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<p>1 Tuesday, 15 January 2013</p> <p>2 (10.00 am)</p> <p>3 MR CHENG CHO-YING, FRANCIS (on former oath in Punt)</p> <p>4 (All answers via interpreter unless otherwise indicated)</p> <p>5 THE CHAIRMAN: Mr Cheng, may I remind you that you continue</p> <p>6 to testify on your former oath.</p> <p>7 A. Noted.</p> <p>8 Examination by MR BERESFORD (continued)</p> <p>9 MR BERESFORD: Good morning, Mr Cheng.</p> <p>10 Yesterday we were on the subject of life jackets,</p> <p>11 and we had jumped ahead to the improvements that you</p> <p>12 were in the course of making, or you are in the course</p> <p>13 of making. You told us yesterday that you have arranged</p> <p>14 for the new type of life jackets to be put on your new</p> <p>15 vessels. You were just explaining why they were not</p> <p>16 being put on the Lamma II, but we had to break. I'm not</p> <p>17 quite sure if you'd finished that evidence.</p> <p>18 THE CHAIRMAN: I'd asked you to provide us with what is the</p> <p>19 cost of this new life jacket as opposed to the cost of</p> <p>20 the ones that were on Lamma IV.</p> <p>21 A. (Chinese spoken).</p> <p>22 THE CHAIRMAN: Thank you, Mr Cheng. Just pause there and</p> <p>23 let the interpreter have an attempt.</p> <p>24 A. After reference to records, I noticed that the cost of</p> <p>25 the new buckle-type life jacket is approximately \$250,</p>	<p>1 representatives suggested that the new buckled type be</p> <p>2 used because it is more convenient and faster to put on.</p> <p>3 So in response to their suggestion, we searched for such</p> <p>4 product in the market and let the users try on them, and</p> <p>5 after trying on the new product, it was unanimously</p> <p>6 agreed that this type should be adopted.</p> <p>7 THE CHAIRMAN: So you conducted trials with your employees</p> <p>8 to determine the change to the buckle type?</p> <p>9 A. Correct.</p> <p>10 THE CHAIRMAN: And who is the manufacturer of the new type?</p> <p>11 A. I can't recall, and I need to refer to the records. But</p> <p>12 the first criteria for our search is that it has to be</p> <p>13 of the SOLAS-approved type.</p> <p>14 THE CHAIRMAN: By that you mean Safety of Life at</p> <p>15 Sea-approved?</p> <p>16 A. Yes, it is S-O-L-A-S, which means "Safety of Life at</p> <p>17 Sea".</p> <p>18 THE CHAIRMAN: And these jackets are SOLAS-approved, are</p> <p>19 they?</p> <p>20 A. Correct.</p> <p>21 THE CHAIRMAN: Does it follow that therefore they are</p> <p>22 approved by the Marine Department?</p> <p>23 A. In fact a new licence has been issued to our new vessel,</p> <p>24 and it has obtained the approval and has passed the</p> <p>25 survey by the Marine Department. And in fact the</p>
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<p>1 while the old laced type is about \$70. I would also</p> <p>2 like to add some information. The reason why the new</p> <p>3 type is not put on board Lamma II, it is because all the</p> <p>4 life jackets were put under the seats. The new one</p> <p>5 cannot be placed at the existing structure under the</p> <p>6 seat, and even for the new ones, alteration has to be</p> <p>7 done to the seat in order to accommodate them, because</p> <p>8 they are larger and harder and are not foldable.</p> <p>9 A. (In English) Container. It should be the container for</p> <p>10 the life jacket rather than the structure of the seat.</p> <p>11 THE INTERPRETER: Okay.</p> <p>12 THE CHAIRMAN: So it's the pouch or whatever is beneath the</p> <p>13 seat that needs to be changed to accommodate these</p> <p>14 larger and non-foldable life jackets; is that your</p> <p>15 point?</p> <p>16 A. Yes, correct.</p> <p>17 THE CHAIRMAN: And what was the reason that you've switched</p> <p>18 from this older type that was on Lamma IV, with the</p> <p>19 tapes, to what you call the buckle fastening on the</p> <p>20 newer life jacket? What's the reason for the change?</p> <p>21 A. It is because after the incident on 1 October, a lot of</p> <p>22 colleagues within our company showed deep concerns about</p> <p>23 the life jackets. So representatives of various</p> <p>24 departments held a meeting to discuss on the improvement</p> <p>25 to be done on the life jackets. And some</p>	<p>1 facilities on board the vessel are one of the criteria</p> <p>2 of the survey.</p> <p>3 THE CHAIRMAN: Are you saying that the Marine Department</p> <p>4 have approved the deployment of these life jackets on</p> <p>5 the new vessel?</p> <p>6 A. Correct.</p> <p>7 THE CHAIRMAN: The other issue of cost arises with the</p> <p>8 children's life jacket. How much does that cost, the</p> <p>9 new one?</p> <p>10 A. It is of the same price as the ones for adults, but</p> <p>11 afterwards we noticed from the market that some of the</p> <p>12 children's life jackets provided by other suppliers cost</p> <p>13 slightly less than the adult ones.</p> <p>14 THE CHAIRMAN: And is it the cheaper ones that you bought?</p> <p>15 A. Since the life-saving facilities provided on board the</p> <p>16 new vessel were covered in the contract for the new</p> <p>17 vessel, so we were unable to purchase the life jacket</p> <p>18 from other sources.</p> <p>19 THE CHAIRMAN: What about on Lamma II? You're required to</p> <p>20 carry children's life jackets there, are you not, by the</p> <p>21 amended stipulation in the licence?</p> <p>22 A. The children's life jackets on board Lamma II were</p> <p>23 purchased by us, and they have been placed on board the</p> <p>24 vessel pending the survey and issue of licence at the</p> <p>25 end of November.</p>

<p style="text-align: right;">Page 5</p> <p>1 THE CHAIRMAN: My question was as to which type of life 2 jacket you purchased for Lamma II. 3 A. The life jacket we purchased for children are of the 4 buckle type. 5 THE CHAIRMAN: Were these the ones that are about \$250 per 6 life jacket, or the ones you found in the market that 7 are cheaper? 8 A. I haven't seen the bill for this, so I'm not sure. 9 I need to go back and refer to it. 10 THE CHAIRMAN: Thank you. 11 Yes, Mr Beresford. 12 MR BERESFORD: So, Mr Cheng, while we're on the subject of 13 life jackets and improvements, just to wrap that up, 14 you've told us that you've purchased and put on board 15 children's life jackets equal to 5 per cent of the 16 number of the maximum passenger capacity on each of the 17 vessels. Which vessels are you referring to? 18 A. I am referring to Lamma II, and two of our new vessels. 19 Q. And then you say that you've done this despite the fact 20 that the current operation licence does not contain any 21 such requirement. That's not right, is it? 22 A. (Chinese spoken). 23 Q. Keep the answers short, please, and directed to the 24 question. 25 A. I don't agree to this, because when we purchased the</p>	<p style="text-align: right;">Page 7</p> <p>1 children's life jackets, to ensure that there's one for 2 each child? 3 A. Currently children are not allowed to board our vessels. 4 Q. So you have not yet made any arrangements to ensure that 5 these new arrangements work? 6 A. Our new arrangement is that no children will be allowed 7 to board our vessels until the Commission comes up with 8 recommendations. 9 THE CHAIRMAN: Is that dealt with in the statement, 10 Mr Beresford? 11 MR BERESFORD: Yes, at the top of page 163 of the bundle, 12 "Additional children's life jackets ..." 13 THE CHAIRMAN: Thank you. 14 "For the time being, we have stopped children from 15 boarding the company launches pending any recommendation 16 by the Commission for improving safety in this area." 17 Thank you. 18 MR BERESFORD: Now, Mr Cheng, I'm going to come back to 19 other improvements later, because I want to pick up the 20 other matters that you've addressed in your statement 21 before coming to the issue of improvements. 22 A. Okay. 23 Q. You told us about insurance cover for passengers on 24 board the launches, and you have said: 25 "The company has at all times, including on</p>
<p style="text-align: right;">Page 6</p> <p>1 children's life jackets, there was no such requirement 2 in accordance with the licence. And all the life 3 jackets, lifebuoys and life rafts provided on board the 4 vessel are enough to cater for all the passengers and 5 crew. And we have also purchased about 100 life jackets 6 more than required on Lamma II and Lamma IV. 7 THE CHAIRMAN: Your evidence as far as children's life 8 jackets are concerned is this, is it not: that you, the 9 company, had purchased them before the licence change 10 required you to put them on board? Is that the nub of 11 it? You can answer that "yes" or "no". 12 A. Yes. 13 THE CHAIRMAN: Thank you. 14 MR BERESFORD: And then you've told us that additional 15 children's life jackets, to ensure that there will be at 16 least one for each child, will be put on the vessel if 17 the number of child passengers exceeds the number of 18 children's life jackets already on board; is that right? 19 A. Correct. 20 Q. And then you say that for the time being, you have 21 stopped children from boarding the company launches, 22 pending any recommendation by the Commission. 23 A. Correct. 24 Q. Have you yet made any arrangements to reduce the risk of 25 non-compliance with your requirement for additional</p>	<p style="text-align: right;">Page 8</p> <p>1 1 October 2012, taken out protection and indemnity 2 insurance for all passengers on board its launches. In 3 addition, all passengers are covered by the usual 4 insurance policies of the company." 5 A. Correct. 6 Q. Then you went on in your statement -- 7 THE CHAIRMAN: Before you move on. 8 Are we to understand from paragraph 21 that some 9 kind of extension of insurance was taken out for the day 10 of 1 October 2012? 11 A. The issue of insurance is a very complicated issue, and 12 I am not an expert in it. But as far as I know, the 13 insurance covered by our company is in compliance with 14 the legal -- the regulations, and extra insurance has 15 also been in place for the event on that day. 16 THE CHAIRMAN: May we have a copy of that extra insurance, 17 together with the general insurance that you refer to, 18 or "the usual insurance", as you call it. May we have 19 copies of that documentation? 20 A. I am sure my company can provide this. 21 THE CHAIRMAN: Thank you very much. 22 Mr Grossman, would you set that in motion now? 23 MR GROSSMAN: We'll arrange it, Mr Chairman. 24 THE CHAIRMAN: Thank you very much. 25 MR BERESFORD: Mr Cheng, you then turn to deal with the</p>

<p style="text-align: right;">Page 9</p> <p>1 event, commencing first with the subject of 2 organisation, and you've told us: 3 "The visit to Lamma Power Station and the cruise to 4 see the fireworks were part of a one-day recreation 5 programme for company's employees and their family 6 members and friends, organised by the employee wellness 7 unit of the human resources and administration 8 division ..." 9 A. Correct. 10 Q. And you told us that events of a similar nature have 11 been organised for many years. 12 A. Yes. 13 Q. We've heard from Mr Fok and from Mr Lam that they have 14 been organised at least since 1990. 15 A. Correct. 16 Q. So does that include Chinese New Year fireworks, 1 July 17 fireworks, National Day fireworks? 18 A. I did refer to records, but there is no detailed 19 information. But as far as I could recall, during the 20 1990s, the cruise only took the participants to visit 21 attractions such as Po Toi Island, and it was not until 22 1997 that the fireworks displays have become a sight of 23 attraction. And it was organised once a year; that was 24 on 1 October. But this year, such event has been 25 organised on 1 July as well as 1 October.</p>	<p style="text-align: right;">Page 11</p> <p>1 event. At the top of that page, we can see the marine 2 officer's reply, to the effect that Lamma II and 3 Lamma IV would be reserved for that activity. You point 4 out that although the estimated number of participants 5 was 185, as stated in Mr Leung's email, and either one 6 of Lamma II or Lamma IV had sufficient capacity to carry 7 that number of people, the company nevertheless 8 allocated two launches for the event, primarily, you 9 told us, for safety reasons. 10 You identify three reasons. You point out that this 11 would allow the two launches to sail closely to each 12 other to assist each other if needed, as in fact 13 happened. You say the number of passengers on board 14 each launch would be significantly reduced. And the use 15 of two vessels would provide extra space, particularly 16 the open deck space, for passengers watching the 17 fireworks. 18 Did you know that the open deck, upper deck, on the 19 Lamma IV, was overcrowded on the night in question, 20 notwithstanding these arrangements? 21 A. Yes, I got to know about this afterwards. 22 THE CHAIRMAN: What is the licensed capacity for the open 23 deck on the upper deck, Mr Beresford? 24 MR BERESFORD: I'll need to check that, Mr Chairman. 25 THE CHAIRMAN: I think it's apparent from some of the</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. Yes, I see. Thank you. That's very helpful. 2 The excursions such as to Po Toi Island, these would 3 be family cruises, would they? 4 A. Correct. 5 Q. Are you able to give us a feel for how many times a year 6 you have been organising family cruises on board these 7 vessels, Lamma II and Lamma IV? 8 A. As far as I could recall, these activities were 9 organised once to twice a year. In the year 2012, the 10 number of such excursions was of the highest number. 11 There has been excursions, day-time excursions, twice; 12 and fireworks display cruises twice, on 1 July and 13 1 October. 14 Q. Thank you. Then you tell us about the arrangement for 15 two launches, and you show us the email correspondence. 16 On 19 September 2012, the marine officer, that's 17 Mr Tang, I believe, received an email message from 18 Mr Leung Kwok-wai, Raymond, Mr Leung, who we have heard 19 from, which was sent in the name of his superior, 20 Mr Gleeson Lam, who we have also heard from. That email 21 is at page 256 of the Richards Butler bundle. 22 A. Correct. 23 Q. The screen has now moved. It is the lower half of the 24 page that we're concerned with first of all. 25 In his email, Mr Leung provided a programme for the</p>	<p style="text-align: right;">Page 12</p> <p>1 photographs, is it not? 2 MR BERESFORD: It is. 3 THE CHAIRMAN: The number 15 sticks in my mind. Is anybody 4 else able to assist on that question? 5 A. (In English) I think it's 14. 6 THE CHAIRMAN: 14? 7 A. (In English) 14. 8 THE CHAIRMAN: Thank you. 9 MR BERESFORD: Would it be fair to assume that no 10 instruction had emanated from your office to the crew to 11 ensure that that number was not exceeded? 12 MS LOK: I'm afraid that the question has been 13 mistranslated, so perhaps it could be -- 14 THE CHAIRMAN: Thank you. 15 Put it again, if you would, Mr Beresford. 16 MR BERESFORD: Yes. 17 Mr Cheng, did you issue any instruction before the 18 event to ensure that the crew would prevent overcrowding 19 on the upper decks? 20 A. I haven't done that personally, and I'm not sure whether 21 the marine officer has done that. But I believe that 22 this is the responsibility of the coxswain. 23 Q. But you did consider these safety factors, did you, 24 Mr Cheng, the three factors we've just discussed? 25 A. These three factors were not put forward by me, but by</p>

