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1 Tuesday, 22 January 2013 2 (10.00 am) 3 THE CHAIRMAN: Yes, Mr Beresford. 4 MR BERESFORD: Good morning, Mr Chairman and 5 Mr Commissioner. 6 The next witness is Yu Kick-chuen, Philip. 7 MR YU KICK-CHUEN, PHILIP (affirmed in Punti) 8 (All answers via interpreter unless otherwise indicated) 9 Examination by MR BERESFORD 10 MR BERESFORD: Good morning, Mr Yu. Thank you very much for 11 attending this morning to assist the Commission with its 12 Inquiry. I have some questions to ask you on behalf of 13 the Commission. 14 A. Noted. 15 Q. Firstly, Mr Yu, you have made some previous statements 16 in connection with this matter, the first one of which 17 may be found in marine bundle 8 at pages 1949 to 1955. 18 The translation is at page 1955-1 to page 1955-8. 19 There's another copy, I believe, of the same statement 20 in marine bundle 11 at pages 3963 to 3968. 21 A. Yes. 22 Q. You have also made a supplemental statement which may be 23 found in marine bundle 11 at pages 3968-1 to 3968-4. 24 A. Yes. 25 Q. Finally, you gave an interview to the Marine Department,	1 A. Correct. 2 Q. And between 1980 and 1991, you worked in a number of 3 shipyards including Euroasia Shipyard and Cheoy Lee 4 Shipyard as a ship draftsman and supervisor. 5 A. Yes, correct. 6 Q. You joined Mardep in 1991 as an assistant ship inspector 7 in the Local Craft Safety Section? 8 A. Yes, correct. 9 Q. Your duties there included, amongst other things, 10 initial and periodic survey of local vessels, and 11 drawing approval for non-passenger-carrying vessels like 12 barges? 13 A. Yes, correct. 14 Q. You have made this witness statement to explain your 15 role in the inspections of Lamma IV. 16 A. Yes, correct. 17 Q. You refer to a document which could we please see on the 18 screen. It's marine bundle 4, commencing at page 831. 19 A. Yes, correct. 20 Q. This is the Marine Department's inspection file, is it 21 not? 22 A. Yes, correct. 23 Q. It appears from pages 832 and 834 that you carried out 24 two inspections of the Lamma IV, on 11 January 1996 and 25 15 February 1996 respectively?
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1 and we have the notes of the interview which in 2 translation are at page 1955-1. This is the first one 3 that I mentioned. 4 So we have three documents: the notes of interview, 5 your witness statement and your supplemental statement. 6 Do you have those in front of you, Mr Yu? 7 A. Yes. 8 Q. Do you recognise your signature on those documents? 9 A. Yes. Yes, correct. 10 Q. Have you been given an opportunity today to remind 11 yourself of what they say? 12 A. Yes. 13 Q. Do you have any amendment you wish to make? 14 A. No. 15 Q. So are the contents of these documents true? 16 A. Yes, correct. 17 Q. Thank you. Mr Yu, I'm going to start by concentrating 18 on the witness statement that you prepared. You are 19 a senior ship inspector, are you not, with the Local 20 Vessels Safety Section of the Shipping Division of the 21 Marine Department? 22 A. Yes, correct. 23 Q. You have a Higher Certificate in Naval Architecture 24 which you obtained from the Hong Kong Polytechnic in 25 around 1980?	1 A. Yes, correct. 2 Q. So do we see your signature on page 832 by your name, 3 "KC Yu", towards the bottom of that page? 4 A. Yes, correct. 5 Q. Do we also see your signature on page 834 at the top of 6 the page, in relation to the final survey? 7 A. Yes, correct. 8 Q. That report refers to a document, reference 9 MO539SN009038. Is that the document we can see at 10 page 835? 11 A. Yes, correct. 12 Q. Is that your signature at the bottom of page 835, 13 please? 14 A. Yes, correct. 15 Q. Do we not also see your signature at page 831 against 16 the date 8 December 1995? 17 A. Yes, correct. 18 Q. You say: 19 "... but on that occasion, I merely received 20 a certificate and stamped certain materials submitted by 21 the shipbuilder for testing, and noted [that for] the 22 Mardep files ..." 23 A. Correct. 24 Q. So what you're saying is that in relation to the entry 25 of 8 December 1995, that involved no inspection of the

<p style="text-align: right;">Page 5</p> <p>1 vessel; is that right? 2 A. Yes, correct. 3 Q. I'm going to come back to these entries, but before we 4 look at those in a bit more detail, you tell us about 5 the practice in the Local Vessels Safety Section, as it 6 is now known, formerly known as the Local Craft Safety 7 Section. 8 A. Yes, correct. 9 Q. You say: 10 "... the chief ship inspector would, upon receipt of 11 a request from the shipbuilder to inspect, designate 12 a ship inspector to carry out the inspection." 13 A. Yes, correct. 14 Q. And the shipbuilder's request would specify the nature 15 of the inspection to be carried out, for example a hull 16 inspection, machinery, rudder, et cetera? 17 A. Correct. 18 Q. "This is because inspection is an ongoing process and is 19 undertaken at different stages of construction ..." 20 You tell us that matters which have already been 21 inspected and accepted would not be revisited, but 22 outstanding matters would be noted and followed up in 23 the next inspection; is that right? 24 A. Yes, correct. 25 Q. So you say that when a ship inspector is designated by</p>	<p style="text-align: right;">Page 7</p> <p>1 drawing for the rudder plate." 2 A. Yes, correct. 3 Q. But that it wouldn't have been necessary to consult any 4 of the hull drawings before carrying out the inspection. 5 A. Yes, correct. 6 Q. So why was your inspection limited to the rudder plate 7 construction and the outstanding items? Where did you 8 find out that you were supposed to inspect the rudder 9 plate? 10 A. This is an order given by Cheoy Lee to our chief 11 inspector. 12 Q. So the shipbuilder determines what you inspect? 13 A. Yes, correct. 14 THE CHAIRMAN: Presumably there is an overall list of the 15 things that need to be inspected, and the shipbuilder is 16 telling you, "The vessel is ready for these items to be 17 inspected"; is that the process? 18 A. Yes. 19 MR BERESFORD: Then you explain: 20 "Outstanding item 3 refers to 'collar plates to be 21 fitted at frame 0. Frame 0 refers to a frame between 22 bulkhead at frame 1/2 and the transom of Lamma IV ..." 23 And you refer to the drawing, Profile and Deck 24 drawing, which is at marine bundle 2 at page 204. 25 A. Yes, correct.</p>
<p style="text-align: right;">Page 6</p> <p>1 the chief ship inspector to carry out an inspection, he 2 would look at both the shipbuilder's request as well as 3 the files of the Marine Department, to see what matters 4 are required to be inspected and direct his attention to 5 those matters? 6 A. Yes, correct. 7 Q. Turning then to the first inspection that you undertook. 8 You tell us that it appears from the file that the first 9 inspection of Lamma IV that you undertook was on 10 11 January 1996. On that occasion you inspected the 11 rudder plate construction and outstanding items 1, 3, 4, 12 6 and 7 from the inspection carried out by Mr Fung 13 Wai-man on 13 November. 14 A. Yes, correct. 15 Q. That's apparent from the entry at page 832 of marine 16 bundle 4, by the date 11 January 1996 -- 17 A. Correct. 18 Q. -- and it simply reads: 19 "The following items were inspected/witnessed: 20 Rudder plate (P&amp;S) construction. 21 (b) outstanding items 1, 3, 4, 6 &amp; 7 of dated 22 13.11.95." 23 A. Yes, correct. 24 Q. You tell us: 25 "Prior to the inspection, I would have consulted the</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. If we look at that drawing, we can see in the second 2 drawing down, the centreline profile, and third is the 3 main deck plan. You explain: 4 "From the left, the aft of Lamma IV is marked by the 5 vertical line 'A' ..." 6 A. Yes, correct. 7 Q. "... to its right '0', which is a reference to frame 0." 8 A. Yes, correct. 9 Q. If we can just keep those drawings on the screen while 10 we go through the next part of your statement. 11 You say that on that occasion, on 11 January 1996, 12 you would have inspected the collar plates fitted to 13 frame 0 because there is a tick next to outstanding 14 item 3 in the Mardep file that we looked at. 15 A. Correct. 16 Q. And that for that purpose, you would have had to enter 17 the steering gear compartment to carry out that 18 inspection, which at the time could only be achieved by 19 climbing through the access opening at frame 1/2? 20 A. Yes, correct. 21 Q. Perhaps we can just have a look at the photograph of 22 that access opening at MB1, page 37. 23 My reference must be wrong. Perhaps I can give you 24 another reference. Police photographs -- 25 THE CHAIRMAN: Well, the Marine Department photographs begin</p>

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<p>1 at page 124 and I think therefore it's 37 pages beyond 2 that. 3 Yes, if you go on a couple more. That's it. 4 MR BERESFORD: There we are. 5 THE CHAIRMAN: Can we zoom out a bit so we can see the 6 labels. Thank you. 7 MR BERESFORD: At page 162, we can see, can we not, the 8 access opening in frame 1/2 that you refer to; is that 9 right, Mr Yu? 10 A. I remember entering into it, but I couldn't recall 11 whether I entered through this particular opening. 12 Q. I'm not quite sure that I understand that, Mr Yu. You 13 remember entering the steering gear compartment of 14 Lamma IV; is that right? 15 A. Yes, I remember that. 16 Q. And you remember entering through an access opening at 17 frame 1/2; is that right? 18 THE CHAIRMAN: You're now quoting from paragraph 12 of his 19 statement? 20 MR BERESFORD: Yes, Mr Chairman. 21 THE CHAIRMAN: Perhaps that ought to be put on the screen so 22 that Mr Yu can follow this. 23 Just have a look at what's in the middle of that 24 paragraph, paragraph 12. 25 MR BERESFORD: Let me just read it out, Mr Yu. You say:</p>	<p>1 A. Yes, correct. 2 Q. You say: 3 "The final survey was for inspection of safety 4 equipment, safety testing and testing the operation of 5 the vessel, since by then all other inspections should 6 have been completed and these were the final checks to 7 be carried out before the vessel could be certified as 8 seaworthy." 9 A. Yes, correct. 10 Q. We can see the record of your final survey at page 834 11 of marine bundle 4, which you've already identified, 12 being the top item, "15/2/96", and at page 85, where you 13 fill out the inspection record. 14 A. Yes, correct. 15 Q. If you can just help us with this page, please, Mr Yu. 16 The "Date of inspection" is 15 February 1996. The 17 "Place of Inspection" is "Lantau Cheoy Lee". The "Name 18 of Vessel" is "Lamma IV". Against "Licence No.", you've 19 written "New vessel"; is that right? 20 A. Yes, correct. 21 Q. What does "S/Y" mean, against the words "Receipt No.?" 22 A. Lantau Cheoy Lee Shipyard. 23 Q. Oh, "Shipyard". Okay. Then survey item 1 refers to 24 "Hull Condition". Can you tell us what you've written 25 there, please?</p>
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<p>1 "On that occasion I would have inspected the collar 2 plates fitted on frame 0, since there is a tick next to 3 outstanding item 3 in the Mardep files suggesting that 4 it had been checked to Mardep's satisfaction. For that 5 purpose I verily believe I would have to enter the 6 steering gear compartment to carry out that inspection, 7 which at the time could only be achieved by climbing 8 through the access opening in frame 1/2. However 9 I cannot now recall seeing the access opening at the 10 time or my reaction to that. Even if I had noted the 11 access opening at the time, it was unlikely for me to 12 have paid any special attention to it since it was not 13 the subject matter of my inspection and I would have 14 known from the Mardep files that the rest of the hull 15 construction had already been inspected to other Mardep 16 ship inspectors' satisfaction." 17 THE CHAIRMAN: So the issue is, what is your evidence on 18 this point? Did you enter through the access that we 19 see in the photograph you've just looked at, or can't 20 you remember how you got into the steering compartment? 21 A. I really can't recall how I entered into it. 22 MR BERESFORD: Moving on, Mr Yu. You say: 23 "The second and last inspection I carried out in the 24 initial survey of Lamma IV took place on 15 February 25 1996 and that was the final survey of the vessel."</p>	<p>1 A. The engine needed to be stopped for the main engine and 2 generator. 3 THE INTERPRETER: I'm sorry. 4 A. Automatic shut-off should be provided for the main 5 engine and generator. 6 THE CHAIRMAN: So is it the case that you didn't inspect the 7 hull; you were inspecting, at this place at least, the 8 machinery? 9 A. Yes, because the survey for the hull has been completed. 10 THE CHAIRMAN: The reason that your writing is in the little 11 box provided for the hull is there wasn't enough space 12 on the paper? Is it as simple as that? 13 A. Yes, correct. 14 MR BERESFORD: So item 1 reads: 15 "Main engine &amp; generator engine to be provided with 16 automatic shut-off arrangement in case of failure such 17 as lube oil, pressure failure, et cetera." 18 Is that correct? 19 A. Correct. 20 Q. You've also noted next to the "Auxiliary engine(s)" 21 item: 22 "For item 1 details, refer to Instructions for 23 Survey of Launch &amp; Ferry, page 27." 24 Is that right? 25 A. Yes, correct.</p>

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<p>1 Q. Then item 2 reads: 2 "One set of spare navigation light to be provided." 3 A. Yes, correct. 4 THE CHAIRMAN: Just pause there, if you would. The 5 reference to page 27 of Launch and Ferry, is that to the 6 1995 Instructions? 7 A. Yes, correct. 8 THE CHAIRMAN: Could we have page 1842 on the screen, 9 please. Would you scroll down to "Engine 10 Installations". Hold it there. 11 Is that what you were referring to, line 2, 12 "automatic shut-off"? 13 A. Correct. 14 THE CHAIRMAN: Thank you. 15 MR BERESFORD: Then item 3 reads: 16 "1 x 45 litre foam or 16 kg [carbon dioxide] to be 17 fitted in the engine room." 18 A. Yes, correct. 19 Q. That refers to a fire extinguisher, does it not? 20 A. Yes. 21 Q. Item 4 reads: 22 "Communication system between wheelhouse in case of 23 emergency with steering gear compartment to be 24 provided." 25 A. Correct.</p>	<p>1 bulkhead" in terms, but it has a solid rather than 2 a dotted line, which is a conventional indication for 3 a watertight bulkhead, is it not? 4 A. Yes. 5 Q. And the bottom plan also shows a watertight bulkhead at 6 frame 1/2? 7 A. Yes. 8 Q. Then if we look at the Sections and Bulkheads drawing at 9 page 205, we see at bottom left a drawing of the 10 bulkhead at frame 1/2 which includes a drawing of 11 an access opening, and we also see a cross-section there 12 marked "B-B", and that section is drawn at top right of 13 the drawing where the bulkhead is shown as "watertight". 14 Do you see those, Mr Yu? 15 A. Yes. 16 Q. Then if we look at the General Arrangement at page 172, 17 we can see in the profile the underdeck divided into six 18 compartments by five bulkheads. 19 A. Yes. 20 Q. And the underdeck plan at the bottom of that page labels 21 the compartments with their names. 22 A. Yes. 23 Q. We can see there five watertight bulkheads, can we not? 24 Although the bulkhead between the steering gear 25 compartment and the tank room has an access opening</p>
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<p>1 Q. Item 5 reads: 2 "Engine and gear box classification to be provided." 3 You've explained that this is a reference to the 4 relevant certificates for the engine and gear box. 5 A. Yes, correct. 6 Q. Item 6 reads: 7 "Shower room to fitted with hand grip." 8 Is that right? 9 A. Yes, correct. 10 Q. Then you say in paragraph 15 of your statement: 11 "Given the nature of the final survey, I do not 12 believe I would have entered the steering gear 13 compartment on that occasion." 14 A. Yes, correct. 15 Q. I'd just like to draw your attention to the plans and 16 the drawing of the profile and deck at page 204 of 17 marine bundle 2. 18 If we take the side shell profile first at the 19 stern, we see the bulkhead at frame 1/2 is marked 20 "watertight bulkhead", do we not? 21 A. Yes. 22 Q. In the centreline profile, similarly, the bulkhead at 23 frame 1/2 is marked "corrugated watertight bulkhead"? 24 A. Yes. 25 Q. And the main deck plan is not marked "watertight</p>	<p>1 marked just above the freshwater tank. 2 A. Yes. 3 Q. Then at page 202, we have the Shell Expansion, which 4 also has the watertight bulkheads marked, including 5 a watertight bulkhead at frame 1/2. 6 A. Yes. 7 Q. Do you agree that a watertight bulkhead -- where any 8 access opening is fitted in a watertight bulkhead, it 9 was required to have an efficient closing appliance? 10 A. Agree. 11 Q. And that was required by paragraph 12(v) of the Blue 12 Book, which we can see at page 1769. 13 A. Yes. 14 Q. It was required in the 1995 regulations in relation to 15 new vessels by paragraph 5.4 at page 1822, and existing 16 vessels by paragraph 5A at page 1829. 17 So my question is, why didn't you check, Mr Yu, to 18 see whether there was a watertight door on the access 19 opening in the bulkhead between the steering gear 20 compartment and the tank room? 21 A. Because I was not assigned to carry out this work. 22 Q. So whose responsibility was it to assign it to you? 23 A. The chief inspector. 24 Q. The chief ship inspector? 25 A. The chief ship inspector, yes.</p>

<p style="text-align: right;">Page 17</p> <p>1 Q. What was the name of the chief ship inspector at the 2 time? 3 A. Ng Wing-shing. 4 I need to refer the record. 5 THE CHAIRMAN: Sorry, you need to refer what? 6 A. I need to refer to the record to find out whether it was 7 Mr Ng Wing-shing. 8 THE CHAIRMAN: Well, are you able to help the witness, 9 Mr Beresford? 10 What kind of record do you want to look at? 11 A. The staff list at that time. 12 MR BERESFORD: I don't believe we have that, Mr Chairman, so 13 perhaps my learned friend Ms Lok could assist. 14 MS LOK: Certainly we will look into that. 15 THE CHAIRMAN: Thank you. 16 MR BERESFORD: I'm very grateful. 17 But, Mr Yu, do you agree that an access door of this 18 type -- a watertight door over such an access opening 19 might be fitted at a late stage of the construction? 20 A. In my opinion, this will not be done. 21 Q. Well, both Mr Wong and Mr Fung have told us that it may 22 be fitted at the end. Do you disagree with that? 23 A. Yes. 24 Q. This is something that is normally the responsibility of 25 the shipyard in Hong Kong, is it not? As opposed to the</p>	<p style="text-align: right;">Page 19</p> <p>1 MR BERESFORD: Question 1. 2 THE CHAIRMAN: Thank you. 3 MR BERESFORD: And your answer, which is numbered 2, 4 referred to the requirements of section 9, chapter II of 5 the Instructions for the Survey of Launches and Ferry 6 Vessels. 7 A. Yes. 8 Q. There's been some debate as to whether in fact it was 9 the 1995 Instructions or the Blue Book that applied, but 10 it doesn't really matter, Mr Yu. 11 THE CHAIRMAN: Are you posing that as a question or making 12 a statement? 13 MR BERESFORD: I'm coming to the question, Mr Chairman. 14 Because as we've seen, the requirement for the 15 watertight door is exactly the same in both sets of 16 instructions; do you agree with that? 17 A. Agree. 18 Q. So is it not your function, when asked to carry out 19 a hull inspection, to ensure that the hull complies with 20 the requirements of those instructions and if it does 21 not, to mark it down as an outstanding matter? 22 MS SIT: I don't think it's this witness's evidence that he 23 ever took part in the hull inspection. 24 THE CHAIRMAN: No, that's the premise of the question. 25 Perhaps we could establish that first.</p>
<p style="text-align: right;">Page 18</p> <p>1 original shipyard in China that manufactured the bare 2 hull? 3 A. It should be the responsibility of the shipyard in 4 Hong Kong. 5 Q. Yes. So it would be fitted at some stage during the 6 construction in Hong Kong? 7 A. Yes. 8 Q. So at what point will the Marine Department check to see 9 whether it has been fitted? 10 A. We carry out the survey in accordance with the order 11 from the shipyard. 12 Q. So if the shipyard don't tell you to inspect 13 a watertight door, then you don't check for a watertight 14 door; is that right? 15 A. Yes. 16 Q. So you bring to bear no independent expertise in 17 checking to see whether this vessel fits the Marine 18 Department's requirements? 19 THE INTERPRETER: I was asked to repeat the question. 20 (Question retranslated) 21 A. I need to discuss with my colleagues about this matter. 22 MR BERESFORD: You were asked in your initial interview what 23 are the hull structure requirements in the 1995 24 Instructions; do you recall that? 25 THE CHAIRMAN: Which question, Mr Beresford?</p>	<p style="text-align: right;">Page 20</p> <p>1 Were part of your instructions to carry out a hull 2 inspection? 3 MR BERESFORD: Very well. Perhaps that question could be 4 put to the witness, please. 5 THE CHAIRMAN: Were part of your instructions to carry out 6 an inspection of the hull? 7 A. On that day, I was only doing the final inspection and 8 not the hull. The inspection of the hull was not 9 included. 10 MR BERESFORD: So when you say "the final inspection", 11 Mr Yu, do you mean you were merely looking at 12 outstanding matters? 13 A. During the final inspection, I was mainly concerned with 14 the safety and rescue and fire-fighting and navigation 15 light. 16 Q. Why was your inspection so limited? What was the source 17 of your instruction? 18 A. Before we conduct the inspection, we have reviewed the 19 file and saw that all the other items have been 20 completed. 21 Q. When you say "the file", are you referring to the 22 document that we've seen that commences at page 831? 23 Perhaps the witness can be shown this document, 24 please. 25 A. Yes, correct.</p>

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<p>1 Q. So did it appear to you that the hull inspection had 2 been completed, from this file? 3 A. Yes. 4 Q. Where exactly does it say that, that you rely upon? 5 A. I rely on the file, because it shows that all the items 6 have been completed. 7 Q. Yes, but which items in particular do you rely upon to 8 show that the inspection, the hull inspection, and in 9 particular the inspection of this bulkhead with the 10 access opening, has been completed satisfactorily? 11 A. Since my colleague didn't put down any outstanding item, 12 I assumed that the inspection of the hull has been 13 completed. 14 Q. Are you referring to the very first inspection on 15 13 November 1995, when it says "Hull construction 16 (internal) inspected with approved drawings and 17 outstanding items found as below"? Is that what you're 18 referring to? 19 A. Yes. 20 THE CHAIRMAN: But your colleague had noted outstanding 21 matters and listed them on this piece of paper, had he 22 not? 23 A. Yes. 24 THE CHAIRMAN: Do you understand the ticks to mean that at 25 some subsequent date, the outstanding items were checked</p>	<p>1 Q. So this is the survey mentioned on page 834 under the 2 date 15 February 1996, and recorded in the inspection 3 record at page 835; is that right? 4 A. Yes. 5 Q. You have told us that your usual practice was that you 6 would do a round in both levels of the passenger deck to 7 look at the screws of the seats, to see if they were 8 properly attached; is that right? 9 A. Yes. 10 Q. And that if you saw any loose screws, you would point 11 them out and they would be fixed immediately? 12 A. Yes. 13 Q. And that after that visual inspection, you would select 14 a few random seats and apply some force to them to see 15 if they were properly secured? 16 A. Yes. 17 Q. Firstly from a standing position, and then sitting on 18 them and pushing? 19 A. Yes. 20 Q. You tell us that there are many methods to secure seats 21 on a vessel. 22 A. Yes. 23 Q. And that the Marine Department has no specific 24 requirement, as long as the seats are firmly secured? 25 A. Yes.</p>
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<p>1 and found to be satisfactory now? 2 A. Yes. 3 MS SIT: "(Chinese spoken)". 4 THE INTERPRETER: "(Chinese spoken)". 5 A. Yes. 6 MR BERESFORD: But he didn't list as an outstanding item the 7 fitting of a watertight door to the aft peak bulkhead, 8 did he? 9 A. Yes. 10 Q. Then you observe from page 834 that, according to the 11 file, the outstanding items from your final survey were 12 resolved or inspected to the Marine Department's 13 satisfaction on 7 March 1996, but that inspection was 14 undertaken by a different ship inspector. And in fact 15 that was Mr Fung again. 16 A. Yes. 17 Q. You've told us in your supplemental statement that you 18 would include inspections regarding the fixing of seats 19 during the final survey, and that you would have 20 inspected the seats of the Lamma IV during your final 21 survey; is that right? 22 THE CHAIRMAN: Which paragraph? 23 MR BERESFORD: Paragraph 5 of the supplemental statement, 24 page 3968-1. 25 A. Yes.</p>	<p>1 Q. It is actually a condition of the certificate of survey, 2 isn't it, Mr Yu, that all seats are properly secured in 3 position? 4 A. Yes. 5 Q. You say that since the seats are what you call 6 outfittings, there is no need for the Marine Department 7 to approve any drawings? 8 A. Yes. 9 Q. And it is not the ship inspector's function -- well, he 10 isn't able, you say, to ascertain from the final 11 inspection what method of attachment has been used 12 because it's not possible to see from the deck surface 13 what materials have been used or what's been inserted 14 underneath? 15 A. Yes. 16 Q. And you say that the Marine Department's only concern is 17 that the seats are firmly secured, which is to be 18 checked by way of visual and physical inspection at the 19 final survey in the manner that you've set out. 20 A. Yes. 21 Q. You presumably knew, Mr Yu, that the upper deck of the 22 Lamma IV was made of fibreglass construction, did you? 23 A. Yes. 24 Q. And you would have been able to see that the seats were 25 attached by self-tapping screws?</p>

<p style="text-align: right;">Page 25</p> <p>1 A. Yes. 2 Q. Directly into the fibreglass? 3 A. Yes. 4 Q. So would you have known that through-bolts were not 5 used? 6 A. Yes. 7 THE CHAIRMAN: You knew that? 8 A. Yes. 9 THE CHAIRMAN: How did you come to know that? 10 A. If the through-bolts were used, you could see from the 11 bottom that it has been bolted in with a nut. 12 THE CHAIRMAN: Thank you. So you could see from the bottom 13 of the seat where it was secured through the deck? 14 A. (In English) Yes. 15 MR BERESFORD: So in your opinion, is the securing of a seat 16 with a self-tapping screw into fibreglass a firm 17 securing of the seat in a seagoing vessel? 18 A. Yes. 19 THE INTERPRETER: The witness requests that the question be 20 asked again. 21 THE CHAIRMAN: Yes. 22 (Question retranslated) 23 A. It is not so appropriate. 24 MR PAO: I think the interpretation is slightly off in the 25 sense that the "seagoing vessel" is being translated as</p>	<p style="text-align: right;">Page 27</p> <p>1 mat 2 25 mm thickness of foam 3 2.1 mm thickness of woven rovings and chopped strand 4 mat." 5 Are you able to agree or disagree with that, or 6 don't you know, Mr Yu? 7 A. Agree. 8 Q. In fact he illustrates it with a photograph at page 467 9 of the bundle. 10 He says this is a photograph that he took during 11 an inspection on 11 December 2012. He says: 12 "... [it] shows the deck construction in way of 13 a ventilation trunk which became displaced during the 14 accident." 15 A. Yes. 16 Q. And he says: 17 "According to the construction drawings the laminate 18 at this location is the same as at all other locations 19 where there were seats." 20 Do you accept that? 21 A. Agree. 22 Q. He then says: 23 "Most of the self-tapping screws which were used to 24 attach the seats were 25 mm long, but they were only 25 embedded into woven rovings of 2.1 mm thickness."</p>
<p style="text-align: right;">Page 26</p> <p>1 an "ocean-going vessel". 2 THE CHAIRMAN: Yes. Thank you for that. 3 Perhaps you could try again, Mr Beresford. 4 MR BERESFORD: Yes. 5 I was asking if the securing of a seat with 6 a self-tapping screw into fibreglass is a firm securing 7 of the seat in a seagoing vessel, in your opinion. But 8 by "seagoing vessel", I am, of course, talking about 9 vessels that stay within Hong Kong waters. 10 A. It is acceptable. 11 Q. Anyhow, you say the fact that you did not make any 12 comments on the seats indicated that you were satisfied 13 with the results of your inspection. 14 A. Yes. 15 Q. Mr Yu, have you had the opportunity to read the expert 16 report of Dr Armstrong that's been prepared in this 17 case? 18 A. No. 19 Q. Because I just want to show you what he says about 20 seats. Or, more accurately, about the fixing of seats. 21 It starts at page 417. He says at paragraph 43: 22 "The upper deck was manufactured as a glass fibre 23 composite structure, which was made up of three 24 components as follows: 25 2.1 mm thickness of woven rovings and chopped strand</p>	<p style="text-align: right;">Page 28</p> <p>1 This is at paragraph 45 of his report. 2 He says: 3 "The remaining 20.9 mm of the screws were embedded 4 in the soft foam core and the vinyl floor tiles, which 5 provided no strength to the self-tapping screws." 6 If we go back to page 467, he gives us 7 an illustration of this underneath the photograph that 8 we saw, which shows -- in the sketch, he says: 9 "Only the black part marked as 'Woven Roving' makes 10 a structural connection with the screws, the plastic 11 foam having no strength to resist 'pull-out'. 12 Do you agree with that, Mr Yu? 13 A. Yes. Agree. 14 MR SHIEH: There's a minor point of translation. Perhaps 15 foam should be "(Chinese spoken)" rather than "(Chinese 16 spoken)", because "(Chinese spoken)" would be "sponge". 17 THE INTERPRETER: Sorry. 18 THE CHAIRMAN: Thank you. 19 MR BERESFORD: I'm grateful to my learned leader. 20 Do you agree with that, Mr Yu? Do you agree with 21 Dr Armstrong's proposition that only the black part 22 marked as "Woven Roving" makes a structural connection 23 with the screws, the plastic foam having no strength to 24 resist pull-out? 25 A. Agree.</p>

<p style="text-align: right;">Page 29</p> <p>1 Q. Dr Armstrong goes on to say: 2 "It is an engineering 'rule of thumb' that 3 self-tapping screws in metal should be sized such that 4 the thickness of the material equals at least 2.5 5 threads of a screw." 6 MS SIT: Mr Chairman, I'm slightly concerned about this line 7 of cross-examination, which is basically expert evidence 8 on matters said to be an engineering rule of thumb. 9 This witness, of course he has his relevant technical 10 qualifications and background, but he is here as 11 a factual witness. He has given evidence as to the 12 inspection that he has undertaken. He has never 13 suggested, and I don't think anyone has suggested to 14 him, that he has somehow examined the foam level or the 15 screws. So I'm just wondering what utility the evidence 16 of, essentially in this context, a factual witness can 17 have to the expert evidence given by Dr Armstrong. 18 THE CHAIRMAN: I think the utility is to expose the 19 frailties of the examination that was actually 20 performed. 21 MS SIT: Mr Chairman, the evidence as to what examination 22 has been performed is already given in evidence. As to 23 the details of whether or not this particular witness 24 agrees or disagrees with various expert evidence given 25 by Dr Armstrong as to what he claims to be an</p>	<p style="text-align: right;">Page 31</p> <p>1 securing of a seat in a seagoing vessel, even one 2 limited to Hong Kong waters. 3 A. But this method has been used for a long time, and it 4 has been secure. 5 Q. Can you explain how it would be secure? 6 MR PAO: Mr Chairman, I don't think the witness actually 7 used -- in the sense of "the method has been used for 8 a long time", I think he was referring to the seats 9 being in use for a long time. 10 THE CHAIRMAN: Thank you for that. There obviously is 11 a difference. 12 Can we just clarify that. Are you saying the seats 13 on this vessel, Lamma IV, were in place for a long time? 14 Is that your point? 15 A. Yes. It remained secure after being used for a long 16 time. 17 THE CHAIRMAN: Thank you. 18 Thank you, Mr Pao. 19 MR BERESFORD: But we are talking about the time of the 20 initial survey, or your final survey, before the vessel 21 had got its certificate of survey. So they hadn't been 22 used for any length of time at that stage. 23 THE CHAIRMAN: I think his answer is to be regarded as the 24 proof of the pudding is in the eating, and these seats 25 were there for a long time. That's his reply to your</p>
<p style="text-align: right;">Page 30</p> <p>1 engineering rule of thumb, this would not be within the 2 expertise of this particular witness, and his expertise 3 at all has not been established. So -- 4 THE CHAIRMAN: It seems to me that it is pre-eminently 5 within the expertise of someone who has worked in 6 a shipyard, who knows about the amount of thread that 7 should be put into the metal to be secure. That's 8 easily within his expertise, and the questioning can 9 pursue on that basis. 10 You're being asked about this rule of thumb for 11 metal: 2.5 threads of a self-tapping screw to make it 12 secure. Is that a rule of thumb that you know about? 13 The answer is "no", is it? 14 A. (In English) No. 15 THE CHAIRMAN: Thank you. 16 MR BERESFORD: But, Mr Yu, it must follow, must it not, from 17 the way in which the upper deck of the fibreglass deck 18 was constructed, the laminate construction, that the 19 majority of the screws used on the upper deck on 20 Lamma IV would not have even had one full thread of the 21 screw in engaged with the woven rovings, and that it 22 would mostly be embedded in the plastic foam. Would you 23 agree with that? 24 A. Agree. 25 Q. So I suggest to you that that can't possibly be a firm</p>	<p style="text-align: right;">Page 32</p> <p>1 proposition. 2 MR BERESFORD: Well, I'm coming to it in stages, 3 Mr Chairman. 4 THE CHAIRMAN: You put to him the proposition that this 5 can't be a secure method of fastening seats for 6 a seagoing vessel, and he's saying, "Well, the proof of 7 the pudding is in the eating; they were there for a long 8 time." 9 MR BERESFORD: Mr Chairman, the first point I wish to take 10 up with the witness is that that proof wasn't available 11 to him at the time. The second point, which I will come 12 to, is the evidence that in fact they weren't secure, 13 because they were loose and the -- 14 THE CHAIRMAN: I think it's perhaps the second matter that 15 would assist the Commission more. 16 MR BERESFORD: Yes, and the director of the shipyard gave 17 evidence that it was a frequent maintenance item, or 18 a regular maintenance item. 19 THE CHAIRMAN: Yes. Please deal with that issue. 20 MR BERESFORD: So, Mr Yu, how do you know that the seats 21 were in use for a long time without coming loose? 22 A. I think you should ask the shipyard instead. 23 MR BERESFORD: Well, we did. 24 THE CHAIRMAN: The question is, how do you know that? How 25 do you know that they didn't come loose and needed to be</p>



<p style="text-align: right;">Page 33</p> <p>1 refixed? The answer may be, "Well, I don't know." If 2 it is, say so. 3 A. I don't know. 4 MR BERESFORD: All right. Thank you, Mr Yu. Please wait 5 there. 6 I have no further questions of this witness, 7 Mr Chairman. 8 Questions by THE COMMISSION 9 THE CHAIRMAN: Mr Yu, when you were inspecting the seats, 10 you didn't have any drawings to help you about how they 11 were fastened to the deck; is that how we're to 12 understand your evidence? 13 A. Yes. There is no plan. 14 THE CHAIRMAN: The seats secured on the aluminium deck of 15 the main deck, you say, were bolted, and you could see 16 that? 17 A. I didn't see it. 18 THE CHAIRMAN: I'm sorry? 19 THE INTERPRETER: "I didn't see it." 20 THE CHAIRMAN: Right. Have a look, if you would, at expert 21 bundle 1, page 390. These are photographs attached to 22 the expert report of Dr Cheng Yuk-ki, who is a forensic 23 scientist in the government laboratory. It's the lower 24 of those two photographs. He is illustrating, I think, 25 the point that you were making to us about how one can</p>	<p style="text-align: right;">Page 35</p> <p>1 A. Because the shipyard has done a lot of this kind of 2 installation. 3 THE CHAIRMAN: You see, we've received some evidence that 4 one method of securing the seats in a situation like the 5 upper deck of Lamma IV is to put hard wood beneath the 6 seats so it screwed into that. Do you agree that that's 7 one way of doing it? 8 A. Agree. 9 THE CHAIRMAN: Another method, apparently, is to thicken the 10 fibreglass around where you're going to position the 11 seats. Do you agree with that? 12 A. Agree. 13 THE CHAIRMAN: So why not make those rather simple enquiries 14 of the shipyard, to find out what, if anything, had been 15 done to better attach the seats to the deck? 16 A. I don't even remember whether I have asked such 17 question. 18 THE CHAIRMAN: Well, if you had asked and the truth was 19 given by way of the answer, neither wood nor thickening 20 of fibreglass had been used, had it? 21 A. Yes. 22 THE CHAIRMAN: But if you had been given that information, 23 that still wouldn't have troubled you; is that the 24 thrust of your evidence? 25 A. Yes.</p>
<p style="text-align: right;">Page 34</p> <p>1 tell whether something is bolted down. Is that right? 2 A. Yes. 3 THE CHAIRMAN: Now, help me if you would. As you look at 4 this, is this a view that one would get looking down 5 onto the deck, or is this a view looking up to the deck 6 from beneath, from the under part of the vessel? 7 A. From the top down. 8 THE CHAIRMAN: Thank you. So that's what one could see, if 9 one was looking, for how the seats are secured: bolted? 10 A. Yes. 11 THE CHAIRMAN: Coming to the upper deck, when you tried to 12 do the best you could, you didn't have any drawings to 13 help you. You could see that they were self-tapping 14 screws. 15 A. Yes. 16 THE CHAIRMAN: Did you know the length of the self-tapping 17 screws, when you did the inspection? 18 A. No. 19 THE CHAIRMAN: Do you want to say anything else? 20 A. (In English) No, no. 21 THE CHAIRMAN: Did you make any enquiries of the shipyard as 22 to the material to which the screws were attached? 23 A. No, I didn't ask about that. 24 THE CHAIRMAN: Is there any reason why you didn't make 25 an enquiry?</p>	<p style="text-align: right;">Page 36</p> <p>1 THE CHAIRMAN: Thank you. 2 We'll take our morning break now. I'll ask you to 3 come back when we resume in 20 minutes' time, Mr Yu. 4 A. (In English) Thank you. 5 THE CHAIRMAN: 20 minutes. 6 (11.37 am) 7 (A short break) 8 (11.57 am) 9 THE CHAIRMAN: Mr Yu, you continue to testify according to 10 your original affirmation. 11 Mr Grossman, do you have any application? 12 MR GROSSMAN: I do, Mr Chairman. I apply to ask a few 13 questions about the original inspection. Also about, 14 insofar as this witness can answer it, the annual 15 surveys, about routine surveys and spot-check surveys. 16 THE CHAIRMAN: Very well. 17 MR GROSSMAN: Thank you. 18 Examination by MR GROSSMAN 19 MR GROSSMAN: Mr Yu, I represent Hongkong Electric, and 20 there are a few questions I'd like to ask you in regard 21 to the evidence you've given this morning. 22 A. Okay. 23 Q. First of all, would you have a look, please, at your 24 statement. I'm looking at the English version, 25 paragraph 13, page 3966.</p>

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1 Do you have it?  
2 A. Yes.  
3 Q. I just remind you what you said there at the beginning.  
4 You say:  
5 "The second and last inspection I carried out in the  
6 initial survey of Lamma IV took place on 15 February  
7 1996 and that was the final survey of the vessel."  
8 Do you see that?  
9 A. Yes.  
10 Q. It's the next sentence I want to ask you about:  
11 "The final survey was for inspection of safety  
12 equipment, safety testing and testing the operation of  
13 the vessel ..."  
14 A. Yes.  
15 Q. What do you mean by "testing the operation of the  
16 vessel"?  
17 A. I was referring to testing the ship by driving forward  
18 and backwards.  
19 Q. Is this a seagoing trial?  
20 A. Yes.  
21 Q. Thank you. You say you inspected the safety equipment  
22 and safety testing.  
23 A. Yes.  
24 Q. I take it that the safety equipment includes life  
25 jackets, fire extinguishers, et cetera?

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1 A. Yes.  
2 Q. How do you decide what is the right number, say, of life  
3 jackets to be installed or placed on a vessel like the  
4 Lamma IV?  
5 A. We refer to the Blue Book.  
6 Q. The Blue Book, yes. And when you take into account,  
7 say, the number of life jackets, would you also take  
8 into account the other safety features like lifebuoys,  
9 life rafts, et cetera?  
10 A. Yes.  
11 Q. And the method that you go by, the Blue Book, this is  
12 a method that's tried and tested over the years, is it?  
13 A. Yes.  
14 Q. Just to confirm, you would ensure that the life jackets,  
15 lifebuoys, fire extinguishers, life rafts, all complied  
16 with the Blue Book?  
17 A. Yes.  
18 Q. And if they did, that would satisfy the Marine  
19 Department?  
20 A. Yes.  
21 Q. While we're on this subject of the final inspection, if  
22 we could just go to your supplemental witness statement  
23 where you deal with the seats.  
24 A. Yes.  
25 Q. You explained in some length this morning the method by

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1 which you test the seats. I'm not going to go into it  
2 again. I just want to ask you this. At the time you  
3 did the final survey, in February 1996, was the method  
4 that you've described in your supplemental statement the  
5 recognised method by the Marine Department for testing  
6 the safety of the seats?  
7 A. We were just concerned about whether it was secure or  
8 not, and there is no question of recognised method or  
9 otherwise.  
10 Q. Well, the method that you used, that you yourself used,  
11 that you've described in your supplemental statement,  
12 was that a method which was utilised, recognised, by the  
13 Marine Department as being adequate?  
14 A. It is adequate for this kind of vessel.  
15 Q. When you say it's adequate, you're talking really on  
16 behalf of the Marine Department? You, as a member of  
17 the Marine Department, believe that it is adequate?  
18 A. Yes.  
19 Q. Now, that was in 1996. We're now at 2013, 17 years  
20 later. With the added experience you've had over the  
21 last 17 years, do you still believe -- or do you still  
22 utilise this method?  
23 A. This method is still being used.  
24 Q. Very well.  
25 I want to ask you about another matter now. Are you

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1 involved at all in annual surveys of vessels such as the  
2 Lamma IV?  
3 A. Yes.  
4 Q. Specifically, do you recall, have you been involved in  
5 surveys of the Lamma IV?  
6 A. Not for Lamma IV.  
7 Q. Very well. The method of survey, does it include  
8 testing of the adequacy of the seats?  
9 THE CHAIRMAN: By that you mean the adequacy of the way in  
10 which they are secured to the deck?  
11 MR GROSSMAN: Yes. Thank you very much.  
12 In an annual survey, would you look to see if the  
13 seats were secured to your satisfaction?  
14 A. Yes.  
15 Q. And would you look to see whether the other safety  
16 equipment that we've been talking about is in good order  
17 and reaches the necessary standards?  
18 A. Yes, I also look into that.  
19 Q. In order to pass the annual survey, the inspector would  
20 have to be satisfied with all these matters?  
21 A. Yes.  
22 Q. Thank you. Now, besides the annual survey, I think  
23 there are also routine surveys; is that correct?  
24 A. Yes.  
25 Q. Would you perhaps explain to the Commission what

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<p>1 a routine survey is, please. 2 A. Yes. For passenger-carrying vessels, every year it has 3 to go to the dockyard for examination of the hull -- 4 THE INTERPRETER: Sorry. 5 A. -- for examination of the shell. 6 A. (In English) Shell, yes. 7 A. The hull. For examination of the hull. 8 MR GROSSMAN: Is it part of the annual survey? 9 A. Yes. 10 Q. I see. Can you tell us, please, what a spot-survey is? 11 Sorry, a spot-check. 12 A. We seldom do spot-check. 13 Q. Yes. What is a spot-check? 14 A. We do this only upon -- when there is a complaint. 15 Q. Well, what is a spot-check? 16 A. It depends on the subject of complaint. 17 Q. Yes, but what does it mean, "a spot-check"? What does 18 it mean? What happens? 19 A. For example, if the complaint is about the emission of 20 black smoke, we would check whether there is excess 21 black smoke and also, if it is a complaint about noise 22 by the passengers, noise nuisance by passengers, we will 23 also look into it. 24 Q. Were spot-checks carried out with any frequency before 25 1 October last year, before this tragedy?</p>	<p>1 spot-checks? How has that changed since before 2 1 October last year? 3 A. I think you have to ask the person responsible for this. 4 MR GROSSMAN: Very well. Thank you. 5 I have no further questions. 6 THE CHAIRMAN: Thank you. 7 Yes, Mr Zimmern? 8 MR ZIMMERN: Mr Chairman, we have no questions for this 9 witness. Thank you. 10 THE CHAIRMAN: Thank you. 11 Mr Pao? 12 MR PAO: Mr Chairman, may I have leave to clarify with this 13 witness on two areas? One is in relation to his answer 14 that he did not agree with Mr Wong and Mr Fung that a 15 watertight door be fitted to the access opening after 16 its construction. Do you remember the answer? 17 THE CHAIRMAN: Yes, I do. 18 MR PAO: That's one area I would like to clarify with him. 19 The other area is this witness's reading and 20 interpretation of the Sections and Bulkheads drawing 21 that we've been looking at. 22 THE CHAIRMAN: Yes. Very well. 23 Examination by MR PAO 24 MR PAO: Mr Yu, you remember answering a question put to you 25 by my learned friend Mr Beresford about whether you</p>
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<p>1 THE CHAIRMAN: He's told us that "we seldom do them". 2 MR GROSSMAN: I need to follow this up, if I may. I just 3 want to find out what "seldom" means in this regard. 4 THE CHAIRMAN: Is your question, did things change after 5 1 October? 6 MR GROSSMAN: Well, that would be a follow-up question. 7 Let me put it this way. Let me cut to the chase, 8 then. After 1 October, did the Marine Department carry 9 out spot-checks more frequently? 10 A. Yes. 11 Q. What kind of spot-checks have you done after 1 October? 12 A. We have done checks on the life-saving equipment. 13 Q. Yes. The Lamma II, I think you may know, has had 14 spot-checks twice now, about its life-saving equipment. 15 A. A spot-check was also made on the watertight bulkheads 16 down there. 17 THE CHAIRMAN: Do you know that the Lamma II has been 18 checked twice since 1 October, or not? 19 A. I have no knowledge of this. 20 THE CHAIRMAN: Thank you. 21 MR GROSSMAN: In any event, since 1 October, there are more 22 frequent spot-checks done on local vessels; is that 23 correct? 24 THE CHAIRMAN: He's already agreed with that. 25 MR GROSSMAN: What is your criteria now for doing</p>	<p>1 agree with Mr Wong and Mr Fung that a watertight door 2 would be fitted to -- 3 THE CHAIRMAN: "Can be", not "would be". "Can be fitted". 4 MR PAO: -- can be fitted to the access opening after they 5 were constructed in the China shipyard, and you 6 disagreed with that? 7 A. Yes. 8 Q. Is there any particular reason why you say that? 9 A. It could be fitted on in Cheoy Lee. 10 Q. So it's just a misunderstanding of the question? 11 Because my understanding -- 12 THE CHAIRMAN: He's clear enough now: it could be done in 13 Cheoy Lee Shipyard. 14 MR PAO: Yes. 15 If I may have your initial interview with the Marine 16 Department, page 1949, up on the screen. 17 That's your interview with the Marine Department 18 investigator on 28 November 2012. The answer you gave 19 to question 8 -- well, it's paragraph 8 of your 20 statement, which is on page 1951, that I would like to 21 draw your attention to. 22 Mr Chairman, the translation is on pages 1955-3 to 23 1955-4. 24 THE CHAIRMAN: I have it. Thank you. 25 MR PAO: Mr Yu, the translation says:</p>

<p style="text-align: right;">Page 45</p> <p>1 "If I only studied the frame 1/2 on bulkhead on 2 sheet 1 of 2 of the 'Sections and Bulkheads' of 3 Lamma IV, I would not be sure if the bulkhead was 4 a watertight bulkhead. But having made reference to 5 another drawing, 'Profile and Deck', I held that the 6 bulkhead on frame 1/2 on sheet 1 of 2 of the 'Sections 7 and Bulkheads' was a watertight bulkhead." 8 Then you make the following observations: 9 "I believe that things will be clearer if the 10 'access opening' as shown on the drawing on 'Sections 11 and Bulkheads' is marked by its side with 'watertight 12 door to be provided'. 13 Do you still maintain that view today? 14 A. Yes. 15 A. (In English) Yes. 16 Q. If I may invite you to have a look at marine bundle 2, 17 page 205, the lower left-hand corner, where the section 18 of the bulkhead at frame 1/2 is shown. 19 A. Yes. 20 Q. You are saying that access opening shown on this 21 diagram, this drawing, is not clear to you that it is 22 a watertight bulkhead. 23 A. Yes. 24 Q. Mr Yu, I'm going to invite you to look at another 25 drawing, which is page 198.</p>	<p style="text-align: right;">Page 47</p> <p>1 initial survey carried out on Lamma IV; second, in 2 relation to seats; third, in relation to life-saving 3 equipment; and lastly, in relation to the periodic or 4 routine survey. 5 THE CHAIRMAN: Yes, please do. 6 MS SIT: I'm grateful. 7 Examination by MS SIT 8 MS SIT: Mr Yu, this morning you were asked questions about 9 the initial survey. There were a number of inspections, 10 and you told us that you took part in two of them, one 11 of which was the final survey. Do you remember? 12 A. Yes. 13 Q. In response to a question put by the Commission, you 14 explained that there was a list of items to be checked? 15 A. Yes. 16 Q. And those items would cover hull, machinery, electrical 17 matters and also safety, wouldn't they? 18 A. Yes. 19 Q. Is it the case that these inspections are done at 20 different times, because, for instance, if you built the 21 superstructure on the hull you may obstruct or cover 22 part of the hull so that you can't really inspect it 23 fully? 24 A. Yes. 25 Q. So when something is ready for inspection, the shipyard</p>
<p style="text-align: right;">Page 46</p> <p>1 THE CHAIRMAN: That's the one for the Eastern District? 2 MR PAO: Yes, Mr Chairman. 3 You can take it from us that this is a drawing from 4 which the Lamma IV drawing was adapted. Although the 5 frame designation is slightly different, I can assure 6 you it is the same bulkhead. 7 Do you see at the opening -- 8 A. Yes. 9 Q. -- the notation "WT door"? It's on the screen. 10 A. Yes. 11 Q. Is that what you have in mind, something being put there 12 to alert you that there should be a watertight door? 13 A. So you are referring to the drawing on page 198? 14 Q. Yes. 15 A. Yes. Here it refers to a watertight door. 16 Q. So when you say that if it's made clear on the drawing, 17 then it will be much clearer? 18 A. Yes. 19 Q. That's why you said in your interview that it would be 20 much clearer if it's stated "watertight door to be 21 provided" on the drawing? 22 A. Yes. 23 MR PAO: Thank you. 24 MS SIT: Yes, Mr Chairman. May I have permission to ask 25 questions in four areas: the first in relation to the</p>	<p style="text-align: right;">Page 48</p> <p>1 would notify the Marine Department; is that the case? 2 A. Yes. 3 Q. So is that what you meant by "lok order" from the 4 shipyard? 5 A. Yes. 6 Q. You told us that the chief ship inspector would assign 7 ship inspectors or senior ship inspectors like yourself 8 to go and carry out the inspection. 9 A. Yes. 10 Q. You also told us that before you went to do the 11 inspection, you would look at the Marine Department's 12 files. 13 A. Yes. 14 Q. Why would you do that? Can you tell us why you would 15 need to look at the files? 16 A. Because it will be much clearer if I refer to these 17 files. 18 Q. Would you identify or ascertain from these files 19 whether, in addition to what the shipyard told you that 20 you were to inspect, there are other things that you 21 need inspect? 22 A. I only refer to the order from the shipyard. 23 Q. At this moment, can I trouble you to take a look at the 24 Marine Department files, which we can find in marine 25 bundle 4, tab 165, page 831. I don't think anyone has</p>

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<p>1 really navigated through the entirety of these notes, so 2 perhaps I'll have to trouble you to do that with me. 3 THE CHAIRMAN: Is there a front cover for this file? 4 MS SIT: Mr Chairman, the front cover can be found in police 5 bundle R(II). I apologise. I spoke hastily. Tab 6 is 6 the file, the pages, but I don't think we have the 7 cover. Mr Chairman may recall one of the witnesses 8 explaining there was a microfilming exercise some time 9 ago and it appears that the originals are no longer in 10 existence, and all we have are taken from the microfilm. 11 THE CHAIRMAN: Yes. 12 MS SIT: So I think the file cover we no longer have. 13 THE CHAIRMAN: It's a strange document not to copy, since it 14 tells you perhaps what lies beneath. 15 MS SIT: Perhaps we can take up, please, bundle R(II), 16 tab 6, page 5298. Mr Chairman will see from the top of 17 this page, at the top right-hand corner there is 18 a reference number which is "SD/L-7962" -- 19 THE CHAIRMAN: Yes, we see that. 20 MS SIT: -- which I understand to be the internal numbering 21 assigned to this particular vessel. Just under the 22 dotted line, "Name of vessel", Mr Chairman will see it 23 was typed "Cheoy Lee Yd No. 4625". We have seen this 24 reference from time to time. 25 Then, the same bundle, if page 5505 can be shown.</p>	<p>1 when ready (at frame 0)." 2 A. Yes. 3 Q. Then the next entry you see, you've actually explained 4 this entry, which is the 8 December 1995 entry, in your 5 witness statement. You explained that you basically 6 received a number of certificates from the shipyard on 7 that day, and you made a note. Do you see that? 8 A. Yes. 9 Q. I want you to look at the next two entries. It goes on, 10 on 11 December 1995 -- it was recorded: 11 "The following items were inspected: 12 1. Superstructure construction. 13 2. 6 valves ..." 14 And then it was noted, a number of outstanding 15 items, four of them; do you see that? 16 A. (In English) Yes. 17 Q. Then the next entry, on 15 December 1995, another 18 officer checked the stern tubes and he -- the second 19 line of that -- says: 20 "O/S item No. 3 &amp; 4 dated 11.12.95 was inspected 21 found satisfactory." 22 Do you see that? 23 A. (In English) Yes. 24 Q. So someone on 15 December went to inspect part of the 25 outstanding items from 11 December, and found it to be</p>
Page 50	Page 52
<p>1 You will see that on this page, at the top again, there 2 is the same file number and the vessel number by 3 reference to the Cheoy Lee number. I understand that 4 this is the cover page of something they call the 5 drawing box, where all the approved plans are put. So 6 we have that there. 7 But in terms of the paper folder, the front cover, 8 I'm afraid we don't have it on record, Mr Chairman. 9 THE CHAIRMAN: Yes. Is that right, Mr Yu: the document on 10 the screen is the front of the drawing box? 11 A. (In English) Yes. 12 THE CHAIRMAN: Thank you. 13 MS SIT: If I could continue and go back to page 831. Do 14 you have it? 15 A. Yes. 16 Q. The first item which appears to be filled in by Mr Fung 17 on 13 November 1995 reads: 18 "Hull construction (internal) inspected with 19 approved drawings and o/s" -- I take it to mean 20 "outstanding" -- "items found as below." 21 Do you see that? 22 A. Yes. 23 Q. You see there are seven items there, and you see at 24 item 2 it reads: 25 "Rudder trunk stiffening structures to be checked</p>	<p>1 satisfactory, and noted it; is that correct? 2 A. Yes. 3 Q. Then the next thing we see is apparently there were 4 material testings witnessed and the results noted on 5 2 January. Do you see that? 6 A. (In English) Yes, yes. 7 Q. We can turn to the following page. It appears that 8 there were actually three testings done on that day, all 9 by the same person. 10 The next item I want to look at, it's dated 11 4 January 1996. On that occasion, an oily water holding 12 tank was checked as per the work drawings; do you see 13 that? 14 A. Yes. 15 Q. Then the next item, which is 10 January 1996, it says: 16 "The following items were inspected ..." 17 It was about the P&amp;S tailshaft. Can you tell us 18 what P&amp;S is? 19 A. (In English) Port and starboard. 20 Q. Then the next item on 11 January 1996, that was done by 21 you. 22 Then you said you inspected the rudder plate 23 construction and also outstanding items 1, 3, 4, 6 and 7 24 dated 13 November. So that would be the entry in the 25 previous page, wouldn't it?</p>

<p style="text-align: right;">Page 53</p> <p>1 A. (In English) Yes. 2 Q. So can you help us on this. You said that when you went 3 to do the inspection, the shipyard would have told you 4 what was ready for inspection. So on that occasion, 5 would you be able to tell from this record or from your 6 recollection what the shipyard told you was ready for 7 inspection? 8 A. I conduct inspection on the items mentioned. 9 Q. In other words, the items noted by you in this record 10 would be the items the shipyard told you were ready for 11 inspection? 12 A. (In English) Shipyard. 13 Q. Let me just try to clarify your answer. You are 14 confirming that items (a) and (b) you noted here were 15 the items the shipyard told you were ready for 16 inspection, and you went to inspect them and noted them; 17 is that your evidence? 18 A. (In English) Yes. 19 Q. I see. If you can just bear with me, we'll go on 20 a little bit more. 21 THE CHAIRMAN: Do we really need to go on a little bit more? 22 There obviously is, as was obvious from the start, 23 an ongoing inspection that has to be measured against 24 all the items that the Marine Department require to be 25 inspected before they can certify the vessel.</p>	<p style="text-align: right;">Page 55</p> <p>1 construction or the safety equipment, was not looked at 2 to be satisfactory, would the certificate of survey be 3 issued? 4 A. No. 5 Q. In other words, it wasn't the case that the shipyard 6 told you to go and inspect and you would simply 7 rubber-stamp it and not consider separately whether or 8 not the requirements had been satisfactorily met? 9 THE CHAIRMAN: If it helps, we've never thought otherwise. 10 MS SIT: I'm grateful, Mr Chairman. 11 The next question I want to ask you is, you've 12 confirmed to the Commission that you were not the person 13 responsible for the hull inspection; do you remember 14 that? 15 A. Are you referring to -- 16 Q. In relation to Lamma IV, yes. 17 A. Yes. 18 Q. And a question was put to you of why didn't you do it. 19 Do you remember that? 20 A. I have no recollection of this. 21 Q. Well, the answer you gave was, when you looked at the 22 Marine Department files, you saw that the hull 23 construction had already been inspected by another 24 colleague of yours. 25 A. Yes.</p>
<p style="text-align: right;">Page 54</p> <p>1 MS SIT: Yes, Mr Chairman. I was going to come to that. 2 Perhaps I'll just put the proposition without having to 3 go through the entire document then. 4 Mr Yu, when you went to carry out that inspection, 5 would you have to be satisfied that whatever it was that 6 you inspected -- safety equipment or the rudder plate -- 7 were either compliant with the drawing or satisfactory 8 to the Marine Department's requirements before you would 9 certify or confirm that the inspection was satisfactory? 10 A. Yes. 11 Q. Like the final survey which you carried out, which we 12 can see at page 834 of that same bundle, you found it to 13 be unsatisfactory? 14 A. Yes. 15 Q. And that's why further matters had to be remedied by the 16 shipyard before the certificate of survey was eventually 17 issued; was that not the case? 18 A. Yes, and we have to do the survey again as well. 19 MS SIT: I think his evidence was he has to "check that 20 again", as opposed to "do the survey". 21 Let me try to clarify the answer. 22 THE CHAIRMAN: I think we understand the position. 23 MS SIT: I'm grateful, Mr Chairman. 24 If any of the matters which the Marine Department 25 required to be satisfied, whether in relation to the</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. And that's the page 831 reference that we saw. 2 A. Yes. 3 Q. So the procedure in the Marine Department was that 4 different officers would undertake inspection of 5 different parts at different times, and they would 6 record their findings in the files so that someone at 7 the end of the day, before the issuance of the 8 certificate of survey, would be able to look at the file 9 and confirm whether or not the necessary requirements 10 had all been complied with before the certificate was 11 issued. Is that not the case? 12 A. Yes. 13 Q. Going back to the question of hull construction just 14 now. You confirm you didn't do it for Lamma IV? 15 A. I haven't done the part of the hull. 16 Q. