately before the collision. Can 12 you remember that? 13 A. No. 14 Q. Can you confirm that you didn't hear a horn sounded 15 either by your own vessel or the other vessel to the 16 collision? 17 A. There was no sound at all. 18 Q. I'm talking about the moments leading up to the 19 collision. 20 A. There was no sound whatsoever. 21 MR SUSSEX: Thank you very much. 22 MS LOK: I have no questions. 23 THE CHAIRMAN: Thank you. 24 Mr Beresford? 25 MR BERESFORD: No further questions, Mr Chairman.</p>

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<p>1 THE CHAIRMAN: Thank you. 2 Questions by THE COMMISSION 3 COMMISSIONER TANG: I do have a question, Madam Wong. 4 Can you tell me, did you encounter any difficulties 5 when you were trying to put on the life jacket, 6 particular for your son? 7 A. I don't know how to put it on at all. 8 COMMISSIONER TANG: The life jacket that you're putting on 9 your son, is it for children, the life jacket? 10 A. No, because it was very chaotic and there just isn't 11 time to retrieve the life jacket. And I have to keep 12 pulling the life jacket out, and even after I managed to 13 retrieve it, I don't have time to find another one from 14 elsewhere. I just got one from beneath the stairs. So 15 I just tried to tie any string I could get hold of. 16 COMMISSIONER TANG: Thank you. So you are aware that Sea 17 Smooth does carry life jackets for children? 18 A. In fact it was not until I watched the news report from 19 the TV that I learned about this. 20 COMMISSIONER TANG: Thank you. 21 THE CHAIRMAN: So the life jacket that you were able 22 eventually to pull out, as you put it, was an adult's 23 life jacket? 24 A. Yes. It's adult size. 25 THE CHAIRMAN: You did that from beneath the stairs rather</p>	<p>1 Lamma II? 2 MR BERESFORD: They do. Yes, they do. 3 THE CHAIRMAN: Are you giving thought to providing the 4 Commission and the parties with the categories of 5 witnesses, and if possible their identification, to be 6 called after the Christmas break? 7 MR BERESFORD: Yes. Indeed, Mr Chairman. 8 THE CHAIRMAN: Will you be in a position to indicate 9 categories tomorrow and provide a list soon after? 10 MR BERESFORD: Certainly the first few categories, yes; 11 maybe not beyond that tomorrow, but in a few days 12 thereafter. 13 THE CHAIRMAN: Yes. Well, we'll perhaps discuss that more 14 tomorrow. But we'll adjourn now until 10 o'clock 15 tomorrow. 16 (4.33 pm) 17 (The hearing adjourned until 10 am on the following day) 18 19 20 21 22 23 24 25</p>
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<p>1 than under a seat? 2 A. No. I had been standing near the seat all along, and 3 I took it from underneath the seat. 4 THE CHAIRMAN: What was the difficulty of pulling it out 5 from underneath the seat, if that's what you were 6 describing? 7 A. At that time we were in panic, and everybody rushed -- 8 go to the stern, and water was beginning to gush in. It 9 was only then that people started to retrieve the life 10 jackets, and everybody was trying to retrieve the life 11 jackets at the stern. We found that it was difficult to 12 retrieve because it was tied with Velcro and because it 13 was so chaotic, it would be difficult to stay calm and 14 stoop down and retrieve the jacket. We would just keep 15 pulling. 16 THE CHAIRMAN: Thank you very much. Madam, your evidence is 17 now complete, and we thank you for coming to testify 18 before us to assist us in our duties. You are now free 19 to go. Thank you for coming. 20 (The witness withdrew) 21 THE CHAIRMAN: Mr Beresford, can you indicate from which 22 vessels you propose calling witnesses tomorrow? 23 MR BERESFORD: There is one Sea Smooth passenger, and the 24 rest are all from Lamma II. 25 THE CHAIRMAN: Do they include Mr Leung, the guide on</p>	<p>1 I N D E X 2 MR NIU GANG (on former affirmation in Puntì)1 3 Examination by MR BERESFORD (continued)1 4 Examination by MR LEE11 5 Examination by MR SUSSEX13 6 Examination by MS LOK17 7 (The witness withdrew)20 8 MR CHUNG KIN-HING (affirmed in Puntì)20 9 Examination by MR BERESFORD20 10 Examination by MR LEE26 11 Examination by MR SUSSEX29 12 (The witness withdrew)34 13 MRS CATHERINE TATING MARSDEN (sworn)34 14 Examination by MR BERESFORD34 15 Examination by MR LEE43 16 Examination by MR SUSSEX43 17 Questions by THE COMMISSION46 18 (The witness withdrew)47 19 MR STEPHEN PAUL MARSDEN (sworn)48 20 Examination by MR BERESFORD48 21 Examination by MR McGOWAN66 22 Examination by MR SUSSEX68 23 (The witness withdrew)69 24 I N D E X 25 MADAM FUNG WAI-SHAN, TAMMY (affirmed in Puntì)70</p>

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