<p style="text-align: right;">Page 13</p> <p>1 the former supervisor of Mr Tang. This supervisor has 2 already left. It was in -- he has put forward this 3 suggestion in the year 2010, to the effect that two 4 vessels should be deployed for similar events, and such 5 suggestion has been agreed. 6 THE CHAIRMAN: Was that Mr Johnson Chan? 7 A. Johnson Chan is the subordinate of Mr Tang, but this 8 person is the supervisor of Mr Tang. His name is Victor 9 Chow, Chow Tak-ming. 10 MR BERESFORD: Is he the person that previously filled the 11 position in your chart now filled by Lee Kit, Bernie, 12 and if not, where in the chart did he fit in? 13 A. Yes, he is the predecessor of Mr Lee Kit, our material 14 handling engineer. 15 Q. And was this suggestion in writing? 16 A. The three factors were not written down, but the 17 suggestion of deploying two vessels has been put down in 18 writing. 19 Q. Where will we find that? 20 A. I'm not sure whether this email has been submitted, but 21 we can locate that. 22 Q. Thank you. Would you please do so, Mr Cheng. 23 A. Okay. 24 Q. Mr Cheng, was that an email to you? 25 A. No.</p>	<p style="text-align: right;">Page 15</p> <p>1 instruction for the event of 1 October, rather than 2 a general instruction? 3 A. This is a general instruction. 4 THE CHAIRMAN: So, nothing to do with 1 October? 5 A. You can say so. 6 MR BERESFORD: So Lamma IV was always instructed to run its 7 engines or limit the speed of its engines to 1,200 rpm; 8 is that right? 9 A. Correct. 10 THE CHAIRMAN: That was to do with fuel consumption, was it 11 not? 12 A. It has nothing to do with fuel consumption, but that we 13 don't want the two vessels to travel at a different 14 speed. 15 MR BERESFORD: Did the two vessels always travel together, 16 Mr Cheng? 17 A. They may not sail together, but if they do set sail 18 together, and for example on a trip towards Ap Lei Chau, 19 and if one of them travels faster than the other one, 20 then the colleagues will scramble for the one that 21 travels faster so that they could disseminate earlier 22 and find a better seat on the car, and for us this is 23 not a good arrangement. 24 THE CHAIRMAN: How often did they set sail together? 25 A. On every working day, if the number of passengers taking</p>
<p style="text-align: right;">Page 14</p> <p>1 Q. Who was the recipient, or to whom was it addressed? 2 A. It was the result of a discussion between Mr Chow and 3 Mr Lam, and was agreed, and so it was agreed by me every 4 year when the launch cruises were organised. 5 Q. You said Mr Lam; is that Mr Gleeson Lam? 6 A. As far as my recollection is concerned, I believe so. 7 Q. So, Mr Cheng, could you please produce all of the 8 relevant correspondence? 9 A. Yes, I can do that. 10 Q. Thank you. Then you go on to say: 11 "Following from the use of the two launches, [you 12 decided that] the disembarkation points ... would be 13 different to better suit the convenience of the 14 participants. Lamma IV was scheduled to disembark 15 passengers [in Central] whilst Lamma II would head for 16 Ap Lei Chau." 17 A. Correct. 18 Q. Then you explain that instructions were issued to reduce 19 the speed of the Lamma IV, anyway. The engine speed of 20 Lamma IV could reach 1,900 rpm, corresponding to 21 a sailing speed of about 17 knots fully loaded; whereas 22 the engines of Lamma II were smaller and the normal 23 speed of Lamma II was about 12 knots. Is that right? 24 A. This instruction was emanated by the marine officer. 25 THE CHAIRMAN: Are you suggesting that this was a special</p>	<p style="text-align: right;">Page 16</p> <p>1 a trip to Ap Lei Chau exceeds the number of one vessel, 2 then we will deploy two vessels. 3 THE CHAIRMAN: How often did that happen? 4 A. This happens almost every day from Monday to Friday, 5 especially during rush hour after work, after office 6 hours. 7 THE CHAIRMAN: Thank you. 8 MR BERESFORD: So, can you just clarify: does this 9 instruction to Lamma IV to limit its speed apply only 10 when it is sailing with Lamma II, or does it apply at 11 all times? 12 A. It applies at all times. 13 Q. Thank you. You then go on to tell us about the working 14 party that you've already mentioned in evidence 15 yesterday. You mention: 16 "The human resources and administration division had 17 arranged for ... Mr Lai and Mr Leung to act as 18 'organisers' ..." 19 And you say: 20 "They were assisted by 15 employees from the 21 generation division who acted as working party members." 22 And you say: 23 "The 15 working party members from the generation 24 division acted as tour guides, helpers and drivers in 25 the power station. They introduced the facilities in</p>

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<p>1 the power station and at Tai Ling to the 2 participants ..."</p> <p>3 Then you tell us that Mr Lai and eight working party 4 members boarded Lamma IV and Mr Leung and three working 5 party members boarded Lamma II to go and view the 6 fireworks.</p> <p>7 You then go on to discuss the function of the 8 working team on board. We discussed that yesterday, so 9 I don't propose to go over that again.</p> <p>10 You express your thanks to those on board Lamma II 11 for their assistance in the rescue operation.</p> <p>12 We then come to the issue of Marine Department 13 Notice No. 131 of 2012, which was issued on 14 September 14 2012. You preface your evidence about this by 15 explaining your understanding that Marine Department 16 Notices are neither ordinances nor regulations; that 17 they contain guidelines and recommendations issued by 18 the Marine Department, and you say:</p> <p>19 "In fact, sometimes these notices seem to be only 20 advisory in nature."</p> <p>21 Is that right?</p> <p>22 A. Correct.</p> <p>23 Q. So does that mean, Mr Cheng, that you are, in your view, 24 free to disregard the advice of the Marine Department? 25 A. No.</p>	<p>1 before 1 October. But I thought that such notice only 2 concerned the traffic control in Central, the traffic 3 control of the harbour in Central. And I haven't seen 4 that notice.</p> <p>5 Q. Thank you. Then in paragraph 36 of your statement, you 6 describe the practice of the marine officer in relation 7 to those notices. Can you tell us, please, if this is 8 the result of your enquiries after the event, or are 9 these arrangements that you had made before the event?</p> <p>10 I perhaps haven't expressed that question very 11 clearly. What I want to know is, did you know about 12 these practices before 1 October?</p> <p>13 A. No.</p> <p>14 Q. Perhaps we'll pass over that and leave it for Mr Tang. 15 You have said in your statement that you admit that 16 in the past, you may not have paid sufficient attention 17 to these Marine Department Notices and seen to their 18 full implementation.</p> <p>19 A. Agree.</p> <p>20 Q. And that you've included this amongst the improvements 21 and enhancements of safety measures that you've 22 undertaken?</p> <p>23 A. Yes, correct.</p> <p>24 Q. And that in fact is the first of the items of the 25 immediate improvement measures that you've told us that</p>
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<p>1 Q. Would you normally not follow the advice of the Marine 2 Department?</p> <p>3 A. No, because my understanding at that time was that the 4 Marine Department Notices were usually concerning works 5 that were in progress in the waters or were about the 6 change of fairway. So I thought that these notices were 7 only containing the information in this respect.</p> <p>8 Q. I appreciate that you've said that prior to 1 October 9 2012, neither you nor any officers in your division more 10 senior than the marine officer received copies of these 11 notices, but can you please tell us, have you ever seen 12 a copy of one of these notices before?</p> <p>13 A. As far as my recollection is concerned, I have seen one 14 report from the Marine Department when the pipes for the 15 undersea natural gas -- when the pipes were laid for the 16 natural gas underneath the sea, were laid by our 17 company.</p> <p>18 Q. So is it correct that you've never seen a Marine 19 Department Notice relating to fireworks in the harbour, 20 for example?</p> <p>21 A. Correct.</p> <p>22 Q. Did you personally know that the Marine Department 23 issued such notices?</p> <p>24 A. I knew before the -- I knew that the Marine Department 25 did issue a notice concerning the fireworks display,</p>	<p>1 you've introduced. You say:</p> <p>2 "Copies of the Marine Department Notices are now 3 circulated ... to the chief materials handling engineer, 4 senior materials handling engineer, other engineers 5 overseeing the operation of the marine team and the crew 6 members to ensure that all guidelines strictly complied 7 with."</p> <p>8 A. Correct.</p> <p>9 Q. And you say:</p> <p>10 "The crew members are required to sign off on the 11 front page of the notices after reading them."</p> <p>12 A. Correct.</p> <p>13 Q. Have you made any provision for illiterate crew?</p> <p>14 A. Since we will no longer subcontract the post at the 15 wheelhouse to other companies, all the crew members are 16 our employees, and one of the conditions for their 17 employment is that they need to be literate.</p> <p>18 Q. How do you --</p> <p>19 THE CHAIRMAN: Is that one of the matters that you've 20 addressed in your statement, that you're no longer going 21 to subcontract for crew?</p> <p>22 A. I don't remember whether I have addressed this point in 23 my statement, but the contract with the subcontractor 24 has been terminated shortly after the event on 25 1 October.</p>

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<p>1 THE CHAIRMAN: Thank you.</p> <p>2 MR BERESFORD: So how, Mr Cheng, will you monitor whether</p> <p>3 the guidance is actually being given effect?</p> <p>4 A. In the future, we will arrange for auditing.</p> <p>5 Q. We've discussed life jackets already.</p> <p>6 Then you give a list of five other improvements.</p> <p>7 You say:</p> <p>8 "(i) Audio broadcast of locations of life jackets,</p> <p>9 lifebuoys and the life raft, and emergency procedures at</p> <p>10 the start of each voyage on our fleet.</p> <p>11 (ii) Installation of 12 emergency hammers in the</p> <p>12 passenger cabins of Lamma II for breaking the windows in</p> <p>13 case passengers are trapped.</p> <p>14 (iii) A copy of the name list of visitors on board</p> <p>15 the vessels is kept ashore, and another copy is placed</p> <p>16 in the wheelhouse of the vessel.</p> <p>17 (iv) Coxswains and marine engineers will have annual</p> <p>18 health checks which will cover electrocardiograms and</p> <p>19 hearing tests besides the existing eye-sight tests.</p> <p>20 (v) Management has tightened the supervision of the</p> <p>21 marine section and included sea transport under the</p> <p>22 overall safety management system of Lamma Power</p> <p>23 Station."</p> <p>24 A. Agree. In addition to the existing visual tests, we</p> <p>25 have also added in the cardiogram and hearing tests.</p>	<p>1 our power station or other relevant organisations, as</p> <p>2 well as people from the Government. So every day we</p> <p>3 have many visitors using our conveyance facilities on</p> <p>4 the water.</p> <p>5 THE CHAIRMAN: Are visitors non-employees? Is that the</p> <p>6 distinction?</p> <p>7 A. I agree.</p> <p>8 THE CHAIRMAN: Thank you.</p> <p>9 MR BERESFORD: So does that mean, for example, Mr Cheng,</p> <p>10 that you would not include a list of any employees on</p> <p>11 board, such as the working party members, for example,</p> <p>12 who were on board on 1 October?</p> <p>13 A. We are in fact working towards this direction. For the</p> <p>14 time being, we have already stopped using vessels to</p> <p>15 hold other types of activities. As for the colleagues</p> <p>16 who travel on our company vessels, we have more or less</p> <p>17 an idea about their number, and a list. We are now</p> <p>18 working on a system to provide a list of the whole</p> <p>19 vessel, but this is a complicated process so it is still</p> <p>20 under planning process. But this system will only apply</p> <p>21 to the new vessels and will not be in place right away.</p> <p>22 Q. Thank you. You then go on to tell us about the two new</p> <p>23 launches that the company will have to put into service</p> <p>24 early this year, in replacement for Lamma II and</p> <p>25 Lamma IV.</p>
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<p>1 Q. Yes. Mr Cheng, it's commendable that the company should</p> <p>2 have introduced these immediately without regard to any</p> <p>3 implication that may be made, but it is a fact, is it</p> <p>4 not, that this highlights that none of these matters</p> <p>5 were in place beforehand?</p> <p>6 A. I agree, but I believe that such measures were not in</p> <p>7 place in any of the ferries within the harbour.</p> <p>8 Q. Now, you mention the overall safety management system of</p> <p>9 Lamma Power Station, and the fact that sea transport is</p> <p>10 now included under that system. Is that documented?</p> <p>11 A. We have to redo the guidelines on work and operation,</p> <p>12 and we are in the process of incorporating them into our</p> <p>13 safety management system, and we are going to get this</p> <p>14 done.</p> <p>15 A. (In English) And arrange audit as well.</p> <p>16 THE INTERPRETER: Arrange ...?</p> <p>17 A. (In English) And we will arrange audit as well.</p> <p>18 MR BERESFORD: You then go on to --</p> <p>19 THE CHAIRMAN: Before you move on, at item (iii), Mr Cheng,</p> <p>20 you say that "A copy of the name list of visitors on</p> <p>21 board is kept ashore". Who are "visitors", for this</p> <p>22 purpose?</p> <p>23 A. In fact we have thousands of visitors visiting our power</p> <p>24 station every year. These include professionals, other</p> <p>25 people in the trade, other companies that come to visit</p>	<p>1 You tell us that this was already planned and</p> <p>2 building was under way from early 2011, and you mention:</p> <p>3 "27 measures in the areas of equipment and</p> <p>4 facilities, life-saving appliances, navigation</p> <p>5 communication equipment, stability design and safe</p> <p>6 operations ..."</p> <p>7 You have grouped these in five categories:</p> <p>8 enhancement of equipment and facilities to the new</p> <p>9 launches to improve safety; additional life-saving</p> <p>10 appliances on board new launches; thirdly, additional or</p> <p>11 enhanced navigation communication equipment on new</p> <p>12 launches; fourthly, additional safety review of new</p> <p>13 launches' design; and fifthly, improvement to the safe</p> <p>14 operation of the new launches.</p> <p>15 As far as the first category is concerned,</p> <p>16 enhancement of equipment and facilities to the new</p> <p>17 launches to improve safety, this includes: life jackets;</p> <p>18 marking bulkheads; installation of safety belts;</p> <p>19 installation of LCD monitors in passenger cabins to</p> <p>20 broadcast safety videos; the safety video itself;</p> <p>21 installation of CCTV; installation of handgrips in the</p> <p>22 aisles; additional vertical rails on the open deck;</p> <p>23 redesign of the false ceiling in the passenger cabins;</p> <p>24 and additional reinforcement to prevent the collapse of</p> <p>25 passenger seats.</p>

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<p>1 A. I agree, and concerning the passenger seats, apart from 2 reinforcement, we have actually upgraded the seats to 3 the standard of that for the high-speed craft, in 4 addition to reinforcement work. 5 MR BERESFORD: Thank you. 6 THE CHAIRMAN: What is the reinforcement work? 7 A. In the case of high-speed craft, usually when the number 8 of seats exceeds six to seven, the support is only 9 located at the head and the end of it. 10 A. (In English) Not exceed. Less than. Less than six or 11 seven. 12 THE INTERPRETER: "Less than six to seven seats". 13 A. The reinforcement work is that in the case the seat has 14 exceeded three, that means if there are four seats, we 15 will add one support in between the seats. That means 16 there will be at most three seats in between two 17 supports. 18 THE CHAIRMAN: And how are the seats to be attached to the 19 deck in the new plan? What kind of fastening is to be 20 used? 21 A. In the design for the high-speed craft, the support was 22 located on two rails. In addition to that, there is 23 another vertical support to prevent it from coming off 24 easily. Also, there is a type test for the high-speed 25 craft.</p>	<p>1 A. Yes. 2 Q. And do you know what the construction material of the 3 decks is? 4 A. The new vessel is made of iron, so the main deck is made 5 of iron -- 6 A. (In English) Steel. Steel, not iron. 7 A. Steel, and the floor of the upper deck is made of 8 fibreglass. 9 Q. Then you've detailed additional life-saving appliances 10 on board the new launches, including emergency hammers, 11 as you've already mentioned, emergency hand torches, 12 an automatic defibrillator, children's life jackets, 13 which we've discussed, a portable searchlight, two life 14 rafts each with capacity for 25 people, and additional 15 rope ladders. 16 A. Agree. 17 MR BERESFORD: Then we come on to the navigation equipment. 18 Mr Chairman, I have one or two questions to ask 19 about that, so if you wish to take a break, this would 20 be a convenient moment. 21 THE CHAIRMAN: Yes, certainly, if that's convenient to you. 22 Mr Cheng, we're going to take our morning break now. 23 We'll take a 20-minute break and we'll resume at about 24 11.50. Thank you. 25 (11.31 am)</p>
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<p>1 A. (In English) High-speed craft seats. The seats of the 2 high-speed craft has a type test. 3 THE CHAIRMAN: How are the two rails attached to the deck? 4 A. The rails are embedded under the seat. They are not 5 exposed. 6 A. (In English) Embedded under the main deck. 7 THE CHAIRMAN: By that you mean that the whole rail has 8 force applied to it to secure it in place, the length of 9 the rail, the length and width of the rail, the whole 10 thing? 11 A. Besides the fact that the whole rail is embedded inside 12 the deck, there is another vertical rail that goes into 13 the rail, and also locked in place by a bolt so that it 14 won't come off easily when a collision happens. 15 A. (In English) It's not a bolt, it's a plate that is 16 perpendicular to the vertical rail. So in that case, if 17 it is hit, the vertical rail, the vertical support would 18 not come out easily. 19 THE CHAIRMAN: So it's secured by being embedded in the 20 deck, and then by a vertical pole or rail which has 21 a plate attached to the deck? 22 A. (In English) Yes, underneath the vertical ... 23 THE CHAIRMAN: Yes, thank you. 24 MR BERESFORD: Mr Cheng, the new launches, are they two 25 decks in the same way that Lamma II and Lamma IV were?</p>	<p>1 (A short break) 2 (11.53 am) 3 THE CHAIRMAN: Yes, Mr Beresford. 4 MR BERESFORD: Thank you, Mr Chairman. 5 Mr Cheng, we were just coming to the additional or 6 enhanced navigation communication equipment of the new 7 launches which you have said has been installed since 8 1 October. You've referred to three items of equipment: 9 radar; Automatic Identification System or AIS; and VHF 10 radio. 11 As far as the radar is concerned, you say: 12 "[It] has been upgraded to the type used on 13 high-speed craft with a higher scanning speed." 14 A. These installations were to be installed on the new 15 vessel and not after 1 October. 16 THE CHAIRMAN: Have any of these pieces of equipment been 17 installed on Lamma II? 18 A. No, because Lamma II will be out of service within this 19 year. 20 THE CHAIRMAN: What's the reason for this, as it's called, 21 enhanced equipment for the new vessels? Why is it being 22 provided? 23 A. This reinforced equipment was a result of our review 24 after the sea tragedy on 1 October. It would not be 25 installed on existing vessels after 1 October but it</p>

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<p>1 will be installed on the new vessels.</p> <p>2 THE CHAIRMAN: So what was the conclusion of the review as</p> <p>3 to the need for this enhanced equipment?</p> <p>4 A. We aim to ensure the safety of our vessels by providing</p> <p>5 the best and the most appropriate equipment to our crew</p> <p>6 in their navigation.</p> <p>7 THE CHAIRMAN: Thank you.</p> <p>8 MR BERESFORD: Can you please tell us if in the course of</p> <p>9 the review, you had discovered any inadequacy in the</p> <p>10 provision of radar to the Lamma IV or the Lamma II?</p> <p>11 A. No.</p> <p>12 Q. Was there any reason, that you are aware of, why the</p> <p>13 master of either vessel would not have been able to see</p> <p>14 the Sea Smooth on the radar before they left the Lamma</p> <p>15 Power Station pier?</p> <p>16 A. We are unable to speculate on this, because we have not</p> <p>17 had any chance to talk to the two coxswains directly</p> <p>18 after the 1 October incident, because the case is being</p> <p>19 investigated by the Government.</p> <p>20 Q. No, I'm not asking you to speculate, Mr Cheng; I'm only</p> <p>21 asking you what you know.</p> <p>22 MR GROSSMAN: I'm sorry to interrupt. I really wonder how</p> <p>23 this witness can answer this question.</p> <p>24 THE CHAIRMAN: I think perhaps really the question is this:</p> <p>25 is there anything you know about the equipment, that is</p>	<p>1 whether there is any amendment to the regulation.</p> <p>2 THE CHAIRMAN: So if it's not required, why are you putting</p> <p>3 it on board the new vessel? Is there a safety reason</p> <p>4 you have in mind?</p> <p>5 A. We will continue to have the trunked telephone system to</p> <p>6 be placed on the new vessel, and we believe that a</p> <p>7 highest safety standard will be provided by adding the</p> <p>8 VHF system onto the vessel.</p> <p>9 THE CHAIRMAN: So a higher level of safety; that's the</p> <p>10 motive?</p> <p>11 A. Correct.</p> <p>12 MR BERESFORD: On the trunked radio system of the company</p> <p>13 it's not possible to maintain a watch on the VHF</p> <p>14 channel 16 or channel 14, is it?</p> <p>15 A. Correct.</p> <p>16 Q. So the coxswain of Lamma IV and, for that matter,</p> <p>17 Lamma II, had no means of communicating with the</p> <p>18 coxswain of the Sea Smooth, did they?</p> <p>19 A. Correct.</p> <p>20 Q. Neither did they have any means of communicating with</p> <p>21 the Marine Department?</p> <p>22 A. This is not true, because we do have the telephone</p> <p>23 numbers of the Government departments on board the</p> <p>24 vessel for use in case of emergency. It can also</p> <p>25 connect to the traffic control console of the Marine</p>
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<p>1 the technical capability of either of the devices on</p> <p>2 Lamma IV or Lamma II, that would have prevented them</p> <p>3 from being able to see, in radar terms, Sea Smooth</p> <p>4 whilst they were still at Lamma Power Station pier?</p> <p>5 A. I don't know, but after the incident of 1 October, I did</p> <p>6 board the Lamma II and went to the wheelhouse, and the</p> <p>7 crew had showed me how they operated the radar and I saw</p> <p>8 that everything was normal. They also demonstrated to</p> <p>9 me how they could see the vessels, the mountains and the</p> <p>10 other objects on the radar.</p> <p>11 THE CHAIRMAN: Thank you.</p> <p>12 MR BERESFORD: Are you able to tell us why VHF radio was not</p> <p>13 installed on Lamma II or Lamma IV?</p> <p>14 A. Because we have a trunked telephone system in place on</p> <p>15 board Lamma II and Lamma IV, and this system performs</p> <p>16 the same function as a mobile phone does; that is, they</p> <p>17 could connect to the extension as well as to the outside</p> <p>18 line. Also, the VHF is not a requirement in the issue</p> <p>19 of licence for Lamma II and Lamma IV.</p> <p>20 THE CHAIRMAN: But you're intending to put a VHF on the new</p> <p>21 vessel, are you not?</p> <p>22 A. Correct.</p> <p>23 THE CHAIRMAN: And it's not a requirement for that vessel;</p> <p>24 is that the position?</p> <p>25 A. Yes, as far as I know, this is correct, but I'm not sure</p>	<p>1 Department. There is also a phone on board the vessel</p> <p>2 which allows calls to be made directly to the outside,</p> <p>3 as well as to the traffic control centre of the Marine</p> <p>4 Department.</p> <p>5 Q. But there's no radio contact, is there?</p> <p>6 A. Correct.</p> <p>7 THE CHAIRMAN: What kind of apparatus is it that can be used</p> <p>8 in the way you've just described? Is it a mobile</p> <p>9 telephone or some other kind of telephone?</p> <p>10 A. It is not a mobile phone. It was installed on the</p> <p>11 console of the vessel. It was similar to a built-in</p> <p>12 phone and it can make calls directly to outside.</p> <p>13 THE CHAIRMAN: Would you invite the witness to have a look</p> <p>14 at the photographs of the wheelhouse of Lamma IV to</p> <p>15 assist us in identifying this apparatus?</p> <p>16 MR BERESFORD: Police bundle of photographs, tab 3. The</p> <p>17 wheelhouse starts at page 153. Perhaps we can flick</p> <p>18 through, going forward, until we --</p> <p>19 THE CHAIRMAN: Do you know of which side of the wheel this</p> <p>20 apparatus is, Mr Cheng?</p> <p>21 A. (In English) I think it's on the left-hand side.</p> <p>22 MR BERESFORD: Can we also try from page 282. There's</p> <p>23 a series of wheelhouse photographs commenting at</p> <p>24 page 282.</p> <p>25 There's one.</p>

<p style="text-align: right;">Page 33</p> <p>1 Is that the equipment you're referring to, on the 2 left, Mr Cheng? 3 A. I'm not sure, because that apparatus should come with 4 buttons that look like a phone, but that one is from the 5 side, so I cannot see directly. 6 THE CHAIRMAN: I think from the marine bundle of 7 photographs, which begins in bundle 1, page 124, in the 8 photograph at page 19 in the hard copy, that's clearly 9 the Standard Horizon loud hailer that we were looking 10 at. One can read that on the equipment. 11 MR MOK: There's a phone on page 145 of that bundle, 12 Mr Chairman. 13 THE CHAIRMAN: Thank you. 14 MR BERESFORD: Is that the equipment you're referring to, 15 Mr Cheng? 16 A. Yes. 17 THE CHAIRMAN: Would you scroll up so we can see how it's 18 described. Motorola MaxTrac radio; is that it? 19 A. Yes. 20 THE CHAIRMAN: Have we managed to secure any manual that 21 tells us about the capabilities of this equipment? 22 MR BERESFORD: I believe we do have a manual. 23 THE CHAIRMAN: Where is that? 24 MR BERESFORD: I will have that checked, Mr Chairman. 25 THE CHAIRMAN: Thank you.</p>	<p style="text-align: right;">Page 35</p> <p>1 craft or an ordinary craft, this will help the coxswain 2 to describe what action to take to avoid collision. 3 MR MOK: I think it is "to decide what action to take". 4 THE CHAIRMAN: Thank you. 5 MR BERESFORD: I do have one other question in this 6 connection, and that is, have you considered the 7 provision of electronic charts? 8 A. No, because the passage we navigate is familiar to us, 9 and we believe that an electronic chart is more suitable 10 for longer trips, and it is only useful in helping to 11 find out the reason of accidents afterwards. So we 12 don't think it is necessary. 13 THE CHAIRMAN: Does the radar not have an electronic chart 14 plotter radar overlay? 15 A. This is in place in the existing radar, but since the 16 trip is rather short, for instance the trip to Ap Lei 17 Chau is only about 20 minutes and the trip to Central is 18 also within 45 minutes, and so an electronic chart is 19 not necessary for such short trips. 20 MR BERESFORD: We've now found the operating procedures of 21 the trunked mobile radio, which is to be found in police 22 bundle O at page 4653. Here we can see a diagram of the 23 handset. Over the page at item 5, it gives instructions 24 for making phone calls. Further down, there's a table, 25 "Emergency Radio Talkgroup Selection Table".</p>
<p style="text-align: right;">Page 34</p> <p>1 MR BERESFORD: But as far as your knowledge is concerned, 2 Mr Cheng, this equipment did not enable communications 3 to be made over VHF channel 16 or channel 14? 4 A. As far as I'm concerned, I agree, but because I haven't 5 got hold of a lot of information in this respect, so I'm 6 not sure whether my answer is correct or not. 7 Q. Very well. Moving on, then, from the equipment to the 8 next item in your -- 9 THE CHAIRMAN: We haven't dealt with AIS. I'd invite you to 10 deal with that. 11 MR BERESFORD: Very well, Mr Chairman. 12 You say you've also installed AIS on the new craft. 13 Can you tell us why you regard that as an enhancement to 14 safety? 15 A. Because I know that if we have this equipment installed, 16 then other vessels will be able to tell what vessel our 17 vessel is, not just seeing the image of a vessel on the 18 radar screen. In the same way, if we have this system 19 in place, we will also be able to differentiate what 20 vessels the other vessels are. 21 Q. So this will enable vessels to identify one another, but 22 it won't improve their ability to see the fact that they 23 exist, or where they are; is that right? 24 A. I agree, but if both vessels have installed this system 25 then, for example, if we can tell whether it is a speed</p>	<p style="text-align: right;">Page 36</p> <p>1 THE CHAIRMAN: Thank you. 2 MR BERESFORD: Then, moving on, you tell us that you've 3 retained a third-party distinguished naval architect "to 4 review and cross-check the static, dynamic and damage 5 stability of the two new vessels". 6 Then you give us a list of improvements to the safe 7 operation of the new launches, including: 8 "A passenger registration system is being devised." 9 You've already explained how the "Operation of the 10 launches will be included in the company's safety 11 management system". You're introducing or documenting 12 new and refresher radar training for all crew members. 13 "(iv) Documented formal life-saving and firefighter 14 refresher training ... 15 (v) Check-off lists for all activities ... will be 16 signed by designated personnel. 17 (vi) Whistles and other emergency equipment on the 18 vessels will be regularly tested ..." 19 So, Mr Cheng, that's your witness statement, for 20 which thank you very much. Some of the new materials 21 that we've requested have been coming through. First of 22 all, there are eight items, the first group of which 23 relate to the subcontracting of crew. 24 Item 1 is the generation division's technical 25 specification for the supply of crew for operating</p>

<p style="text-align: right;">Page 37</p> <p>1 a Hongkong Electric marine launch at night-time. 2 Item 2 is the contract between Hongkong Electric and 3 Hong Kong & Kowloon Ferry Ltd. I understand from your 4 evidence that this is the contract that's been 5 terminated? 6 A. Yes, correct. 7 Q. These are all related to Lamma II anyway on the night in 8 question, and not Lamma IV; isn't that right? 9 A. No, because when we provided this contract, we required 10 that three crew members should be provided when Lamma II 11 is being operated, and four crew to be provided for 12 Lamma IV, because sometimes Lamma II will be under 13 repair or have to be placed in the dry dock, and so they 14 would actually have to operate Lamma IV. 15 Q. Well, Mr Cheng, that wasn't actually my question. On 16 the night in question, the Lamma IV was operated by 17 Hongkong Electric staff; is that right? 18 A. Yes, on the night of the accident, Lamma IV was operated 19 by the Hongkong Electric staff. 20 Q. And Lamma II was operated by staff provided under this 21 contract; is that right? 22 A. Correct. 23 Q. And this contract has been terminated? 24 A. Correct. 25 Q. Okay. Thank you.</p>	<p style="text-align: right;">Page 39</p> <p>1 see, bottom right, under the heading "Life-saving & FF 2 [I presume that means fire-fighting] Appliances", and 3 these are marked as being "Correct" so far as I can read 4 them in English. Is that right, Mr Cheng? 5 A. Correct. 6 Q. Then there's a log produced for 24 February 2012 on the 7 next page. Another one for 30 March 2012. Then 8 27 April 2012, 31 May 2012, and 29 June 2012. 9 Is that the complete selection of logs showing tests 10 for 2012, Mr Cheng? 11 A. No. We have only retrieved the records for January to 12 June. 13 Q. I see. Then document 8 in this bundle are the deck logs 14 for the launch Lamma HY. Is that the pleasure launch? 15 A. No, it is a vessel of our subcontractor. "HY" means 16 "Hoi Yau", and we required that demonstration on the 17 donning of life jacket be done on the last Friday of 18 each month by the vessels of the subcontractor, because 19 if the demonstration is only done on the trips from Ap 20 Lei Chau to Lamma, then not all the colleagues in our 21 company would be able to see the demonstration. So we 22 also request that the trips from Tsim Sha Tsui and 23 Central to Lamma Island should also have the 24 demonstration done. 25 Q. Yes. Thank you, Mr Cheng.</p>
<p style="text-align: right;">Page 38</p> <p>1 Document 3 is a variation of that contract. 2 Document 4 is another variation of that contract, as is 3 document 5. 4 A. Correct. 5 Q. Document 6 is a minute of a meeting relating to those 6 contracts. 7 A. Correct. 8 Q. And then documents 7 and 8 are deck logs. Number 7 is 9 the deck log from Lamma II? 10 A. Correct. 11 Q. This is for various dates, but not 1 October 2012. 12 A. Correct. In fact we are showing these to the Commission 13 to show the date on which the demonstration of donning 14 the life jackets was conducted. 15 THE CHAIRMAN: This one on the screen, what date was that? 16 MR BERESFORD: The first seat is 27 January 2012. 17 THE CHAIRMAN: And, Mr Cheng, what date was this 18 demonstration of life jackets performed, from the 19 information here? 20 A. The date is the date of the log, that is 27 January 21 2012. The demonstration was done twice, the first one 22 at 7.30 for the trip from Ap Lei Chau to Lamma. The 23 other one is 8.30, from Ap Lei Chau to Lamma. 24 THE CHAIRMAN: Thank you. 25 MR BERESFORD: Then if we scroll down on the screen, we can</p>	<p style="text-align: right;">Page 40</p> <p>1 I also have received some other documents, although 2 I understand that these have not yet been scanned. 3 Perhaps they're coming up now. If you'll just wait 4 a moment. 5 I think the first one is probably under the name 6 "Training records", number 23. This records training of 7 Edwin Hui Ka-wai; is that right? No, we've got 8 a different one. 9 Now we've got the one that corresponds with my hard 10 copy. 11 THE CHAIRMAN: Edwin Hui was one of the deceased, was he 12 not? 13 MR BERESFORD: He was, Mr Chairman. 14 THE CHAIRMAN: Died on the main deck of multiple trauma 15 injuries? 16 MR BERESFORD: That's right. 17 So it doesn't appear that any of these are maritime 18 safety courses, Mr Cheng; would you agree with that? 19 A. I agree, but we do have safety courses on the 20 fire-saving issues. 21 Q. Then the next document in my clip is a seaman's service 22 record for Chan Wing-hang. 23 THE CHAIRMAN: Its relevance being what, Mr Beresford? 24 MR BERESFORD: Perhaps the witness can explain, Mr Chairman. 25 MR GROSSMAN: I think, Mr Chairman, you asked for it.</p>

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<p>1 THE CHAIRMAN: Can you remind me what the relevance is? 2 MR GROSSMAN: I didn't know then. I don't know the 3 relevance. 4 MR BERESFORD: The issue arose, Mr Chairman, because it was 5 suggested that these working group members fulfilled the 6 function of the fourth crew member on Lamma IV. 7 THE CHAIRMAN: Yes. So he's a working group member? 8 MR BERESFORD: Mr Cheng will correct me if I'm wrong, but 9 I understand Mr Cheng's case to be that this particular 10 individual had experience as a seaman. 11 THE CHAIRMAN: Is that the point, Mr Cheng? 12 A. Yesterday I was required to provide all the records of 13 the staff working in the generation division, and one of 14 them has sea, maritime experience, and we were asked to 15 provide evidence of his maritime experience. 16 THE CHAIRMAN: My clerk has reminded me that this is 17 relevant to paragraph 33 of your witness statement, 18 where you refer to him by name -- 19 A. Correct. 20 THE CHAIRMAN: -- noting that he has sea-going experience, 21 being what you call a "ticketed" assistant marine 22 engineer on ocean-going vessels for seven years before 23 joining the company. 24 A. Correct. 25 MR BERESFORD: But although you say "ticketed", that's not</p>	<p>1 page, isn't there, Mr Cheng, of a similar nature? 2 A. Yes, agree. 3 Q. These presumably relate to the cargo handling operations 4 at the Lamma Power Station, do they not? 5 A. It is related to the cargo handling operation on board 6 vessels. 7 THE CHAIRMAN: Mr Beresford, it seems to me that it would 8 make more sense to allow you a chance, and certainly us 9 a chance, to digest this material rather than ploughing 10 through it page by page where parts of it will 11 apparently be irrelevant. So we'll give you time to do 12 that, and we'll take an early adjournment. 13 Mr Cheng, we're going to adjourn early so that 14 everyone can digest this new material, for which we 15 thank you, and we'll resume again at 2.30 this 16 afternoon. 17 Thank you. 18 (12.48 pm) 19 (The luncheon adjournment) 20 (2.30 pm) 21 THE CHAIRMAN: Mr Cheng, may I remind you that you continue 22 to give your evidence according to your original 23 affirmation. 24 MR BERESFORD: Mr Chairman, I'm grateful to you for the 25 opportunity for looking over these additional exhibits</p>
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<p>1 a Hong Kong engineer's certificate, is it? We can see 2 from the last page that the certificate you've provided 3 is apparently from the Republic of Liberia. 4 A. Yes, but the registration was done in accordance to the 5 class. So if he belongs to a certain class, then he is 6 regarded as a registered seaman. 7 Q. Then you've provided us with a spreadsheet listing 8 training records, I believe, for Mr Chan Wing-hang, have 9 you not? 10 A. Yes. 11 Q. Would you agree that this too does not disclose any 12 maritime safety training? 13 A. Can we refer to one similar training, one training which 14 is similar? 15 THE CHAIRMAN: Yes. Point out that which you say is 16 similar. Would you like a hard copy? Would that be 17 easier? (Handed). 18 A. Yes. 19 THE CHAIRMAN: Take your time. 20 A. It is on the last page. 21 THE CHAIRMAN: Read out what you say is relevant. 22 A. It is the third and fourth items, "Shipboard cargo 23 handling basic safety training" -- both of them are 24 "Shipboard cargo handling basic safety training". 25 MR BERESFORD: There's another one at the first item on that</p>	<p>1 that we received. 2 Mr Cheng, we were looking at a clip of exhibits, and 3 I hope that your copy is paginated like mine, from 4 pages 1116 to 1125. Can you confirm that? 5 A. Yes. 6 Q. We were looking at page 1123 and you had drawn our 7 attention to Mr Chan's training courses in safety and 8 shipboard cargo handling. 9 A. Yes. 10 Q. That's nothing to do with the business of Lamma IV, is 11 it? 12 A. Yes. 13 Q. You mean you agree? 14 A. Yes. 15 Q. There's nothing else relevant in these pages, is there? 16 A. There is. 17 Q. Would you draw our attention to it, please. 18 A. In page 1121, a bit lower than the middle part, there is 19 a safety course. 20 THE CHAIRMAN: Read out the whole of the sentence, if you 21 would. 22 A. (In English) "HEC -- marine routine maintenance & 23 boarding safety." 24 THE CHAIRMAN: Thank you. 25 MR BERESFORD: Is there anything else you want to draw our</p>

<p style="text-align: right;">Page 45</p> <p>1 attention to in these pages? 2 A. There are others. 3 Q. Yes. Will you take us to them, please? 4 A. On page 1123, around the middle, there are two safety 5 courses. 6 A. (In English) "Red Cross -- cardiopulmonary 7 resuscitation". 8 Q. Yes. Is there anything else? 9 A. That's all. 10 Q. Then we've received another clip of documents which are 11 numbered pages 1136 to 1144. Can you explain to us what 12 these documents are, please? 13 A. This morning I had mentioned about Mr Chow, who is the 14 predecessor of Mr Lee Kit. After discussion with the 15 staff of the personnel department, it was agreed that 16 from now on, two vessels instead of one would be 17 provided for viewing of fireworks displays. 18 Q. Yes. Thank you. And if we turn to -- 19 THE CHAIRMAN: Before we move away from it, can you -- 20 MR BERESFORD: I'm not moving away from it, Mr Chairman. 21 THE CHAIRMAN: Very well. Carry on, then. 22 MR BERESFORD: In order to take it in chronological order, 23 we have to turn back. If we go to page 1140, we can see 24 at the top of that page an email dated 30 September 25 2011. That's an email from the acting marine officer to</p>	<p style="text-align: right;">Page 47</p> <p>1 A. (In English) A gentleman. 2 A. A gentleman, and "Tang" refers to the marine officer 3 Tang Wan-on. 4 Q. So "LM" refers to Liu Ming-ching, did you say? 5 A. Chiu Li-ming. 6 Q. Thank you. He says: 7 "Taking the safety issue into consideration, I have 8 discussed with S&R and Gleeson of P&A, and come up with 9 an alternative arrangement that we would use Lamma II 10 for the inbound trip to Lamma, and both Lamma II & 11 Lamma IV for the voyage for Lamma to Central for the 12 fireworks (and the return journey) such that we can 13 minimise the risk by dividing the participants into two 14 groups during the fireworks as well as the spending for 15 rental of contractor ferries. Would MO please make 16 necessary arrangements as required and let me know if 17 there is any query or problem encountered or 18 anticipated." 19 First of all, do you know what the safety issue is 20 that he's referring to? 21 THE CHAIRMAN: Before we get there, can we decipher the 22 abbreviations or acronyms? 23 What is "S&R"? 24 A. "S&R" refers to social and recreation unit, which was 25 later on changed name to employee wellness unit.</p>
<p style="text-align: right;">Page 46</p> <p>1 Mr Raymond Leung, saying: 2 "... Lamma IV has had some engine trouble recently." 3 And asking if there's any alternative arrangement if 4 there's a ferry breakdown. 5 THE CHAIRMAN: Do you see that, Mr Cheng? 6 A. Yes. 7 MR BERESFORD: Is that the reason for using two vessels? 8 A. No. 9 THE CHAIRMAN: We're dealing with 2011. The email that we 10 looked at earlier, on page 1136, is 2010. So can we try 11 and fit this into some chronological sequence? 12 MR BERESFORD: Yes. 13 THE CHAIRMAN: It seems that the -- well, we go back to 14 2004, dealing with other material. Page 1137. 15 MR GROSSMAN: It goes back to 2003 on that page. 16 MR BERESFORD: Yes. Perhaps there's no connection. I just 17 want to ask about the email on page 1136, Mr Chairman. 18 I don't know if Mr Chairman has any other questions? 19 There is an email dated 29 September 2010 from 20 Victor, addressed to "Dear LM/Tang". Would "Tang" refer 21 to the marine officer? 22 A. In fact "LM" here refers to one person, and "Tang" 23 refers to another one. Judging from the address here, 24 I note that "LM" refers to "GEN.TS.LMC", who is a lady 25 called Chiu Mai-ling.</p>	<p style="text-align: right;">Page 48</p> <p>1 THE CHAIRMAN: Thank you. 2 And Gleeson, is that Gleeson Lam? 3 A. Yes, correct. 4 THE CHAIRMAN: What does "P&A" stand for? 5 A. "P&A" refers to personnel and administration, which is 6 the former name of human resources and administration. 7 THE CHAIRMAN: Thank you. 8 Yes, Mr Beresford. 9 MR BERESFORD: So I was asking you if you knew what the 10 safety issue was that he refers to in the opening words 11 of that email. 12 A. Obviously he was trying to reduce the number of 13 passengers on board the vessel. 14 Q. Well, never mind whether it's obvious or not. I'm 15 asking you if you knew what the issue was. I don't want 16 you to guess or infer. Just tell us if you knew. 17 A. At that time, when this matter was being discussed, 18 I didn't know. But after the passengers were split into 19 two vessels, I knew about that. 20 THE CHAIRMAN: Was the concern that passengers would group 21 in the best place on the vessel for a view of the 22 fireworks, that being the upper deck? Was that the 23 concern? 24 A. I'm not sure, but I believe that it has some relation to 25 this.</p>

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<p>1 THE CHAIRMAN: So the concern was to reduce the numbers on 2 each vessel, related to watching fireworks? 3 A. I believe so, because during the voyage to the power 4 station, only one vessel was deployed. But on the trip 5 to view the fireworks display, two vessels were used. 6 THE CHAIRMAN: Thank you. 7 MR BERESFORD: In the middle of that text, he uses the 8 expression "such that we can minimise the risk by 9 dividing the participants into two groups". So, the 10 risk of what? Do you know what risk he is referring to? 11 A. I cannot speculate on that. At that time, I only knew 12 that he was trying to reduce the number of passengers on 13 board the vessel. 14 THE CHAIRMAN: Remind me, if you would, Victor's surname. 15 Victor who? 16 A. Chow. 17 THE CHAIRMAN: Thank you. 18 MR BERESFORD: I have no further questions of this witness, 19 Mr Chairman. 20 THE CHAIRMAN: Thank you. Do counsel have any applications? 21 MR GROSSMAN: Before that, I should indicate we have 22 produced the insurance documents as you asked for. 23 THE CHAIRMAN: One copy? 24 MR GROSSMAN: No, I think everybody has them. They haven't 25 been scanned yet, because it took a while to photocopy.</p>	<p>1 MR GROSSMAN: Yes. 2 THE CHAIRMAN: Yes, certainly. 3 MR GROSSMAN: Thank you very much. 4 Examination by MR GROSSMAN 5 MR GROSSMAN: Mr Cheng, this morning you were shown 6 documents that were handed in yesterday or this morning, 7 including what's called the "General Division ... 8 Technical Specification for Supply of Crew". 9 I wonder if we could have a look at the one dated 10 10 July, although I think for my purposes, they're all 11 the time. July 2010. Yes, that one that's on the 12 screen. 13 THE CHAIRMAN: Has this been paginated? 14 MR GROSSMAN: No, it hasn't. It was brought up this 15 morning. I don't think it's been paginated. It's on 16 the screen. 17 THE CHAIRMAN: No, it is paginated. 18 MR GROSSMAN: Is it? I see. 19 THE CHAIRMAN: The reason I ask is when one reads the 20 transcript, unless you put in a trail that allows you to 21 go back and find what the document was, you're lost. 22 MR GROSSMAN: I understand. 23 THE CHAIRMAN: So I'd ask for pagination to be referred to. 24 MR GROSSMAN: Yes. Thank you. 25 If you'd look at page 1058, please, and then if you</p>
Page 50	Page 52
<p>1 THE CHAIRMAN: There's only one copy that found its way to 2 us, and it's being paginated and then scanned. 3 MR GROSSMAN: I see. 4 THE CHAIRMAN: Has Mr Beresford had sight of this yet? 5 MR BERESFORD: No, Mr Chairman. 6 MR GROSSMAN: I apologise. It only arrived after lunch. It 7 took a while to photocopy. 8 THE CHAIRMAN: Yes. 9 MR GROSSMAN: Yes, I do have an application, Mr Chairman. 10 There are four areas, and I undertake there will be not 11 more than one or two questions on each. 12 THE CHAIRMAN: Yes. They are? 13 MR GROSSMAN: The first is the illiterate deckhand on the 14 Lamma II. The second is the cost of providing a fourth 15 deckhand. That's the one matter. 16 The second matter is to do with the life jackets on 17 the open deck. 18 THE CHAIRMAN: Yes. 19 MR GROSSMAN: The third, I want to ask a question about the 20 reasons for having two vessels on that evening, 21 1 October. 22 THE CHAIRMAN: Yes. 23 MR GROSSMAN: And lastly, I want to ask a question about the 24 improvements. 25 THE CHAIRMAN: As outlined in the witness statement?</p>	<p>1 could go to what is called page 2 of that document, 2 which I think page is probably page 1061, you'll see 3 a heading "Requirement of Contractor Crew". That's at 4 2.6. Just to put this into context, this is 5 an agreement you had with Hong Kong Ferry to provide 6 crew from time to time; is that right? 7 A. Yes. 8 Q. If we could go to the next page, please. 9 THE CHAIRMAN: Before you do that, where do we see who are 10 the parties to this contract? 11 MR GROSSMAN: He's just given this information. 12 THE CHAIRMAN: I understand that, but do we see it on the 13 document? 14 MR BERESFORD: Mr Chairman, perhaps I can help. It appears 15 that this is a general technical specification, and that 16 the contract is document number 2 in this clip. 17 THE CHAIRMAN: Thank you for that, Mr Beresford. 18 MR GROSSMAN: Yes, thank you. 19 If we could go to the next page, please, page 1062. 20 The requirements in respect of a deckhand are set out. 21 Do you see that? 22 A. Yes. 23 Q. You see that the third requirement is that he is "Able 24 to speak Cantonese, read and write Chinese and simple 25 English"?</p>

<p style="text-align: right;">Page 53</p> <p>1 A. Yes. 2 Q. Can I ask you this: is that what you expected of 3 Hong Kong Ferry? 4 A. Yes. 5 Q. Thank you. Now, another question on this line. You 6 were asked yesterday about the cost of employing 7 an extra deckhand. 8 A. Yes. 9 Q. Did the question of costs or economics play any part in 10 your decision or in your view as to whether or not you 11 needed three people on the bridge, or you needed another 12 deckhand on the Lamma IV? 13 THE CHAIRMAN: Is it the latter question you're asking? 14 MR GROSSMAN: Yes. 15 THE CHAIRMAN: Thank you. 16 MR GROSSMAN: Thank you, Mr Chairman. 17 A. This is one of the considerations, but not the only one. 18 Q. Yes. Why was it a consideration, that you would have to 19 pay for an extra deckhand? 20 A. Because if we were to strictly comply with the licensing 21 requirement, there is no need to employ another 22 deckhand, because according to the licensing requirement 23 for Lamma II, only two crew were needed, and four were 24 needed for Lamma IV. So if we were to comply with the 25 stipulation, we only need to deploy one crew from</p>	<p style="text-align: right;">Page 55</p> <p>1 A. (In English) Including working party members. 2 Q. Thank you. I want to read to you also the first part of 3 paragraph (c) -- 4 A. I need to supplement some information. 5 Q. Please do. I beg your pardon. 6 A. In view of this number of participants, only one 7 vessel -- that is, Lamma II -- is enough to convey all 8 the staff, their friends, families and relatives, and it 9 is enough to comply with the licensing requirements of 10 the Government, and so only Lamma II was required. That 11 is why economy is not the main concern, especially in 12 relation to this activity. 13 Q. I think the point you're making is that -- 14 THE CHAIRMAN: I think we've got the point, Mr Grossman. 15 It's a fairly obvious point. 16 MR GROSSMAN: Very well. Thank you. 17 THE CHAIRMAN: So what you were doing was consistent with 18 what had been articulated in the email we saw from 19 September 2010? 20 A. Yes, especially in using two vessels and the number of 21 crew deployed on each of them. 22 MR GROSSMAN: I just want to read to you also the first 23 sentence of paragraph (c), which I don't think was read 24 to you this morning: 25 "In addition, the use of two vessels would provide</p>
<p style="text-align: right;">Page 54</p> <p>1 Lamma II to Lamma IV. 2 Q. In other words, then you could have had three on each? 3 I'm sorry, two on Lamma II and four on Lamma IV? 4 A. Yes. 5 Q. All right. I want to ask you now also about the reason 6 for having two vessels that evening. Would you look, 7 please, again at paragraph 26 of your statement. Do you 8 have it? 9 A. Yes. 10 Q. When my learned friend Mr Beresford was going through it 11 with you this morning, he read out to you 12 paragraph 26(a), which you agreed with, but I want you 13 also to remind yourself of paragraph 26(b), which I'll 14 read: 15 "The number of passengers onboard each launch would 16 be significantly reduced; there would, in simple terms, 17 be twice as many crew members available, and each 18 launch's crew members would be able to provide better, 19 safer and more direct attendance and assistance to all 20 passengers if necessary." 21 Do you confirm that that was one of the reasons for 22 having two vessels? 23 A. Correct. In fact, the estimated number of participants 24 for that night was 185, but the total number that turned 25 out was 190, including crew members.</p>	<p style="text-align: right;">Page 56</p> <p>1 extra space and use of safety equipment for the sake of 2 additional safety, convenience and comfort of the 3 passengers during the cruise." 4 That's what's written there, and is that correct? 5 A. Yes. 6 Q. Could you lastly turn, please, to page 13, under the 7 heading -- paragraph 42(c), I think it is. The heading 8 is "Other improvements made". You confirmed that these 9 improvements were made because in fact, perhaps obvious, 10 they didn't exist at the time. 11 A. Yes. 12 Q. Were any of these that you listed under (c) requirements 13 for the Marine Department? 14 A. No. All these were improvement measures that were put 15 forward after discussion, internal discussion. 16 Q. Finally on this point, was the absence of any of these 17 items listed under (c) ever commented upon or criticised 18 by the Marine Department? 19 A. No. 20 MR GROSSMAN: Thank you. 21 THE CHAIRMAN: Mr Sussex? 22 MR SUSSEX: Mr Chairman, with your leave I'd like to ask 23 Mr Cheng a few questions on one topic. It doesn't 24 actually arise from his statement, but as he is the most 25 senior person so far to appear from Hongkong Electric,</p>

<p style="text-align: right;">Page 57</p> <p>1 I'd like to ask him about the light at the end of the 2 breakwater at the Lamma Power Plant pier. 3 THE CHAIRMAN: Please do. 4 Examination by MR SUSSEX 5 MR SUSSEX: Mr Cheng, could I ask that you be shown police 6 photo album X at page 635 and following. We have 7 a series of photographs there which depict, apparently, 8 a light at the end of the breakwater at the Lamma Island 9 Power Plant pier. If you look at page 636 and 10 following, you'll see pictures of that light from 11 various angles and at various states of darkness. 12 A. Yes. 13 Q. If we go to page 641, we see that the light source is 14 right at the end of the breakwater, the entrance to the 15 Hongkong Electric power plant pier; is that right? 16 A. Yes. 17 Q. Now, if we go to page 659, which is in police photo 18 album XI, we see that that light is actually generated 19 by two lights positioned at the top of a mast. 20 A. Yes. 21 Q. In this hearing so far, it's been referred to as a fog 22 light. What is the purpose of that light? 23 A. This light is to enable the vessels to see the location 24 of the pier when there is thick fog or at night. 25 Q. And it's right, is it not, that it is on in darkness,</p>	<p style="text-align: right;">Page 59</p> <p>1 since the breakwater was constructed in 1983-84? 2 A. I am not sure, because during the early period, I was 3 not responsible for this area. When I joined the 4 generation division, I was only a trainee. 5 Q. Right. As far as you're aware, is it likely that there 6 are documents within the construction and engineering 7 division dealing with the construction of this light and 8 any permissions that were obtained, any consultations 9 that occurred? 10 A. I am not sure. 11 MR SUSSEX: I'm obviously in the Commission's hands in 12 relation to this, but I would suggest that this is 13 an area that might prove to be relevant. 14 THE CHAIRMAN: I was going to ask Mr Cheng to do this. 15 Perhaps you'd see if this meets your needs. 16 Would you make enquiries to find out what are the 17 characteristics of the two lights that we see that are 18 mounted there? That is to say, their wattage, what kind 19 of bulbs they are, and so on. Would you make those 20 enquiries for us? 21 A. Yes. 22 MR SUSSEX: Thank you very much. 23 Sir, I have no further questions. 24 THE CHAIRMAN: Do you know -- maybe you don't -- why this 25 typhoon entrance is not marked like every other typhoon</p>
<p style="text-align: right;">Page 58</p> <p>1 whether or not there is fog? 2 A. Correct. 3 Q. And it's powered by electricity, is it not? 4 A. Correct. 5 Q. And it's very bright? 6 A. Correct. 7 Q. How long has it been there? 8 A. It has been built here ever since the typhoon shelter is 9 in place. I believe that it has been there since 10 1983-84. 11 Q. Right. As far as you're aware, and please say so if you 12 don't know the answer to this question, was the Marine 13 Department consulted when that light was mounted at the 14 end of the breakwater? 15 A. I have no idea, because my scope of duty is in the 16 operation and repair -- 17 A. (In English) Maintenance. 18 THE INTERPRETER: Sorry. 19 A. -- and maintenance. As for the building of the factory, 20 it is the responsibility of the construction and 21 engineering division. It is the staff there who were 22 responsible for liaising with the government 23 departments. 24 MR SUSSEX: Is it right that as far as you're aware, the 25 form of that light, its general shape, hasn't changed</p>	<p style="text-align: right;">Page 60</p> <p>1 entrance in Hong Kong, with a flashing green and red 2 light? Do you know why this one is different? 3 A. I have no idea, but this typhoon shelter is very small 4 and is only used by the vessels of our company. It is 5 not a public typhoon shelter. 6 THE CHAIRMAN: Thank you. 7 MR GROSSMAN: If I could help. My information is that all 8 the records relating to this fog light have been seized 9 by way of a search warrant already. 10 THE CHAIRMAN: Right. Perhaps you could liaise with 11 Mr Sussex as to where they might be. But it may be that 12 the information that the witness has agreed to supply us 13 with accommodates your need. 14 MR SUSSEX: Yes, it may well. 15 THE CHAIRMAN: Yes, Mr Mok? 16 MR MOK: I have very few questions to ask in relation to the 17 Marine Department. 18 THE CHAIRMAN: Yes. What areas do you wish to question the 19 witness on? 20 MR MOK: In relation to the licensing condition changing the 21 number of crew from two to four. 22 THE CHAIRMAN: Yes, please do. 23 Examination by MR MOK 24 MR MOK: Mr Cheng, my question is in relation to the 25 licensing condition that increased the number of the</p>

<p style="text-align: right;">Page 61</p> <p>1 crew from two to four. 2 THE CHAIRMAN: For Lamma IV. 3 MR MOK: For Lamma IV, thank you. 4 You said in your evidence that you did not 5 understand the reason why there was this increase. Do 6 you remember that? 7 A. Yes. 8 Q. My question is, did your company ever make any objection 9 to this particular condition? 10 A. As I have mentioned yesterday, a meeting has been held 11 internally to decide on the course of action to be 12 taken, and originally I intended to send a letter to the 13 Marine Department to ask about the reason for this, but 14 I was discouraged by my colleagues. 15 Q. So your answer is "no", right? 16 A. Yes, correct. 17 Q. Your answer is that your company made no objection? 18 A. Correct. 19 Q. It would also follow that your company did not tell the 20 Marine Department that this condition was unfair? 21 A. Our colleagues have asked the Marine Department verbally 22 for the reason, and the reply was that no direct 23 response was given. 24 Q. I'm sorry, Mr Cheng, you haven't answered my question. 25 My question was, it follows that your company did not</p>	<p style="text-align: right;">Page 63</p> <p>1 THE CHAIRMAN: Yes, but I think it's sensible that, having 2 called for them, we should at least look at them, and 3 that's what I'm proposing to do. So we'll take 4 a 10-minute adjournment now -- I think they're in the 5 last stages of being ready -- and then we'll have a look 6 at them. 7 Mr Cheng, thank you for producing the insurance 8 documentation at short notice -- we're grateful to you 9 for that -- but we want to have a quick look through 10 them to see if there are any matters that arise. So 11 we're going to take a 10-minute adjournment. 12 (3.18 pm) 13 (A short break) 14 (3.32 pm) 15 THE CHAIRMAN: Mr Beresford, has this material reached you? 16 MR BERESFORD: Yes, it has, Mr Chairman. 17 THE CHAIRMAN: Has it reached other counsel? 18 MR BERESFORD: I believe everybody has got a copy. 19 THE CHAIRMAN: I can see them looking slightly puzzled. 20 MR BERESFORD: Apparently not, as yet. 21 THE CHAIRMAN: Well, for current purposes perhaps we can 22 deal with it and if it's necessary to come back, we'll 23 do so. 24 MR BERESFORD: Mr Chairman, I believe that should be 25 possible. Perhaps I can ask the witness my first</p>
<p style="text-align: right;">Page 62</p> <p>1 inform the Marine Department that this condition was 2 unfair; is that true or not? 3 A. You can say so. 4 Q. So it also follows that your company understood that in 5 those circumstances, it was obliged to comply with this 6 condition? 7 A. Correct. 8 MR MOK: Thank you, Mr Chairman. 9 MR GROSSMAN: Mr Chairman, I wonder if I might be permitted 10 to ask one question about the fog light. 11 THE CHAIRMAN: Yes, certainly. 12 Further examination by MR GROSSMAN 13 MR GROSSMAN: Mr Cheng, to your knowledge, has there ever 14 been a complaint by either the Marine Department or any 15 other ferry owner about the fog light? 16 A. No. 17 MR GROSSMAN: Thank you. 18 Thank you, Mr Chairman. 19 THE CHAIRMAN: Mr Beresford? 20 MR BERESFORD: No further questions. 21 THE CHAIRMAN: Have you seen those insurance documents yet? 22 MR BERESFORD: No, Mr Chairman. 23 THE CHAIRMAN: Nor have we. Are they available? 24 MR BERESFORD: I understand they're quite bulky, 25 Mr Chairman.</p>	<p style="text-align: right;">Page 64</p> <p>1 question and then it will become clear. 2 THE CHAIRMAN: Yes. 3 Further examination by MR BERESFORD 4 MR BERESFORD: Mr Cheng, you've provided us with certain 5 insurance documents. I will identify them in a moment. 6 But can you tell us if insurance is amongst your 7 responsibilities? 8 A. It is not amongst my responsibilities, but I was in 9 a position to give my opinion. But as to which 10 insurance to purchase, it will be decided by 11 an insurance unit. 12 Q. Let's just identify what we have here, please, Mr Cheng. 13 First of all at page 1145 we have an Employee's 14 Compensation Policy. 15 At page 1147, we see "the Insured" is defined as 16 meaning the person or persons specified in the schedule. 17 Just above that, we see "Employee" defined as having 18 the same meaning as that assigned to that expression in 19 the Ordinance, which is the Employees' Compensation 20 Ordinance. 21 We see the schedule at page 1159 which shows "the 22 Insured" as Power Assets Holdings Ltd and/or its 23 subsidiaries and/or associated companies; "Insured 24 Employees" as being all employees of the insured; and 25 the limit of liability as being \$600 million.</p>

<p style="text-align: right;">Page 65</p> <p>1 There then follows at page 1160 a schedule to 2 a Group Personal Accident Insurance Policy, and the 3 policy holder is Power Assets Holdings Ltd and/or 4 associated companies and/or subsidiaries; the insured 5 person is all employees of the policy holder; and the 6 aggregate limit is 380 million per accident. 7 Although we've got the rider and at the next 8 document, page 1170, an amendment, it appears that we 9 don't actually have the policy in relation to this group 10 personal accident insurance policy. 11 We then have the maritime insurance in the last two 12 documents, the rules commencing at page 1186 and the 13 certificate of entry commencing at page 1180. 14 The certificate of entry shows, at page 1181, the 15 vessels insured include the Lamma IV. The member is the 16 Hongkong Electric Co Ltd. The terms and conditions of 17 insurance are incorporated by reference, and they are 18 the rules of the P&I club at page 1186; is that right? 19 A. Yes, correct. 20 Q. The risks covered includes liability to passengers in 21 accordance with rule 2, section 2. This appears from 22 page 1181. 23 A. Yes. 24 Q. It excludes liability to seamen in accordance with 25 rule 2, section 1.</p>	<p style="text-align: right;">Page 67</p> <p>1 to answer this question. 2 MR BERESFORD: Yes, that's fine. 3 Then in the provisos, we see that under 4 subsection D, "Provisos": 5 "There shall be no right of recovery in respect of 6 the liabilities identified in paragraphs A to C of this 7 Section unless the terms of the contract of carriage for 8 reward have been agreed by the Managers in writing." 9 THE CHAIRMAN: Frankly, I don't think we need to get 10 involved with this amount of detail. 11 MR BERESFORD: Very good, Mr Chairman. 12 THE CHAIRMAN: But, Mr Cheng, you can help us with this. 13 When these recreational events were organised, what 14 steps did you take, if any, to ensure that those who 15 were on board the vessel, in whatever capacity, were 16 insured? What did you do? 17 A. According to my understanding, all the passengers were 18 protected under mandatory third-party insurance. And 19 also, when we organised this event, the family members 20 and friends of our staff were also covered by an extra 21 insurance, but I don't know about the premium of that 22 insurance policy. 23 THE CHAIRMAN: You see, the documents we've got are all 24 general insurance documents. There's nothing that's 25 extra, additional, or special for this event.</p>
<p style="text-align: right;">Page 66</p> <p>1 A. Yes. 2 Q. Then we can see the list contents of the rules at 3 page 1192. We see rule 2 covers standard cover; 4 section 2, liabilities in respect of passengers. That's 5 set out at page 1195. 6 The standard cover covers, in section 1, liabilities 7 in respect of seamen; section 2, liabilities in respect 8 of passengers. 9 I just want to ask you about that. Section 2A 10 covers illness, injury or death: 11 "Liability arising under a contract of carriage for 12 reward to pay damages or compensation for personal 13 injury, illness or death of any passenger and hospital, 14 medical, funeral or other expenses incurred in relation 15 to such injury, illness or death." 16 That's a summary of the cover for passengers in 17 relation to contracts of carriage for reward. 18 Mr Cheng, would you agree that this was a contract 19 of carriage for reward, because although the company 20 subsidised it, each passenger paid \$100, did they not? 21 THE CHAIRMAN: If you're not in a position to answer as 22 a lawyer might, please say so. 23 A. As I have mentioned before, I am not an expert in this 24 area. There are specified personnel in the company who 25 are looking into this area. So I am not in the position</p>	<p style="text-align: right;">Page 68</p> <p>1 A. I need to go back and follow up with the insurance unit 2 and human resources section about this matter. 3 THE CHAIRMAN: We'd be grateful if you would, and would you 4 report the results of your researches through counsel 5 representing you, to the Commission. 6 A. Yes, I will do so. 7 THE CHAIRMAN: Thank you. 8 MR BERESFORD: Mr Chairman, I have no further questions. 9 THE CHAIRMAN: Do any counsel have any applications in the 10 light of this evidence? 11 MR GROSSMAN: No, thank you. 12 MR SUSSEX: No, sir. 13 MR MOK: I don't, but there is a question which you asked of 14 me yesterday which I would like to follow up now, since 15 Mr Cheng is here. 16 THE CHAIRMAN: Yes? 17 MR MOK: You asked me yesterday whether there was any 18 provision which mandated that the attendance at a course 19 of radar operation qualified the person as a radar 20 operator. 21 THE CHAIRMAN: Yes. 22 MR MOK: The answer, as I understand it, is there is no such 23 provision but the courses which would qualify a person 24 would be approved by the Marine Department on 25 a case-by-case basis. So there may be some courses</p>

<p style="text-align: right;">Page 69</p> <p>1 provided by certain institutions which may qualify, but 2 there may be others which are not qualified. 3 THE CHAIRMAN: How is this information disseminated, as to 4 which is an approved course and which is not? 5 MR MOK: I understand that previously, it was not disclosed 6 openly, but now I think they are going to put this on 7 their website. 8 THE CHAIRMAN: Thank you. 9 Questions by THE COMMISSION 10 THE CHAIRMAN: Mr Cheng, assist us, if you would, with this 11 matter. You've testified that after, as you put it, 12 2008, the requirement for the minimum crew level on 13 Lamma IV was changed from two to four; do you remember 14 that? 15 A. Yes. 16 THE CHAIRMAN: And this resulted in that internal meeting 17 that you've told us about? 18 A. Yes. 19 THE CHAIRMAN: And the end result was you came up with 20 an arrangement which you say you were satisfied 21 nevertheless complied with the law, although it did not 22 involve hiring another deckhand. 23 A. Yes. 24 THE CHAIRMAN: And one reason in the general daily trips 25 made by the vessel that satisfied you about that, you</p>	<p style="text-align: right;">Page 71</p> <p>1 requirement of the fourth crew. 2 THE CHAIRMAN: Did you discuss this with any of your 3 colleagues? 4 A. No discussion was made prior to that, but after the 5 requirement was changed from two to four crew members in 6 2008, we had held some discussion on that issue. 7 THE CHAIRMAN: No, Mr Cheng, I'm talking about 1 October 8 2012. This is a special event, not the regular daily 9 run to and from the power station. 10 The question is, did you discuss that with any of 11 your colleagues: "Is our special arrangement of using 12 a fourth crew member who is engaged in the business of 13 the vessel going to be satisfied on that day?" Did you 14 discuss it with any colleagues? 15 A. Not for this particular event, because the fireworks 16 viewing, the cruise for viewing the fireworks display 17 was held every year and it has become a yearly event. 18 So this arrangement was already included in the initial 19 discussion. 20 THE CHAIRMAN: By what do you mean "the initial discussion"? 21 A. Initially, we have -- we tried to find out ways to 22 satisfy the requirement of providing the fourth crew 23 member, and we have referred to the ordinance to find 24 out the definition in respect of "crew". 25 THE CHAIRMAN: So you're talking about 2008 or 2009, are</p>
<p style="text-align: right;">Page 70</p> <p>1 told us, was that there would be on board the vessel the 2 marine officer and the marine supervisor and others who 3 you were satisfied could be regarded as crew under that 4 expression "engaged in the business of the vessel". 5 A. Yes. 6 THE CHAIRMAN: But as you told us, that didn't apply to this 7 special event which was not a daily work trip. 8 A. Yes. 9 THE CHAIRMAN: Did you nevertheless, for this 1 October 10 trip, trouble to satisfy yourself that the arrangement 11 that was in place for that day was, in your view, at 12 least, compliant with the law as to there being 13 a minimum of four crew? 14 A. Yes, I believe so. 15 THE CHAIRMAN: So tell us what steps you took to satisfy 16 yourself that the law was going to be complied with on 17 that day. 18 A. Because when we first discussed about the fourth crew 19 member, we know that the responsibility of the fourth 20 crew was to ensure the discipline and order on board the 21 vessel, and we know that in the event on 1 October, 22 there will be one staff from the human resources 23 division and not less than one staff from the generation 24 division who would be on board the vessel. And so we 25 believed that it would be enough to satisfy the</p>	<p style="text-align: right;">Page 72</p> <p>1 you, "the initial discussion"? 2 A. Yes, correct. 3 COMMISSIONER TANG: Mr Cheng, were you aware that at 4 a meeting between your staff and Hong Kong & Kowloon 5 Ferry that took place in December 2010, your staff had 6 reminded Hong Kong & Kowloon Ferry that when they 7 provide deckhands for Lamma IV, there should be an extra 8 person? This is recorded in the minutes, at 9 paragraph 8.4. 10 A. Yes, I know about this, and we not only reminded Hong 11 Kong & Kowloon Ferry; in fact, when we recruit the 12 fourth crew member, we have to provide a variation order 13 in order that the fourth crew member would be provided 14 to us. 15 COMMISSIONER TANG: Thank you. 16 THE CHAIRMAN: The effect of this is to advise, is it, Hong 17 Kong & Kowloon Ferry that you need four, not three, crew 18 members; is that what you're saying? 19 A. Yes, and also we have told them that we cannot -- if we 20 have only got three crew members, then we cannot operate 21 Lamma IV. If Hong Kong & Kowloon Ferry Ltd cannot 22 provide the fourth crew member, then the duty engineer 23 has to deploy one of our workers to act as the duty 24 crew. 25 THE CHAIRMAN: So why didn't you do that on 1 October of</p>

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<p>1 last year with Lamma IV?</p> <p>2 A. I would like to reiterate that on 1 October, apart from</p> <p>3 having three crew members on board the vessel, we had</p> <p>4 nine full-time staff on board the vessel and in so</p> <p>5 doing, it is in compliance with the spirit of the</p> <p>6 regulation at paragraph 8.4.</p> <p>7 A. (In English) The nine full-time members are actually</p> <p>8 working party of the event on board the vessel.</p> <p>9 THE CHAIRMAN: Thank you.</p> <p>10 MR BERESFORD: Mr Chairman, I wonder if we might read the</p> <p>11 bundle reference of the minute into the transcript.</p> <p>12 THE CHAIRMAN: I was hoping that this would be paginated.</p> <p>13 It hasn't been done during today.</p> <p>14 MR BERESFORD: The page number is 1094.</p> <p>15 THE CHAIRMAN: Thank you.</p> <p>16 MR BERESFORD: The bundle is --</p> <p>17 THE CHAIRMAN: Presumably in the Reed Smith Richards Butle</p> <p>18 bundle?</p> <p>19 MR BERESFORD: Reed Smith Richards Butler bundle number 2,</p> <p>20 I believe, Mr Chairman.</p> <p>21 THE CHAIRMAN: Thank you.</p> <p>22 Thank you for coming to assist us with your</p> <p>23 evidence, Mr Cheng, and for providing that documentation</p> <p>24 expeditiously to help us. We would be grateful if you</p> <p>25 could provide the outstanding matters as soon as you</p>	<p>1 In a moment, Witness, we are going to ask you to</p> <p>2 take the oath or the affirmation as you choose. In your</p> <p>3 case, when you do so, do it from a seated position. Do</p> <p>4 you understand?</p> <p>5 THE WITNESS: (Through interpreter) Yes.</p> <p>6 THE CHAIRMAN: When you take the oath or the affirmation,</p> <p>7 you do not have to say your name; you simply say,</p> <p>8 "I swear" or whatever it is; do you understand?</p> <p>9 THE WITNESS: (Through interpreter) Yes.</p> <p>10 THE CHAIRMAN: Then I'm going to ask you, when you've taken</p> <p>11 the oath or the affirmation, to write your name on</p> <p>12 a piece of paper. The piece of paper will be then given</p> <p>13 to the Commission, and the Commission will seal it in</p> <p>14 an envelope. It will be marked "Not to be opened</p> <p>15 without the permission of the Commission or an order of</p> <p>16 a court in Hong Kong". Do you understand?</p> <p>17 THE WITNESS: (Through interpreter) Yes.</p> <p>18 WITNESS "A" (sworn in French)</p> <p>19 (All answers via interpreter unless otherwise indicated)</p> <p>20 THE CHAIRMAN: Thank you. Would you pass up the piece of</p> <p>21 paper with your name written on it.</p> <p>22 (Handed).</p> <p>23 The envelope will be kept safely by the Secretary to</p> <p>24 the Commission. Thank you.</p> <p>25 Mr Beresford?</p>
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<p>1 can. But your evidence is complete, and you are free to</p> <p>2 go. Thank you very much.</p> <p>3 A. I would also like to thank the Commission for providing</p> <p>4 me a chance to voice our opinion.</p> <p>5 THE CHAIRMAN: Thank you.</p> <p>6 (The witness withdrew)</p> <p>7 THE CHAIRMAN: The next witness, as I understand it,</p> <p>8 Mr Beresford, is one in respect of whom the anonymity</p> <p>9 arrangements will be put in place.</p> <p>10 MR BERESFORD: That's correct, Mr Chairman.</p> <p>11 THE CHAIRMAN: So can I ask that everyone vacates the</p> <p>12 hearing room and we'll have the screens in place when</p> <p>13 you all return in a short while.</p> <p>14 Could we turn the cameras off.</p> <p>15 (4.06 pm)</p> <p>16 (A short break)</p> <p>17 (4.15 pm)</p> <p>18 THE CHAIRMAN: Let's open the doors, please. Can we have</p> <p>19 the camera on, but only one camera.</p> <p>20 Mr Interpreter, I'm going to ask you first of all to</p> <p>21 take the oath or affirmation appropriate for</p> <p>22 an interpreter.</p> <p>23 MR LAU HIN-KWOK (affirmed as interpreter)</p> <p>24 THE CHAIRMAN: Would you then direct what I'm saying to the</p> <p>25 witness.</p>	<p>1 Examination by MR BERESFORD</p> <p>2 MR BERESFORD: Mr Witness, thank you very much for coming</p> <p>3 along today to assist the Commission in its Inquiry.</p> <p>4 I am counsel to the Commission, and I have some</p> <p>5 questions to ask you on behalf of the Commission.</p> <p>6 A. Thank you for your invitation.</p> <p>7 Q. Now, you've made a previous statement, have you not,</p> <p>8 which we may find at miscellaneous bundle item 17,</p> <p>9 page 76.</p> <p>10 A. Affirmative.</p> <p>11 Q. Do you have a copy of that statement before you now?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recognise that as your statement?</p> <p>14 A. Yes.</p> <p>15 Q. And have you had an opportunity to review it today and</p> <p>16 remind yourself of what it says?</p> <p>17 A. Yes.</p> <p>18 Q. Is there anything you wish to amend?</p> <p>19 A. No.</p> <p>20 Q. So are the contents of that statement true?</p> <p>21 A. Affirmative.</p> <p>22 Q. Thank you. Would you please state your age and</p> <p>23 education level to the Commission?</p> <p>24 A. For security reasons, I refuse to answer this question.</p> <p>25 THE CHAIRMAN: All you're being asked about education is</p>

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<p>1 what level of school you went to, that's all, or 2 university. 3 A. The last job that I occupied before I came to Hong Kong 4 was -- 5 THE CHAIRMAN: You're only being asked about your -- 6 A. -- Dietsmann, the company called Dietsmann. 7 THE CHAIRMAN: You're only being asked about your education: 8 did you finish school, did you go to university? 9 A. Yes. 10 THE CHAIRMAN: Which of the two? 11 A. I had technical studies. 12 THE CHAIRMAN: And you're an adult male. 13 A. Affirmative. 14 THE CHAIRMAN: Yes, Mr Beresford. 15 MR BERESFORD: You commute almost every day between Central 16 and Yung Shue Wan pier on Lamma Island, do you not? 17 A. Affirmative. 18 Q. You usually travel on the high-speed ferries, similar to 19 the one you took on 1 October 2012? 20 A. Usually, yes. It also depends on the number of 21 personnel aboard, and also if there are too many 22 persons, I could take the small ferry. 23 Q. But in your experience over that five years, you've 24 never heard any broadcast of safety procedures or 25 instructions on how to don a life jacket on the ferries</p>	<p>1 THE INTERPRETER: Yes. 2 THE CHAIRMAN: You translate into French. 3 THE INTERPRETER: At the same time, right? 4 THE CHAIRMAN: At the same time. 5 THE INTERPRETER: Okay. 6 THE CHAIRMAN: And perhaps do it a little bit softly, 7 because you're right next to the witness, for this 8 purpose. 9 Thank you. Let's proceed on that basis. 10 MR BERESFORD: Thank you, Mr Chairman. 11 "I boarded the ferry alone and sat at the seat right 12 at the back, at the port side corner on the weather deck 13 (located behind the upper deck cabin). There is now 14 produced and shown to me ... a copy of the seating plan 15 of the vessel and the seat which I occupied was marked 16 with a black circle (seat number U168)." 17 Mr Secretary, could we just have the seating plan 18 that we usually look at on the screen. If we can focus 19 on the upper deck. The numbered seating plan. 20 There we see number 168 in the top left-hand corner. 21 Continuing with paragraph 4 of the statement: 22 "About 20 minutes after the ferry set off, at around 23 20.20 hrs, I was looking in front when I saw the bow of 24 another ferry coming towards our vessel. Again, I only 25 found out that the other vessel was called Lamma IV</p>
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<p>1 between Central and Yung Shue Wan; is that right? 2 A. Affirmative. 3 A. (In English) Never. 4 Q. I'm going to read the next paragraphs from your 5 statement in the English, in order to save time. If you 6 hear me say anything that you think is wrong, or if 7 anything occurs to you, then please stop me and let me 8 know. I'm going to start reading from paragraph 3. 9 THE CHAIRMAN: Yes, please do. 10 MR BERESFORD: "At around 8.00 pm on 1 October 2012, I was 11 travelling home as usual on a high speed ferry. It was 12 only after the incident that I discovered that the ferry 13 was called the Sea Smooth." 14 Mr Chairman, may I suggest that the French 15 interpreter translates to the witness at the same time 16 as I read out. We also have simultaneous translation 17 going on into the Chinese. 18 THE CHAIRMAN: We can certainly try that. 19 MR BERESFORD: It might speed things up a bit. 20 THE CHAIRMAN: Which paragraphs are you going to be reading? 21 MR BERESFORD: I'm just going to read through the whole 22 thing, so perhaps the interpreter can just read to the 23 witness. 24 THE CHAIRMAN: Very well. 25 Do you understand that, Mr Interpreter?</p>	<p>1 after the incident. 2 Lamma IV was well lit. Almost instantly, I felt 3 that the brake was applied to Sea Smooth and it swerved 4 to the right, and the two vessels then collided. After 5 the collision, I heard people screaming and I could see 6 people on Lamma IV panicking until Lamma IV sank. 7 I felt that the engine of Sea Smooth was stopped and Sea 8 Smooth was drifting a bit for a short time and the 9 vessel slanted towards the starboard. I lost balance 10 and my body hit the seat in front but I was not really 11 injured. When I got back on my seat, my instant 12 reaction was to make a video with my mobile phone but 13 was unable to do so, probably because the impact had 14 impaired the video function of my phone. Then I made 15 a telephone call to my girlfriend. 16 I heard other passengers scream and immediately went 17 inside the cabin to fetch a life jacket as there were no 18 life jackets on the weather deck. There was a Chinese 19 man inside the cabin who was injured on his forehead and 20 was bleeding and the passengers were in a panic. Before 21 I came to Hong Kong 9 years ago, I worked in an oil 22 company in [Africa] ..." 23 Mr Chairman, I've substituted the continent for the 24 country. 25 THE CHAIRMAN: Yes. Thank you.</p>

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<p>1 MR BERESFORD: "... and was deployed to carry out my duties 2 on offshore oil platforms. I therefore had training in 3 donning life jackets and evacuation procedures. While 4 I had no difficulty putting on the life jacket, given 5 the condition of Sea Smooth, and the fact that there was 6 no crew around on the upper deck to assist, I taught and 7 helped other passengers to don their life jackets. 8 No member of the crew had come up to the upper deck 9 to explain what had happened or what the passengers 10 should do. As the vessel was slanting quite a bit on 11 the port side, the passengers on the weather deck 12 gathered at the corner of the stern on the starboard 13 side and we just waited. We could see that Lamma IV was 14 sinking quickly and I knew there would be many 15 casualties. 16 After a short while, Sea Smooth started moving away 17 and sailed towards the Yung Shue Wan pier. 18 I disembarked and there was one policeman at the pier 19 who took my life jacket but he did not ask me to leave 20 any contact details or requested me to give any 21 statement. 22 I was asked by the Commission's solicitors whether 23 I had heard the sound of any whistle or horn from 24 Lamma IV and I can confirm that I did not hear any 25 whistle from or sounding of the horn by Lamma IV before</p>	<p>1 well-lit. Then there was a collision. Was there 2 anything else you saw before the collision happened? 3 A. (In English) No. 4 MR BERESFORD: How long before the collision was it that you 5 saw the bow of the other ferry? 6 A. It was instantly. I could not imagine the time. 7 MR BERESFORD: Thank you. Please wait there. 8 THE CHAIRMAN: Do counsel have any applications? 9 MR GROSSMAN: Not from me, thank you. 10 MR SUSSEX: Nor from me, sir. 11 MR MOK: No questions, Mr Chairman. 12 THE CHAIRMAN: Thank you. 13 Thank you for coming to assist the Commission by 14 giving your evidence. Please accept our apologies for 15 keeping you waiting, I think most of the day, but we had 16 another witness whose evidence has only just finished. 17 Your evidence is now concluded, and you are free to go 18 in a moment. What I'm going to do is ask everyone to 19 leave the hearing room so that we can repeat in reverse 20 the arrangement that we used earlier on. 21 Can I ask that the cameras be turned off now, 22 please. 23 What I propose doing is bringing counsel back into 24 the hearing room so we can discuss any matters that 25 arise for tomorrow.</p>
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<p>1 the collision." 2 Mr Secretary, could we please have the seating plan 3 of the Sea Smooth back on the screen. Thank you. 4 Mr Witness, you were sitting, you have told us, in 5 seat 168 on the upper deck? 6 A. Affirmative. 7 Q. So does that mean that you would not have had 8 an all-round view from that seat, because your view 9 would have been obstructed by the upper deck cabin, 10 would it not? 11 A. Negative. 12 Q. When you saw the bow of the other vessel coming towards 13 your vessel, the Lamma IV, was that almost at the same 14 time or at the same time as the collision? 15 A. Negative. 16 Q. Are you saying that you could see this from a long way 17 off? 18 A. Negative. 19 Q. Well, how far away from it, in terms of distance, was it 20 when you first saw it? 21 A. From the distance I was, I could not see the distance 22 from the small boat. 23 THE CHAIRMAN: I think all you're being asked is this. You 24 became aware of the approach of the vessel you learnt 25 was Lamma IV coming towards your vessel. You saw it was</p>	<p>1 Thank you. You are free to leave now. 2 (The witness withdrew) 3 THE CHAIRMAN: Mr Beresford, are there any matters that you 4 wish to raise as to the way ahead in the next day or 5 two? 6 MR BERESFORD: Yes, Mr Chairman. 7 Firstly, the Marpol witness Mr Fung Wai-kin, 8 Terence, needs to be slotted in tomorrow if possible, as 9 I understand that he's going away and will not be back 10 for some days. 11 THE CHAIRMAN: Yes, very well. 12 MR BERESFORD: The other person that needs to be 13 accommodated at this stage is the Cheoy Lee witness, who 14 is not yet on our list of witnesses. We understand that 15 his witness statement is due tomorrow, and he's only 16 available before a long planned trip on the 17th. 17 THE CHAIRMAN: Yes. 18 MR BERESFORD: So I would be perfectly happy to slot him in 19 on the 17th, provided his witness statement is served on 20 time. But if it's not served in time, then I don't 21 suppose the Commission would have a great deal of 22 sympathy to his trip. 23 THE CHAIRMAN: I think as yet we haven't put a time, 24 although we've put a date, on when we've asked Cheoy Lee 25 to provide the witness statement. I think it sensible</p>

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<p>1 to put a time on it now, and we do so, and we make it 2 4 pm tomorrow. 3 MR BERESFORD: Yes, Mr Chairman. 4 THE CHAIRMAN: I'd ask that the solicitors to the Commission 5 communicate that order to Cheoy Lee as soon as possible. 6 MR BERESFORD: Thank you, Mr Chairman. 7 THE CHAIRMAN: Together with the information that we do so 8 in order to try and assist their witness with his diary. 9 MR BERESFORD: Indeed. 10 Mr Chairman, that brings me to the other matter, 11 which is the Mardep witnesses. 12 THE CHAIRMAN: Yes. 13 MR BERESFORD: I have not yet had an opportunity to read all 14 of the statements that have been provided. I would like 15 to have an opportunity to read those properly, and also 16 to consult with the Commission's expert, Dr Armstrong. 17 So what I ask is that we adjourn now until after lunch 18 tomorrow, to afford me the opportunity to attend to 19 those matters, and that we then start with Mr Wong 20 Chi-kin, after Terence Fung's evidence, at 2.30. 21 Mr Wong Wing-chuen is presently listed as the next 22 witness, but he does not appear to give any first-hand 23 evidence and I would propose to drop him down to the 24 back of the Mardep list, and possibly not call him at 25 all. But perhaps I can reserve my decision on that.</p>	<p>1 2 o'clock. But tomorrow, we'll sit from 2 o'clock until 2 5 o'clock. Thank you very much. 3 MR GROSSMAN: Mr Chairman, I'm sorry. Before we adjourn, 4 there's a number of housekeeping matters I thought 5 I should raise. Let me say immediately I don't ask you 6 to make any decisions now, but really looking to the 7 future, we wonder on a number of matters. 8 First of all, after the Mardep witnesses, what other 9 groups of witnesses will be called? We understand 10 there's the shipbuilders. Then is it your intention to 11 have the crew before the experts? 12 THE CHAIRMAN: No. 13 MR GROSSMAN: Very well. 14 THE CHAIRMAN: We indicated that at the outset. 15 MR GROSSMAN: Yes, I know. It's just things are changing. 16 As far as the experts are concerned, I know we have 17 to make applications. Would you want the application to 18 be made sometime before the witness statements are 19 filed, assuming you give leave? And in which order 20 would you like them called? That's the other thing. 21 THE CHAIRMAN: Any applications to call evidence by the 22 involved parties ought to be made in good time, with 23 full disclosure of the ambit of the evidence that is 24 sought to be called. 25 MR GROSSMAN: Yes. And in regards to the experts,</p>
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<p>1 THE CHAIRMAN: Yes, I think it was perhaps at the intimation 2 from the Commission that you've ordered the witnesses in 3 the way that you did, but on reflection it seems to me 4 sensible, at least now that we know what the overview is 5 from the witness statement, to call the factual 6 witnesses first, and we'd ask you to do that. 7 MR BERESFORD: Yes, Mr Chairman. 8 THE CHAIRMAN: Do any counsel have any submissions to make 9 in response to Mr Beresford's submission for 10 an adjournment? 11 MR GROSSMAN: No, thank you. 12 MR SUSSEX: No, sir. 13 MR MOK: No. I think that was our original suggestion as 14 well. 15 THE CHAIRMAN: Well, we're sympathetic to your position, 16 Mr Beresford, but if we were to provide you with the 17 morning in the way that you seek, would counsel be able 18 to sit in the afternoon from 2 o'clock till 5 o'clock? 19 We'll take a short break in the middle of that. 20 MR GROSSMAN: For my part, certainly. 21 MR SUSSEX: Yes, sir, I can do that. 22 MR MOK: Yes, sir. 23 THE CHAIRMAN: Thank you very much. 24 Very well. In those circumstances, that's what 25 we'll do: we'll adjourn now and we'll resume tomorrow at</p>	<p>1 presumably that would be by way of showing the report 2 that we would like put in? 3 THE CHAIRMAN: Yes, it would. Inevitably, of course, if the 4 experts of the Commission are to be cross-examined, I'd 5 have thought the contrary opinion would have already 6 been disclosed. 7 MR GROSSMAN: Very well. Very well. 8 Looking ahead now. May I ask, does the Commission 9 have any cut-off date by which you wish this matter to 10 finish? 11 THE CHAIRMAN: Yes, I do. It's in our terms of reference. 12 The Chief Executive requires the Commission to report by 13 22 April. 14 MR GROSSMAN: I understand that, but presumably you have in 15 mind some time to write the report. 16 THE CHAIRMAN: Well, you're right. 17 MR GROSSMAN: I wondered if you had a cut-off date for the 18 evidence. I'm not asking you now, I'm simply -- 19 THE CHAIRMAN: No, I don't, is the answer, and nor do we. 20 But if necessary, we will start sitting longer days, and 21 in one sense that's why counsel are being pressed, 22 parties are being pressed, to come up with their witness 23 statements expeditiously, because time is precious. 24 MR GROSSMAN: I understand. The last point I'm asking about 25 is this. I assume that you will be asking the parties</p>

<p style="text-align: right;">Page 89</p> <p>1 to make submissions at the end? 2 THE CHAIRMAN: We've detailed this, have we not, in our 3 original directions? 4 MR GROSSMAN: Yes. I simply ask this: would you have 5 intention of giving time for us to do that? 6 THE CHAIRMAN: No. Counsel ought to be in a position to 7 address the Commission when evidence finishes, as one 8 would in a lengthy trial. 9 MR GROSSMAN: The same day? By "immediately", you mean the 10 same day if necessary? 11 THE CHAIRMAN: Perhaps not as harsh as that, but counsel out 12 to be working on their closing submissions as we go 13 along. 14 MR GROSSMAN: Very well. Thank you. 15 THE CHAIRMAN: That's what I'd ask. 16 MR GROSSMAN: Thank you very much. 17 THE CHAIRMAN: Does anybody else wish to raise any matters? 18 2 o'clock tomorrow. 19 (4.52 pm) 20 (The hearing adjourned until 2 pm on the following day) 21 22 23 24 25</p>	<p style="text-align: right;">Page 90</p> <p>1 I N D E X 2 MR CHENG CHO-YING, FRANCIS (on former oath1 in Puntí) 3 4 Examination by MR BERESFORD (continued)1 5 Examination by MR GROSSMAN51 6 Examination by MR SUSSEX57 7 Examination by MR MOK60 8 Further examination by MR GROSSMAN62 9 Further examination by MR BERESFORD64 10 Questions by THE COMMISSION69 11 (The witness withdrew)74 12 MR LAU HIN-KWOK (affirmed as interpreter)75 13 WITNESS "A" (sworn in French)75 14 Examination by MR BERESFORD76 15 (The witness withdrew)84 16 17 18 19 20 21 22 23 24 25</p>
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