

Page 1	Page 3
1 Monday, 7 January 2013 2 (10.00 am) 3 THE CHAIRMAN: Yes, Mr Beresford. 4 MR BERESFORD: Mr Chairman, we were in the course of taking 5 Mr Leung Kwok-wai's evidence, and I had basically 6 finished my examination of him but there was just the 7 matter of certificates. I understand that he's brought 8 along his competency certificates this morning. So 9 perhaps I could just ask him to produce those and 10 explain those, and then I can hand over to my learned 11 friends. 12 THE CHAIRMAN: Yes. 13 MR BERESFORD: So could Mr Leung please come back to the 14 witness box. 15 MR LEUNG KWOK-WAI (on former affirmation in Punt) 16 (All answers via interpreter unless otherwise indicated) 17 THE CHAIRMAN: Mr Leung, given that there's been quite 18 a break since you took the oath or the affirmation, 19 whichever it was, would you please take it again. 20 Examination by MR BERESFORD (continued) 21 MR BERESFORD: Mr Leung, you were asked to bring your 22 certificates of competency along to the Inquiry, and 23 I understand you have done so, for which thank you. 24 The bundle references -- I understand the pagination 25 has been done incorrectly, so we'll give pagination	1 competency, master, Hong Kong, under Part IV of the 2 Shipping and Port Control Ordinance (1973)", I think 3 that is. This certifies that you had passed the 4 prescribed examination and were considered competent to 5 take charge of a powered vessel of 60 tonnes as master? 6 A. Yes. 7 Q. And it's dated 5 January 1981. 8 A. Yes. 9 Q. It's endorsed with the fact that you passed your 10 eyesight test. 11 Then behind that, there's a third certificate, 12 an engineer's certificate, I believe, which certifies 13 that you have been examined and were considered 14 competent to take charge of diesel engines up to 15 150 brake horsepower. 16 A. Yes. 17 Q. And that was dated 22 August 1975. 18 A. Yes. 19 MR BERESFORD: Thank you, Mr Leung. 20 MR GROSSMAN: Mr Chairman, I wonder if I might ask some 21 questions on one issue only, and that is the function of 22 this witness on board that evening. 23 THE CHAIRMAN: Yes. Please do. 24 MR GROSSMAN: Thank you very much. 25 Examination by MR GROSSMAN
Page 2	Page 4
1 details later. 2 THE CHAIRMAN: Yes. 3 MR BERESFORD: Mr Leung, you've brought along two 4 certificates, I understand. One is small, old-style 5 certificate which is headed "Pleasure vessel certificate 6 of competency" and shows that you are a master 7 grade I and an engineer, which appears to be grade I and 8 grade II(3). Is that right? 9 A. I didn't go over it, but I have brought along the 10 original copy. But I believe that what you said is 11 true. 12 Q. Yes. I'm reading from a rather poor photocopy. 13 THE CHAIRMAN: Yes, it's unbelievably poor. May I see the 14 original? (Handed). 15 I think we can have another go at copying this. 16 This is perfectly legible in the original form. Perhaps 17 it could be done with more care. 18 Yes, Mr Beresford. 19 MR BERESFORD: We can see that it's dated 12 June 1990, and 20 expiring 9 February 2019. So this was issued under the 21 old, pre-2007 licensing regime? 22 A. I don't remember. I noticed from the licence the expiry 23 date, but I didn't follow up. 24 Q. Very well. And the second licence is in the form of 25 a small booklet. It says "Local certificate of	1 MR GROSSMAN: Mr Leung, last time you were here you were 2 asked a number of questions about what you did on board 3 the night of the accident, and I just want to follow 4 that up. 5 First of all, you were asked a number of questions 6 and I think these questions had also been asked of you 7 by the police when you were interviewed as to what you 8 saw as far as the accident was concerned. First of all, 9 I want to ask you, what was your function on board that 10 evening? 11 A. After the vessel set sail, we prepared to play some 12 games with the participants who were going to view the 13 fireworks, and the game was to be held before they 14 viewed the fireworks, and we had prepared some mooncakes 15 for distribution. 16 Q. Was it any part of your function to help with the 17 look-out or the steering that evening? 18 A. The steering of the ship was being taken care of by the 19 crew, and I was responsible in helping with conducting 20 the game and helping with the embarking and disembarking 21 of passengers and also the control of such. 22 Q. So as I understand it, you had no part to play at all in 23 the steering of the ship or the look-out or anything 24 like that? 25 A. We are supposed to also oversee the steering of the

Page 5	Page 7
<p>1 vessel and also the participants, to take care of the 2 safety of the participants. For example, if they come 3 close to the side of the ship, we would advise them to 4 go back to a safe place. 5 THE INTERPRETER: I'm sorry. I made a mistake. He didn't 6 mention overlooking the steering. 7 (Chinese spoken). 8 THE CHAIRMAN: Keep your voice up. 9 A. If the passengers moved to the side of the ship, we 10 would ask them to move over to a safe area. And we are 11 responsible for general knowledge like this. 12 MR GROSSMAN: You were asked about whether you had been 13 informed about any particular safety measures. Apart 14 from keeping the passengers away from the side of the 15 ship, was it any of your function to look after safety 16 on the ship? 17 A. I would like to clarify with you what you mean by the 18 safety on the ship. For example, if you mean people -- 19 if the passengers move around, we would help the crew to 20 advise them to go back to the seat. And if some 21 passengers run back and forth, we will ask them not to 22 do this. We will be doing -- we will be helping with 23 this. 24 Q. All right. Thank you. 25 Just one other point I wanted to ask you about. Was</p>	<p>1 the overall coordination of the event. After receiving 2 instruction from him as to how many vessels were needed, 3 I sent an email to the marine section and asked them to 4 make arrangement for the passengers to embark the 5 vessels. 6 Q. Yes. And do you know a person -- 7 THE CHAIRMAN: Before you move on, who is this colleague who 8 was responsible for the overall coordination of the 9 event? 10 A. Mr Fok Wing-kei. 11 THE CHAIRMAN: Thank you. 12 MS SIT: The person you liaised with in the marine section, 13 was it Mr Tang Wan-on? 14 A. Yes. 15 Q. And Mr Tang, upon your instructions, would then arrange 16 for the vessels to be arranged; is that correct? 17 A. Yes. He had replied our email, saying that he would 18 arrange for the vessels. 19 THE CHAIRMAN: Did he reply by email? 20 A. Yes. 21 MS SIT: And it was from Mr Tang that you learnt about which 22 pier to disembark from and which pier to pick up 23 passengers from; was that the case? 24 A. Yes, and I would also like to supplement some 25 information, that I have given him an email telling him</p>
Page 6	Page 8
<p>1 it any part of your function that evening to check on 2 the number and quality of the life jackets? 3 A. I did not receive instruction to perform such duty. 4 MR GROSSMAN: Thank you. 5 Thank you, Mr Chairman. 6 MR SUSSEX: Mr Chairman, I have no questions for Mr Leung. 7 THE CHAIRMAN: Thank you. 8 MS SIT: Mr Chairman, may I have permission to ask questions 9 about the Marine Department Notice 131. 10 THE CHAIRMAN: Yes, please do. 11 MS SIT: Thank you. 12 Examination by MS SIT 13 MS SIT: Mr Leung, we know that Hongkong Electric has 14 a marine section. 15 A. Yes. 16 Q. Did you have dealings with this section in relation to 17 this particular event, the fireworks display? 18 A. We informed this section prior to the event that we were 19 holding this party, this event, and requested them to 20 break up the passengers to be conveyed to the place with 21 one to two vessels. 22 Q. In fact you were the person who was responsible for 23 liaising with the marine section in this case, weren't 24 you? 25 A. Yes, there is a colleague of mine who is responsible for</p>	<p>1 where to pick up the passengers. The first stop would 2 be Tsim Sha Tsui and the second one was in Central and 3 the third one in Ap Lei Chau. After the passengers were 4 picked up, they would be conveyed to Lamma Island. 5 Q. Yes. That's in relation to pick-up. But about 6 disembarkation, you could not drop off the passengers at 7 Central Pier 9 because the harbour would be closed; do 8 you remember that? 9 I'm so sorry, a correction. It should be the Tsim 10 Sha Tsui Ferry Pier, not Central Pier 9. I'm sorry. 11 A. Just now I was referring to the time in the afternoon. 12 It was about sometime after 1 o'clock, 1 pm, and at that 13 time the Tsim Sha Tsui pier was not yet closed. 14 Q. I'm sorry, it must be me confusing me. Let me ask the 15 question and put it clearer. When I refer to 16 disembarkation, I mean after the fireworks display, one 17 of the vessels which picked up at Tsim Sha Tsui Pier was 18 then to disembark at South Horizons because that part of 19 the harbour would be closed at the time. Do you 20 remember that? 21 A. We knew during the meeting about the disembarkation at 22 Tsim Sha Tsui Pier. As for the Central Pier, before the 23 event we attended the briefing and knew that the 24 passengers cannot disembark at Tsim Sha Tsui after the 25 fireworks display, and they can only disembark at the</p>

Page 9	Page 11
<p>1 No. 9 pier in Central after it was reopened. 2 Q. Thank you. So there were two briefings, according to 3 your evidence. Could you tell us who attended -- 4 THE CHAIRMAN: Let him clarify that first, please. 5 MS SIT: Yes. 6 Were there two briefings, according to your 7 evidence? 8 A. I remember that there was only one briefing before we 9 set off. 10 MS SIT: I think he said, "There was one more briefing 11 before we set off." "(Chinese spoken)". 12 THE INTERPRETER: Sorry? 13 MS SIT: Perhaps I should ask the witness to clarify. 14 Could you tell us how many briefings there were 15 before this trip, and when they took place? 16 A. I don't quite remember the date, but it should be four 17 to five days before we set off, and it was four to five 18 days before the Sunday. 19 MS SIT: His last sentence was "(Chinese spoken)", "it was 20 said again", so I think I may have to clarify again. 21 I'm sorry, Mr Leung. Can you please give us the 22 number of briefings that ever took place before this 23 event? 24 A. As far as I remember, once. 25 Q. And can you tell us who attended that briefing?</p>	<p>1 Q. On the same subject matter, but moving slightly forward 2 in time, Mr Leung, you were aware that the coxswain for 3 Lamma II, when you boarded the vessel at the power 4 station, was a new coxswain on the shift? You were 5 aware of that, weren't you? 6 A. I don't know. 7 Q. You did give him a briefing about where he was supposed 8 to go and where he was supposed to drop off, didn't you? 9 A. For Lamma Island, they were told that the passengers 10 would disembark at Ap Lei Chau. 11 Q. You did inform the coxswain that you were going to the 12 Victoria Harbour for the fireworks display, and there 13 was a discussion about trying to arrive there a bit 14 later in case the elderly and the young persons on board 15 might get seasick? 16 A. We have told the crew about such arrangement. 17 Q. What else did you tell the crew on that occasion? 18 A. Nothing else. 19 Q. Were you aware that the coxswain of Lamma II said that 20 it was when he had the discussion with you that he first 21 realised he was going to the Victoria Harbour for the 22 fireworks display? 23 A. In fact he had received an order to go to the Victoria 24 Harbour to view the fireworks display. 25 Q. Did you or did you not give him any instructions about</p>
Page 10	Page 12
<p>1 A. Mr Fok Wing-kei and Lai Ho-yin, who was responsible for 2 coordination, and also myself. 3 Q. And it was from this particular briefing, which only 4 happened once, that you learnt about the closure of the 5 Victoria Harbour and which pier the vessel could 6 disembark to; is that what you're saying? 7 A. Yes, but I would also like to add that we also learned 8 from last time that we can only disembark after the 9 Central Pier was reopened. 10 Q. So who raised or provided this piece of information 11 during that briefing? 12 A. Mr Fok Wing-kei, the coordinator. 13 Q. Did he simply provide this information verbally, or did 14 he provide any document in relation to this information? 15 A. I remember that he provided information verbally. 16 Q. Was there any reference to what was the closed section 17 of the harbour? How did you know that you could or 18 could not go into a particular part otherwise? 19 A. No. 20 Q. And that was all the information that you'd been 21 provided at the briefing, that there would be some 22 closure, you did not know where, and for that reason the 23 vessel could only disembark after the closure was 24 lifted? 25 A. Yes.</p>	<p>1 where he should berth the vessel when he was in Victoria 2 Harbour or where he should go when he took the vessel 3 and the passengers to watch the fireworks? 4 A. No. 5 MS SIT: No further questions, Mr Chairman. 6 THE CHAIRMAN: Thank you. 7 Mr Beresford? 8 MR BERESFORD: No further questions. 9 THE CHAIRMAN: Mr Beresford, do we have the emails that the 10 witness has just referred to? 11 MR BERESFORD: No, we don't. 12 THE CHAIRMAN: Have we asked for them from Hongkong 13 Electric? 14 MR BERESFORD: I've made an enquiry. I'm just waiting for 15 an answer, Mr Chairman. We're just checking. 16 THE CHAIRMAN: Well, the first question is, has the 17 Commission asked for this information? 18 MR BERESFORD: Yes. 19 THE CHAIRMAN: The answer is "yes"? 20 MR BERESFORD: No, Mr Chairman. I'm making that enquiry. 21 THE CHAIRMAN: Yes, Mr McGowan? 22 MR MCGOWAN: Mr Chairman, our recollection is they were in 23 the bundle of documents we supplied just before we rose 24 at Christmas. 25 THE CHAIRMAN: Right. Can you give us the reference so that</p>

Page 13	Page 15
1 we can locate them? 2 MR McGOWAN: We will get another copy of the letter. They 3 were sent with other information. 4 THE CHAIRMAN: All I'm asking for is the reference so that 5 we can find them in the bundle. 6 MR McGOWAN: Yes. I don't know where they've been put in 7 the bundle. They were passed by letter to the 8 solicitors for the Commission. 9 THE CHAIRMAN: Thank you. 10 MR BERESFORD: Mr Chairman, we're just looking in the bundle 11 that's labelled "Richards Butler", and there are some 12 emails attached to that, as I recall, but very few. 13 If you can take out the bundle marked "Documents 14 received from Messrs Reed Smith Richards Butler", 15 bundle 1 -- 16 THE CHAIRMAN: Is there a page reference so that we can put 17 it on the screen? 18 MR BERESFORD: It starts at page 107. 19 THE CHAIRMAN: Mr Leung, bear with us. We're trying to find 20 the email traffic between you and Mr Tang. 21 MR BERESFORD: Page 107 is a letter from Reed Smith Richards 22 Butler dated 21 December 2012, and item 1 of the 23 enclosures is described as "Email exchanges between 24 Hongkong Electric's human resources department and 25 marine officer of 19 December 2012"; item 2 is "Email	1 please. 2 The one on the screen at the moment, sir, if I may 3 address you from the second row, is in fact an email 4 which this witness sent. That's the -- 5 THE CHAIRMAN: Where do we see that? 6 MR McGOWAN: "RL" is "Raymond Leung", and it refers to the 7 telephone conversation between Raymond Leung and the 8 marine officer, whose initials are "WO". 9 Questions by THE COMMISSION 10 THE CHAIRMAN: Let's ask the witness. 11 Mr Leung, is this the email that you sent out in 12 relation to the organisation of the event on 1 October? 13 A. Yes, and I would like to add that I was told by the 14 colleague who was responsible for coordination of the 15 event to ask me to help in sending out this email. 16 THE CHAIRMAN: Right. Can you just help us decipher the 17 abbreviations that are used, as to from whom it comes, 18 to whom it is sent and to whom it is copied? So, 19 beginning with "From". 20 A. (Chinese spoken). 21 THE CHAIRMAN: Just pause there. 22 A. The "HRNA" refers to the name of my division. "EW" 23 refers to my section, the section I was in. And "RL" 24 represents Raymond Leung; that is myself. And then the 25 date.
Page 14	Page 16
1 from Hongkong Electric's marine officer to Ms April Lam 2 of 19 September 2012"; and item 3 is the itinerary and 3 information sheet which has already been put to 4 Mr Leung. 5 Then at pages 108 to 109 -- 6 THE CHAIRMAN: Just take your time to find the documents 7 that we're looking for. If they're not there, then 8 you'll tell us. If somebody else thinks they are there, 9 they'll tell us. 10 MR BERESFORD: What I can't see there, Mr Chairman, are any 11 emails involving the witness. Unless possibly he's in 12 this long list at page 126. 13 THE CHAIRMAN: Let me ask Mr McGowan if he can help. 14 Are you able to point to where this email traffic 15 is, Mr McGowan? 16 MR McGOWAN: I believe that in fact the arrangements were 17 that various staff members would send emails on behalf 18 of their head of department. 19 THE CHAIRMAN: All I'm asking for is the email traffic 20 between this witness and Mr Tang. Can you tell us where 21 we find it? 22 MR McGOWAN: Well, it might be amongst these emails. 23 THE CHAIRMAN: Well, then take your time and find it for me. 24 MR McGOWAN: Thank you. 25 Could I ask that this one be scrolled down, sir,	1 THE CHAIRMAN: Thank you. What is the section, "EW"? 2 A. It refers to "employee wellness". 3 THE CHAIRMAN: Thank you. And then the division, "HRNA"? 4 A. Should be human resources section. 5 A. (In English) Division. 6 THE INTERPRETER: "Division", sorry. 7 THE CHAIRMAN: Thank you. So that's from whom it was sent. 8 To whom was it sent? "GEN.MH.MO"; what does that stand 9 for? 10 A. "GEN" refers to "generation", and "MH" refers to I think 11 "marine material handling", but I'm not sure, and "MO" 12 refers to "marine officer". 13 THE CHAIRMAN: And who was the marine officer? 14 A. Should be Mr Tang Wan-on. 15 THE CHAIRMAN: The communication was copied to various 16 people. Can you decipher that for us? 17 A. The first one, I don't remember his Chinese name but he 18 should be the chief engineer of that section. 19 THE CHAIRMAN: Of which section? 20 A. It should be also generation. 21 THE CHAIRMAN: Yes. To else whom else was it copied? 22 A. The other one, "MH", is in the same division, and "MS" 23 refers to "marine supervisor". 24 THE CHAIRMAN: Yes. Moving on? 25 A. They were also from the generation division. "SM"

