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<p>1 Monday, 14 January 2013 2 (10.02 am) 3 THE CHAIRMAN: Yes, Mr Beresford. 4 MR BERESFORD: Mr Chairman and Commissioner, I understand my 5 learned friend Mr Mok has an update for the Commission, 6 so perhaps I can hand over to him. 7 THE CHAIRMAN: Yes, certainly. 8 Mr Mok? 9 MR MOK: Mr Chairman, Mr Tang, our team of counsel and 10 counsel from the Department of Justice have worked 11 throughout this weekend to produce six statements in 12 relation to the vetting of the vessel, Lamma IV. 13 Mr Chairman and Mr Tang, may I now give you a very quick 14 overview of what has been found, and the relevance of 15 the evidence which has been found. 16 THE CHAIRMAN: Yes. 17 MR MOK: I think the most convenient way to go about this is 18 if we could look at the proposed witness list for today 19 and tomorrow. 20 THE CHAIRMAN: Yes. 21 MR MOK: You will see on today's list, from item 2 to 22 item 6, and together with item 8 for tomorrow, these are 23 altogether six officers. They were involved in the 24 initial vetting of the vessel, and the approval of the 25 plans. So these are what we call the first batch of</p>	<p>1 or at least the relevant plans which were approved and 2 they were all approved by one Mr Wong Chi-kin. So he 3 will be the main witness in relation to the plan 4 approval exercise. This is page 13. 5 THE CHAIRMAN: Yes. I'm looking at that. Wong Chi-kin is 6 the one who's involved in approving them; is that it? 7 MR MOK: Correct, yes. He's responsible for that exercise. 8 THE CHAIRMAN: Is he on the list of proposed witnesses? 9 MR MOK: He is. He is the first one, number 2 on today's 10 list. 11 THE CHAIRMAN: Yes, thank you. 12 MR MOK: If you were to turn over the page to 14 -- 13 MR GROSSMAN: I'm sorry to interrupt my learned friend. We 14 haven't got anything yet and nor do our solicitors. So 15 while I really appreciate what my learned friend has 16 done, and he's giving you this outline, I'm making notes 17 in a vacuum, as it were. I simply don't know what it 18 means. 19 THE CHAIRMAN: Yes. Let me find out where we are with 20 copying it. 21 I take Mr Grossman's point, and presumably this 22 applies to you as well, Mr Zimmern? 23 MR ZIMMERN: It does indeed, Mr Chairman. 24 MR BERESFORD: It also applies to me, Mr Chairman. 25 THE CHAIRMAN: It seems that you and I are the only ones</p>
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<p>1 officers. 2 THE CHAIRMAN: This is 1995-1996? 3 MR MOK: Correct. And their respective roles are 4 conveniently set out in the omnibus statement of one 5 Mr Wong Wing-chuen. I don't know whether, Mr Chairman, 6 you can locate this from your pile of yet-unpaginated 7 papers. 8 THE CHAIRMAN: I was handed a bundle about three minutes 9 ago. But you can carry on whilst that's being located. 10 MR MOK: Yes. What we propose to do is to have these 11 officers called first, because they deal with the 12 initial exercise, and for Mr Wong to be called after the 13 six officers who are involved in the first-batch 14 exercise. 15 THE CHAIRMAN: Why not the other way round; the overview 16 first and then the detail? 17 MR MOK: We can do that as well. I am in your hands, of 18 course. I believe that Mr Wong's statement may be at 19 the end of the pile. I don't know whether you have the 20 same order as mine. 21 THE CHAIRMAN: I have a pile now. 22 MR MOK: Yes. It's Mr Wong Wing-chuen. He helpfully sets 23 out from page 13 onwards a list of the various officers 24 and their respective roles. So, for example, on page 13 25 in the table there, it sets out all the different plans,</p>	<p>1 possessed of this material. 2 MR MOK: I apologise for that. 3 THE CHAIRMAN: It's probably therefore more sensible if this 4 is dealt with at a later stage, is it not? 5 MR MOK: We can do that. After the first witness, maybe. 6 THE CHAIRMAN: Yes, if I may suggest that. 7 MR MOK: Yes, of course. 8 THE CHAIRMAN: Mr Beresford? 9 MR BERESFORD: Mr Chairman, the first witness is Mr Cheng 10 Cho-ying, Francis. 11 MR CHENG CHO-YING, FRANCIS (sworn in Punti) 12 (All answers via interpreter unless otherwise indicated) 13 THE CHAIRMAN: Mr Beresford, given that the witness 14 statement is in English, when you're dealing with it can 15 I remind you to deal with it at a pace that will permit 16 for simultaneous interpretation. 17 MR BERESFORD: Certainly, Mr Chairman. 18 THE CHAIRMAN: Secondly, we'd ask you to deal with the 19 witness statement itself in extenso. 20 MR BERESFORD: Yes, I will. 21 MR GROSSMAN: Sir, could I just add. There has been -- 22 actually we filed a translation in Chinese that we've 23 asked to be filed so that that could be put on the 24 screen at the same time. 25 THE CHAIRMAN: Well, it hasn't reached me. Oh, it has.</p>

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<p>1 Thank you for that, Mr Grossman. 2 Examination by MR BERESFORD 3 MR BERESFORD: Mr Cheng, thank you very much for coming this 4 morning at short notice to assist with this Inquiry. 5 I have some questions to ask you on behalf of the 6 Commission. Before I do so, there are just some 7 preliminary matters to be gone through. 8 First of all, you have made a statement, have you 9 not, which we can find in the RSRB bundle at pages 151 10 to 257. Do you have a copy in front of you? 11 A. Yes. 12 Q. Mr Cheng, have you had an opportunity to remind yourself 13 of its content today? 14 A. Yes. 15 Q. Is there any amendment that you wish to make? 16 A. Yes, I do have amendments to make, but before that 17 I would like to say something on behalf of my company. 18 THE CHAIRMAN: Yes, please do. Are you reading from some 19 notes? 20 A. (In English) Yes, I am. 21 THE CHAIRMAN: If you want to do that, just alert us to it 22 when you're doing things like that. 23 A. (In English) Okay. 24 THE CHAIRMAN: But please proceed to use those notes. 25 A. (Chinese spoken).</p>	<p>1 paragraph, 43(a)(i), you deal with a change in the kind 2 of life jackets that are now being used. Do you have 3 one of those life jackets with you, or can one of your 4 representatives bring one to the hearing room today? 5 MR BERESFORD: Mr Chairman, before the witness answers, can 6 I just clarify whether you want to see a sample of the 7 lace type or the buckle type or both? 8 THE CHAIRMAN: I want to see the one they've changed to, 9 which I understand to be the buckle type. 10 MR BERESFORD: The buckle type, yes. 11 A. We do have them, but I haven't brought them along. But 12 I believe that my colleagues could provide them to the 13 Commission within today. 14 THE CHAIRMAN: Yes. Thank you. 15 Mr Grossman, you've heard our request and you've 16 heard Mr Cheng's answer. 17 MR GROSSMAN: I have, yes. 18 THE CHAIRMAN: Would those instructing you take steps to 19 ensure that that is done. 20 MR GROSSMAN: I will, and let me say, to be perfectly frank, 21 I was asked yesterday, "Would it be a good idea to bring 22 it", and I said, "No, I don't think so", so I take full 23 responsibility. 24 THE CHAIRMAN: Thank you. As long as it can be done today, 25 that would be very helpful.</p>
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<p>1 THE CHAIRMAN: Perhaps I could ask you to let the 2 interpreter have a look at your notes to assist her with 3 the translation. 4 A. Mr Chairman, I noted that the Commission of Inquiry 5 wanted to know how my company, that is Hongkong 6 Electric, organised the activities on 1 October and the 7 operation of the fleet of our company. That is why 8 I initiated to attend the Inquiry, to help the 9 Commission to find out the cause of the incident and the 10 cause of accident. 11 Here, I would like to represent the management of 12 our company and all our staff to convey our deepest 13 condolences to the victims, as well as their families 14 and friends, in this tragedy. We would also like to 15 extend our thanks to the rescue members, all the 16 Government departments involved in the aftermath and all 17 the members of the community. 18 THE CHAIRMAN: Thank you. 19 You were dealing with the subject of amendments? 20 MR BERESFORD: Yes, Mr Chairman. Thank you. 21 THE CHAIRMAN: Before we do that, can I just anticipate 22 something. 23 In your witness statement, paragraph 43(a)(i), you 24 deal with the result of an internal review by Hongkong 25 Electric about how you conduct yourself, and at that</p>	<p>1 MR BERESFORD: Mr Cheng, you indicated that you had some 2 amendments to make to your statement? 3 A. Yes. There are three points. 4 First of all, in the last page of the English 5 version, the date is wrong. It should be 2013 instead 6 of 2012. 7 Q. Thank you. 8 A. The second point is (b)(i) in page 14 of the English 9 version. It should be listed as the tenth item under 10 category A. 11 And the third point, appendix 2. I notice that the 12 training record provided in appendix 1 is not a complete 13 record, so I have furnished a complete one to my 14 solicitor yesterday, to be submitted to the Commission. 15 THE CHAIRMAN: Do we have that, Mr Beresford? 16 MR BERESFORD: I haven't seen that, Mr Chairman. 17 THE CHAIRMAN: Very well. We'll come to that in due course. 18 But I think, so that the public can follow this -- I'd 19 ask that paragraph 43(b)(i) be put up on the screen. 20 This, you say, should be part of 43(a), and it 21 should be item (x). What it is, and perhaps we could 22 have the English in a moment, is this: 23 "Passenger seats have been upgraded to high-speed 24 craft standards plus additional reinforcement to prevent 25 collapse of the seats."</p>

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<p>1 Could we have the English on the screen as well, 2 please. Perhaps also you'd bring up on the screen 3 paragraph 43(a)(i); that's the life jacket provision. 4 Thank you. 5 "Life jackets have been changed from lace type to 6 buckle type, after consulting user representatives, for 7 easy donning in case of emergencies." 8 Yes, Mr Beresford. 9 MR BERESFORD: Thank you, Mr Chairman. 10 So, Mr Cheng, is that right? Subparagraph (b)(i) 11 should become subparagraph (x) of paragraph 43(a); and 12 then the other subparagraphs correctly under paragraph 13 43(b) should be renumbered. Is that correct? 14 A. Correct. 15 Q. Thank you. So those are the three amendments that you 16 wish to make; is that right? 17 A. Correct. 18 Q. Subject to those amendments, are the contents of this 19 statement true? 20 A. Yes, it is true. 21 Q. Thank you. Now, Mr Cheng, you say that you joined the 22 Hongkong Electric Company Ltd on 20 August 1979. 23 A. Correct. 24 Q. Just by way of background, Mr Cheng, if I may ask you, 25 the Hongkong Electric Company is one of Hong Kong's two</p>	<p>1 It's page 169. 2 A. Correct. 3 Q. Before we get into that, just moving higher up the tree, 4 so to speak, the generation division is at the same 5 level of division as the human resources and 6 administration division, we've previously heard. Do you 7 agree with that? 8 A. Correct. 9 Q. And another division would be concerned with 10 distribution and that sort of thing; is that right? 11 A. Yes. The correct name is transmission and distribution 12 division. 13 THE CHAIRMAN: Do we have a corporate chart that reflects 14 this? 15 MR BERESFORD: No. 16 A. We can provide this for you. 17 THE CHAIRMAN: Thank you. 18 MR BERESFORD: Thank you. 19 Within your generation division, you are the general 20 manager, so you are the most senior person; is that 21 right? 22 A. Correct. 23 Q. And under you, you have a materials handling section; is 24 that right? 25 A. The correct name is materials handling department.</p>
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<p>1 main electricity generators, is it not? 2 A. Correct. 3 Q. And it's a subsidiary of Power Assets Holdings Ltd? 4 A. Correct. 5 Q. Which was previously known as Hongkong Electric Holdings 6 Ltd until February 2011; is that right? 7 A. I am not sure about the exact time when the name was 8 changed, but it should be around about that time. 9 Q. Yes, okay. Thank you. The Hongkong Electric Company 10 Ltd is the entity that you refer to as "the company" in 11 your statement; is that right? 12 A. Correct. 13 Q. And the company is the owner, is it, of Lamma Power 14 Station? 15 A. Yes, correct. 16 Q. And you are the general manager of the generation 17 division? 18 A. Correct. 19 Q. And the generation division is located at the Lamma 20 Power Station; is that right? 21 A. Correct. 22 Q. You have provided to us at appendix 1 of your witness 23 statement an organisational chart of the generation 24 division. 25 Perhaps that could be shown on the screen, please.</p>	<p>1 Q. Right. And the person in charge of that, as we can see 2 from your chart, is the chief materials handling 3 engineer, Mr Leung Yuk-wai, David. 4 A. His correct name is chief materials handling engineer. 5 Q. Thank you. And under him there is the senior materials 6 handling engineer, Mr Lee Kit, Bernie. 7 A. Yes. 8 Q. As part of the materials handling department, there is 9 a marine section or a marine office; is that right? 10 A. Correct. 11 THE INTERPRETER: I was advised about the Chinese name. 12 THE CHAIRMAN: What is the correct description, "section" or 13 "office"? 14 A. We call it marine section. 15 THE CHAIRMAN: Thank you. 16 MR BERESFORD: And the person in charge of the marine 17 section is Mr Tang Wan-on, whose job title was marine 18 officer, and he's now been retitled as marine manager; 19 is that right? 20 A. Correct. 21 Q. Reporting to him, there are the following. There is 22 a marine supervisor. There are coxswains, engineers 23 (marine) and deckhands, as we can see from your chart. 24 A. Correct. 25 Q. The marine supervisor is named here as Mr Chan</p>

<p style="text-align: right;">Page 13</p> <p>1 Chun-shing. You say he's now resigned and his position 2 is pending replacement. 3 A. Correct. 4 Q. Was he in that position on 1 October? 5 A. Yes, he was in that position on that day. 6 THE CHAIRMAN: When did he cease employment with the 7 company? 8 A. In fact he had submitted application for resign on 9 29 September, but because of the tragedy, he has 10 postponed his retirement date for half a month; that s 11 until mid-November. 12 MR BERESFORD: Thank you. 13 COMMISSIONER TANG: Excuse me, I just want to clarify some 14 translation. Is it retirement, or is he leaving the 15 company? 16 THE INTERPRETER: I'm sorry about the mistake. 17 A. He left the company. 18 MR BERESFORD: And you've named four marine engineers: 19 Mr Kwan Kwai-foon, Mr Kwok Wa-hi, Mr Fong Tai-shing, 20 Mr Leung Pui-sang. 21 A. Correct. 22 Q. Although on the chart that appears to be an equivalent 23 posting to the other four sections under the marine 24 officer, they would in fact be under the coxswain, would 25 they not? They are crew members, in fact.</p>	<p style="text-align: right;">Page 15</p> <p>1 A. (In English) It should be three departments. 2 A. There should be three departments. 3 Q. Yes, thank you. And you are responsible for the 4 management of the generation division as a whole? 5 A. Correct. 6 Q. And each of the three chief engineers of the three 7 departments, and the two section heads of the two 8 supporting sections, manage their departments and report 9 to you? 10 A. (Answer not interpreted). 11 THE INTERPRETER: I was told about the appropriate Chinese 12 name of chief engineer. 13 MR BERESFORD: Thank you. And we've already seen from your 14 chart that the chief materials handling engineer was 15 Mr Leung Yuk-wai, David, and we've seen the relevant 16 people under him. 17 A. Correct. The Chinese name of his title is "(Chinese 18 spoken)". 19 Q. Now, the marine section of the materials handling 20 department is responsible for the company's marine 21 operations, including the management and operation of 22 Lamma IV, which was hit by Sea Smooth on the night of 23 1 October; is that right? 24 A. Correct. 25 Q. And you tell us that, following the tragedy, you have</p>
<p style="text-align: right;">Page 14</p> <p>1 A. Correct. 2 Q. And Mr Leung Pui-sang was the engineer on board on the 3 night of the accident? 4 A. Correct. 5 Q. Then on the right-hand side, we have the coxswains, and 6 you've named four including Mr Chow Chi-wai, who was the 7 coxswain of the Lamma IV on the night in question. 8 A. Correct. 9 Q. Then we have four deckhands. Again you've listed four. 10 I think it was Mr Leung Tai-yau who was the deckhand on 11 board that night. 12 A. His Chinese name is Leung Tai-yau. 13 Q. Thank you. And they, of course, also would be subject 14 to the supervision of the coxswain when on board? 15 A. Correct. 16 Q. Now, coming back to your statement and the 17 responsibility of the various people involved. You tell 18 us that the generation division is mainly responsible 19 for the operation and maintenance of the company's 20 electricity generation equipment at Lamma Power Station 21 and at Tai Ling on Lamma Island through three 22 departments, including the materials handling department 23 and two other supporting sections. 24 A. We have three sections and two supporting sections, and 25 material handling section is one of them.</p>	<p style="text-align: right;">Page 16</p> <p>1 caused investigation and review to be carried out and 2 that the purpose of the statement that you have filed is 3 to address various issues raised in this Inquiry, in 4 particular issues such as crew rosters and training, 5 maintenance of company launches, and organisation of the 6 particular event on 1 October. 7 A. Correct. 8 Q. You then turn to tell us about the marine section, and 9 you say that the normal duties of the marine section 10 include managing and operating the company's three 11 vessels. The company has three vessels, named Lamma II, 12 Lamma IV, and one pleasure craft, Lamma V. 13 A. Correct. 14 Q. And the marine section is also responsible for operating 15 the company's jetties and marine pollution control 16 equipment in a safe and efficient manner. 17 A. Correct. 18 Q. And you tell us that the two launches owned by the 19 company, Lamma II and Lamma IV, are mainly used for the 20 off-site transportation of personnel, mainly employees, 21 to and from the Lamma Power Station? 22 A. It is mainly deployed to transport the employees who 23 work at the Lamma Power Station. 24 Q. Lamma V, however, is a pleasure craft and is used for 25 off-site transportation of visitors and for other</p>

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<p>1 purposes?</p> <p>2 THE INTERPRETER: Amendment to the Chinese name of the</p> <p>3 pleasure boat.</p> <p>4 A. That's correct.</p> <p>5 MR BERESFORD: And you also mentioned certain other</p> <p>6 responsibilities of the marine section in connection</p> <p>7 with the power station such as the handling of coal,</p> <p>8 oil, ash, limestone and gypsum carriers calling at the</p> <p>9 Lamma Power Station.</p> <p>10 A. Correct, except that there's an amendment to the Chinese</p> <p>11 name.</p> <p>12 Q. And you say that the marine section is responsible for</p> <p>13 ensuring that all vessels and jetty equipment are</p> <p>14 managed, operated and well-maintained in accordance with</p> <p>15 relevant operating instructions, licence requirements,</p> <p>16 Hong Kong shipping ordinances and Marine Department</p> <p>17 Notices.</p> <p>18 A. Correct.</p> <p>19 Q. Is any of this written down anywhere?</p> <p>20 A. It was described in the job description of our</p> <p>21 colleagues in the marine section.</p> <p>22 Q. And do you have any written policies or procedures that</p> <p>23 you have established?</p> <p>24 A. We have a safety and health policy which was issued by</p> <p>25 our managing director in relation to the operation and</p>	<p>1 colleague.</p> <p>2 Q. So that would include Mr Tang Wan-on?</p> <p>3 A. Correct.</p> <p>4 Q. Mr Chan Chun-shing?</p> <p>5 A. Correct.</p> <p>6 Q. Mr Chow Chi-wai?</p> <p>7 A. Correct.</p> <p>8 Q. Mr Leung Pui-sang?</p> <p>9 A. Correct.</p> <p>10 Q. Mr Leung Tai-yau?</p> <p>11 A. Correct.</p> <p>12 Q. Mr Lee Kit, Bernie?</p> <p>13 A. Correct.</p> <p>14 Q. Mr Leung Yuk-wai, David?</p> <p>15 A. Correct.</p> <p>16 Q. Yourself?</p> <p>17 A. Yes, as well.</p> <p>18 Q. One thing I didn't ask you to confirm, Mr Cheng, was who</p> <p>19 do you report to?</p> <p>20 A. I report to Mr Yuen Sui-see, the operating director of</p> <p>21 our company.</p> <p>22 Q. Can you provide us with copies of those job</p> <p>23 descriptions, please?</p> <p>24 A. Yes.</p> <p>25 THE CHAIRMAN: Thank you.</p>
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<p>1 compliance with the ordinance of Hong Kong, and the</p> <p>2 efforts to ensure the performance in a safe and healthy</p> <p>3 manner, including compliance to the relevant regulation</p> <p>4 and reference to the performance of the other parties'</p> <p>5 practices in the trade.</p> <p>6 Q. Could you produce a copy of the policy that was in force</p> <p>7 on 1 October?</p> <p>8 A. We are able to provide a copy of the safety and health</p> <p>9 policy of our company.</p> <p>10 Q. Thank you.</p> <p>11 THE CHAIRMAN: Perhaps, Mr Grossman, that's another matter</p> <p>12 that could be addressed now.</p> <p>13 MR GROSSMAN: We shall.</p> <p>14 THE CHAIRMAN: Thank you.</p> <p>15 MR BERESFORD: You say that the responsibilities were set</p> <p>16 out in individuals' job descriptions. Do any of those</p> <p>17 job descriptions state responsibility for safety</p> <p>18 management?</p> <p>19 A. In the job description of each colleague, there is</p> <p>20 a paragraph that specifically addressed the safety</p> <p>21 responsibility.</p> <p>22 Q. By reference to the chart in appendix 1, can you tell us</p> <p>23 which colleagues you are referring to?</p> <p>24 A. In fact there is a paragraph on the safety</p> <p>25 responsibility in the job description of every</p>	<p>1 Again, Mr Grossman, would you address that?</p> <p>2 MR GROSSMAN: I will.</p> <p>3 THE CHAIRMAN: Thank you.</p> <p>4 Before we move on, you're going to produce for us</p> <p>5 the safety and health policy of the company.</p> <p>6 A. Yes.</p> <p>7 THE CHAIRMAN: Is that aspirational in nature? That is to</p> <p>8 say, that the company sets out to achieve the delineated</p> <p>9 policies?</p> <p>10 A. Yes.</p> <p>11 THE CHAIRMAN: Does it also set out how the aspirational</p> <p>12 matters are to be achieved/implemented?</p> <p>13 A. Yes, to a certain extent, because we have set out some</p> <p>14 major directions.</p> <p>15 THE CHAIRMAN: Is there any other separate, different</p> <p>16 document that sets out implementation of safety and</p> <p>17 health policy?</p> <p>18 A. We do have other guidelines which cover a very broad</p> <p>19 area.</p> <p>20 THE CHAIRMAN: What I'm asking about specifically is</p> <p>21 implementation. "This is what we set out to do" is one</p> <p>22 document, and that's policy. Is there one that sets out</p> <p>23 "And this is how policy is to be implemented"?</p> <p>24 A. We do have a similar document, but as to whether such</p> <p>25 details as to the implementation of maritime policy is</p>

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<p>1 covered, I need to go back and refer to the document.</p> <p>2 THE CHAIRMAN: Perhaps you would be kind enough to do that</p> <p>3 and produce for us, because that's what we're interested</p> <p>4 in, how the aspirational policy was detailed to be</p> <p>5 implemented in the marine section.</p> <p>6 A. Yes, I will go back and find that out.</p> <p>7 THE CHAIRMAN: Thank you very much.</p> <p>8 MR BERESFORD: Mr Cheng, in fact we have some employee job</p> <p>9 specifications in our papers already. Perhaps they can</p> <p>10 be shown on the screen. At police bundle O, there is</p> <p>11 the employee job specification of the coxswain at</p> <p>12 page 4362. We see from that page that it appears to</p> <p>13 have been prepared by Mr Tang on 2 August 1999. The</p> <p>14 content is set out at page 4364, divided into "Job</p> <p>15 Summary", "Duties and Responsibilities" and</p> <p>16 "Qualification and Experience".</p> <p>17 Paragraph 2.3 deals with safety and training. That</p> <p>18 refers to the company's Safety Rule and Safety Code of</p> <p>19 Practice.</p> <p>20 Can you make sure that we are provided with copies</p> <p>21 of that or those documents, please, Mr Cheng.</p> <p>22 A. Yes.</p> <p>23 Q. Then at (b) we see reference to the requirement that he:</p> <p>24 "... ensure that the deckhands under his control</p> <p>25 fully comply with the approved operating and working</p>	<p>1 Do you understand that to mean that the coxswain is</p> <p>2 required "to initiate the demonstrations of safety</p> <p>3 equipment and procedure by crew member to passengers" on</p> <p>4 each trip?</p> <p>5 A. Because each year, the licence will only be renewed</p> <p>6 after approval by a surveyor of the Marine Department.</p> <p>7 And during the renewal of such permit, the coxswain,</p> <p>8 together with his crew, needs to demonstrate to the</p> <p>9 officer the use of safety equipment and how they deal</p> <p>10 with emergencies and fire.</p> <p>11 THE CHAIRMAN: I think what Mr Beresford had in mind was the</p> <p>12 first part of that direction: "To initiate the</p> <p>13 demonstrations of safety equipment and procedure by crew</p> <p>14 member to passengers". The question is, was that</p> <p>15 something he was required to do on each voyage, or</p> <p>16 otherwise?</p> <p>17 A. Not on every trip, but on the last Friday of each month</p> <p>18 the coxswain would instruct the crew to demonstrate to</p> <p>19 the passengers on that day as to how to use the safety</p> <p>20 equipment, and the procedure.</p> <p>21 THE CHAIRMAN: That specific requirement to be done on the</p> <p>22 last Friday of each month, was that documented, written</p> <p>23 down?</p> <p>24 A. I am not sure, but I can go back and check. But</p> <p>25 I believe that I have seen similar requirements.</p>
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<p>1 procedure."</p> <p>2 A. Yes, correct.</p> <p>3 Q. Is that a document in writing, the "operating and</p> <p>4 working procedure"?</p> <p>5 A. Yes.</p> <p>6 Q. Could you please provide a copy of that as well?</p> <p>7 A. I believe that this document is already attached the</p> <p>8 statement of our marine officer.</p> <p>9 Q. Very well. Perhaps that could be checked.</p> <p>10 A. (In English) Preliminary one.</p> <p>11 THE INTERPRETER: Sorry.</p> <p>12 A. In his preliminary statement.</p> <p>13 MR BERESFORD: Thank you. Then, the coxswain is required:</p> <p>14 "To check and record that all safety equipment is</p> <p>15 provided in accordance with the schedule for the vessel</p> <p>16 to which he is assigned."</p> <p>17 A. Yes, he was required "to check and record all safety</p> <p>18 equipment is provided in accordance with the schedule</p> <p>19 for the vessel to which he is assigned", correct.</p> <p>20 Q. At (d), he is required:</p> <p>21 "To initiate the demonstrations of safety equipment</p> <p>22 and procedure by crew member to passengers ..."</p> <p>23 A. (Chinese spoken).</p> <p>24 Q. Then it goes on to refer to Marine Department surveyors.</p> <p>25 Can you help me with that paragraph, please, Mr Cheng?</p>	<p>1 THE CHAIRMAN: Thank you. If you'd be kind enough, again,</p> <p>2 to check that for us. And if you find something, please</p> <p>3 produce it.</p> <p>4 A. Okay.</p> <p>5 MR BERESFORD: Mr Cheng, can you tell us, please, how you</p> <p>6 ensured that these duties at (a), (b), (c) and (d) were</p> <p>7 complied with?</p> <p>8 A. First of all, the vessels need to be renewed each year</p> <p>9 with the approval of the surveyor of the Marine</p> <p>10 Department. So every year, the coxswain and crew</p> <p>11 members would demonstrate how they deal with emergency</p> <p>12 and fire.</p> <p>13 Each week, we require our crew members to</p> <p>14 participate in a drill for emergencies and fire, and</p> <p>15 they were required to fill in and sign a list.</p> <p>16 Personally, I am a frequent traveller on these</p> <p>17 vessels. I have worked in the company for more than</p> <p>18 32 years, and every day I take these ferries. So myself</p> <p>19 and my colleagues of the management could see how they</p> <p>20 drive the vessel every day, which was part of the work</p> <p>21 of the marine section. And we also see part of its</p> <p>22 operation.</p> <p>23 Just an amendment. I have worked in the company for</p> <p>24 33 years, and have worked in the Lamma Island Power</p> <p>25 Station for more than 32 years.</p>

<p style="text-align: right;">Page 25</p> <p>1 Q. So, Mr Cheng, are you saying you personally have 2 witnessed the monthly "demonstrations of safety 3 equipment and procedure by crew member to passengers"?</p> <p>4 A. I have seen how they demonstrate the donning of the life 5 jackets, every month. I have seen that many times, 6 because they do that every month.</p> <p>7 Q. The problem with this monthly arrangement is that it 8 doesn't afford a demonstration of the safety equipment 9 and procedures to occasional passengers such as were 10 travelling on the Lamma IV that night, does it?</p> <p>11 A. I agree, but there is a diagram demonstrating the 12 donning of the life jacket on board the vessel, and also 13 on that night we had many colleagues who participated as 14 the working group, bringing the family members to 15 participate in the event.</p> <p>16 Q. But there was no demonstration, was there?</p> <p>17 A. Yes, there was no demonstration on that night.</p> <p>18 Q. Just going back to paragraph 2.3(b) of the coxswain's 19 employee job specification. We've now located the 20 approved operating and working procedure. Perhaps you 21 can confirm that's what it is.</p> <p>22 This is in the documents received from Reed Smith 23 Richards Butler at page 298.</p> <p>24 A. This is the English version, but the original document 25 is in Chinese.</p>	<p style="text-align: right;">Page 27</p> <p>1 Q. What procedures do you have for disseminating these 2 standard operation models, and do you have any means of 3 checking whether the recipient actually reads them?</p> <p>4 A. Initially, each colleague was required to sign the 5 documents to signify that they had read such documents. 6 But as time goes by, the documents relating to the 7 operation are so voluminous that it makes administration 8 of such requirement impossible. So it came to be 9 disseminated by computer, and a hard copy was posted in 10 a specific location of each department. And the 11 colleagues were no longer required to sign, to prove 12 that they have seen such document.</p> <p>13 In the middle of last year, we noted this problem 14 and so we required our safety section to highlight the 15 major amendments done to these instructions every 16 half-year, so that the colleagues will be alerted about 17 the amendments of such instructions every half-year.</p> <p>18 Q. Thank you. We've also heard -- in fact I think the 19 illiterate crew member that we heard from was 20 subcontracted from Hong Kong &amp; Kowloon Ferry.</p> <p>21 A. The contracted crew of the Hong Kong &amp; Kowloon Ferry was 22 responsible for the operation of part of our ferries.</p> <p>23 Q. Yes. And my question is, how do you ensure that your 24 procedures and instructions are communicated to 25 subcontracted crew?</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. Thank you. Yes, I see this is headed "Free RSRB English 2 Translation". Perhaps the original is the document 3 commencing at page 277?</p> <p>4 A. Correct.</p> <p>5 Q. This is called the standard operation model?</p> <p>6 A. Yes, this document relates to the standard operational 7 model of the coxswain.</p> <p>8 Q. Yes. Well, it's the coxswain's job description we're 9 looking at at the moment.</p> <p>10 Just to help you there, we've also got one for the 11 engineer. The Chinese is at page 326, and the English 12 translation at page 334.</p> <p>13 A. Correct.</p> <p>14 Q. Then there's one for the deckhand at page 346, with the 15 English translation at page 358.</p> <p>16 A. Correct.</p> <p>17 Q. One of the deckhands we've heard from is illiterate; did 18 you know that?</p> <p>19 A. I know that he has given evidence, but I didn't know 20 that he is illiterate.</p> <p>21 Q. So do you have any means of accounting for communicating 22 these instructions to such people?</p> <p>23 A. They have regular meetings in which they would discuss 24 relevant guidelines or any incident that took place at 25 that time.</p>	<p style="text-align: right;">Page 28</p> <p>1 A. In fact all the contracted crew members had to be 2 examined before they would be allowed to operate our 3 vessels. Every time a contracted crew was sent to 4 operate our vessels, our colleagues of the marine 5 section would conduct an examination on them and 6 actually observe them when they operate the vessel, to 7 make sure that their skills and response are in 8 compliance with our requirement, before they would 9 allowed to operate our vessels.</p> <p>10 THE CHAIRMAN: I think the perhaps more specific --</p> <p>11 A. This is done on the first or second time they operate 12 the vessel.</p> <p>13 THE CHAIRMAN: The more specific question is this: was the 14 operation model that your company had, and we've seen 15 the coxswain's version, communicated to contracted crews 16 that came from Hong Kong &amp; Kowloon Ferry or not?</p> <p>17 A. There is a copy of this operation model posted in the 18 office of the pier. But as to how the colleagues of the 19 marine section relate these requirements to the 20 contracted crews, I have no personal knowledge. But 21 these contracted crews do use the office at the pier.</p> <p>22 THE CHAIRMAN: This is something that perhaps Mr Tang Wan-on 23 could help us with?</p> <p>24 A. He would certainly have more detailed knowledge on this, 25 in this aspect, than myself.</p>

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<p>1 THE CHAIRMAN: Thank you. 2 Mr Beresford, do we have the job description 3 information in respect of Mr Tang Wan-on that we have, 4 for the category of coxswain that we've been looking at? 5 MR BERESFORD: We've got a statement from Mr Tang Wan-on, so 6 I have to check that. It's not in this particular 7 bundle. 8 THE CHAIRMAN: Thank you. 9 Mr Grossman, perhaps you can help us. 10 MR GROSSMAN: I'm afraid -- I'll let you know immediately 11 after the break. I can't tell you off-hand. 12 THE CHAIRMAN: Thank you. 13 MR BERESFORD: Mr Chairman, I have, of course, asked the 14 witness to produce the job descriptions of the staff 15 higher than the coxswain. 16 THE CHAIRMAN: Yes. 17 MR BERESFORD: We have these three from the crew. 18 Unless I tell you we've found a copy, perhaps if you 19 could produce copies for us, that would be very helpful. 20 THE CHAIRMAN: Do you follow that, Mr Cheng? 21 A. (Witness nods). 22 THE CHAIRMAN: Mr Tang Wan-on's job description in 23 particular is one that we would be assisted by. 24 A. Yes, I understand. 25 COMMISSIONER TANG: Can I seek some clarification from</p>	<p>1 operating under the version of the year 2003. 2 THE CHAIRMAN: Thank you. 3 MR BERESFORD: Just looking at the standard operation model 4 for the coxswain, which in English commences at 5 page 298, but if you wish to follow the Chinese, it 6 commences at page 277, we see some general -- looking at 7 the English, but if perhaps the Chinese can be shown on 8 the screen. On the third page of the document, page 300 9 of the English translation, it gives some general 10 statements of the purpose, qualification and training, 11 responsibility, and procedure. 12 On the next page, Mr Commissioner Tang has already 13 read from the preamble. On the next page after that, it 14 gives logbook and course direction instructions. 15 Pausing there, Mr Cheng. As far as I know, I've 16 seen a logbook for September in relation to Lamma IV, 17 but none in relation to 1 October. Have you seen one? 18 A. I haven't seen that. I suspect that that logbook was on 19 board the vessel. 20 Q. On the next page, we see course directions, including at 21 the bottom "Lamma Power Station to Central", first leg 22 "Passenger pier to Shek Kok Tsui 000 degrees true course 23 direction". 24 On the next page, we see a daily ferry maintenance 25 routine detailing checks to be made of the machinery on</p>
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<p>1 Mr Cheng in terms of the number of vessels. He 2 mentioned in his statement that there are three 3 company-owned vessels. But if you look at page 301, the 4 preamble -- perhaps this has not been updated, but it 5 says quite clearly here: 6 "... we have four air-conditioned ferries each with 7 a passenger-carrying capacity of over 200, navigating at 8 a speed of 15 nautical miles. One of the ferries can 9 even reach 25 nautical miles. There are also two 10 pleasure vessels providing service to the company." 11 Can Mr Cheng clarify whether this information has 12 been updated, or whether there is anything which he has 13 not let the Commission know? 14 A. It has not been updated. In the year 2003, we had four 15 vessels that had a passenger capacity of about 200 16 people. But two of them are not in service anymore. 17 And there is only one pleasure boat left. 18 COMMISSIONER TANG: Thank you. 19 THE CHAIRMAN: If one looks at the document, page 300, top 20 right-hand corner, it's described as having an effective 21 date of 1 January 2003, and revised on no occasions. Is 22 that the position, that it remained unchanged for 23 10 years? 24 A. Yes, because we haven't purchased any new vessels for 25 10 years. So the vessels which are still operating are</p>	<p>1 deck, including life-saving apparatus, and every week to 2 check life jackets. 3 On the next page, there is a heading "Navigation 4 safety and navigation in fog". A reference to the 5 International Regulations for Preventing Collisions at 6 Sea. 7 In the summary in the next section underneath is a 8 reference to the requirement for coxswains always to 9 maintain an arrangement for an official look-out. 10 A further reference to actions for the preventions 11 of collision at page 308 of the English translation, and 12 instructions for radar operation two pages further on. 13 And so it goes on, in some detail. 14 I understand that these have been prepared by 15 Mr Tang, so perhaps we should go through this in more 16 detail with Mr Tang. But my main question of you is how 17 you ensure that all these directions are complied with? 18 A. It is Mr Tang's responsibility to ensure compliance with 19 these. 20 THE CHAIRMAN: Very well. We'll take our morning break now 21 Mr Cheng, we're going to take a break for 22 20 minutes. We'll resume at 11.55 by the clock at the 23 back of the hearing room. Thank you. 24 (11.35 am) 25 (A short break)</p>



<p style="text-align: right;">Page 33</p> <p>1 (11.57 am) 2 THE CHAIRMAN: Yes, Mr Grossman. 3 MR GROSSMAN: Mr Chairman, you did ask me if we had 4 Mr Tang's job description. We can get it, but it's not 5 in the bundles. 6 THE CHAIRMAN: Thank you. If you would be so kind as to 7 get it. 8 MR GROSSMAN: We shall. 9 THE CHAIRMAN: And the operation model for his position; 10 that is, marine officer. 11 MR GROSSMAN: Yes. We have a list of matters that are 12 required. 13 THE CHAIRMAN: Thank you. 14 Yes, Mr Beresford. 15 MR BERESFORD: Thank you, Mr Chairman. 16 We were at paragraph 7 of your statement, Mr Cheng, 17 looking at the marine section's responsibilities, and 18 that had led us into these standard operating 19 procedures. 20 We've looked at the organisation chart of the marine 21 section that you've produced, and we've seen the people 22 involved there. You mentioned that the marine officer, 23 Mr Tang Wan-on, was assisted by Mr Johnson Chan, the 24 marine supervisor, who has since left. But can you 25 please tell us broadly what his responsibilities were?</p>	<p style="text-align: right;">Page 35</p> <p>1 You then go on to address the subject of crew roster 2 and training. And you explain that the marine section 3 employs four teams of three crew members -- coxswain, 4 engineer and deckhand. If we look at the chart at 5 appendix 1, we can see how that works, can we not? 6 Page 169. 7 A. Correct. 8 Q. So we've got four coxswains, four engineers and four 9 deckhands? 10 A. Correct. 11 Q. But we've heard, Mr Cheng, that the licence for the 12 Lamma IV requires a minimum manning of four crew. Were 13 you aware of that? 14 A. Yes, I'm aware of that. 15 THE CHAIRMAN: Could we have that on the screen, please, the 16 licence with that requirement? 17 MR BERESFORD: Certainly, Mr Chairman. 18 Marine bundle 1, page 114. I'm grateful to my 19 learned friend Mr Zimmern. 20 Under Part 2, item 1: 21 "Crew requirement and carrying capacity: Minimum No. 22 ... 4". 23 We've seen a similar requirement on the annual 24 survey certificates. 25 Does that not mean, Mr Cheng, that the Lamma IV was</p>
<p style="text-align: right;">Page 34</p> <p>1 A. Mr Chan was the marine supervisor. He was responsible 2 in arranging, providing the duty roster and supervising 3 all the crews, and also helping Mr Tang in his daily 4 operation. For example, the provision of the operation 5 regulation and guidelines. Apart from the two vessels, 6 many -- because there -- apart from the two vessels, 7 since there are a lot of colleagues who work in Lamma 8 Island, so our company also deployed vessels from 9 subcontractors. So he is also responsible for liaising 10 with these subcontractors on the number of vessels 11 needed. 12 Q. Thank you. 13 THE CHAIRMAN: That was for the purpose of transporting 14 employees to work at the Lamma Power Station? 15 A. Yes. But these two vessels are only enough to transport 16 the employees to and from their office, from Ap Lei Chau 17 to Lamma Island. In addition to this, we also need to 18 subcontract vessels for transporting colleagues from 19 Tsim Sha Tsui and Central to Lamma Island for work. 20 THE CHAIRMAN: Thank you. 21 MR BERESFORD: So, Mr Cheng, you then refer us to the 22 witness statement of Mr Tang Wan-on as regards the 23 detail of how these two launches, Lamma II and Lamma IV, 24 are routinely operated, and we are of course expecting 25 to hear from Mr Tang in due course.</p>	<p style="text-align: right;">Page 36</p> <p>1 consistently sailed in breach of its licence and survey 2 requirements? 3 A. I need to provide a detailed explanation to this 4 question. Before the year 2007, there was no minimum 5 requirement as to the crew capacity for Lamma II and 6 Lamma IV. After the year 2007, the minimum requirement 7 stipulated for Lamma II and Lamma IV was two. But even 8 when the minimum requirement for each vessel was only 9 two crew members, we had operated the vessel with three 10 crew. 11 But after the year 2008, the minimum requirement for 12 Lamma IV suddenly increased from two crew members to 13 four. As for Lamma II, the minimum requirement for crew 14 members has all along been two, even until today. When 15 the minimum requirement for Lamma IV changed from two to 16 four crew members, we held an internal meeting to 17 discuss as to how to deal with such change. 18 We also approached the Marine Department to ask why 19 there was such a drastic increase to the effect that the 20 minimum requirement has doubled. But we have got no 21 positive answer. One feasible solution to this is to 22 reduce the number of crew members for Lamma II from 23 three to two, and increase the number of crew members 24 for Lamma IV to four. But after discussion, we decided 25 that this is not an acceptable solution, because we have</p>

<p style="text-align: right;">Page 37</p> <p>1 done an assessment and decided that three crew members 2 are needed to operate such vessels. Even for the 3 vessels that are contracted, the vessels with 4 a passenger capacity of 200 people that belong to the 5 contractors, we see that their minimum crew requirement 6 was only two crew members. 7 We have also checked the provisions in the ordinance 8 of Hong Kong and realised that the definition of "crew" 9 refers to the coxswain or any other person who is 10 employed to deal with -- 11 A. (In English) "Employed or engaged" -- 12 A. Employed or engaged on matters -- 13 A. (In English) -- "in any other capacity on board a local 14 vessel on the business of the vessel." 15 A. After studying into the matter, we came up to an option 16 of drastically reducing the frequency of the Lamma IV to 17 only two trips in the morning, during rush hour, and 18 also during rush hour after work. 19 During the trips in the morning and at dusk, in fact 20 the marine officer and marine supervisor of the marine 21 section were also on board the vessel. So they formed 22 the fourth crew member. And if Lamma IV is needed to 23 operate, the fourth crew member will be presented by the 24 engineer of the material handling section, or 25 a designated foreman appointed by him.</p>	<p style="text-align: right;">Page 39</p> <p>1 A. I don't remember other people attending the meeting, 2 because that meeting was not particularly targeted in 3 dealing with this matter. It was in fact a routine 4 meeting, and that issue was only raised by our chief 5 material engineer. 6 MR BERESFORD: Was the meeting minuted? 7 A. I'm not sure whether it was minuted, but this was 8 a regular meeting that was conducted on Monday, 9 Wednesday and Friday mornings in order to deal with any 10 sudden matter or any matters that warranted immediate 11 action. There were no minutes for such meetings, but 12 there is an action list. But I'm not sure whether this 13 matter was recorded -- 14 THE INTERPRETER: Sorry. 15 A. I'm not sure whether this matter, or the solution, was 16 recorded in the action list. 17 MR BERESFORD: Would you mind, please, adding that to your 18 shopping list and checking, and if it is mentioned in 19 the action list, could you please produce a copy of that 20 action list to the Commission. 21 A. Yes. 22 THE CHAIRMAN: Mr Grossman, may I ask that those enquiries 23 are begun now. 24 MR GROSSMAN: Yes, they will be. 25 THE CHAIRMAN: Thank you.</p>
<p style="text-align: right;">Page 38</p> <p>1 As for the arrangement on 1 October, we know that 2 a colleague from the employee wellness team of the 3 personnel section who organised the fireworks show would 4 certainly be on board the vessel as one of the members 5 of the working group, and was also assisted by some 6 members, some colleagues from the generation department. 7 On that night, eight of them had been sent from the 8 generation department to follow the event. One of these 9 eight colleagues has ocean-going experience. But 10 unfortunately, three out of these eight colleagues have 11 passed away in this tragedy. In accordance to our usual 12 practice, our company has regarded them as having passed 13 away on duty. 14 In fact, the number of staff on board the vessel on 15 that night far exceeded the minimum requirement of crew 16 members, and it was also in compliance with the Hong 17 Kong -- with the regulations. 18 Q. Is that the complete explanation, Mr Cheng? 19 A. Yes. 20 Q. Mr Cheng, can you please tell us when that internal 21 meeting took place and who attended? 22 A. I can't recall when the meeting was held, but Mr Leung, 23 the chief material handling engineer, was present in the 24 meeting. 25 THE CHAIRMAN: Who else was present?</p>	<p style="text-align: right;">Page 40</p> <p>1 MR BERESFORD: While you're at it, could you also please 2 check to see whether this decision is reflected or 3 evidenced in any email or other document. 4 A. Yes. 5 Q. If so, please produce that to the Commission. 6 Now, you say as regards the night in question, 7 a colleague from the employee wellness -- 8 THE CHAIRMAN: Before you move on to that. 9 You indicated that enquiries were made of the Marine 10 Department as to why the minimum number of crew had been 11 doubled, and you said no positive answer was obtained. 12 How were those enquiries made? 13 A. A verbal enquiry was made by Mr Tang to the staff of the 14 Marine Department. 15 THE CHAIRMAN: By that you mean oral, spoken enquiry? 16 A. Yes. 17 THE CHAIRMAN: Nothing documented about that in writing, or 18 was there? 19 A. No. 20 THE CHAIRMAN: And when you say no positive response was 21 obtained, what was the response, as you understood it? 22 A. Mr Tang told me that they said, "This is the way it is", 23 but they did not provide any reason. 24 THE CHAIRMAN: Was the board of directors of the company 25 informed of this issue, the changing of the minimum</p>

<p style="text-align: right;">Page 41</p> <p>1 number of crew required, the meeting, the decision that 2 was taken, the enquiries made of the Marine Department, 3 any of those matters? 4 A. No, because I am of the opinion that such a matter could 5 be dealt with on my level. 6 THE CHAIRMAN: That was your decision, then? 7 A. Yes, this is my decision. 8 THE CHAIRMAN: Thank you. 9 MR BERESFORD: Mr Cheng, you said that a colleague from the 10 employee wellness team was going to be on board the 11 Lamma IV on the night of the accident. 12 A. Yes. 13 Q. And that you regarded him as making up the complement of 14 four required by the licence? 15 A. Our opinion is that we had certainly more than one staff 16 member on board the vessel, and hence the minimum 17 requirement of four persons would certainly be complied 18 with. 19 Q. But did you inform any of those staff that they were 20 engaged on the business of the vessel that night? 21 A. We didn't directly tell them that they would be involved 22 in the business of the vessel, but we did tell them that 23 they would be one the -- they would form a member of the 24 working group on the vessel during the whole day. 25 Q. But they weren't on the vessel for the whole day, were</p>	<p style="text-align: right;">Page 43</p> <p>1 documents in writing -- participation to the event -- 2 has stated clearly that the employees, their family 3 members and friends need to obey the instructions of the 4 crew members. 5 A. (In English) Working party. 6 A. Of the working group, the members of the working group, 7 and they are also regarded as one of the members of the 8 working group. Also, on board the Lamma IV, Mr Lai, who 9 was a staff member of the personnel section, had given 10 instruction to the coxswain to set sail because all the 11 participants are there. He went to the wheelhouse to 12 give this instruction. If he was not a member of the 13 working group, he wouldn't have gone inside the 14 wheelhouse. 15 Q. Mr Cheng, you say in your statement: 16 "All the crew members in the marine section have had 17 long service with the company, being with [the company] 18 from around 18 to 30 years, and they are intimately 19 familiar and experienced with the operations of the 20 company launches." 21 Do you remember that? 22 A. Yes. 23 Q. That statement doesn't apply to Mr Lai, does it? 24 A. As I have said, the fourth crew member was responsible 25 for maintaining the discipline and order on board the</p>
<p style="text-align: right;">Page 42</p> <p>1 they? They were touring Lamma Power Station. 2 A. We told them that they were regarded as a member of the 3 working group, no matter whether they were guiding the 4 employees, their families and friends, on their tour to 5 the power station and the wind turbine in Tai Ling, and 6 whether they are on board the vessel. They are still 7 regarded as a member of the working group of the event. 8 THE CHAIRMAN: Did you tell any of them that they were going 9 to be crew members that night? 10 A. We didn't say so. 11 MR BERESFORD: Did you give any of them the standard 12 operation model for crew engineer or deckhand? 13 A. No. 14 Q. We've heard from the two group leaders that they were 15 organising games on Lamma II and Lamma IV. Can you 16 explain how they were supposed to know that they should 17 be doing things like keeping a look-out, for example? 18 A. We are of the opinion that the three crew members are 19 enough to deal with all the matters on board the 20 vessels, and so the fourth crew member would be 21 responsible in helping to maintain order and discipline 22 on board the vessel. There is an employee from the 23 personnel section who -- 24 THE INTERPRETER: Sorry. 25 A. The employee of the personnel section who issued the</p>	<p style="text-align: right;">Page 44</p> <p>1 vessel, and he was not required to deal with the normal 2 operation of the vessel. 3 Q. So he's not a crew member referred to in paragraph 11? 4 A. Yes, he is not one of them. 5 Q. So when you say "all the crew members", it doesn't 6 include Mr Lai? 7 A. I agree. In fact, "the crew members" referred to the 8 crew listed in my appendix 1. 9 Q. In other words, three of them? 10 A. Yes, because in paragraph 11 it is stated, "All the crew 11 members in the Marine Section". 12 Q. So when you say "they do not require frequent 13 re-training", you don't include Mr Lai in that 14 statement? In fact, he didn't have any training, did 15 he? 16 A. Yes. I would like to reiterate that the members of the 17 working group on board the vessel were responsible for 18 maintaining the order and discipline of the passengers. 19 Q. So when you say "The company pays for external training 20 courses ... and allows time-off for crew members to 21 attend", that doesn't include Mr Lai or indeed any of 22 the other members of the working group, does it? 23 A. In fact the policy of our company is that they would pay 24 for and grant time off for the employees for attending 25 any courses. It's only that the members of the working</p>

<p style="text-align: right;">Page 45</p> <p>1 group did not attend these courses as a crew member. 2 Q. Yes. They weren't trained as crew, were they? 3 A. One of the members of the working group had maritime 4 experience, and he had also participated in similar 5 training for crew members. Other members have also 6 attended similar training in regard to the safety on 7 board the vessel. 8 Q. Do you have records of their attendance at training 9 courses, maritime safety training courses? 10 A. I can retrieve this information. But some of these 11 training courses are not specifically intended -- are 12 not focused on maritime issues, but they did cover the 13 operation procedure of these equipments, like fire 14 extinguisher, the operation of fire extinguisher. 15 Q. But I'm asking you about maritime safety, Mr Cheng. In 16 fact you've produced today a revised appendix 2 which 17 I think you said was a complete list of training records 18 of the marine section. So can we please have a look at 19 that. 20 A. These records refer to the records pertaining to the 21 three crew members on board Lamma IV. 22 Q. We have here a list of training courses for Mr Chow 23 Chi-wai, Mr Leung Tai-yau and Mr Leung Pui-sang, and 24 no-one else? 25 A. No.</p>	<p style="text-align: right;">Page 47</p> <p>1 I am able to provide you the names of these eight 2 members. 3 Q. Yes. Please do. 4 A. Among them were two ladies. One of them was Leong 5 Wai-mei, who was responsible for coordinating with the 6 human resources section on behalf of the generation 7 division. Another lady is Madam Wong Yee-yi. She took 8 along her family members and two kids, who passed away 9 in the tragedy, unfortunately. 10 On the upper deck, there was Mr Chan Yuen-ki who 11 tended the event alone as a working group member. Also 12 on the upper deck was Mr Chan Wing-hang, who had 13 maritime experience. 14 I would like to make an amendment. Madam Wong 15 Yee-yi was in the main deck. There were four people on 16 the upper deck. They included Mr Lai, Madam Leong 17 Wai-mei, Mr Chan Yuen-ki and Mr Chan Wing-hang. 18 There were four other working group members on the 19 main deck apart from Madam Wong Yee-yi. Three of them 20 have passed away. They include Mr Koo Man-cheung, 21 Mr Hui Ka-wai, and Mr Leung Ka-kit. The fourth one was 22 Mr Lin Ka-wang, who was injured. 23 There were altogether nine working group members. 24 Q. So, Mr Lai was, as you've said, a colleague from the 25 employee wellness team. That's in the human resources</p>
<p style="text-align: right;">Page 46</p> <p>1 MR GROSSMAN: I'm sorry, is it suggested we should provide 2 a list of training courses for everybody? We can do it, 3 I just wonder what the relevance is to this Inquiry. 4 THE CHAIRMAN: I'm not sure whether that is being suggested, 5 Mr Grossman. 6 MR GROSSMAN: Very well. 7 THE CHAIRMAN: But I understand why you'd be perplexed if it 8 was. 9 MR BERESFORD: Mr Cheng, in your original appendix 2, you 10 appear to have a number of other names listed in the 11 training records of the marine section. 12 A. Yes, the original document included a list of the record 13 of the attendance of safety courses by members that are 14 being employed, present employees, and those who have 15 left the marine section. 16 Q. Can you show us if any of the eight group members are 17 included in that list? 18 A. Not in this list. 19 Q. Mr Cheng, the colleague from the employee wellness team 20 on board Lamma IV, that was Mr Lai; is that right? 21 A. Yes. 22 Q. And do you know the names of the other seven who you say 23 were included in this group of eight? 24 A. In fact the generation division has sent eight members, 25 and so it makes up nine members including Mr Lai, and</p>	<p style="text-align: right;">Page 48</p> <p>1 division, is it not? 2 A. Yes. 3 Q. And the other eight were all from the generation 4 division, but not from the marine section or employed by 5 the marine section; is that right? 6 A. Agree. 7 Q. Were these all the staff, the other passengers being 8 family and guests? 9 A. No, because according to our arrangement, one colleague 10 is only allowed bring along three family members or 11 friends. So there are employees of other companies on 12 board the vessel on that -- 13 A. (In English) Other divisions. 14 A. -- of other divisions, employees of other divisions on 15 board the vessel on that night. And in this tragedy, 16 our company has lost seven colleagues. Three of them 17 were among the working group members, and four members 18 were participants from other divisions, other companies. 19 A. (Chinese spoken). 20 THE CHAIRMAN: Mr Cheng, please don't hold a private 21 conversation with the interpreter. You have to speak so 22 that everyone can follow what it is you are saying. 23 A. (In English) Sorry, I have to make an amendment. 24 THE CHAIRMAN: By all means do it, but do it so that 25 everyone can hear.</p>

<p style="text-align: right;">Page 49</p> <p>1 A. (In English) Sorry. 2 A. In fact the employees who participated in this event 3 included employees from other divisions, and also 4 employees from the generation division. But they did 5 not participate as members of the working group. 6 THE CHAIRMAN: I think Mr Beresford's question was, were the 7 nine group members all employees of Hongkong Electric? 8 A. Yes. 9 THE CHAIRMAN: Thank you. 10 MR BERESFORD: Mr Cheng, you give us an idea of the working 11 hours of crew members and you say that crew members are 12 required to work 168 hours in four weeks; that is -- 13 THE CHAIRMAN: Are you moving on to another topic? 14 MR BERESFORD: It's still contained in this section, but 15 yes, Mr Chairman, if that's ... 16 THE CHAIRMAN: Mr Cheng, did you regard the Marine 17 Department's change in the minimum crew required for 18 Lamma IV, apparently after 2008, as being unfair? 19 A. We didn't know the reason as to why such change was 20 made, nor did we receive any answer as to the reason for 21 such change. But when we compared the requirement, this 22 requirement with Lamma II and the other vessels that 23 travel in the harbour, we couldn't understand the reason 24 for such change. 25 THE CHAIRMAN: Did you regard it as unfair?</p>	<p style="text-align: right;">Page 51</p> <p>1 number has to be increased, did you ever consider 2 writing to them to seek further clarification? 3 A. Personally, I have considered doing this and in fact 4 I have discussed with Mr Leung, the chief material 5 handling engineer, as to whether we should issue 6 a formal letter in writing to enquire of the Marine 7 Department on this issue. But other colleague 8 colleagues in the department discouraged us to do this, 9 because they believed that this would aggravate the 10 working relationship between us and the Marine 11 Department. 12 THE CHAIRMAN: Very well. We'll take the lunch adjournment 13 there. 14 Mr Cheng, we're going to adjourn now and we'll 15 resume this afternoon at 2.30. Just let me remind 16 everyone that at some time shortly before 4 o'clock 17 today, we will be rising because this afternoon is the 18 opening-of-the-legal-year ceremonies. 19 So, 2.30 this afternoon. 20 (1.04 pm) 21 (The luncheon adjournment) 22 (2.30 pm) 23 THE CHAIRMAN: Mr Beresford? 24 MR BERESFORD: Mr Chairman, I understand that some progress 25 has been made over the luncheon adjournment. We have</p>
<p style="text-align: right;">Page 50</p> <p>1 A. The reason why we think it is unfair is because they 2 didn't give us the reason. 3 THE CHAIRMAN: So you did regard it as unfair? 4 A. This is our prima facie opinion. 5 THE CHAIRMAN: Did you consider hiring another deckhand so 6 that you would have four sailors on board, on Lamma IV? 7 A. We did consider this option, but since we did not know 8 the reason for such change, so we had resorted to the 9 arrangement that I explained this morning, in order to 10 comply with the Ordinance. 11 THE CHAIRMAN: What is the monthly salary of a deckhand? 12 A. In our company, their salary is between 16,000 to 13 18,000. 14 THE CHAIRMAN: Did you inform the Marine Department of what 15 you call "the arrangement" that you decided to pursue 16 rather than hiring another deckhand? 17 A. The employment of an extra deckhand involved not only 18 one, but because the operation is on a 24-hour basis, so 19 we needed to work on a more detailed computation in 20 order to find out how many deckhands, extra deckhands, 21 are needed in total. And we didn't inform the marine 22 Department of this arrangement because we believed that 23 we were able to comply with the stipulation. 24 COMMISSIONER TANG: Mr Cheng, apart from asking verbally 25 from the Marine Department as to the reason why the</p>	<p style="text-align: right;">Page 52</p> <p>1 the health and safety policy, which I will show the 2 witness in a moment. 3 THE CHAIRMAN: Yes. Has that been paginated? 4 MR BERESFORD: No, not yet. 5 We have the three sample life jackets, the old strap 6 type, the new buckle type, and the child's life jacket. 7 All of the other documents that have been requested 8 I understand have been provided and are in the process 9 of being printed and copied. They're not yet available 10 in soft or hard copy. 11 THE CHAIRMAN: Very well. May I see the buckle life jacket, 12 please. (Handed). 13 Mr McGowan, perhaps you would identify which one 14 goes by the euphemism "buckle". 15 MR McGOWAN: Yes. That one has a buckle, sir, and this one 16 has a buckle. One of them is a child's life jacket and 17 it's marked "child's life jacket". 18 THE CHAIRMAN: It's a bayonet fitting? 19 MR McGOWAN: Yes, that would probably be a more accurate 20 description. 21 THE CHAIRMAN: Can I ask that it be opened up, please? Give 22 it to Mr McGowan. 23 This is the fitting that's like Neptune's harpoon, 24 that goes male fitting into the female buckle? 25 MR McGOWAN: Yes. That's probably easier to fit together</p>

<p style="text-align: right;">Page 53</p> <p>1 than the buckle itself. 2 THE CHAIRMAN: Certainly. That's why I'm curious it's 3 described as a buckle. 4 Perhaps that could be given to the Secretary to the 5 Commission so that photographs can be taken. 6 MR McGOWAN: Yes, certainly. 7 THE CHAIRMAN: And the third version is the one with tapes? 8 MR McGOWAN: Yes, the ones that were being used at the time 9 of the -- 10 THE CHAIRMAN: Is there an example of one of those here? 11 MR McGOWAN: There is. It will be with us shortly. It's 12 just upstairs in the counsel room. 13 THE CHAIRMAN: Thank you. 14 Yes, Mr Beresford. So we have material, part of it 15 is the health and safety policy, and other material has 16 been made available? 17 MR BERESFORD: Yes. And the health and safety policy can be 18 viewed on the screen, I understand. 19 THE CHAIRMAN: Yes, I'm told it can. 20 Mr Cheng, you continue to give your evidence 21 according to your original affirmation. Do you 22 understand? 23 A. (Witness nods). 24 THE CHAIRMAN: Thank you. 25 MR BERESFORD: Mr Cheng, is this the health and safety</p>	<p style="text-align: right;">Page 55</p> <p>1 the International Maritime Organization to adopt safety 2 management systems, and that companies should designate 3 a person ashore who would have direct access to the 4 highest levels of management and provide a link between 5 the company and those on board the vessel? 6 A. I'm not aware of this, but all the vessels only operate 7 within the Hong Kong waters. And also, shipping is not 8 our main business. The vessels, the purpose of our 9 vessels, is only in supportive service, to carry our 10 colleagues to work and back from work. This is the main 11 responsibility of the marine section. 12 Q. Yes. What I was really interested in is whether the 13 highest levels of management in your firm take interest, 14 take an interest in safety management when you're 15 running vessels capable of carrying more than 200 16 persons per vessel. 17 A. They have a very deep concern about the safety on the 18 vessels. In fact, during the early period, our company 19 doesn't have our own vessels; we only deploy contracted 20 vessels to convey our colleagues to and from work. But 21 after an incident, the company decided to have our own 22 fleet and our own crew to be responsible for conveying 23 our colleagues to and back from work. 24 THE CHAIRMAN: When was this incident? 25 A. I believe that it took place in the 1980s.</p>
<p style="text-align: right;">Page 54</p> <p>1 policy you referred to this morning? 2 A. I would like to see the date. 3 THE CHAIRMAN: Yes, of course. 4 A. Yes. 5 MR BERESFORD: If we go on, we see the Chinese version. 6 A. Yes, correct. 7 Q. So this is, as the Chairman described, an aspirational 8 statement in general terms? 9 A. Yes, I agree. 10 Q. And there is nothing here specifically related to 11 maritime safety? 12 A. I agree, but if you refer to the third paragraph, that 13 which reads, "we will comply fully with all applicable 14 laws and regulations and strive to integrate health and 15 safety considerations into all aspects of our ... 16 activities", this implies that it is not confined to 17 maritime ordinance but any ordinance of Hong Kong that 18 is applicable. 19 Q. Yes, indeed. As I said, it's a general statement. 20 A. Yes, I agree. 21 Q. Mr Cheng, are you aware of the International Safety 22 Management Code that was produced by the International 23 Maritime Organization in 1993? 24 A. I have no personal knowledge of it. 25 Q. Were you aware at all that governments had been urged by</p>	<p style="text-align: right;">Page 56</p> <p>1 THE CHAIRMAN: And what was the nature of the incident? 2 A. In that incident, our colleagues travelled on a vessel 3 operated by contractors, and on that day the fog was 4 very heavy and the vessel got lost and ended up in 5 a place where they didn't know where it was. It was not 6 until later on that it was revealed that the vessel had 7 ended up in a place at the end of Lamma Island. 8 THE CHAIRMAN: Thank you. 9 MR BERESFORD: Do you have any recognised quality management 10 system whereby management exercises control over the 11 operation and maintenance of the vessels? 12 A. In the power station, the power station was operated in 13 accordance to 18001 of the OHSAN, and as for the 14 generation, electricity generation plant, the asset 15 management was done in accordance to the TAS-55 asset 16 management system. 17 A. (In English) It should be OHSAS. 18 THE INTERPRETER: I'm sorry. 19 A. The electricity factory was operated in accordance to 20 the OHSAS. 21 MR BERESFORD: So you have recognised quality management 22 systems for the management of the power station, but not 23 in relation to safety management for your vessels; is 24 that right? 25 A. There is no very clear-cut safety management provisions</p>

<p style="text-align: right;">Page 57</p> <p>1 in the safety management system, but in respect of the 2 safety of vessels, every year we have the annual 3 examination conducted by the Marine Department and also 4 a survey for the renewal of the licence. 5 Q. Yes, okay. Thank you. 6 I'm going to move on, then, Mr Cheng, to the next 7 topic you referred to in your statement, which is 8 working hours. You have informed us that to give 9 an idea of the working hours, crew members are required 10 to work 168 hours in four weeks; that is, on average, 11 42 hours a week, on a shift which typically lasts from 12 four to 12 hours. Is that right? 13 A. Correct. 14 Q. That's intended to ensure that each crew member is 15 well-rested for his shifts, with at least 12 hours of 16 rest between shifts, as well as the requisite number of 17 rest days; that is, continuous periods of 24 hours in 18 compliance with employment law requirements. 19 A. Correct. 20 Q. We touched upon training earlier when we were discussing 21 manning requirements, and I don't propose to repeat what 22 you told us then. But turning to radar, you've told us 23 that the marine officer, Mr Tang, being a qualified 24 radar instructor, in addition to his own experience with 25 service at sea, and training and qualifications, has the</p>	<p style="text-align: right;">Page 59</p> <p>1 THE CHAIRMAN: Thank you. 2 MR BERESFORD: The certificate is at page 371, Mr Chairman, 3 of the Reed Smith Richards Butler bundle. 4 THE CHAIRMAN: Perhaps we could have that on the screen. 5 MR BERESFORD: There we are, we have it. 6 So that's an operator instructors course that he has 7 completed. It states that he already holds 8 a certificate of radar observer. 9 A. Yes. 10 Q. Thank you, Mr Cheng. 11 THE CHAIRMAN: Is there some provision that mandates that 12 attendance at a course qualifies one? 13 Mr Mok, perhaps you can help. 14 MR MOK: I don't have a ready answer, but we will try. 15 THE CHAIRMAN: Thank you. 16 MR BERESFORD: Mr Chairman, the radar observer certificate 17 is on the previous page, page 370. 18 THE CHAIRMAN: Thank you. 19 MR BERESFORD: In further answer to your queries, 20 Mr Chairman, this of course is the Lamma IV and not 21 a public ferry like the Sea Smooth. Lamma IV's 22 certificate of operation doesn't require it to have 23 radar. So, strictly speaking, I don't believe there 24 will be a requirement for Mr Tang to hold any particular 25 radar operator certificate.</p>
<p style="text-align: right;">Page 58</p> <p>1 first line of responsibilities for in-house training to 2 your crew members; is that right? 3 A. Correct. 4 Q. And you've told us that all three crew members employed 5 by the marine section who were on Lamma IV had received 6 in-house radar training and other such courses. 7 A. Correct. 8 THE CHAIRMAN: Mr Beresford, do we have any documentary 9 evidence substantiating the statement that Mr Tang 10 Wan-on is a qualified radar instructor? 11 MR BERESFORD: I believe there is. It's not exhibited to 12 this statement. Appendix 2 is I believe intended to set 13 out training courses run by Mr Tang, but they don't 14 relate to Mr Tang's own qualifications. 15 THE CHAIRMAN: So the answer is "no"? 16 MR BERESFORD: I haven't checked Mr Tang's statement. 17 THE CHAIRMAN: Mr Grossman? 18 MR GROSSMAN: The answer is I'm not entirely sure. 19 THE CHAIRMAN: Thank you. Perhaps someone will come back to 20 that issue when the answer is known. 21 A. (In English) May I supplement? 22 THE CHAIRMAN: Yes, please do. 23 A. (In English) In fact, the qualifications of Mr Tang as 24 a radar operator instructor is attached to appendix 4 of 25 Mr Tang Wan-on's preliminary statement.</p>	<p style="text-align: right;">Page 60</p> <p>1 THE CHAIRMAN: No. But it's being asserted that he is so 2 qualified, and I just want to see the proof. 3 MR BERESFORD: Yes. All I'm suggesting is that this may be 4 as far as we can take it. In other words, there's no 5 statutory or regulatory requirement -- 6 THE CHAIRMAN: No, but this Commission is enjoined to make 7 recommendations. That's what I have in mind. 8 MR BERESFORD: Yes, Mr Chairman. 9 Mr Cheng, you've mentioned that the marine officer 10 has tailor-made a radar training manual in Chinese for 11 the marine crew and for training purposes, and copies of 12 the attendance records for the particular crew of 13 Lamma IV now have been produced at appendix 2, which 14 we've already seen this morning. 15 A. Yes, correct. 16 Q. Mr Cheng, you said when we were talking about manning 17 levels that you considered the number of crew required 18 to operate a vessel such as the Lamma IV. I just 19 wondered if you had ever considered whether it would be 20 sufficient to have one person on look-out on the deck; 21 one person looking at the radar, particularly on a fast 22 vessel or a relatively fast vessel, at night. 23 THE CHAIRMAN: Is this a question directed to Lamma II, 24 Lamma IV vessel? 25 MR BERESFORD: Generally.</p>

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<p>1 THE CHAIRMAN: And the question is? 2 MR BERESFORD: The question is whether they've ever 3 considered whether it's sufficient just to have one 4 person on the bridge as look-out, physical and radar. 5 THE CHAIRMAN: That person being the coxswain as well? 6 MR BERESFORD: Yes. 7 THE CHAIRMAN: Thank you. 8 A. (Chinese spoken). 9 THE CHAIRMAN: Perhaps you'll just pause there so the 10 interpreter can have a fair chance. 11 A. In fact, radar is not required according to the existing 12 regulations of the Marine Department, but it is our 13 company's goal to not only comply with the law, so we 14 provided a radar on each vessel. In fact, according to 15 the marine officer and some other crew members, when the 16 weather is fine, actually the radar is not needed. But 17 we make it mandatory for them to turn on the radar on 18 every trip so as to train them to get accustomed to 19 identifying the environment and the images on the radar. 20 And also, the coxswain has the responsibility to arrange 21 for appropriate look-out, because the crews work in 22 accordance to their order. 23 If the coxswain decided that two other crew were 24 needed to maintain a look-out, he has the full power to 25 deploy them to do so in the wheelhouse. Even after the</p>	<p>1 accordance with their plans and specifications, and that 2 they were inspected and approved by the Marine 3 Department. 4 A. Correct. 5 Q. You then explain the routine maintenance that the 6 company conducts, and you've produced a schedule at 7 appendix 3 of the relevant routine master plan. 8 A. Correct. 9 Q. I note that you say that this is for illustrative 10 purposes, that it's not exhaustive. 11 The third item down, I see the life jacket 12 demonstration. 13 THE CHAIRMAN: Which page are you looking at now? 14 MR BERESFORD: Page 254, appendix 3. 15 A. Correct. 16 Q. There are various other checks listed there, and then we 17 come -- 18 THE CHAIRMAN: Before we move on from that one. 19 "All Lamma marine launches: life jacket 20 demonstration on board Lamma launches." 21 Then the interval is said to be 30. Is that 22 30 days? Do you see, in the fourth column from the 23 left, the number "30"? 24 A. Yes, because our maintenance computer system computed it 25 on the basis of intervals. So once a month would be</p>
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<p>1 vessel has set sail, he can also slow down the vessel in 2 order that the crew could go up to the wheelhouse to do 3 the look-out. 4 Another point is that I don't think our vessel is 5 a speed craft, because the instruction we give to our 6 colleagues is that the speed of the vessel is 7 12 nautical miles per hour. If this is converted to 8 travel on land, it would be equivalent to 22 miles per 9 hour -- 10 A. (In English) Kilometres. 11 THE INTERPRETER: Sorry. 12 A. -- 22 kilometres per hour. So I don't think it is 13 a speed vessel. 14 MR BERESFORD: Thank you, Mr Cheng. I'm going to move on to 15 the next heading in your statement, which is 16 "Construction and Maintenance of Company Launches". 17 You've told us that the Lamma II, the Lamma IV and 18 the Lamma V were all built by Cheoy Lee Shipyards Ltd. 19 A. That's correct. 20 Q. In 1994, 1996 and 1998, respectively? 21 A. Yes, correct. 22 Q. You pointed out that Cheoy Lee Shipyards is a reputable 23 ship designer for these types of vessels. 24 A. Yes, correct. 25 Q. And you say you relied upon them to construct them in</p>	<p>1 equivalent to 30 days. 2 THE CHAIRMAN: That's the last Friday of a month, the 3 demonstration? 4 A. Yes. This is automatically printed out by our computer 5 in our company's card and then handed to the relevant 6 department, and verbal instruction was given to the 7 effect that this demonstration should be done on 8 a regular basis and it was fixed on the last Friday of 9 each month. 10 THE CHAIRMAN: Thank you. 11 MR BERESFORD: Then, Mr Cheng, you talk about repairs and 12 you say that minor defects are rectified in-house, and 13 those which require specialist knowledge or major 14 defects you have done by the original equipment 15 manufacturer or the shipbuilder as appropriate; is that 16 right? 17 A. Yes, correct. 18 Q. Then you refer to the annual dry-docking and survey that 19 you have done by the shipbuilder. You say that in all 20 cases, the Marine Department has renewed the licences 21 for your company launches. You're not aware of any 22 major defects. The annual survey of Lamma IV was 23 carried out and the licence renewed in May 2012; is that 24 right? 25 A. Correct.</p>



<p style="text-align: right;">Page 65</p> <p>1 Q. And then in answer to the Commission's enquiry, you say 2 that there has been no accident or violation records in 3 the past five years prior to 1 October 2012. 4 A. Yes, I agree. 5 THE CHAIRMAN: Well, the word "accident" is qualified by the 6 term "major". Have there been minor accidents? 7 A. We do have records of minor accidents, but they are not 8 due to the operation of the crew. An example of this is 9 the one that took place in July 2012 in which the 10 propeller of Lamma IV hit against some hard object near 11 Yung Shue Wan and needed to be replaced. Another 12 incident is that in some cases, the anchor could not be 13 retrieved and the vessel has to abandon the anchor in 14 order to leave that spot. These are examples of other 15 incidents. 16 MR BERESFORD: Do you have any record at all of collisions 17 or near-misses involving your vessels? 18 A. There are records of near-misses, but there is no 19 near-misses that occurred to our company vessels, and 20 not even minor accidents. 21 THE CHAIRMAN: So what are the records of near-misses? What 22 do they concern? 23 A. There are records in the generation division that record 24 all the incidents that took place in the general 25 division, including the incidents in which our</p>	<p style="text-align: right;">Page 67</p> <p>1 Q. And you've told us that your statement is true? 2 A. Yes. 3 Q. You then go on to deal with "Emergency Response and 4 Safety Issues". You've told us: 5 "The company has in place a system to train the crew 6 members and conduct drills to equip them to deal with 7 emergency situations." 8 And that the marine officer, Mr Tang Wan-on, is in 9 charge of this. 10 A. Correct. 11 Q. Nevertheless, you set out three salient aspects of the 12 system. Firstly, onboard emergency drills which are 13 required to be conducted once a week. 14 A. Correct. 15 Q. Then you refer to the manuals which require the crew to 16 practise and understand the nature of emergency and 17 reporting procedures. 18 A. Correct. 19 Q. And thirdly, you refer to the monthly demonstration of 20 life jackets that we've discussed earlier. 21 A. Yes, correct. 22 Q. Mr Cheng, when you say "The manuals also require the 23 crew to practise and understand the nature of the 24 emergency and reporting procedures", do you just leave 25 it at that, or do you follow up and make sure that the</p>
<p style="text-align: right;">Page 66</p> <p>1 colleagues have to take sick leave or other minor 2 incidents. But there were not even near-miss incidents 3 in relation to vessels. 4 THE CHAIRMAN: Mr Cheng, if it's not obvious to you, let me 5 spell it out. What is being asked from you is in 6 respect of the vessels, in particular the Lamma IV, is 7 there any record of near-misses whilst the vessel was at 8 sea; that is to say, when it came too close to other 9 vessels? Is there any record of that kind? 10 A. No, not at all. 11 THE CHAIRMAN: Are the crew required to report such 12 incidents? 13 A. Yes, because all the colleagues in the generation 14 division have the responsibility to respond all 15 incidents, including the near incidents. 16 A. (In English) To report. To report all incidents, 17 including near-misses. 18 THE CHAIRMAN: Yes, Mr Beresford. 19 MR BERESFORD: Anyhow, Mr Cheng, the company has a clean 20 record, you've told us, and there have been no fines or 21 penalties against the company for breaching any maritime 22 regulation, and there's been no disciplinary record 23 against any crew member; is that right? 24 A. According to my statement, we have no such record in the 25 past five years.</p>	<p style="text-align: right;">Page 68</p> <p>1 crew practise and understand the nature of emergency and 2 reporting procedures, and, if so, how? 3 A. Yes, there is a list for the crew to put a tick in every 4 item after having performed during the emergency and 5 fire drill, and to sign them. Also, every year, they 6 have to perform the drill in front of the survey officer 7 of the Marine Department for the renewal of licence. 8 Mr Tang would also attend the drill occasionally to see 9 the performance of the crew. 10 Q. So if I've understood this correctly, then, this is 11 basically checked by relying upon the Marine 12 Department's annual survey, which Mr Tang would attend 13 occasionally; is that right? 14 A. I haven't asked Mr Tang whether he attended the weekly 15 drill or whether he assigned a marine supervisor to 16 attend the drill. But from my conversation with him, 17 I got to know that he did attend the annual drill -- the 18 annual survey occasionally. 19 Q. So this is a weekly drill that you're referring to in 20 paragraph 18(b), is it? 21 A. Correct. 22 Q. Yes, I see. 23 Then you explain: 24 "The life jackets on board our vessels are located 25 prominently under each passenger seat. For the</p>

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<p>1 passengers on the open deck, they can access the life 2 jackets inside the upper deck and have immediate access 3 to the lifebuoys and the life raft." 4 A. Correct. 5 Q. That had an unfortunate consequence in the present case, 6 didn't it, Mr Cheng, because it seems that a number of 7 passengers went from the open deck to the upper 8 passenger compartment to retrieve a life jacket, and got 9 trapped there. 10 A. I don't know much about the detail, but I believe that 11 in this incident, the main reason for this is because 12 the other vessel collided at our vessel at high speed 13 and caused the ship to sink within a short period of 14 time. I believe this is the main reason. 15 THE CHAIRMAN: Mr Cheng, you're not being asked to express 16 any view about that. Your attention is being drawn to 17 the fact, and we've received evidence from a number of 18 witnesses that they went into the cabin area of the 19 upper deck in order to try and get life jackets, there 20 being none in the open area of the upper deck. That's 21 the point being made by Mr Beresford. 22 A. I haven't seen or heard all the evidence of the 23 witnesses, but if this is what they say, then I have no 24 alternative but to agree. 25 THE CHAIRMAN: Perhaps really the question that arises is</p>	<p>1 Together with the 92 life jackets, it provides the 2 safety facility for 222 passengers, and also the life 3 raft for 10 persons. 4 I would like to make an amendment. There are 5 65 lifebuoys. Each of them cater for two persons. So 6 it makes a total of 130 people. And there 92 life 7 jackets, so a total of 222. Together with the life 8 raft, it can cater for 242 passengers. The passenger 9 capacity for this vessel is 232. 10 I would like to make an amendment. The number of 11 passengers is 224, and the maximum crew number is eight, 12 so it makes 232. The maximum capacity is 232. The 13 safety measure is enough at the time when we applied for 14 the licence in the early period. 15 THE CHAIRMAN: Mr Cheng, can you please try and concentrate 16 on the question that's being asked of you, because we're 17 not asking you about the number of life jackets or the 18 number of lifebuoys or the capacity of the life raft. 19 We're talking about distribution. 20 The question is why there were no life jackets under 21 the chairs on the open deck. If you don't know the 22 answer to that, just say you don't know. 23 A. As I have said, safety facilities are not limited to 24 life jacket but also includes lifebuoys and life rafts. 25 Lifebuoys and life rafts are located on the upper deck,</p>
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<p>1 this. Why were there no life jackets under the seats 2 that were provided in the open upper deck? I should 3 say, to be fair to you, there is evidence that there 4 were multiple lifebuoys stored at the stern of the 5 vessel. 6 A. Yes, this is a fact. There were 15 lifebuoys and -- 7 A. (In English) 65. 8 THE INTERPRETER: 15? 9 A. (In English) 65 lifebuoys. 10 A. 65 lifebuoys and a life raft for 10 people on the upper 11 sun deck. 12 THE CHAIRMAN: And the question is, do you know why it is 13 that there were no life jackets under the seats on the 14 open upper deck? Maybe you don't know. Do feel free to 15 say you don't know something. 16 A. (Chinese spoken). 17 THE CHAIRMAN: Just pause there, Mr Cheng. Let the 18 interpreter have a go. 19 A. (In English) Okay. 20 A. In fact, I know the answer. Because when we apply for 21 the licence for this vessel, the basic safety facilities 22 are computed on the basis of 224 passengers. And in the 23 beginning, there were 92 life jackets and 65 lifebuoys. 24 And one lifebuoy -- each lifebuoy can cater for two 25 persons. So it is enough to cater for 100 persons.</p>	<p>1 on the open deck. 2 THE CHAIRMAN: We understand that. The question, which I'll 3 repeat again, is why were no life jackets arranged under 4 the seats on the open upper deck? 5 A. The location and distribution of life-saving facilities 6 are arranged by the Cheoy Lee factory and approved by 7 the survey officers of the Marine Department. It is 8 believed that such distribution is enough to cater for 9 all the passengers and crew members on board the vessel. 10 The survey officers must have considered this point in 11 granting the approval. 12 THE CHAIRMAN: Mr Beresford, perhaps we could take the 13 matter up with Mr Tang. 14 MR BERESFORD: Yes. 15 Anyhow, Mr Cheng, you make the point that the life 16 jackets were of the lace-type design, they were fully 17 SOLAS-compliant and class approved, and they were of 18 a type commonly used on public ferries in Hong Kong; is 19 that right? 20 A. Yes, correct. 21 Q. You then go on to make the point, as you have just been 22 at pains to make, that for the Lamma IV on the night of 23 1 October, there were enough life jackets on board for 24 each passenger. 25 A. Correct.</p>

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<p>1 Q. But you recognise and accept that there were no 2 children's life jackets on board. 3 A. Correct. 4 Q. You refer to the operating licence, which did not then 5 contain any such requirement, and the fact that the 6 shipbuilder prepared the launch for her annual survey, 7 and neither the shipbuilder nor the Marine Department 8 raised any issue concerning this, and Lamma IV passed 9 its annual survey without children's life jackets. 10 A. Yes, correct. 11 Q. Mr Cheng, it's your company that decides on the use of 12 the vessel, is it not? 13 A. Yes. 14 Q. So when your company decides to use the vessel for 15 a family cruise on which there will be children on 16 board, is there anybody who evaluates the risk of what 17 might happen if there's a collision? 18 A. This should be the responsibility of the marine officer. 19 THE CHAIRMAN: That's Tang Wan-on? 20 A. Yes. 21 THE CHAIRMAN: Did you know that there would be children on 22 the Lamma IV on the night of 1 October last year? 23 A. Yes. 24 THE CHAIRMAN: Did you consider the issue of providing 25 children's life jackets in those circumstances?</p>	<p>1 life jackets; is that right? 2 A. Correct. 3 THE CHAIRMAN: You are required to do so by the amended 4 licence issued in respect of Lamma II by the Marine 5 Department, are you not? 6 A. The amendment to the licence took effect at the end of 7 November, but in fact we had already provided the 8 children's life jackets before the end of November. 9 MR BERESFORD: And then you say that the company has at all 10 times, including on 1 October 2012, taken out protection 11 and indemnity insurance -- 12 THE CHAIRMAN: Before we get to insurance, just dealing with 13 life jackets. Perhaps I could invite you to go to 14 paragraph 43(a)(i). Let's deal with this change of the 15 life jackets. 16 MR BERESFORD: Certainly, Mr Chairman. 17 So this is jumping ahead a bit in your statement, 18 Mr Cheng, going to the improvement measures that the 19 company has undertaken. One of those improvements is at 20 paragraph 43(a)(i), and you say: 21 "Life jackets have been changed from lace type to 22 [what you describe as] buckle type, after consulting 23 user representatives, for easy donning in case of 24 emergencies." 25 We saw at the beginning of this afternoon's session</p>
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<p>1 A. Life raft is provided on our vessel, on board our 2 vessels, and I believe that this could cater for the 3 children under normal situation. 4 THE CHAIRMAN: So are you saying that you did consider it, 5 and that was the solution you came up with? Is that how 6 we are to understand your evidence? 7 A. I haven't considered this point prior to the incident, 8 but since the facilities on board the vessel have been 9 approved by the Marine Department, I believed that it is 10 enough to cater for all the passengers and crew members 11 on board the vessel. 12 THE CHAIRMAN: So the answer is you didn't consider this 13 issue? 14 A. I was aware that there were children on board, and 15 I also know that there were life raft on board the 16 vessel. So my opinion is that under normal operation, 17 the children have been catered for. 18 MR BERESFORD: Mr Cheng, you accept, I believe, that 19 although the life jackets on board may provide enough 20 buoyancy for either adults or children, children's life 21 jackets would at least provide a better and more 22 appropriate fit; is that right? 23 A. Correct. 24 Q. And this is one of the areas which the company has taken 25 steps to improve, so that you do now provide children's</p>	<p>1 two examples of that. Is that right? 2 A. This is correct, but paragraph 43 refers to the new 3 vessels, to our new vessels. 4 Q. I see. So these life jackets have not been put on the 5 Lamma II? 6 A. Yes. 7 Q. Nor on the Lamma V? 8 A. (In English) No, on Lamma II nor Lamma V. Not yet. 9 THE CHAIRMAN: Why not? Why not? 10 A. Because Lamma II will be replaced in 2013. In fact, in 11 the beginning of 2012, the company decided to build two 12 new vessels to replace Lamma II and Lamma IV. 13 THE CHAIRMAN: As I understand your evidence, you are 14 replacing or providing these jackets to make it easier 15 for passengers to put on the jackets. Do we understand 16 you correctly? 17 A. You are correct. 18 THE CHAIRMAN: If that's the case, why aren't they on 19 Lamma II today? 20 A. (Chinese spoken). 21 THE CHAIRMAN: Thank you, Mr Cheng. Give the interpreter 22 a chance. 23 A. Because we have now drastically reduced the number of 24 extra passengers for the visits to power stations, and 25 before the completion of our review, minors under</p>

<p style="text-align: right;">Page 77</p> <p>1 15 years of age will not be included in the list for 2 such events. Also, the number of other passengers is 3 also reduced. 4 And our passengers are mostly our employees, who 5 travel frequently on our vessels, and they are very 6 accustomed to the lace-type life jackets. 7 THE CHAIRMAN: Mr Cheng, we're going to have to adjourn now, 8 I'm afraid. But tomorrow morning, which is when I'm 9 going to have to ask you to return to continue your 10 evidence, would you be in a position to inform the 11 Commission what is the price per life jacket of these 12 new life jackets, and the price of the ones that are on 13 Lamma II. 14 A. (In English) Yes. 15 THE CHAIRMAN: 10 o'clock tomorrow. 16 (3.52 pm) 17 (The hearing adjourned until 10 am on the following day) 18 19 20 21 22 23 24 25</p>	
<p style="text-align: right;">Page 78</p> <p>1 I N D E X 2 MR CHENG CHO-YING, FRANCIS (sworn in Punti) .....4 3 Examination by MR BERESFORD .....5 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	