<p style="text-align: right;">Page 17</p> <p>1 refers to senior engineer, who was the supervisor of 2 Tang Wan-on. 3 THE CHAIRMAN: Yes. Moving on? 4 A. The "HRNA" refers to ER and GL was my direct supervisor, 5 Gleeson Lam. 6 THE CHAIRMAN: Yes. Moving on from that? 7 A. And the same division, the human resources division, 8 Mr Fok Wing-kei. 9 THE CHAIRMAN: That's "WKF", is it? 10 A. Should be "WKF". 11 THE CHAIRMAN: What about "EW"? 12 A. "EW" refers to the name of the section; that is, 13 employee wellness. 14 THE CHAIRMAN: And then moving on to the last few 15 abbreviations. "HRNA", I think we understand that now. 16 "EW.RL"? 17 A. As a practice, I also copy it to myself. 18 THE CHAIRMAN: Thank you. Moving to the letter, if I can 19 describe it as that. Are you there addressing Tang 20 Wan-on, calling him "WO"? 21 A. Yes. 22 THE CHAIRMAN: And you're referring to a telephone 23 conversation between the two of you "concerning the 24 captioned event"? 25 A. I would like to add that in fact this email was issued</p>	<p style="text-align: right;">Page 19</p> <p>1 prospective event? What information did you give him? 2 A. Nothing. I just told him that we need vessels to take 3 passengers to view the fireworks on 1 July and 4 1 October. 5 A. (Chinese spoken). 6 THE CHAIRMAN: In this September conversation that you had 7 with Tang Wan-on, did you tell him how many passengers 8 you needed to accommodate? 9 A. No. Because the number of passengers was not fixed 10 prior to that. 11 THE CHAIRMAN: Was there any time when the number was known 12 and you then communicated that to Tang Wan-on? 13 A. No. 14 THE CHAIRMAN: Did you ever discuss that with Gleeson Lam? 15 A. No. But I would like to add that the coordination work 16 was done by Mr Fok. I was only helping to issue this 17 email, and the discussion was conducted between Mr Lam 18 and Mr Fok. 19 THE CHAIRMAN: You told us earlier in your evidence that he 20 replied by email, saying that he would arrange the 21 vessels. 22 A. Yes. 23 THE CHAIRMAN: If this outgoing email was 19 September, can 24 you help us as to the date, approximately, when the 25 reply came?</p>
<p style="text-align: right;">Page 18</p> <p>1 by me on behalf of Mr Lam, and in fact the conversation 2 refers to the one between Mr Lam and Mr Tang. I was 3 only helping to issue this email. And Mr Lam needed to 4 know what we are going to request from Mr Tang. So 5 I first had a discussion with Mr Lam and told him that 6 we needed two vessels. Then I sent an email to Mr Tang, 7 who was referred to, "WO". 8 THE CHAIRMAN: That's why the email is signed off by 9 Gleeson, that being Gleeson Lam; is that the case? 10 A. Yes. 11 THE CHAIRMAN: Were you present at this conversation between 12 Gleeson Lam and Tang Wan-on? 13 A. In fact after getting the approval from Mr Lam, I had 14 a discussion with Mr Tang about the arrangement. After 15 Mr Tang told me that there is no problem, I informed 16 Mr Lam and then drafted this email on behalf of Mr Lam. 17 THE CHAIRMAN: The question was, were you present at 18 a conversation between Gleeson Lam and Tang Wan-on? The 19 answer to that is "yes", "no" or "I don't remember". 20 Could you try that? 21 A. No. 22 THE CHAIRMAN: You say that you yourself spoke to Tang 23 Wan-on? 24 A. Yes. 25 THE CHAIRMAN: But what did you tell him about this</p>	<p style="text-align: right;">Page 20</p> <p>1 A. I don't remember. 2 THE CHAIRMAN: Mr Beresford, are you able to help? 3 MR BERESFORD: Mr Chairman, there is a pair of emails 4 I wonder whether I might put to the witness, at page 112 5 of the bundle, which is earlier in time. 6 THE CHAIRMAN: Yes. 7 Further examination by MR BERESFORD 8 MR BERESFORD: Mr Leung, can you see on the screen, if we 9 take the lower one first, which is an email dated 7 June 10 2012 timed at 10.34, and although it's signed in the 11 name "Gleeson Lam", it comes from your email address. 12 Did you write that email? 13 A. Yes. 14 Q. That refers to a conversation that Raymond Leung, that's 15 you, had with Mr CS Chan. Do you remember that 16 conversation? 17 A. I don't quite remember. 18 Q. Then, above that, there's an email dated 12 June 2012, 19 timed at 12.12 pm, from the marine office to you. Well, 20 it's to your email address. 21 A. Yes. 22 Q. Did you receive that? 23 A. Yes. 24 Q. And that's from Mr Chan, saying that "we will fully 25 support the caption event", and asking for the</p>

<p style="text-align: right;">Page 21</p> <p>1 itinerary? 2 A. Yes. 3 Q. Moving forward in the bundle, it appears that the next 4 email with your email address on it is the email we've 5 been looking at on page 108, dated 19 September and 6 timed at 2.45 pm. 7 Was that the email in which you provided the 8 itineraries? 9 A. Yes. 10 Q. Do you recall if there was any other email 11 correspondence between that email on 19 September and 12 the email that we looked at on 12 June? 13 A. I don't remember. 14 Q. Then, in response to the email on 19 September, we can 15 see from page 108 the reply from Mr Tang saying that 16 "Lamma II & IV will be reserved for this activity". 17 A. Yes. 18 Q. Mr Leung, I want to know whether this is the complete 19 email correspondence that you had on this subject. Can 20 you answer that now, or do you need to check your email 21 box? 22 A. I would like to clarify whether you mean all the email 23 correspondence is here, or is there any other email that 24 is not shown here? 25 Q. Yes. Is there any other email that is not shown here?</p>	<p style="text-align: right;">Page 23</p> <p>1 hierarchy indicating these matters that you're asking 2 about. 3 THE CHAIRMAN: Do you have this information available now? 4 MR GROSSMAN: No. How many people? No, I don't. 5 THE CHAIRMAN: Right. 6 MR GROSSMAN: I'm just saying, those are people who may have 7 a better idea than this witness. 8 THE CHAIRMAN: Thank you for helping us. 9 Let me press on, Mr Leung. Approximately how many 10 people were involved in this, and where did Mr Tang 11 Wan-on rank in this office? 12 A. I cannot tell how many people, because my section is 13 different from theirs. But I know that Mr Tang was the 14 marine officer of the generation department. 15 THE CHAIRMAN: One of the emails was from CS Chan. Where 16 does he rank in the office? 17 A. As far as I knew, he was Mr Chan Chun-shing who worked 18 under Tang Wan-on. 19 THE CHAIRMAN: And those are the only two names you know in 20 that office, the marine office? 21 A. Yes. 22 THE CHAIRMAN: Was Tang Wan-on in charge of the marine 23 office? 24 A. I'm not sure. 25 THE CHAIRMAN: Thank you, Mr Leung. I'd like to be in</p>
<p style="text-align: right;">Page 22</p> <p>1 A. I don't quite remember, but I can tell that I have seen 2 the emails that are shown here but I don't know whether 3 there are any other emails that are not shown. 4 Q. Can you find out? 5 A. I need to go back and find out, because of the time 6 lapse and I don't quite remember. 7 THE CHAIRMAN: Would you do that for us? 8 A. Yes. 9 THE CHAIRMAN: Yes. And may I ask you to communicate the 10 results of those enquiries with counsel for the 11 Commission. 12 A. Okay. 13 MR BERESFORD: Mr Chairman. 14 Questions by THE COMMISSION 15 THE CHAIRMAN: Mr Leung, you've told us that Tang Wan-on was 16 the marine officer in Hongkong Electric. 17 A. Yes. 18 THE CHAIRMAN: Can you help us with a better picture of how 19 many people worked in this marine side of Hongkong 20 Electric? 21 A. I don't know. 22 THE CHAIRMAN: Well, you must know something about it, 23 Mr Leung, so do try and help us. 24 MR GROSSMAN: Mr Chairman, if it's of any help, we have 25 provided and will be providing statements from the</p>	<p style="text-align: right;">Page 24</p> <p>1 a position to return your licence to you. 2 Do we have better copies now? (Handed). Could we 3 distribute the better photocopies that have now been 4 made to counsel. 5 Has this been scanned as well? 6 MR GROSSMAN: Mr Chairman, I'm sorry. I beg your pardon. 7 I wonder if I might ask just one question about the -- 8 THE CHAIRMAN: Just bear with me while I have this 9 distributed, and then I'll come back to you. 10 Has a copy been made of the back of the licence? 11 Can we borrow your licence again so we can copy the 12 obverse side. (Handed). 13 Yes, Mr Grossman? 14 MR GROSSMAN: I wonder if I might ask just one question that 15 might be able to clarify a question you asked about the 16 number of people that were anticipated that evening. 17 THE CHAIRMAN: Yes, please do. 18 Further examination by MR GROSSMAN 19 MR GROSSMAN: If we could just go back to the 19 September 20 email, please, on this screen. 21 THE CHAIRMAN: Does that show what you want? Because there 22 are two emails. 23 MR GROSSMAN: Yes, I'm told it does. That's the one with 24 the itinerary in Chinese. 25 Mr Leung, you see the itinerary there, and then at</p>

Page 25	Page 27
<p>1 page 930, there is a statement there in Chinese language 2 and one sees the figure "185". I understand that that 3 indicates the approximate number or the anticipated 4 number of persons who were going to attend that evening; 5 am I right? 6 A. This figure was provided by the coordinator, Mr Fok 7 Wing-kei, about the number of participants. 8 Q. Yes. That says, in effect, the number that was 9 anticipated: 185. 10 A. Yes. 11 MR GROSSMAN: Thank you. 12 Thank you, Mr Chairman. 13 THE CHAIRMAN: Would you be kind enough to read out in 14 Chinese what appears after 9.30, and we can have it 15 interpreted. 16 A. (Reading in Chinese). 17 A. "Return trip, No. 9 Pier Central and Ap Lei Chau, the 18 company pier (the Tsim Sha Tsui pier will be temporarily 19 closed for embarkation and disembarkation due to the 20 fireworks display and the estimated number of 21 participants is 185)." 22 THE CHAIRMAN: Thank you. 23 COMMISSIONER TANG: Mr Chairman, if I can draw your 24 attention to page 129. That's an email in Chinese in 25 which says "only 172 can be accommodated for each trip".</p>	<p>1 of the generation division according to the statement, 2 and it contains an organisation chart of the generation 3 division as of 1 October 2012. So that is something 4 that I will be taking up with Mr Cheng when he's called. 5 THE CHAIRMAN: Very well. But you may as well provide the 6 organisation chart now, if it's available. 7 MR BERESFORD: I think we've got spare copies of the 8 statement, in which case perhaps the whole thing -- 9 THE CHAIRMAN: Thank you. Whilst that's being done, we'll 10 move on to the next witness. 11 MR BERESFORD: Thank you. The next witness is Mr Cheng 12 Muk-hei. 13 MR CHENG MUK-HEI (affirmed in Puntì) 14 (All answers via interpreter unless otherwise indicated) 15 Examination by MR BERESFORD 16 MR BERESFORD: Good morning, Mr Cheng. I am here to ask you 17 some questions on behalf of the Commission. 18 Mr Cheng, you are aged 54 and your occupation is as 19 a marine master; is that correct? 20 A. Yes. 21 Q. Educated to primary level? 22 A. Yes, correct. 23 Q. Mr Cheng, you have made a previous statement to the 24 police, which is in bundle C, pages 1109 to 1114. 25 Could the witness please be provided with a copy of</p>
Page 26	Page 28
<p>1 It says that in Chinese. So for the 342 people who have 2 been drawn, they will be divided into two lots, one for 3 the 1 July and the other for the 1 October event. 4 THE CHAIRMAN: Could we interpret that to the witness. 5 A. I have seen this email, but I would like to add that 6 this email was written by Mr Fok Wing-kei, the one who 7 was responsible for it, and not by myself. 8 THE CHAIRMAN: Thank you, Mr Leung, for attending again to 9 assist us in this Inquiry. Your evidence is complete 10 now and you are free to go. If you just wait in the 11 public gallery for a moment, we will return your licence 12 to you when it's been copied. 13 A. Thank you. 14 MR BERESFORD: Mr Chairman, may I just remind Mr Leung to 15 check for his emails, to see if there are any others. 16 THE CHAIRMAN: Yes. So the outstanding matter is the emails 17 relevant to this event that you're going to check from 18 your email box. 19 A. Okay. 20 THE CHAIRMAN: Thank you. 21 (The witness withdrew) 22 MR BERESFORD: Mr Chairman, may I just say, before we move 23 on, that this morning we were given a statement of 24 Mr Francis Cheng, Cheng Cho-ying, Frances, dated 25 yesterday, which contains -- he is the general manager</p>	<p>1 that statement. The translation is at page 1114-1. 2 Do you recognise that as your statement, Mr Cheng? 3 A. Yes. 4 Q. Have you been given an opportunity to look over it today 5 and remind yourself of the content? 6 A. Yes. 7 Q. Are the contents true? 8 A. Yes. 9 Q. Mr Cheng, I'm going to read from your statement with 10 a view to saving time, and then I'll ask you some 11 supplemental questions afterwards. 12 A. I understand. 13 Q. I'm going to read from the English translation, and the 14 Chinese is going to be shown on the screen. If you 15 should hear anything that sounds incorrect or wrong, 16 please stop me and tell me. 17 A. Okay. I understand. 18 Q. I'm going to read from paragraph 4. 19 A. I understand. 20 Q. "In 1978, I got an operating licence for vessels and can 21 operate general fishing vessels. Then, I further got 22 a licence for operating vessels not more than 23 60 tonnages. In June 2003, I joined the New World First 24 Ferry services and did not operate a particular route. 25 On 8 February 2008, I got an advanced operating licence</p>

<p style="text-align: right;">Page 29</p> <p>1 for vessels. Now, I can operate a mechanised vessel not 2 more than 300 tonnages. On 1 July 2008, I joined to 3 work as a master with Hong Kong & Kowloon Ferry Holdings 4 Ltd (HKKF). I usually operate the routes from Central 5 Ferry Pier to Peng Chau, Central to Yung Shue Wan and 6 Central to Sok Kwu Wan. From 3 January 2011, my company 7 occasionally assigned me to operate the vessel provided 8 by Hongkong Electric Company to convey its staff for 9 going to and off work between the pier at South 10 Horizons, Ap Lei Chau and the pier of HKE Power Station 11 at Lamma Island. I also had to operate a vessel at once 12 when there is emergency maintenance work. (My working 13 hours) are from 7.30 pm to 8.00 am the following day. 14 Usually, there were three crew members including a 15 master, a chief engineer and a sailor on board the 16 vessel. However, no crew members were designated (to 17 a vessel). 18 Around 6.00 pm on 30 September 2012, I was informed 19 by a staff member of HKKF to operate a vessel of HKE on 20 the night of 1 October 2012 with the chief engineer Wong 21 Wah-yau and the sailor Lee Ah-ngau. However, at that 22 time, I was not told about the duty on that day. 23 Around 7.15 pm on 1 October 2012, the three of us 24 arrived at the pier of HKE at South Horizons, Ap Lei 25 Chau and boarded the lighter Yat Fat 88 to the pier of</p>	<p style="text-align: right;">Page 31</p> <p>1 Ap Lei Chau." 2 Just pausing there, Mr Cheng. I don't know if 3 you've been sitting in the Inquiry this morning, but did 4 you hear the evidence of Mr Leung this morning, and was 5 that the Wai Ko that you refer to in this statement? 6 A. Yes. 7 Q. Thank you. Continuing, then: 8 "At 8.15 pm on 1 October 2012, at the pier of HKE, 9 Lamma Island, I saw Lamma IV which was stopped behind 10 our vessel started to depart from the pier. One minute 11 later, after I found that it sailed to a safe distance 12 away from our vessel, I started to sail for Victoria 13 Harbour following Lamma IV [at a distance of about 14 1,000 metres apart]. When our vessel reached the water 15 off Yung Shue Wan pier, Lamma Island after sailing for 16 about 3 to 4 minutes, I was told by the master Chow 17 Chi-wai of Lamma IV through the company radio aboard the 18 vessel that their vessel was crashed by a HKKF ferry. 19 Then, I talked to the opposite party, but with no 20 response. After that, at the wheelhouse, I saw the 21 stern of Lamma IV at about 1,000 metres away. At that 22 time, no lights [the navigation lights and lights in the 23 cabin] from the vessel were seen. Just a short while, 24 I found that the stern of the vessel started to sink. 25 At the same time, I saw Wai Ko in the cabin phone the</p>
<p style="text-align: right;">Page 30</p> <p>1 HKE Power Station at Lamma Island for taking over the 2 shift. At 7.45 pm the same day, we arrived at the pier 3 of HKE at Lamma Island. Later, the morning shift master 4 of Lamma II told me that we would take over to work on 5 Lamma II later on, that is, we would pick up the staff 6 members and their families of HKE, a total of 66 people, 7 at the pier of HKE at Lamma Island and convey (them) to 8 Victoria Harbour for watching the fireworks on that 9 night. At the same time, I was told to contact the 10 person-in-charge, Wai Ko, of HKE. When we got aboard 11 Lamma II, I saw many passengers boarding the vessel. 12 After the chief engineer counted the number, it was 13 confirmed that there were a total of 66 people 14 [including the person-in-charge, Wai Ko, of HKE]. There 15 were a total of 69 people [including the three of us] on 16 board the vessel. Then, Wai Ko told me that his company 17 would convey people to watch the fireworks by two 18 vessels, namely, Lamma IV and Lamma II. The two vessels 19 would depart from the pier of HKE at Lamma Island at 20 8.15 pm the same night one after another and stopped on 21 the water of Victoria Harbour. After watching the 22 fireworks, Lamma IV would convey the passengers aboard 23 to land at the Central Pier No. 10 while our vessel 24 would convey the passengers aboard to land at the pier 25 of HKE at Lamma Island and the pier at South Horizons,</p>	<p style="text-align: right;">Page 32</p> <p>1 police at once. Then, I further looked at Lamma IV and 2 found that its stern sank rapidly with its bow pointing 3 up. I therefore immediately told the chief engineer and 4 the passengers to get ready for taking the life jackets 5 and lifebuoys to rescue people. I also immediately 6 reported the incident to HKE through the company radio 7 and requested for calling the police. On the way to the 8 scene, I saw Sea Smooth of HKKF [I recognised it as 9 I had operated it before and recognised its yellow 10 flashing lights [high speed ferry] as well as I remember 11 the time schedule of that vessel] sailing away from the 12 scene. At that time, it was on the starboard side of 13 our vessel at about 600-700 metres apart. Our vessel 14 stopped after closing to the scene. 15 I saw a large group of people floating in the nearby 16 water waiting for rescue. Then, I reported the matter 17 through the company radio at once and requested for 18 calling the police. At the same time, I asked the chief 19 engineer, the sailor and the passengers to throw some 20 life jackets and lifebuoys into the water for the people 21 in the water waiting for rescue. In addition, I told 22 the women and the children to stand aside to avoid 23 hindering the rescue. During the rescue, we retrieved 24 a lot of people in which 17 of them were injured. Then, 25 the police launch arrived at the scene. We intended to</p>

<p style="text-align: right;">Page 33</p> <p>1 hand over the injured persons to the police for further 2 action. However, since there were too many injured 3 persons, our vessel sailed back to berth at the pier of 4 HKE at South Horizons, Ap Lei Chau at once with the 5 assistance of the police and handed the injured persons 6 over to the police, the firemen and the ambulancemen for 7 further action." 8 Mr Cheng, you were then asked a series of questions: 9 "Could you state the duties of the three of you 10 aboard the vessel? 11 Answer: I was responsible for operating the vessel. 12 The chief engineer Wong Wah-yau was responsible for 13 operating the engine and acting as the look-out while 14 Lee Ah-ngau was responsible for making fast and 15 casting-off operations as well as the cleaning work 16 aboard the vessel. 17 Question: When Lamma II departed, how many people 18 were in the wheelhouse? 19 Answer: At that time, there were just the chief 20 engineer Wong Wah-yau and me in the wheelhouse while Lee 21 Ah-ngau was working in the cabin. 22 Question: When your vessel departed from the pier 23 of HKE at Lamma Island, did you see other vessels by 24 radar aboard the vessel? 25 Answer: I only paid attention to see if there were</p>	<p style="text-align: right;">Page 35</p> <p>1 Answer: I did not notice. 2 Question: Did you see what happened before and 3 after the collision of vessels on this occasion? 4 Answer: No. 5 Question: Before the collision of vessels, did you 6 see Sea Smooth visually or by radar? 7 Answer: I did not notice. 8 Question: Could you state the location of Sea 9 Smooth when you first saw it? 10 Answer: When I received the request for help from 11 Lamma IV, I found that Lamma IV was in front of our 12 vessel at about 1,000 metres apart and was sinking with 13 its bow pointing up. When my vessel sailed forward for 14 about 300 to 400 metres, I saw Sea Smooth sailing 15 towards Yung Shue Wan pier. Sea Smooth and Lamma IV 16 were about 100 metres apart. Sea Smooth was to the 17 south of Lamma IV, as stated [in the attached]." 18 There is a reference to a diagram, which I'll come 19 to in a moment. 20 "Question: Do you know how many passengers were 21 aboard Lamma IV at that time? 22 Answer: Don't know. 23 Question: Do you know the crew of Lamma IV and Sea 24 Smooth? 25 Answer: I know. On Lamma IV, the master was Chow</p>
<p style="text-align: right;">Page 34</p> <p>1 any other vessels sailing within 0.25 cable in our 2 vicinity and didn't pay attention to others. Within 3 0.25 cable of the radar, I didn't see any other vessels. 4 Question: Did you notice Lamma IV by radar? 5 Answer: (I) failed to notice. 6 Question: While sailing, did you notice Lamma IV 7 visually or by radar? 8 Answer: (I) failed to notice. 9 Question: How was the weather at that time? 10 Answer: At that time, the visibility was fine, no 11 fog with light wind, strong north-west current. 12 Question: Which company does Lamma II which you 13 operated belong to? 14 Answer: The vessel belongs to HKE. 15 Question: Which company employed you? 16 Answer: I was employed by HKKF. 17 Question: Do you know the travel itinerary of 18 Lamma IV on that day? 19 Answer: Don't know. 20 Question: Do you know the scheduled time for 21 departure at the pier of HKE at Lamma Island on that 22 day? 23 Answer: Don't know. 24 Question: After the vessel departed, did you notice 25 the movement and the light signal of Lamma IV?</p>	<p style="text-align: right;">Page 36</p> <p>1 Chi-wai, the chief engineer was Leung Pui-sang and the 2 sailor was Leung Tai-yau, while on Sea Smooth, the 3 master was Lai Sai-ming, the chief engineer was Lo 4 Pui-kay and the sailors were Wong Tai-yau and Wong 5 Yung-shing. Since the crew of Sea Smooth and I were 6 working in the same company and we have know one another 7 for 4 years. The crew on Lamma IV and I had working 8 relation during the handover of shift and we have known 9 one another for about 1 year. 10 Question: After the master Chow Chi-wai of Lamma IV 11 told you that his vessel was collided by a HKKF ferry, 12 did he say anything else? 13 Answer: No. 14 Question: When you people departed from the pier of 15 HKE, Lamma Island, do you know the speed of Lamma IV at 16 that time? 17 Answer: No. 18 Question: Well, how about the speed of your vessel? 19 Answer: Around 9-10 ..." 20 It says in the translation "nautical miles", 21 Mr Cheng, but I assume you mean 9-10 knots; is that 22 right? 23 A. Yes. Yes, it refers to nautical miles. 24 Q. Knots? Nautical miles per hour? 25 A. Yes, per hour. Miles her hour.</p>

<p style="text-align: right;">Page 37</p> <p>1 Q. Thank you. 2 "Question: When Lamma IV started to sail, what 3 lights on the vessel were on as you noticed? 4 Answer: At that time, I noticed that the navigation 5 light and the lights in the cabin were on. 6 Question: Do you know the distribution of the 7 passengers aboard Lamma IV? 8 Answer: Don't know as the passengers had already 9 aboard the vessel before I went aboard (my vessel). 10 Question: Before or during the incident of the 11 collision of the vessels, did you hear any horn or see 12 any flashing lights? 13 Answer: No. 14 Question: When you saw Sea Smooth, did you notice 15 any navigation light or any lights from the vessel? 16 Answer: I saw red, green lights, yellow flashing 17 lights, cabin lights and headlights from it. 18 Question: When you found that Lamma IV was sinking 19 after collision, how long roughly did (it) take? 20 Answer: Around one to two minutes. 21 Question: When you stopped your vessel to give 22 rescue, did you switch off the engine? 23 Answer: Yes. 24 Question: Before you got aboard [Lamma II], did you 25 see the master Chow Chi-wai of Lamma IV?</p>	<p style="text-align: right;">Page 39</p> <p>1 Lamma II as 1,000 metres? 2 A. It refers to the distance from -- 3 THE INTERPRETER: Witness is pointing at the leftmost to the 4 rightmost triangle. 5 MR BERESFORD: I don't think we can follow that, because on 6 the screen we've got the page turned over. But if I can 7 take it more slowly. 8 As it's shown on the screen, the two triangles 9 centre bottom both represent Lamma II, you said; is that 10 correct? 11 A. Yes. 12 Q. With a distance of 1,000 metres between them? 13 A. The 1,000 metres represents the distance between 14 Lamma II to Lamma IV. 15 THE CHAIRMAN: That's as you set off from the piers? 16 A. No. When I was called by the internal -- 17 THE INTERPRETER: I think internal message -- 18 THE CHAIRMAN: Radio? 19 A. When I was called by Lamma IV, I looked back and 20 I estimated the distance to be as such. 21 THE CHAIRMAN: Perhaps we'll take the morning break now. 22 Mr Cheng, we're going to take a break for 23 20 minutes. We'll resume at 11.55. 24 Mr Beresford, when we resume it would assist the 25 Commission if we were to have sight of the radar track</p>
<p style="text-align: right;">Page 38</p> <p>1 Answer: No." 2 Then if we can go on on the screen to the appendix, 3 we see there your diagram, Mr Cheng, showing, as you 4 said in your statement, Sea Smooth and Lamma IV about 5 100 metres apart, with Sea Smooth to the south of 6 Lamma IV. Am I correct in interpreting this in this 7 way, Mr Cheng, that the two triangles pointing upwards 8 on the screen are representations of Lamma II? Is that 9 right? 10 A. Correct. 11 Q. The cursor is pointing to them now. 12 Then there is another one with also a triangle 13 pointing up, at the top of the screen, where the cursor 14 is pointing now. Is that Lamma IV? 15 A. Yes, correct. 16 Q. Then to the right of that and slightly south-east is the 17 Sea Smooth? 18 A. Yes, correct. 19 Q. And you've marked the distance between Sea Smooth and 20 Lamma IV as 100 metres? 21 A. Yes, correct. 22 Q. And the distance between the upper triangle representing 23 Lamma II, and Sea Smooth, as 6-700 metres? 24 A. Yes, correct. 25 Q. And the distance between the two representations of</p>	<p style="text-align: right;">Page 40</p> <p>1 that shows the picture at 20:20:17, so that we can pick 2 up where Lamma II was at that point. 3 MR BERESFORD: Certainly. 4 THE CHAIRMAN: 20 minutes. 5 (11.35 am) 6 (A short break) 7 (11.55 am) 8 THE CHAIRMAN: Mr Cheng, you continue to give your evidence 9 according to your original affirmation. 10 A. I understand. 11 THE CHAIRMAN: Yes, Mr Beresford. 12 MR BERESFORD: Mr Cheng, I'm going to show you a couple of 13 radar tracks in a moment, but first of all can I just 14 ask you, please, why on your diagram you have shown 15 Lamma II twice? 16 A. Because when I was asked by the police who took the 17 statement from me, he asked me what is the distance when 18 I first heard the call from Lamma IV. So I estimated 19 that the distance was about 1,000 metres. As for the 20 second vessel, the officer asked me what is the distance 21 of Sea Smooth, and I told him -- and I saw that it was 22 6-700 metres. But after the first time Lamma IV called 23 me, my vessel was still moving and so the distance has 24 shortened. Can you understand? 25 Q. Yes, I see. I understand. Thank you very much.</p>

<p style="text-align: right;">Page 41</p> <p>1 Just to complete this diagram, in the top left of 2 the screen we see the indication of the direction of 3 north, and top right we see a representation of the Shek 4 Kok Tsui light beacon. On the right-hand side, we see 5 a representation of the Yung Shue Wan pier. 6 A. Yes, correct. 7 Q. Thank you. 8 I'd like you to be shown, please, item 7H from 9 bundle E. This is a radar plot which is timed at 10 20:20:18 on 1 October. We understand from other sources 11 that it shows the Sea Smooth and the vessel numbered 93, 12 which we understand to be Lamma IV, at the point of 13 collision. We don't have a positive identification, but 14 you see that there is a vessel marked "3797" below the 15 Sea Smooth and Lamma IV. Does that correspond 16 approximately to where Lamma II would have been at 17 that moment? 18 A. Are you asking me? 19 Q. Yes. Yes, I'm asking you. 20 A. Are you asking me whether this vessel refers to 21 Lamma II? 22 THE INTERPRETER: The witness was pointing at the vessel at 23 the bottom of the diagram. 24 MR BERESFORD: Yes, marked "3797". 25 A. Possibly, yes, but I'm not sure. But the timing does</p>	<p style="text-align: right;">Page 43</p> <p>1 positively identified by its AIS in the middle of the 2 screen. And we can see Lamma IV, top centre. 3 A. Can you please show me where Lamma IV is? 4 Q. Yes. If the cursor can be moved to the shape above Sea 5 Smooth, please. That shape you can see separate from 6 Sea Smooth. 7 And then to the right, would you agree that that is 8 the Shek Kok Tsui light beacon? 9 A. Yes. 10 Q. What are these two shapes at the bottom? Can you help 11 us with that? 12 A. As far as I understand, the one -- 13 THE INTERPRETER: Witness was pointing at the shape on the 14 left-hand side. 15 A. That one was Lamma II. 16 MR BERESFORD: And the other one? 17 A. I'm not sure about the other one. 18 Q. Do you recall any other vessel in that position? 19 A. I believe that normally this one represents a boat 20 sailing from Aberdeen to Yung Shue Wan. It was 21 a pleasure boat that carried people to dinner. 22 Q. Thank you, Mr Cheng. 23 In your statement you told us that after you had 24 sailed for three to four minutes from the Hongkong 25 Electric pier, you were told by master Chow Chi-wai of</p>
<p style="text-align: right;">Page 42</p> <p>1 coincide with it. 2 Q. Thank you, Mr Cheng. Can I please then show you a video 3 of the radar plot. This is the one we've been calling 4 "Zoom.In". If we can go to the time 20:19:30. 5 Can I ask that we just go before there for a moment, 6 please, just to get our bearings. Yes. 7 (Video played) 8 So we can see at the bottom of the screen the Lamma 9 Power Station pier, and we can see the Lamma IV, which 10 is marked "7622", and the Sea Smooth, approaching one 11 another. 12 Just coming into view now at the bottom of the 13 screen, there is a radar echo which I suggest could be 14 Lamma II. Do you agree, Mr Cheng? 15 A. Yes, I believe that the information at the bottom of the 16 screen is Lamma II. 17 Q. Thank you. Then if we can go on, please. 18 (Video played) 19 The video that we have zooms in onto the two 20 colliding vessels, but if we can go on shortly before 21 20:21:52, then I think we can see Lamma II coming into 22 the picture once again. 23 Can we just pause it there, please. 24 Mr Cheng, we've seen two shapes come into view at 25 the bottom of the screen. We can see Sea Smooth</p>	<p style="text-align: right;">Page 44</p> <p>1 Lamma IV through the company radio aboard the vessel 2 that their vessel had been crashed by a HKKF ferry. You 3 refer to "the company radio". Is it right that you had 4 no VHF? 5 A. This one is also a high-frequency machine, except that 6 it doesn't have Marine channel. 7 Q. So you can't keep a watch on channel 16 or channel 14, 8 for example? 9 A. Correct. 10 Q. And then when you say you talked to the opposite party, 11 is that a reference to Sea Smooth? Who is "the opposite 12 party"? 13 A. He told me -- "Muk-hei" -- he didn't mention Sea Smooth. 14 He only told me that he was crashed by a HKKF ferry. 15 Q. Yes, but in your next sentence in your statement, you 16 said "Then, I talked to the opposite party, but with no 17 response". Who did you mean by "the opposite party"? 18 A. Of course I am referring to Hongkong Electric IV, 19 because he called me so of course I called him back. 20 Q. I see. So he called you, he told you he'd had a crash 21 and then you tried to call him back but you got no 22 response; is that right? 23 A. Yes, correct. 24 Q. Further on in your statement, you say that you reported 25 the matter through the company radio at once. So you</p>

Page 45	Page 47
<p>1 used the company radio to talk to Hongkong Electric, 2 someone at Hongkong Electric; is that right? Who did 3 you report to? 4 A. It is the control room of the coal ground, because the 5 electricity was generated by coal. 6 Q. So that's the control room at Lamma Island, is it? 7 A. Yes, correct. 8 Q. So did you have any means to talk directly to the 9 emergency services? 10 A. No, except by calling 999 with my own mobile phone. 11 Q. Thank you. Now, you said that when you departed from 12 the Hongkong Electric pier at Lamma Island, you only 13 paid attention to see if there were any other vessels 14 sailing within a quarter of a cable of your vicinity. 15 Do you remember that? 16 A. Yes. 17 Q. And you said within a quarter of a cable of the radar, 18 you didn't see any other vessels? 19 A. Yes. 20 THE CHAIRMAN: Before you move on, could you put that 21 estimate of distance into metres? How many metres were 22 you looking around on the radar? 23 A. Are you referring to the radar? 24 THE CHAIRMAN: Yes. 25 A. At that time, the screen was focused to 0.5 cables.</p>	<p>1 a nautical mile. Do you agree with that? 2 A. Yes, I agree. 3 Q. So if you had set the radar to 0.25 of a cable ...? 4 A. I set the screen to 0.5 cables, but there are two 5 circles shown by the radar and the distance for each 6 circle is 0.25. 7 MR BERESFORD: Just for your reference, Mr Chairman, Captain 8 Pryke says 1 cable, one-tenth of a nautical mile or 9 608 feet. That's at paragraph 24 of his report. 10 So in your answer to the police, Mr Cheng, you said 11 that you only paid attention to see if there were other 12 vessels sailing within 0.25 of a cable. 13 A. Yes, correct. 14 Q. So about 300 feet? 15 A. Are you referring to the British measuring system or 16 otherwise? 17 Q. Well, if a cable is 608 feet, a quarter of a cable is 18 about 150 feet; is that right? 19 A. Yes, correct. 20 Q. So you were only looking out within a circle, a radius 21 of about 150 feet? 22 A. Yes, correct. 23 Q. You said that you set your radar to 0.5 of a cable, but 24 that you have concentric circles marked at 0.25 of 25 a cable apart. Have I understood that correctly?</p>
Page 46	Page 48
<p>1 THE CHAIRMAN: Cables or nautical miles? 2 A. (In English) Cables. 3 THE CHAIRMAN: So how many metres is that, 0.5 of a cable? 4 A. As far as I understand, it was about 300-odd. 5 THE CHAIRMAN: 300-odd metres? 6 A. Yes, about 300 and a bit more in metres. 7 THE CHAIRMAN: So you think a cable is about 600 metres, do 8 you? 9 A. Let me think about it. 10 THE CHAIRMAN: Yes, please do. 11 A. It should be a bit more than 6,000 -- as far as I know, 12 it was 6,080. 13 THE CHAIRMAN: Are you talking about feet in a nautical 14 mile? 15 A. Metres. 16 THE CHAIRMAN: Yes, Mr Beresford. 17 Perhaps we ought to inform the witness what a cable 18 is in metres and yards. My memory is it's 176 yards. 19 MR BERESFORD: I'm just looking for the reference in Captain 20 Pryke's report. 21 MR GROSSMAN: I was just told it was 186 by those who know. 22 THE CHAIRMAN: A cable is about 180 metres. Does that help 23 you about what range you were looking on the radar? 24 MR BERESFORD: Perhaps it may be simpler if we expressed it 25 in terms of nautical miles. A cable is one-tenth of</p>	<p>1 A. That's correct. 2 Q. So you were only looking at the inner circle? 3 A. Yes. 4 Q. And you said you didn't see -- 5 THE CHAIRMAN: Let me interrupt, if I may. 6 Did you look at the radar before you left the pier 7 at Hongkong Electric's pier? 8 A. Yes. 9 THE CHAIRMAN: Could you see the Shek Kok Tsui light when 10 you looked at the screen? 11 A. No. 12 THE CHAIRMAN: Could you see the Yung Shue Wan ferry 13 terminal? 14 A. Are you referring to the radar or by naked eye? 15 THE CHAIRMAN: No, radar. 16 A. No. 17 THE CHAIRMAN: So you weren't looking even as far as you 18 could see by naked eye, on radar? Is that what it comes 19 to? 20 A. Yes. 21 MR BERESFORD: Now, you said that you didn't notice Lamma IV 22 by radar; correct? 23 A. I didn't pay attention. 24 Q. You also said that you were about 1,000 metres behind 25 Lamma IV.</p>

Page 49	Page 51
<p>1 A. Yes, correct. 2 Q. How did you know? 3 A. That was an estimation with my naked eye. 4 Q. So you could see the Lamma IV with your naked eye? 5 A. Yes, correct. 6 Q. Now, you were asked about the weather and you said the 7 visibility was fine. 8 A. Yes, correct. 9 Q. Can you estimate how far you could see? 10 A. At that time, I could see the Tsing Ma Bridge. 11 Q. Thank you. From where? 12 A. From my vessel. 13 Q. Yes, but at which point? Lamma Power Station pier? 14 A. I can see that, more or less. 15 Q. All the way? 16 A. Yes. 17 Q. Okay. You also said that there was a strong north-west 18 current. 19 A. Yes, correct. 20 Q. Are you able to estimate the rate of the tidal stream? 21 A. I believe that it was about 4-5 metres. 22 Q. Metres? 23 A. Yes, correct. 24 Q. Metres per what? 25 A. Should be about per second.</p>	<p>1 on the bow and stern. 2 Q. What navigation lights could you see? 3 A. Red on the left and green on the right. 4 Q. So was Lamma IV coming towards you? 5 A. No. At that time, it was sailing out of the typhoon 6 shelter and I consciously looked at its bow. 7 Q. After you came out of the typhoon shelter and before the 8 collision, what could you see? 9 A. I didn't see anything. 10 Q. But you told us that you could see Lamma IV by sight and 11 that it was 1,000 metres away. 12 A. I was referring to the time when the incident happened 13 and I was called, and so I looked to the front. It 14 might be a problem of the sequence. 15 THE CHAIRMAN: And at that time, when you answered the 16 radio, you tried to speak back, and you looked forward, 17 what did you see then? 18 A. I saw that the light at the stern of Lamma IV went out, 19 and soon it began to sink and then it tilted upwards. 20 MR BERESFORD: And then after that you saw the Sea Smooth, 21 and you said that you recognised its yellow flashing 22 lights? 23 A. Yes, correct. 24 Q. What other lights, if any, did you see on Sea Smooth? 25 A. Yes. I could see red and green light on the side, cabin</p>
Page 50	Page 52
<p>1 Q. 4-5 metres per second? 2 A. Yes. 3 Q. How did you estimate that? Did you have any means of 4 judging it? 5 A. I did that by my own experience, and there is no device 6 or any tangible means to come up to this estimation. 7 Q. But did you estimate it by reference to something you 8 could see or something you could feel? 9 A. Sometimes I refer to a tidal scale which could be 10 purchased from the Marine Department. 11 Q. Mr Cheng, I want to go back to the question of 12 visibility and what you could see. You've told us you 13 could see the Lamma IV 1,000 metres ahead. 14 A. Yes, correct. 15 Q. Can you tell us, please, what exactly you could see? 16 What part of the Lamma IV? 17 A. The stern. 18 Q. Could you see any lights? 19 A. Are you referring to the time before or after the 20 collision? 21 Q. Before the collision, when you're following Lamma IV out 22 of the pier. 23 A. Yes. 24 Q. What lights could you see? 25 A. I can see navigation light, cabin light, and also light</p>	<p>1 light, and -- 2 THE INTERPRETER: I'm sorry. 3 (Chinese spoken). 4 A. I could see the red and green light on the side, cabin 5 light, the light on the bow and also the yellow flashing 6 light. 7 MR BERESFORD: You could see the red and the green lights at 8 the same time? 9 A. Yes. 10 Q. So it was coming towards you? 11 A. No. 12 MR BERESFORD: Could I just ask that the witness be shown 13 a photograph in photo bundle I, page 57. 14 THE CHAIRMAN: Yes. 15 MR BERESFORD: This show as picture of the Lamma IV being 16 hauled out of the water the next day. But if we can 17 zoom in onto the roof. 18 I should have asked you before, have you sailed 19 Lamma IV as well, before? 20 A. No. 21 Q. Oh, you haven't. Okay. Then perhaps I can move on from 22 there. I'm sorry to have detained everyone. 23 Can we go to page 52 of that bundle. 24 I just wonder if you can help us. Does this 25 photograph show Shek Kok Tsui light?</p>

Page 53	Page 55
<p>1 A. Yes. Yes. 2 MR BERESFORD: Perhaps you can just put the cursor over it, 3 please. 4 Is that it, where the cursor is pointing now? 5 A. Correct. 6 Q. Then can we look at page 53, please, the next page. 7 In this photograph, we can see Shek Kok Tsui light, 8 which you've just identified on the right, and another 9 light beacon on the left. 10 A. Yes. 11 Q. Is that the light beacon at O Tsai Pai? 12 A. (Chinese spoken). 13 MR BERESFORD: I understand there may be a problem with the 14 way the question has gone through the translation 15 process. 16 Can you just tell us, please, what the light is on 17 the left? 18 THE CHAIRMAN: It might help if we give him a chart, because 19 it's obvious from looking at the chart. 20 MR BERESFORD: Yes. If there's any difficulty, we can show 21 you a chart. 22 Do you know the light? 23 THE CHAIRMAN: Please show the witness this chart. 24 (Handed). 25 What's the name of that other light that's on the</p>	<p>1 MR GROSSMAN: May I ask the question again. I'm sure it's 2 my fault, not yours, Madam Interpreter. 3 Do I understand that the first time you were asked 4 or you were told that you were going to pilot a ferry 5 belonging to Hongkong Electric was on 30 September, in 6 the evening? 7 Should I ask it again? 8 THE INTERPRETER: (Chinese spoken). 9 MR GROSSMAN: I'm sorry, I think there may be a problem with 10 the interpreting and I'm sure it's my fault for asking 11 a complicated question. Let's take it slowly then. 12 On 30 September, at about 6 o'clock, and I'm looking 13 at your paragraph 5, 6 o'clock in the evening, you were 14 informed by a member of Hong Kong & Kowloon Ferry that 15 you would be operating a vessel belonging to Hongkong 16 Electric on the night of 1 October. 17 A. Correct. 18 Q. Was this the first time that you were told that you 19 would be operating a vessel for Hongkong Electric the 20 following evening? 21 A. Previously I had the experience of -- 22 THE INTERPRETER: Sorry. 23 A. In the past, I was told to pilot a Hongkong Electric 24 ferry on the night before I was told to pilot the 25 vessel, and so it was not the first time. I did have</p>
Page 54	Page 56
<p>1 left of the photograph on the screen? 2 A. O Tsai Pai. 3 THE CHAIRMAN: Thank you very much. 4 MR BERESFORD: Thank you, Mr Cheng. If you'd just wait 5 there, please. 6 THE CHAIRMAN: Mr Grossman? 7 MR GROSSMAN: Mr Chairman, may I ask very few questions on 8 two areas. One is what the arrangements were as far as 9 this witness was concerned on the evening of 1 October; 10 and secondly, what he heard or didn't hear just before 11 the collision. 12 THE CHAIRMAN: Thank you. 13 Examination by MR GROSSMAN 14 MR GROSSMAN: Mr Cheng, just to confirm, please, first of 15 all, you're employed by Hong Kong Ferries? 16 A. I am an employee of the Hong Kong & Kowloon Ferry. 17 Q. Yes. I want to remind you of something in your 18 statement. It might be helpful if you go to 19 paragraph 5, please. You see, there you start to talk 20 about the arrangements that were made that evening, that 21 is on 30 September. Do I understand that the first you 22 knew you were going to pilot a vessel was at 6 o'clock 23 on 30 September? 24 I'm sorry, could I ask the question -- 25 THE INTERPRETER: (Chinese spoken).</p>	<p>1 experience of piloting the Hongkong Electric vessel. 2 MR GROSSMAN: Yes. Perhaps I'll ask it another way. We 3 know that you operated the vessel on 1 October. Was it 4 the first time that you were told that you would be 5 operating it on 1 October, the previous evening? 6 A. Correct. 7 Q. Thank you. Then in paragraph 6, you say that at about 8 7.15 on 1 October, you arrived at the pier at South 9 Horizons; do you see that? 10 A. Yes. 11 Q. Between 6 o'clock on the 30th and arriving at South 12 Horizons on 1 October, were you given any further 13 information or instructions as to what you were to do? 14 A. At night, on the night of 30 September -- I don't 15 remember the time -- a colleague of my company told me 16 that I would probably have to pilot a vessel, a Hongkong 17 Electric vessel, on 1 October. But that was not 18 confirmed. He just said "possibly". 19 Q. I see. So it wasn't then until after you arrived at 20 7.15 pm at South Horizons that you knew what vessel you 21 would be piloting? 22 A. Yes, correct. 23 Q. Thank you. 24 I wonder if we could have on the screen, please, the 25 RSRB file, please, at page 109.</p>

<p style="text-align: right;">Page 57</p> <p>1 You see this is an email which comes from Mr Tang at 2 Hongkong Electric to somebody called April. It's dated 3 19 September, and it makes arrangements for a night-time 4 crew to be assigned for a cruise outing that we've been 5 talking about. 6 First of all, who is April? 7 A. I don't know her. 8 Q. All right. Then it talks of a telephone conversation 9 with "your Mr Cheung". It appears to be, from the 10 context, somebody from Hong Kong & Kowloon Ferry. Do 11 you know that Mr Cheung? 12 A. The colleague I mentioned earlier, that is Cheung 13 Wai-on. 14 Q. And he is who? Just remind me, please. Cheung Wai-on 15 is who? 16 A. As far as I understand it, he is the officer in charge 17 of our section. 18 Q. That's at Hong Kong & Kowloon Ferry, is it? 19 A. Correct. 20 Q. All right. Between 19 September and the 30th, then, 21 just to confirm, you yourself were not given any 22 instruction that you were going to operate a ferry for 23 Hongkong Electric on the 1st? 24 A. I was not -- there was no formal instruction, but 25 a document was received in relation to the Lamma II,</p>	<p style="text-align: right;">Page 59</p> <p>1 1 October that you were told that you would be piloting 2 the Lamma II? 3 A. Correct. 4 Q. Thank you. Just one other point. You've told us how 5 you were following the Lamma IV and you could see the 6 lights, but you didn't hear the sound of a whistle. 7 A. Correct. 8 Q. Since you were astern of the Lamma IV, is it possible 9 the whistle was sounded and you just didn't hear it? 10 A. I'm not sure. 11 MR GROSSMAN: Thank you. No further questions, thank you. 12 THE CHAIRMAN: Thank you. 13 Mr Sussex? 14 MR SUSSEX: Mr Chairman, with your permission, I'd like to 15 ask this witness about conditions of navigation at night 16 in the vicinity of the Hongkong Electric pier, and in 17 particular with regard to the fog light to which 18 reference was made at the last hearing. 19 THE CHAIRMAN: Yes, very well. 20 Examination by MR SUSSEX 21 MR SUSSEX: Mr Cheng, you tell us in your statement that you 22 have occasionally been assigned to command Hongkong 23 Electric vessels. 24 A. Yes, correct. 25 Q. Have you ever taken a Hongkong Electric vessel at night</p>
<p style="text-align: right;">Page 58</p> <p>1 which I was going to pilot. It says that there is such 2 an event. But I am not sure whether I was going to 3 pilot this vessel. 4 MS SIT: He said there was a document on board Lamma II 5 which referred to this event, but he wasn't sure whether 6 he would be asked to pilot Lamma II for that event. 7 MR GROSSMAN: Thank you very much. 8 Perhaps I better ask my question again, Madam 9 Interpreter. 10 Between 19 September and 30 September, just to 11 confirm, you yourself were not given any instruction 12 that you were going to operate a ferry for Hongkong 13 Electric on 1 October; is that right? 14 A. Correct. Yes, but I would like to add something. 15 Q. Yes? 16 A. I would like to supplement that I did pilot Hongkong 17 Electric Vessel II on the 29th or 30th, but there were 18 circulars mentioning that there will be a fireworks 19 event, an event for viewing the fireworks on the 1st. 20 But it was not sure whether I was the one who was going 21 to pilot the vessel, because I might be on leave or 22 there might be reason that I will not be the one who 23 pilots that vessel. That's all. 24 Q. Thank you. I understand. I just want to confirm, it 25 wasn't until you actually arrived on the shore on</p>	<p style="text-align: right;">Page 60</p> <p>1 in the direction of the Hongkong Electric Power Station 2 pier? 3 A. I don't quite understand the question. 4 Q. What I want to know is when commanding a Hongkong 5 Electric vessel, whether you've ever taken one into the 6 Hongkong Electric Power Station pier, at night? 7 A. Yes. 8 Q. Am I right that you've also commanded a high-speed ferry 9 in the direction of Yung Shue Wan, at night? 10 A. Yes. 11 Q. If we go to police photo bundle X, at page 648, can you 12 help me. Is this a photograph of a fog light that 13 appears at Hongkong Electric pier? 14 A. Yes, it's a fog light. 15 Q. Is that fog light illuminated at night irrespective of 16 whether there is fog or not? 17 A. Yes, correct. 18 Q. In your experience, is that light very bright? 19 A. It is very bright at short distance. As for from a far 20 distance, it is acceptable. 21 Q. Right. When you say from a short distance, what 22 distance are you talking about after you pass Shek Kok 23 Tsui in a southerly direction? 24 A. It doesn't have a significant effect if -- from my 25 experience, after sailing past Shek Kok Tsui from the</p>

Page 61	Page 63
<p>1 north, that light doesn't have a significant effect. 2 But it does have a significant effect from the south. 3 Q. Sorry, are you telling me that it has no -- 4 MS SIT: I think he said there was some impact, but not 5 significant impact. "(Chinese spoken)", as opposed 6 to -- "significant" suggests it's -- "it's got some". 7 MR SUSSEX: I think the witness did say that there was some 8 impact from the south; is that right? 9 THE CHAIRMAN: It does have a significant effect from the 10 south, but not approaching it from the north, I think 11 was the evidence. 12 MR SUSSEX: I wonder if that would be a convenient moment 13 and we can sort this out after the break. 14 THE CHAIRMAN: Yes. Mr Cheng, we're going to take the lunch 15 break now and we'll resume at 2.30 by that clock. Can 16 I ask you to be here on time so that we can continue 17 with your evidence this afternoon. Thank you. 18 (1.00 pm) 19 (The luncheon adjournment) 20 (2.30 pm) 21 THE CHAIRMAN: Mr Cheng, you continue to give your evidence 22 according to your original affirmation. 23 A. I understand. 24 THE CHAIRMAN: Yes, Mr Sussex. 25 MR SUSSEX: Mr Cheng, we had a problem I think in</p>	<p>1 the programme pertaining to the following day and the 2 day after, because they won't do that during the 3 holidays. 4 Q. I see. In addition to that, were there any other 5 documents concerning the fireworks display that you came 6 across on board Lamma II? 7 A. No. 8 Q. Do you recall ever seeing a notice issued by the Marine 9 Department about the closed area and restricted area in 10 the harbour for the fireworks display, and also the 11 marine traffic arrangement for that evening? 12 A. No. 13 Q. Was there or was there not a crew room at the Hongkong 14 Electric pier on Lamma Island? 15 A. Yes. 16 Q. In that crew room, would you have seen any of these 17 Marine Department Notices that I referred to a moment 18 ago? 19 A. No. 20 Q. For the fireworks display on 1 October, were you aware 21 of a Marine Department Notice No. 131 about the 22 organisation and arrangements for that evening? 23 THE CHAIRMAN: I think it might be easier for the witness to 24 answer by looking at the document. 25 MS SIT: Mr Chairman, I can identify the English version.</p>
Page 62	Page 64
<p>1 translation before the luncheon adjournment, so I'd like 2 to ask the question again. 3 If you are sailing south beyond Shek Kok Tsui in the 4 direction of the Hongkong Electric pier, does the fog 5 light that we were talking about before lunch have 6 an impact on the visual look-out that you can achieve? 7 A. Yes, it does have some impact. 8 Q. Is that impact that it's more difficult to make out 9 lights, such as navigation lights, which are dimmer than 10 the very bright fog light? 11 A. Yes. 12 MR SUSSEX: Thank you, Mr Cheng. 13 MS SIT: Mr Chairman, could I have permission to ask 14 questions about Marine Department Notice No. 131? 15 THE CHAIRMAN: Yes, please do. 16 MS SIT: I'm grateful. 17 Examination by MS SIT 18 MS SIT: Mr Cheng, this morning you told us that on 19 Lamma II, on board, there were some documents which 20 relate to the fireworks display on 1 October 2012. Do 21 you remember? 22 A. Yes, I did say that. 23 Q. Could you tell us what documents they were? 24 A. It is a work programme, because Hongkong Electric would 25 issue such programme before holidays. They would issue</p>	<p>1 I understand that there was a Chinese one, but I'm not 2 sure it's in the bundles. I'm not sure whether it would 3 be terribly useful for this witness. 4 THE CHAIRMAN: No. I follow that. 5 Mr Beresford, can you help? Is there a version in 6 Chinese? We're looking at one, I think. 7 MR BERESFORD: The reference to the English version is 8 marine bundle 10, page 53. The Chinese version is on 9 the screen now. 10 THE CHAIRMAN: Yes. 11 MS SIT: I'm very grateful. 12 Mr Cheng, could I trouble you to have a look at the 13 screen and look at this Marine Department Notice 131 and 14 tell us whether or not you've seen this before. 15 A. I haven't seen that on Lamma II of the Hongkong 16 Electric. 17 Q. So could you tell us where did you see it? 18 A. I haven't seen this notice before. 19 THE CHAIRMAN: Perhaps we could scroll through it. You've 20 only had a look at the first bit so far. 21 A. I haven't seen that before. 22 MS SIT: Can we go back to the first page of this notice, 23 please. 24 On the first page, Mr Cheng, you will see that there 25 are a number of basically longitudes and latitudes</p>

<p style="text-align: right;">Page 65</p> <p>1 setting out what they call a "closed area" for the night 2 of the fireworks display. Basically, this area, other 3 than certain what they call "excepted vessels", no 4 vessel was allowed to go into this zone. 5 You were going to take Lamma II into the Victoria 6 Harbour for viewing of the fireworks display that night, 7 weren't you? 8 A. Yes. 9 Q. Were you aware of which areas in the Victoria Harbour 10 you were allowed to take the vessel to? 11 A. As far as I knew, on the night of the fireworks display, 12 we were allowed to enter the area outside the restricted 13 area, the Causeway Bay typhoon shelter, and east of Hung 14 Hom Pier, and -- 15 THE INTERPRETER: I'm sorry. 16 A. And also, we can view the fireworks at the zone from the 17 Causeway Bay typhoon shelter to the east of Hung Hom 18 Pier, and also from the Star Ferry to the -- 19 THE INTERPRETER: Sorry. (Chinese spoken). 20 A. And also the zone west of the Star Ferry or the China & 21 Hong Kong Ferry to Central. 22 MS SIT: Perhaps I could assist you. 23 Could I trouble Mr Secretary to scroll down to 24 page 6 of this document. There should be a plan. Yes. 25 Mr Cheng, can you see a plan on the screen, and can</p>	<p style="text-align: right;">Page 67</p> <p>1 I have a chance to view it. 2 Q. Can I just ask you to clarify. You refer to "your 3 company" showed you these notices. Which company were 4 you referring to? 5 A. Hong Kong & Kowloon Ferry. 6 MS SIT: No further questions, Mr Chairman. 7 THE CHAIRMAN: Mr Beresford? 8 MR BERESFORD: Mr Chairman, with your permission, I would 9 just like to ask one question about anchorage lights. 10 THE CHAIRMAN: Yes. 11 Further examination by MR BERESFORD 12 MR BERESFORD: Mr Cheng, you were asked about a prominent 13 light looking south from the region of the Shek Kok Tsui 14 light. I'd like you to turn your mind to what the 15 position was when you were looking north. In the area 16 north of Shek Kok Tsui, there is the North-west Lamma 17 Anchorage and the North Lamma Anchorage; do you 18 remember? 19 A. Yes. 20 Q. Can you tell us if the lights from any vessels anchored 21 there had any impact on navigation that night? 22 A. There were several ocean-going vessels anchored there 23 for loading and unloading of goods. But as far as 24 I could remember, they had little impact on my vision. 25 MR BERESFORD: Yes. Thank you, Mr Cheng.</p>
<p style="text-align: right;">Page 66</p> <p>1 you tell us which are the areas you're referring to? 2 THE CHAIRMAN: I think the plan speaks for itself and it's 3 been accurately described by the witness. 4 MS SIT: Yes. Perhaps I'll just put it, in that case, 5 Mr Chairman. 6 You're referring to the two lines which are marked 7 "Restricted Area Boundary", you're referring to those 8 lines and to the east and west of those lines, are you 9 not? 10 THE INTERPRETER: The witness is pointing at the area on the 11 east of the vertical line and also the area on the 12 left-hand side of the plan. 13 MS SIT: Thank you. What I want to know is, where did you 14 obtain that information of where you could take the 15 vessel to and station it for the viewing of fireworks? 16 From what source did you obtain that information? 17 A. I would like to add that what I was referring to just 18 now means that we were restricted from sailing into that 19 area after the restricted time. 20 Q. Yes, I think that is correct. But perhaps I could 21 repeat my question. The question I was asking was, from 22 what source did you obtain this information about the 23 restricted time and the restricted zone? 24 A. As in previous years, when a fireworks display was 25 performed, we were given these Marine notices and so</p>	<p style="text-align: right;">Page 68</p> <p>1 THE CHAIRMAN: I'd invite you, Mr Beresford, to deal with 2 the material that's contained in the advisory 3 information attached to that Marine notice, in 4 particular as to information being disseminated about 5 life jackets and as to children wearing them. 6 MR BERESFORD: Very well, Mr Chairman. 7 Could we have the notice to mariners number 131 back 8 on the screen, please. 9 Mr Cheng, can I draw your attention to the annex and 10 in particular to paragraph 6. You will see that this 11 starts: 12 "Masters, coxswains, owners and operators of all 13 vessels are advised to take the following steps before 14 the start of the voyage." 15 You were a master or a coxswain, and I want to know 16 whether you were advised to take any of these steps 17 before the start of your voyage. Can you see there 18 items (a), (b), (c) and (d)? 19 "(a) all persons on board are made aware of the 20 location of all life-saving appliances and instructed on 21 the proper way to don a life jacket." 22 Did anyone advise you to do that? 23 A. Are you referring to that night? 24 Q. Yes. 25 A. No.</p>

Page 69	Page 71
<p>1 Q. Then: 2 "(b) all children on board are required to don 3 a life jacket on board at all times." 4 Did anyone advise you to do that? 5 A. No. 6 Q. Then: 7 "(c) a passenger list containing the names of 8 passengers and crew on board kept is [to be] kept by the 9 master and coxswain for emergency purposes." 10 Did anyone advise you to do that? 11 A. No. In fact, because I have been told about the number 12 of participants by Wai Ko, and I have asked the chief 13 engineer to check again whether there were 14 66 passengers. But we don't have the passenger list and 15 the crew list. 16 Q. Yes. So you didn't keep a passenger list or a crew 17 list? 18 A. Because at that time, we were very passive because we 19 were seconded to Hongkong Electric and no documents were 20 given to us, and there was nothing we could do. 21 Q. No. Just answer my questions, please, Mr Cheng. 22 I didn't ask you for the reason. I just asked you, you 23 didn't keep a passenger list, did you? 24 A. Yes, correct. 25 Q. And you weren't advised to keep one?</p>	<p>1 Where were these life jackets kept, for children? 2 A. It was kept in the storeroom, underneath the staircase 3 that leads to the upper deck. 4 THE CHAIRMAN: Are you sure you're not describing a fast 5 ferry rather than Lamma II? 6 A. No, I was referring to Lamma II. 7 THE CHAIRMAN: Thank you. How many times had you been the 8 coxswain of Lamma II? 9 A. I don't remember the exact number of times, but over 10 a period of a year's time, I had been on and off 11 instructed by my company to operate the vessel. 12 THE CHAIRMAN: Yes. Can you give us some idea? Once 13 a week, once a month, once every three months? 14 A. If we were ordered to pilot the vessel, usually we would 15 be ordered to operate the vessel several days in a row 16 and not like on a monthly basis. There was no 17 regulation for that. 18 THE CHAIRMAN: What we're trying to find out is how familiar 19 you were with operating this vessel. How many times in 20 a year, approximately, were you its coxswain? 21 A. About 20 to 30 days in a year. 22 THE CHAIRMAN: Thank you. What was the passenger capacity 23 of the Lamma II, by its licence? 24 A. I don't remember correctly. 25 THE CHAIRMAN: Was it required to carry children's life</p>
Page 70	Page 72
<p>1 A. Correct. 2 Q. And you weren't advised that the carrying capacity 3 specified in the operating licence of the vessel was 4 adhered to, were you? 5 A. Are you asking me about the -- 6 THE INTERPRETER: (Chinese spoken). 7 A. We were not advised to, but as a master, we would pay 8 close attention to this and avoid such occurrence. 9 MR BERESFORD: Yes, okay. But as a master, would you pay 10 close attention to whether all children on board were 11 wearing life jackets? 12 A. Yes, I do. 13 Q. So were all the children on board your boat wearing life 14 jackets? 15 A. As I have mentioned before, because this was an event 16 for viewing a fireworks display for the staff and family 17 members of Hongkong Electric, so they usually remind the 18 staff and the children to do so. 19 Q. But you didn't? 20 A. No. 21 Q. Did you even have children's life jackets on board? 22 A. As far as I know, yes. 23 MR BERESFORD: Was there anything else, Mr Chairman? 24 Questions by THE COMMISSION 25 THE CHAIRMAN: Yes, flowing from that last answer.</p>	<p>1 jackets, according to its licence? 2 A. Yes. 3 COMMISSIONER TANG: What is the percentage required? 4 A. As far as I know, the licence didn't specify as to the 5 percentage and number of children's life jackets 6 required. 7 THE CHAIRMAN: What was the stipulated minimum safe manning 8 crew level of Lamma II? 9 A. Three crew as a minimum. 10 THE CHAIRMAN: Was that stipulated on the licence? 11 A. Yes. 12 THE CHAIRMAN: Was Lamma II the same size vessel as 13 Lamma IV? 14 A. I'm not sure, because I have never piloted Lamma IV. 15 THE CHAIRMAN: Thank you very much, Mr Cheng, for coming to 16 assist us with your testimony. Now it's complete, and 17 you're free to go. But thank you for coming. You're 18 equally free to sit in the back of the hearing room and 19 listen to the evidence if you wish. 20 A. Thank you. 21 (The witness withdrew) 22 THE CHAIRMAN: Mr Beresford, do we have the licence for 23 the -- 24 MR BERESFORD: Not the Lamma II, Mr Chairman. 25 THE CHAIRMAN: Well, obtain it in that case, please.</p>

<p style="text-align: right;">Page 73</p> <p>1 MR BERESFORD: Yes. 2 Mr Chairman, for reasons of the witnesses' 3 convenience, we are now proposing to slot in Mr Wu 4 Shiu-lun. 5 THE CHAIRMAN: Very well. 6 MR WU SHIU-LUN (affirmed in Punti) 7 (All answers via interpreter unless otherwise indicated) 8 Examination by MR BERESFORD 9 MR BERESFORD: Mr Wu, thank you very much for coming in to 10 assist the Inquiry today. I have some questions to ask 11 you on behalf of the Commission. 12 Mr Wu, would you please state your full name for the 13 Commission? 14 A. Wu Shiu-lun. 15 Q. What is your age? 16 A. Should be 40. 17 Q. And your occupation is printing merchant; is that 18 correct? 19 A. Yes. 20 Q. And you've been educated to second school level? 21 A. Yes. 22 Q. You've previously given a statement, I understand, to 23 the police on 3 October 2012. 24 Could the witness please be shown that statement. 25 The English translation is at page 1153-1.</p>	<p style="text-align: right;">Page 75</p> <p>1 Hongkong Electric Power Station, Lamma Island. The 2 pleasure craft belonged to my elder brother-in-law. 3 About 8.10 pm on the same day, we set sail for 4 somewhere off Wan Chai to watch the fireworks display. 5 After our pleasure craft had been navigating for about 6 two to three minutes, a catamaran, at a distance of 7 about 50 metres from us, slowly reversed. Our pleasure 8 craft also decelerated. At the time, I was on the upper 9 deck, at the port side near the wheelhouse. I saw the 10 stern of the catamaran reversing slowly to the port side 11 of our pleasure craft. In the meantime, I found that 12 the passengers on board the catamaran were very noisy 13 and the situation on board was chaotic. Our pleasure 14 craft kept on navigating forward slowly. Later, I saw 15 a double-decked vessel at a distance of about 100 to 16 150 metres away from the catamaran. The stern of that 17 vessel was damaged due to some collision. Moreover, its 18 stern was slightly tilted. I instantly ran to the lower 19 deck to make a report to the police by dialling 999. 20 I sensed that the vessel was going to sink. 21 Subsequently, I saw that the vessel quickly sank into 22 the sea. We therefore immediately took out some 23 life-saving equipment to prepare for the rescue, such as 24 lifebuoys, life jackets and ropes. 25 At this moment, I saw a double-decked vessel of the</p>
<p style="text-align: right;">Page 74</p> <p>1 Do you recognise that statement as yours, Mr Wu? 2 A. Yes. 3 Q. Have you been shown a copy of it earlier today and been 4 given an opportunity to remind yourself of what it says? 5 A. Yes. 6 Q. And do you have any amendment to make? 7 A. No. 8 Q. Are the contents of this statement true? 9 A. Yes. 10 Q. Mr Wu, to save time I'm going to read from your 11 statement. I'm going to read from the English 12 translation of your statement. I trust the Chinese 13 version will be shown on the screen as I read. 14 A. I understand. 15 Q. If you hear me say anything inaccurate, or if you see 16 anything inaccurate in the Chinese statement, then 17 please stop me and let me know. 18 A. I understand. 19 Q. I'm going to read from paragraph 4: 20 "At 5.00 pm on 1 October 2012, my family and the 21 family of my elder brother-in-law Cheung Shing-choi, 22 a total of eight people, plus the captain Cheung 23 Tim-fai, was having dinner on board a western style 24 pleasure craft No. 138731. At that time, the pleasure 25 craft dropped anchor at somewhere off Yung Shue Wan near</p>	<p style="text-align: right;">Page 76</p> <p>1 Hongkong Electric Company arrive at the collision 2 location and start rescuing people. Meanwhile, we also 3 turned on the searchlight to light up the sea surface in 4 order to assist in the rescue. Afterwards, I saw a male 5 taking into his arms four lifebuoys and swimming towards 6 our pleasure craft. Thus, we helped that person on 7 board our pleasure craft. Later, we also saw a number 8 of fire boats and police launches reaching the scene to 9 rescue people. Hence, we departed from the scene for 10 conveying that person to the base of Marine Police 11 South. Yet, on the way, we saw that many people who had 12 been rescued were carried to the South Horizons pier. 13 Therefore, we also took the male to the South Horizons 14 pier and handed him over to the police. 15 Question: How was the weather that night? 16 Answer: The visibility was very poor with heavy 17 wind and rough sea. The visibility was about 18 100 metres. 19 Question: Did you see the course of the collision? 20 Answer: No. 21 Question: Did you hear any noise or sound of 22 crashing? 23 Answer: No. 24 Question: Was there any other boat sailing nearby 25 when you saw the two vessels?</p>

<p style="text-align: right;">Page 77</p> <p>1 Answer: No. After seeing the two vessels, I also 2 saw another Hongkong Electric double-decker boat 3 hurrying from the direction of Lamma Island Power 4 Station to the scene to do the rescue. 5 Question: Did you find it strange when you saw the 6 catamaran sailing backwards? 7 Answer: Yes, I found it strange because it was in 8 the open sea not at the pier, no vessel would slow down 9 and sail backwards unsteadily. 10 Question: Did you see any damages on the catamaran? 11 Answer: I didn't see because the stern of the boat 12 was facing us. 13 Question: Did you see where the catamaran was when 14 you were assisting in the rescue? 15 Answer: I paid no attention to it but I was sure 16 that the boat was not at the scene to help with the 17 rescue. 18 Question: Did you know the man whom you rescued? 19 Answer: I didn't know him but he told me that he 20 was the tour guide of the vessel rammed by the other 21 boat." 22 Unless anybody wants me to, I don't think it's 23 necessary for me to read the other questions and 24 answers. 25 Mr Wu, you made a number of 999 calls and we have</p>	<p style="text-align: right;">Page 79</p> <p>1 bow upwards. 2 THE CHAIRMAN: You're describing perhaps an angle of 20-30 3 degrees from the horizontal? 4 A. Roughly this part could be seen (indicates). 5 THE CHAIRMAN: You're pointing to the red antifoul at the 6 bottom of the vessel? 7 A. Correct. 8 THE CHAIRMAN: You're pointing to the bow section and you're 9 saying that that could then be seen? 10 A. Correct. 11 MR BERESFORD: Mr Chairman, if I may supply a technical 12 term, I believe it's called the forefoot. 13 THE CHAIRMAN: Yes. 14 MR BERESFORD: Mr Wu, could you tell us where at the stern 15 the water was up to? 16 A. Up to this part (indicates). 17 THE CHAIRMAN: This part is still below deck level; is that 18 what you're saying? 19 A. Correct. 20 MR BERESFORD: Mr Wu, can you turn it round so the stern is 21 facing me, please, so I can see it. So the name of the 22 vessel was not yet underwater; is that right? 23 A. Correct. The water was up to about this level 24 (indicates). 25 MR BERESFORD: I see.</p>
<p style="text-align: right;">Page 78</p> <p>1 records of those calls. 2 A. Yes, I understand. 3 Q. They are helpful to us because they help time the 4 sequence of events. 5 A. I understand. 6 Q. The first, I believe, is item 11 on the schedule of 7 999 calls, timed at 20:24:18. The Chinese transcription 8 is in volume E at tab 3A, page 1220-33; and the English 9 translation at page 1220-91. I'm going to ask that this 10 be played, and could you please tell us if you 11 recognise it. 12 (Audio played) 13 A. Correct. 14 THE CHAIRMAN: That's you speaking, and an operator at the 15 other end? 16 A. Yes. 17 MR BERESFORD: Can you remember at what point in the sinking 18 was the Lamma IV at the time when you made that call? 19 You'll see before me that I've got a model of the boat, 20 so if it helps you to describe which parts were 21 underwater by reference to that model, please feel free 22 to do so. You can come and walk down if you want to. 23 THE CHAIRMAN: Perhaps you could remain standing, or if you 24 can do it from a seated position, do it like that. 25 A. At that time, the ship was tilted to one side with its</p>	<p style="text-align: right;">Page 80</p> <p>1 THE CHAIRMAN: Thank you. Please sit down. 2 MR BERESFORD: Then you say subsequently -- this is 3 subsequent to the 999 call that you made -- you saw that 4 the vessel quickly sank into the sea? 5 A. Correct. 6 Q. So, first of all, can you give us some idea of time, how 7 long after? 8 A. What do you mean by how long after? 9 Q. How long after your 999 call did you see the vessel 10 quickly sink into the sea? 11 A. Less than a minute. 12 Q. Less than a minute. And when you saw it sink into the 13 sea, can we describe in a little more detail what 14 exactly you saw? So, was it that the stern went 15 underwater and the bow came upright? Did it go in 16 a kind of leverage movement? You tell us in your own 17 words. 18 THE CHAIRMAN: Stand up and demonstrate to us. 19 A. When I spotted it, it was like that. And then it 20 started to tilt that way. And then sank. 21 THE CHAIRMAN: Yes. What you're demonstrating is the angle 22 increasing from the horizontal, from perhaps that 23 initial 20-30 degrees, to a greater degree, with the 24 stern sinking into the sea? 25 A. Correct.</p>

Page 81	Page 83
<p>1 THE CHAIRMAN: Thank you. 2 MR BERESFORD: Thank you, Mr Wu. Perhaps the model can be 3 returned to its berth. 4 Mr Wu, you subsequently made three more 999 calls, 5 starting at 20:59, but unless anybody wants me to, 6 I don't propose to play those calls. They were 7 basically reporting on your progress in rescuing the 8 person from the sea; is that correct? 9 A. Correct. 10 THE CHAIRMAN: Perhaps to assist us, can you give us the 11 time of the second call? 12 A. (Chinese spoken). 13 THE CHAIRMAN: I'm not asking you. 14 A. I'm not sure, but perhaps you can check from the police. 15 THE CHAIRMAN: We have the records. I'm asking for 16 counsel's help. 17 MR BERESFORD: They're items 19, 20 and 21, the last three 18 call on the schedule, timed at 20:59:30, 21:00:13 and 19 21:18:11. 20 THE CHAIRMAN: So 20:59 is the -- 21 MR BERESFORD: 20:59:30 is the second call. 22 THE CHAIRMAN: -- second call. Yes, thank you. 23 MR BERESFORD: Just one other question, Mr Wu. What was the 24 colour of your boat, please? 25 A. White.</p>	<p>1 A. Thank you. 2 THE CHAIRMAN: Your evidence is finished and you're free to 3 go. If you wish to remain in the hearing, of course you 4 may do so at the back of this room. 5 A. Thank you. 6 (The witness withdrew) 7 MR BERESFORD: Mr Chairman, the next witness, again to fit 8 in with the witnesses' convenience, is Mr Shuen 9 Chi-keung, Ivan. 10 THE CHAIRMAN: Yes. 11 MR SHUEN CHI-KEUNG, IVAN (sworn in Punti) 12 (All answers via interpreter unless otherwise indicated) 13 Examination by MR BERESFORD 14 MR BERESFORD: Mr Shuen, thank you very much for coming in 15 this afternoon to help the Inquiry, and thank you for 16 coming at short notice. I have some questions to ask 17 you on behalf of the Commission. 18 Mr Shuen, I believe you have made two previous 19 statements in relation to this matter, one to the 20 police, which is in our bundle G, tab 2, page 1311-5 -- 21 that one is in Chinese, and one which is in marine 22 bundle 11, item 30, pages 3670 to 3729, which is in 23 English. 24 Mr Shuen, do you recognise those as your statements? 25 A. Yes.</p>
Page 82	Page 84
<p>1 MR BERESFORD: Thank you. 2 MR GROSSMAN: Mr Chairman, I don't have any questions of 3 this witness but I would like to publicly thank him on 4 behalf of my client. 5 THE CHAIRMAN: Yes. 6 MR GROSSMAN: Thank you. 7 Mr Wu, I represent Hongkong Electric. On behalf of 8 Hongkong Electric, and on behalf in particular of the 9 person you rescued, I want to thank you very much indeed 10 for what you did, for what you and your family did that 11 night. You and your family acted as model citizens, you 12 did a wonderful deed that night in saving that man, and 13 my client, Hongkong Electric, and the gentleman you 14 rescued, and I'm sure the whole community owes you and 15 your family a vote of thanks. You can all be very proud 16 indeed of your behaviour that evening. Thank you. 17 THE CHAIRMAN: Mr Sussex? 18 MR SUSSEX: Mr Chairman, I have no questions for Mr Wu. 19 MS SIT: No questions from me, Mr Chairman. 20 THE CHAIRMAN: Mr Beresford? 21 MR BERESFORD: No further questions. 22 THE CHAIRMAN: Thank you, Mr Wu, for coming to assist us 23 with your testimony. On behalf of the Commission, we 24 thank you not only for coming to testify but we commend 25 you for what you did that night.</p>	<p>1 Q. And have you been shown them today and given 2 an opportunity to remind yourself of what they say? 3 A. I have reviewed the second one, but I haven't reviewed 4 the first one today. 5 Q. I'm not going to spend a lot of time on the first one. 6 Do you want to look at it quickly now? 7 THE CHAIRMAN: Take your time so that you're comfortable in 8 answering the questions. 9 A. (In English) Okay. 10 THE CHAIRMAN: You're being asked to look at that first 11 statement. 12 A. I will now take some time to review the first statement. 13 THE CHAIRMAN: Yes, take all the time you need. 14 A. I have finished reading it. 15 MR BERESFORD: Thank you, Mr Shuen. You said you also 16 looked at the second statement today? 17 A. Yes, correct. 18 Q. Is there any amendment that you would wish to make to 19 either of those statements? 20 A. No. 21 Q. Are the contents true? 22 A. Yes. 23 Q. Mr Shuen, I'm going to concentrate on the second 24 statement today. I'm not going to ask you many 25 questions about the first statement. Is it a fair</p>

<p style="text-align: right;">Page 85</p> <p>1 summary to say that the first statement describes the 2 fact that you were on duty at the Vessel Traffic Centre 3 on the night of 1 October 2012, and later you went to 4 the scene of the collision to take charge on behalf of 5 the Marine Department? 6 A. At first I was working as the chief commander of 7 a coordination centre that was set up on the platform of 8 the Arts Centre, which was set up by the Recreation and 9 Cultural Department and that was for the purpose of 10 controlling the water area for the fireworks display on 11 that night. And then I was subsequently sent to take 12 control of the collision scene at Lamma Island. 13 Q. Yes. Thank you, Mr Shuen. I want to focus, if I may, 14 today on your second statement. You are a senior marine 15 officer? 16 A. Yes, correct. 17 Q. With the Harbour Patrol Section (2) of the Harbour 18 Patrol Section of the Marine Department? 19 A. Yes. 20 Q. You explain: 21 "The Harbour Patrol Section is mainly responsible 22 for the enforcement of marine legislation and regulation 23 of marine traffic to ensure port and navigation safety." 24 A. Correct. 25 Q. "My duties include, amongst other things, overseeing the</p>	<p style="text-align: right;">Page 87</p> <p>1 with me. 2 You've explained that the purpose of this statement 3 is to provide Mardep's responses to questions raised by 4 the Commission concerning Marine Department Notice 131 5 of 2012, some of which we have seen this afternoon. 6 The first section is headed: 7 "Dissemination of Marine Department Notices ('MD 8 Notices'). 9 MD Notice is one of the means through which the 10 Mardep disseminates relevant port- or navigation-related 11 information to the port and shipping communities in 12 Hong Kong for over 30 years. They may be issued for 13 matters of general interest, such as statutory 14 requirements, port operations procedures, shipboard 15 safety practices, announcement of weather and 16 non-working days, et cetera. They may also be used for 17 specific navigational safety matters, such as details of 18 major events in the Victoria Harbour (for instance, 19 fireworks display), marine works, establishment and 20 realignment of fairways and government moorings, 21 installation, withdrawal or changes in the 22 characteristics of aids to navigation, and other 23 relevant navigational information. 24 For a flavour of the matters covered by MD 25 Notices ..."</p>
<p style="text-align: right;">Page 86</p> <p>1 operations of the Harbour Patrol Section (2), taking 2 charge of major events or incidents, and assisting in 3 the formulation of policies with respect to port and 4 navigation safety." 5 A. Correct. 6 Q. And you yourself are a master mariner by training and 7 profession? 8 A. Yes, correct. 9 Q. And you've been with Mardep since 1994? 10 A. Yes, correct. 11 Q. And with the Harbour Patrol Section as senior marine 12 officer since 30 July 2012? 13 A. Yes, correct. 14 Q. In fact you were the officer in charge of the marine 15 traffic control operations in the harbour for the 2012 16 National Day fireworks display which took place on 17 1 October? 18 A. Yes, correct. 19 Q. To save time, Mr Shuen, I'm going to read from your 20 statement in the English-language version. Since this 21 statement has been given in English, I anticipate that 22 it will be translated simultaneously into Chinese for 23 the benefit of the relatives and others who are 24 listening to these proceedings, so I will read it at 25 a relatively slow pace. I hope you'll have patience</p>	<p style="text-align: right;">Page 88</p> <p>1 You have referred to Mardep's website. 2 "... where all the MD Notices issued in the current 3 year (as at the time of this witness statement, 2012), 4 and those from previous years which still have present 5 relevance (for example where the re-designation of 6 fairway continues to apply), are displayed. 7 The Mardep has been striving to give MD Notices the 8 widest circulation among members of the port and 9 shipping communities by all available means. MD Notices 10 once issued would be posted on Mardep's website so that 11 all interested parties and members of public who have 12 access to the internet could access them. They would 13 also be distributed by fax or email to those who are on 14 the Mardep's distribution list. Any member of the port 15 and shipping communities may request to be included in 16 the distribution list. Based on Mardep's records, the 17 Hongkong Electric Co Ltd ('HKE') has been on Mardep's 18 distribution list to receive MD Notices by email since 19 2006. There is now produced and shown to me marked 20 SCKI-1 copy of Mardep's distribution list (emails 21 only)." 22 THE CHAIRMAN: Before you read on, perhaps we could have on 23 the screen page 3681, item 107. 24 MR BERESFORD: So we see the last item in the list there, 25 107, "wotang@hkelectric.com: Hongkong Electric".</p>

<p style="text-align: right;">Page 89</p> <p>1 "MD Notice 131. 2 As explained above, MD Notices would also be used 3 for special events such as fireworks displays in the 4 Victoria Harbour. In the case of the 2012 National Day 5 fireworks display, MD Notice 131 was issued by Mardep to 6 set out the 'Closed Area' and 'Restricted Area' in the 7 Harbour as well as the special marine traffic control 8 measures for the event. Included in MD Notice 131 are 9 also advice on safety measures to masters, coxswains, 10 owners and operators of vessels (paragraphs 6 to 8 of 11 the annex to MD Notice 131). There is now produced and 12 shown to me marked SCKI-2, copy of MD Notice 131. 13 As per Mardep's usual practice, once issued MD 14 Notice 131 was uploaded to Mardep's website (ie on 15 14 September 2012). It was also disseminated through 16 fax or email according to Mardep's distribution list. 17 HKE, which is on Mardep's distribution list, was sent 18 the English version of MD Notice 131 on 14 September 19 2012 and the Chinese version of the same on 19 September 20 2012 by email. There are now produced and shown to me 21 marked at SCKI-3(a) and SCKI-3(b) copies of the emails 22 sent by Mardep to members of its distribution list 23 (including HKE) attaching the 2 versions of MD 24 Notice 131." 25 If we can just turn briefly to those. SCKI-3(a) --</p>	<p style="text-align: right;">Page 91</p> <p>1 operators. There is now produced and shown to me marked 2 SCKI-4 copy of the list of attendees at that meeting." 3 If we can just turn to exhibit SCKI-4, please. We 4 see at item 10, "Hong Kong Ferry (Holding) Ltd", the 5 other vessel interest in this case. 6 A. (In English) Excuse me, can I -- 7 Q. Yes, please do. 8 A. I would like to draw your attention to item 10 in the 9 attendance list, which shows "Hong Kong Ferry (Holding) 10 Ltd", which is different from the Hong Kong & Kowloon 11 Ferry Ltd, which was a subsidiary of the Yau Ma Tei 12 Ferry -- 13 MS LOK: No. 14 MS SIT: No, no. 15 A. (Chinese spoken). 16 THE CHAIRMAN: I think we've got a flavour. Item 10 is not 17 Hong Kong & Kowloon Ferry? 18 A. (In English) Yes, that's right. 19 THE CHAIRMAN: Thank you. 20 MR BERESFORD: Thank you for that correction. 21 "Secondly, at the excursion vessel safety meeting 22 convened by the Mardep on 17 September 2012 (which 23 Mardep organises for each occasion of fireworks 24 display), Mardep briefed the operators of spectator 25 vessels and ferries on the marine traffic control</p>
<p style="text-align: right;">Page 90</p> <p>1 there's a long distribution list, but we can see on the 2 second page of the distribution list, the second-to-last 3 addressee, "wotang@hkelectric.com". 4 And 3(b), dated 19 September, again we see a shorter 5 distribution list with Mr Tang second-up from the 6 bottom, and a PDF attachment. 7 "The relevant addressee is wotang@hkelectric.com, 8 whom I verily believe to be Mr Tang Wan-on, marine 9 officer of HKE who has given a statement to the Mardep 10 on 2 November 2012 and which has been disclosed in this 11 Inquiry (marine bundle 1, tab 5). 12 In addition to the above means of dissemination, 13 Mardep has also taken the following steps to bring the 14 contents of MD Notice 131 to the attention of the target 15 audience. 16 (1) Firstly, on 28 August 2012 (prior to the 17 issuance of MD Notice 131) Mardep informed the Traffic 18 and Transport Arrangements Sub-Committee of the 19 Fireworks Display Organising Committee of the contents 20 of MD Notice 131 in a meeting and advised the attendees 21 to refer to the same when issued. The sub-committee was 22 formed to address public transport issues relating to 23 the 2012 National Day fireworks display and its 24 membership comprises government representatives and 25 public transport operators, including the ferry</p>	<p style="text-align: right;">Page 92</p> <p>1 measures to be put in place for the National Day 2 fireworks display. The related trade associations, such 3 as the Hong Kong and Kowloon Motor Boats & Tug Boats 4 Association and the Marine Excursion Association, were 5 also represented at the meeting. There is now produced 6 and shown to me marked SCKI-5 copy of the list of 7 attendees at that meeting." 8 If we can turn, please, to exhibit SCKI-5. 9 THE CHAIRMAN: So on this occasion, Hong Kong & Kowloon 10 Ferry (Holdings) Ltd were absent by apology. 11 A. (In English) Yes. Chairman, can I add a little point 12 here? 13 THE CHAIRMAN: Yes, please. 14 A. (In English) Should I speak in Cantonese? 15 THE CHAIRMAN: It's entirely up to you. 16 A. (In English) Okay. Actually, although Hong Kong 17 & Kowloon Ferry Holdings Ltd was absent at the meeting, 18 but it was sent the minutes of the meeting, to which 19 a copy of the MDN-131 was also attached, just for this 20 Commission's information. 21 THE CHAIRMAN: Thank you. 22 MR BERESFORD: Thank you, Mr Shuen. 23 "Thirdly, since 12:30 on 1 October 2012 until the 24 lifting of the 'Restricted area' at the conclusion of 25 the National Day fireworks display, the Vessel Traffic</p>

<p style="text-align: right;">Page 93</p> <p>1 Centre of the Mardep (a) broadcasted safety messages via 2 the VHF (very high frequency) radio at hourly interval 3 and (b) faxed the same to local ferry operators to 4 inform the masters of Vessel Traffic 5 Service-participating vessels of the location of the 6 'Closed Area' and the 'Restricted Area', and to advise 7 them to refer to MD Notice 131 for details. There are 8 now produced and shown to me marked SCKI-6 copies of the 9 relevant Vessel Traffic Centre broadcasts on 1 October 10 2012." 11 If we can just turn up exhibit SCKI-6. We can see 12 there under II the safety message: 13 "Fireworks display will take place off Wan Chai in 14 the Victoria Harbour at about 21:00 hours tonight. 15 A closed area will be established from 14:00 hours to 16 about 23:00 hours to encompass three firing barges. 17 A restricted area will be established at the Central 18 Harbour from 20:00 hours to about 22:00 hours during 19 which no vessels other than excepted vessels are allowed 20 to enter or remain thereat. 21 Details are given at Marine Department Notice 22 No. 131 of 2012." 23 We see similar messages on the next three pages. 24 Mr Shuen, could you just tell us what the difference 25 is between these four messages? They all seem to be for</p>	<p style="text-align: right;">Page 95</p> <p>1 Q. So these parties receive the message or by NAVTEX? 2 A. The NAVTEX, I would like to clarify that the NAVTEX was 3 only sent to the MRCC to remind them that if necessary, 4 they can broadcast such message to all the ships, but 5 that depends on their discretion. 6 A. (In English) Excuse me, it might be a bit complicated. 7 May I repeat what she said in English? 8 MR BERESFORD: Certainly. 9 THE CHAIRMAN: Yes, of course. 10 A. (In English) Actually, the CC addressees, all of them 11 are sent this message by fax. You see the bracket 12 besides "MRCC" means reminding MRCC if they think 13 appropriate, they can also broadcast this message by 14 means of NAVTEX. But they may not do it or they may do 15 it, and it's purely their decision. 16 THE CHAIRMAN: Thank you. 17 MR BERESFORD: Yes, thank you. So these messages would be 18 broadcast in up to three ways: (1) by VHF channel 14; 19 (2) by fax to the named parties under the CC at the 20 bottom of the page; and (3) to MRCC and possibly onwards 21 by NAVTEX if they thought fit? 22 A. (In English) Yes. 23 Q. So a party who's not on the CC list and who doesn't have 24 VHF is unlikely to get this message? 25 A. (In English) Yes.</p>
<p style="text-align: right;">Page 94</p> <p>1 transmission on VHF channel 4. They're at different 2 times. I see it. 3 The first one is the one I've just read, which is to 4 be transmitted at hourly intervals, as we can see from 5 the instructions at III. The next one is similar, to be 6 started on 1 October at 13:00 hours. The third one says 7 that the fireworks display has finished. And the last 8 one is another one saying it's finished, just to be 9 broadcast once. 10 A. The first message under serial No. 184 of 2012 was the 11 first message transmitted to inform masters of the 12 relevant vessels that there will be a fireworks display 13 on that night, and that there will be restricted areas, 14 and asked them to refer to MDN-131/2012. But there is 15 a typo in the MDN in this reference. It should be 2010 16 instead of 2012. And this message would be copied -- 17 Q. I think it's the other way round, isn't it? The typo? 18 THE INTERPRETER: Yes. 19 A. And this message would be sent to all the parties 20 concerned by fax, including the Hong Kong & Kowloon 21 Ferry (Holdings) Ltd. 22 MR BERESFORD: Yes, thank you. In fact we can see their 23 initials under the CC at the bottom of the page. 24 A. Yes. The CC here refers to the parties that will 25 receive this message by fax.</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Are we going to continue to the next page? 2 Q. Yes. Do you have another clarification? 3 A. (In English) No, not on the first one. 4 Q. Let me carry on, then. We'll deal with the rest all in 5 one go. 6 A. (In English) Okay. 7 Q. So returning to the statement, under the heading 8 "Monitoring Compliance with MD Notice 131": 9 "On 1 October 2012, the Mardep deployed a total of 10 20 vessels and 78 officers and crew members (which was 11 on a par with previous occasions of fireworks display) 12 to monitor vessel traffic as well as compliance with MD 13 Notice 131 as set out below: 14 (1) Regulating traffic at the landing steps in the 15 Victoria Harbour, in particular those at the Kowloon 16 Public Pier, Central Public Piers and Kwun Tong Public 17 Pier, as well as the traffic in the Harbour in general; 18 (2) Facilitating the safe and smooth boarding of 19 passengers onto vessels at the above landing steps; 20 (3) Guarding the closed area and restricted area 21 during the specified periods; 22 (4) Setting up buffer zones at the Kowloon Public 23 Pier, Central Public Piers and Kwun Tong Public Pier 24 shortly before the end of the fireworks display to 25 ensure that vessels go alongside the landing steps in</p>

<p style="text-align: right;">Page 97</p> <p>1 an orderly manner for the safe disembarkation of 2 passengers; 3 (5) Checking and taking enforcement action against 4 unlawful acts such as speeding, carriage of passengers 5 on non-passenger-carrying vessels and overloading (ie 6 item (d) of paragraph 6 of the annex to MD Notice 131). 7 The Mardep inspected the vessels as they came alongside 8 the landing steps and also carried out 43 checks for 9 compliance with speed limits. 10 I should point out that the measures set out in 11 paragraph 6 of the annex to MD Notice 131 are, save for 12 item (d), advisory in nature. The Mardep would 13 endeavour to bring those measures to the attention of 14 the operators and coxswains of vessels through the means 15 identified in paragraphs 9 and 10 above, and the 16 operators and coxswains are expected to bear them in 17 mind in operating their vessels. 18 The measures set out in paragraph 6(a) to (c) of the 19 annex to MD Notice 131 were adopted from the 20 recommendations of the Report of the Local Marine 21 Inquiry No. 1 of 1991 (at pages 71 and 72), which was 22 conducted in the aftermath of a collision between the 23 ferry Man Loy and the pleasure vessel Long Boat after 24 the 1991 Lunar New Year fireworks display and resulted 25 in the death of two passengers on board the pleasure</p>	<p style="text-align: right;">Page 99</p> <p>1 Disembarkation we're not really concerned with. 2 "(5) Passengers unfamiliar with a vessel are to be 3 shown the location of life jackets and how to don one. 4 (6) Children to wear life jackets at all times. 5 (7) Some form of pyrotechnic distress signals to be 6 carried." 7 Returning, then, to your statement for the last 8 section, headed "Practice Adopted for Other Fireworks 9 Displays in the Harbour": 10 "MD Notices have been issued for each occasion of 11 fireworks display and the safety measures specified in 12 paragraph 6(a) to (d) of the annex to MD Notice 131 have 13 been set out in each of those MD Notices following the 14 1991 collision incident referred to in paragraph 13 15 above. The first of such MD Notices was MD Notice 13 of 16 1992, a copy of which is now produced and shown to me 17 marked SCKI-8." 18 If we can just turn to that briefly, we can see that 19 it looks broadly similar, specifying a closed area in 20 paragraph 3, and in the annex, containing 21 recommendations, including recommendations at 22 paragraph 4 of the annex, that look very similar to 23 those contained in paragraph 6 of this year's notice. 24 Returning then to the statement: 25 "For example, in 2012 there were 3 fireworks</p>
<p style="text-align: right;">Page 98</p> <p>1 vessel. There is now produced and shown to me marked 2 SCKI-7 copy of the 'recommendations' extracted from the 3 Report of the Local Marine Inquiry No. 1 of 1991." 4 Turning to that exhibit, SCKI-7. 5 THE CHAIRMAN: Perhaps we could go to page 3711. 6 MR BERESFORD: Mr Chairman, I don't have that pagination. 7 Could you please give me the internal pagination? 8 THE CHAIRMAN: It says "72" at the top. 9 MR BERESFORD: Thank you. 10 THE CHAIRMAN: This is the origin of the advice that 11 coxswains, operators, owners and so on should ensure 12 that children wear life jackets; it comes from this 13 inquiry into the death of those two passengers? 14 A. (In English) Yes. 15 MR BERESFORD: So just going back, to put that in context, 16 starting at internal page 71, paragraph (e): 17 "A Marine Department Notice be drawn up setting out 18 guidelines for safe navigation in the conditions which 19 prevail on the night of the Lunar New Year fireworks 20 display. The notice to be sent by post to each licensed 21 pleasure vessel owner. The advice given should include 22 the following: 23 (1) Coxswain to maintain a look-out throughout. 24 (2) Coxswain to have an up-to-date passenger list. 25 (3) Vessels not to hurry to leave the viewing area."</p>	<p style="text-align: right;">Page 100</p> <p>1 displays in the Victoria Harbour (including the National 2 Day fireworks display). I confirm that on each of the 3 other occasions (Lunar New Year and 15th Anniversary of 4 Establishment of the HKSAR), similar MD Notices (MD 5 Notice 6 of 2012 for the Lunar New Year and MD Notice 88 6 of 2012 for the 15th Anniversary of the Establishment of 7 the HKSAR) have been issued and practices similar to 8 those set out in paragraphs 10 and 11 above have been 9 adopted. They are now produced and shown to me marked 10 SCKI-9(a) and SCKI-9(b) copies of the 2 MD Notices 11 mentioned above." 12 Just for completeness, if we can turn to exhibit 13 SCKI-9(a), we see a notice very similar to 131. 14 Paragraph 6 of the annex is in the same terms, as far as 15 I can see, to paragraph 6 of the annex to MD Notice 131. 16 SCKI-9(b) is again substantially the same. 17 That was your statement, Mr Shuen. Did you have 18 a clarification you wished to add? 19 A. (In English) No. 20 MR BERESFORD: Thank you. If you'd just wait there, please, 21 Mr Shuen. 22 THE CHAIRMAN: Thank you. 23 MR GROSSMAN: Mr Chairman, thank you. I would like to ask 24 a few questions, first of all about the meetings that 25 were held, and secondly about the nature of and the</p>

<p style="text-align: right;">Page 101</p> <p>1 compliance with the MD Notices, and, thirdly, questions 2 which frankly may come to nothing -- I want to explore 3 this witness's knowledge of the licensing requirements 4 for vessels. 5 THE CHAIRMAN: Very well. 6 MR GROSSMAN: He may be the wrong person, but I'll try. 7 Thank you very much. 8 Examination by MR GROSSMAN 9 MR GROSSMAN: Mr Shuen, I represent Hongkong Electric. Just 10 a few questions I'd like to ask you. First of all, if 11 perhaps we could start with the meetings that were held. 12 I note that Hongkong Electric were not invited. Was 13 there a reason for that? 14 A. This meeting mainly invited all the ferries, launches 15 and also the PV for hire, but the individual operators 16 operating ferries for conveying passengers were not 17 invited. 18 Q. And what happened at these meetings? What was 19 discussed? 20 A. In this meeting, we mainly introduced the content of 21 MDN-131/2012, including the setting up of the closed 22 area and restricted area, and also the MDN control 23 measures and the landing steps control measures. We 24 also introduced some precautionary measures, and we 25 tabled the MDN-131/2012.</p>	<p style="text-align: right;">Page 103</p> <p>1 A. (In English) Yes. 2 THE CHAIRMAN: Yes, Mr Grossman? 3 MR GROSSMAN: I want to just concentrate for a few moments 4 on the question of the life jackets. I see that that is 5 not compulsory; it's only apparently advisory. 6 THE CHAIRMAN: By that you're referring to the wearing of 7 children's life jackets by children? 8 MR GROSSMAN: Yes, and the explanation of how to put them 9 on. Thank you, Mr Chairman. 10 Do I take it, then, that as far as those advisory 11 matters are concerned, they're left to the discretion or 12 the good sense of the master, the coxswain of the vessel 13 that is carrying people? 14 A. As I have also mentioned in my statement, after the -- 15 THE INTERPRETER: Sorry. 16 A. First of all, this advice was not only given to the 17 coxswains but also the owners. As I have mentioned in 18 my statement, after the incident of 1991, there is 19 a recommendation in the report to the effect that the 20 coxswains and owners of the vessels should be reminded 21 to advise their passengers to put on the life jackets on 22 the children and to note the position of the life 23 jacket, as well as the methods of putting on the life 24 jackets when similar events were held. 25 MR GROSSMAN: Yes. That's what I mean. It was left -- the</p>
<p style="text-align: right;">Page 102</p> <p>1 Q. And it was felt that it was not necessary to advise 2 companies like Hongkong Electric of these matters? 3 A. In this meeting, we hoped to include all the vessels 4 that participated in this event, but Hongkong Electric 5 has never been in our list of participants of the 6 meetings all along. But we know that the Hongkong 7 Electric would know about the fireworks display and the 8 content of the MDN, but after this incident we will 9 review this matter and we will include the operators of 10 the ferries under the Hongkong Electric in our future 11 meetings. 12 Q. Thank you. I think I heard you say earlier that there 13 are minutes of the meeting that were sent to Hong Kong 14 & Kowloon Ferry? 15 A. Yes. Hong Kong & Kowloon Ferry didn't attend the 16 meeting, but we have sent them the notes of meeting 17 attaching the MDN-131/2012. 18 Q. Is it possible for us to have a copy of those minutes? 19 A. Yes. 20 Q. Thank you. I want to ask you a few questions about the 21 Marine Department Notices, the MD Notices. You've 22 pointed out which aspects are compulsory and which are 23 advisory. 24 THE CHAIRMAN: I think you can agree to that, because that's 25 what's in your statement.</p>	<p style="text-align: right;">Page 104</p> <p>1 owners, the coxswains, et cetera, knew about the -- 2 THE CHAIRMAN: We have his answer. You put it to him that 3 it was left to the good sense of the master, and he's 4 answered by saying, "No, it was also drawn to the 5 attention of owners". 6 MR GROSSMAN: Yes, and it was left to the discretion of the 7 people in charge whether or not to have a display of how 8 to put on the lifebelt and whether there should be 9 children's lifebelts on board? 10 A. I think there might be some discretion in the 11 interpretation. I think the question focused on two 12 points: that is, the fact that the children must wear 13 the life jackets, and also the passengers should know 14 where the safety measures are and how to use them. As 15 far as these two points were concerned, yes, they are 16 advisory measures and the coxswain should, for the sake 17 of safety of the passengers, try their best to persuade 18 the passengers to put on life jackets. And also before 19 the vessel sets sail, to ensure that they know where 20 these safety measures were and how to use them. 21 Q. Have a look at your paragraph 12 of your English 22 statement. You see: 23 "... the measures set out in paragraph 6 ... are, 24 save for item (d), advisory ... Mardep would endeavour 25 to bring those measures to the attention of the</p>

<p style="text-align: right;">Page 105</p> <p>1 operators and coxswains of vessels through the means 2 identified in paragraphs 9 and 10 above, and the 3 operators and coxswains are expected to bear them in 4 mind ..." 5 And that's all that's expected of them, just to bear 6 them in mind, and then decide, in their own discretion, 7 what they should do; is that right? 8 A. (In English) Yes. 9 Q. Thank you. To make it perhaps simpler, if you have in 10 the harbour, say, a big cruiseliner and they want to 11 watch the fireworks, it would be perhaps ridiculous to 12 say that every child on board must wear a life jacket; 13 that's right, isn't it? On the other hand, if you've 14 got a very small pleasure craft with an open deck, it 15 may be extremely advisable for children to wear life 16 jackets. Am I not right? 17 A. (In English) If I may, can I just speak English? 18 THE CHAIRMAN: Yes, as you choose. Whichever language you 19 wish. 20 A. (In English) I agree to this point, you know. There is 21 a different -- there must be a difference, you know, 22 between the different types of ships, especially when 23 you are talking a big cruiseliner as opposed to a small, 24 probably an open cruise or a small pleasure vessel, you 25 know, with very different structural build-up. I tend</p>	<p style="text-align: right;">Page 107</p> <p>1 to all the vessels, to avoid the vessels, you know, 2 coming into contact with this object. 3 Q. Thank you. So if you felt that there was a hazard -- 4 THE CHAIRMAN: Rather than dealing with it in the abstract, 5 Mr Grossman, why don't we grasp the nettle and put the 6 proposition to him. 7 What's described as the fog light on the typhoon 8 shelter for Hongkong Electric vessels to berth on Lamma 9 Island, is that a hazard to navigation; is that the 10 question? 11 MR GROSSMAN: Yes. 12 THE CHAIRMAN: Perhaps we could show him some photographs. 13 MR BERESFORD: Yes. It's photo bundles X and XI. They're 14 all photographs of the light. 15 THE CHAIRMAN: Just to help you orientate yourself, this is 16 a light that is on one of the outer walls to the typhoon 17 shelter that Hongkong Electric has at its power station 18 on Lamma Island. At least that's what it's been 19 described as. And the issue is whether or not that 20 light is a navigational hazard. 21 A. (In English) I think it's difficult for me to just look 22 at this picture and make a very detailed and informed, 23 you know, opinion to this Commission. It's very hard. 24 MR GROSSMAN: I understand. If it had been reported to you, 25 to the Marine Department, that there was a light like</p>
<p style="text-align: right;">Page 106</p> <p>1 to agree with you, you know. If it is applied to every 2 case of vessels, you know, it probably will cause some 3 embarrassment or difficulty to some operators. 4 MR GROSSMAN: Yes. I understand. Thank you very much. 5 On 1 October, you've said you deployed 20 vessels to 6 monitor vessel traffic in compliance with the notice. 7 I take it you didn't look to see whether children were 8 wearing life jackets? 9 A. (In English) Yes. During this event, you know, our 10 focus has been on those violations of the law such as 11 over-speeding, such as overloading of persons on board, 12 such as illegal carriage of passengers, you know, yes. 13 Q. Yes. Thank you. Could you look, while we're on this 14 point of MD Notices, at your paragraph 5. This deals 15 with the dissemination or creation of Marine Department 16 Notices. I just want to ask you this. If within the 17 harbour of Hong Kong the Marine Department found that 18 there was a navigational hazard created by a fog light, 19 would you issue a Marine Department Notice to deal with 20 that fog light? 21 A. (In English) Negative. If there is an object in the 22 water which causes immediate danger or hazard towards 23 the shipping, then the right way to do, you know, or the 24 way we have been doing is to immediately isolate that 25 danger and then we will broadcast navigational warnings</p>	<p style="text-align: right;">Page 108</p> <p>1 that which was causing a hazard to navigation, what 2 steps would be taken? 3 A. (In English) We would definitely go there and check it 4 out to see whether the report, you know, is sustainable, 5 yes. 6 Q. Do you know -- you may not know this -- whether there 7 have been any complaints that this fog light at the 8 typhoon shelter that the Chairman described has been 9 a navigational hazard? 10 A. (In English) I have never heard of it, no. 11 Q. If there had been complaints about it, do you think you 12 would have heard about it? 13 A. (In English) We would certainly carry out the 14 investigation as soon as we can. 15 Q. Thank you. Just one last point. 16 In your professional capacity within the Marine 17 Department, are you responsible in any way for the 18 licensing of vessels? 19 A. (In English) No. 20 MR GROSSMAN: Thank you. No further questions. 21 THE CHAIRMAN: Mr Sussex? 22 MR SUSSEX: Mr Chairman, I have no questions for Mr Shuen. 23 MS SIT: No questions, Mr Chairman. 24 THE CHAIRMAN: Mr Beresford? 25 MR BERESFORD: No re-examination, Mr Chairman.</p>

Page 109	Page 111
<p>1 Questions by THE COMMISSION 2 THE CHAIRMAN: Was a Marine Department Notice issued in 3 connection with the New Year fireworks as 2012 became 4 2013? 5 A. (In English) I'm sorry? 6 THE CHAIRMAN: Was a Marine Department Notice of this MD 131 7 kind that we have seen issued in connection with the 8 recent New Year fireworks in the Harbour? 9 A. (In English) Yes. 10 THE CHAIRMAN: Do you have a copy of that? 11 A. (In English) You mean which one, the 2012 -- 12 THE CHAIRMAN: 2012, 31 December. Was there -- or perhaps 13 1 January, I'm not sure which date. 14 A. (In English) That one is the New Year's Eve, right, the 15 countdown? 16 THE CHAIRMAN: Yes. 17 A. (In English) Yes, sure, we can provide a copy of it. 18 MS SIT: Mr Chairman, I don't know if this could assist. 19 I have printed out the webpage which is referred to in 20 his statement, paragraph 6. 21 THE CHAIRMAN: Yes, I've seen that. 22 MS SIT: Just to give Mr Chairman the reference, it's 23 No. 173 of 2012. But of course we can provide copies of 24 the same. 25 THE CHAIRMAN: Do you have a copy now?</p>	<p>1 doesn't comply, you can prevent the vessel from sailing? 2 A. (In English) Right. 3 THE CHAIRMAN: And that was implemented on New Year's Eve? 4 A. (In English) Yes. 5 THE CHAIRMAN: We'd be grateful if you could provide us with 6 the latest notice. 7 MS SIT: We'll do that tomorrow. 8 THE CHAIRMAN: Thank you, Mr Shuen, for coming at short 9 notice to help us with your evidence today. Your 10 evidence is complete, and you're free to go. But thank 11 you again for attending. 12 A. (In English) Thank you. 13 (The witness withdrew) 14 THE CHAIRMAN: Mr Beresford, where do we lie with witnesses 15 tomorrow? 16 MR BERESFORD: I'm proposing to carry on with the list as it 17 was before these insertions unless I'm told otherwise. 18 We'll be starting with the remaining crew of the 19 Lamma II, the engineer and the sailor, and then we will 20 be proceeding with Mr Fok Wing-kei and Mr Gleeson Lam of 21 the employee relations section of Hongkong Electric. 22 From there, if we have time, we'll be moving on to the 23 divers and the Fire Services Department. 24 THE CHAIRMAN: Thank you. You mentioned this morning that 25 you'd received something from Hongkong Electric that</p>
Page 110	Page 112
<p>1 MS SIT: I'm so sorry, I don't have a copy of it now. But 2 we can have it -- 3 THE CHAIRMAN: What I'm interested in is the provision that 4 relates to the donning of life jackets by children: is 5 that still advisory or is that mandatory? 6 MS SIT: I would have to take instructions, but of course we 7 will produce a copy. 8 THE CHAIRMAN: I'm asking the witness. 9 Is that advisory or mandatory now? 10 A. (In English) At the moment it's still advisory. But 11 during this event, the New Year's Eve countdown, we have 12 strengthened our measures by inspecting the vessels, to 13 see if they are complying or they are following this 14 advice. If they are not, we will issue a direction 15 right on the spot. If the vessel is not complying with 16 the direction, we will consider prosecuting or just, you 17 know, don't allow the vessel to sail unless the measures 18 are rectified. 19 THE CHAIRMAN: Let me try and understand this. In the first 20 place it's advisory, but if the advice is ignored, the 21 Marine Department is empowered to issue a direction -- 22 A. (In English) Yes. 23 THE CHAIRMAN: -- "Put on life jackets on children"? 24 A. (In English) Yes. 25 THE CHAIRMAN: And if the owner, operator and coxswain</p>	<p>1 describes their corporate hierarchy as far as the marine 2 section is certain concerned? 3 MR BERESFORD: Yes. We have a statement of Mr Francis Cheng 4 Cho-Ying, but I don't believe we've yet fitted him into 5 the list. 6 THE CHAIRMAN: Do you have copies for the Commission? 7 MR BERESFORD: Yes, we do. 8 THE CHAIRMAN: Very well. We'll adjourn then until tomorrow 9 at 10 o'clock. 10 (4.33 pm) 11 (The hearing adjourned until 10 am on the following day) 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

Page 113	
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	INDEX MR LEUNG KWOK-WAI (on former affirmation in Puntì) ...1 Examination by MR BERESFORD (continued)1 Examination by MR GROSSMAN3 Examination by MS SIT6 Questions by THE COMMISSION15 Further examination by MR BERESFORD20 Questions by THE COMMISSION22 Further examination by MR GROSSMAN24 (The witness withdrew)26 MR CHENG MUK-HEI (affirmed in Puntì)27 Examination by MR BERESFORD27 Examination by MR GROSSMAN54 Examination by MR SUSSEX59 Examination by MS SIT62 Further examination by MR BERESFORD67 Questions by THE COMMISSION70 (The witness withdrew)72
Page 114	
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	INDEX MR WU SHIU-LUN (affirmed in Puntì)73 Examination by MR BERESFORD73 (The witness withdrew)83 MR SHUEN CHI-KEUNG, IVAN (sworn in Puntì)83 Examination by MR BERESFORD83 Examination by MR GROSSMAN101 Questions by THE COMMISSION109 (The witness withdrew)111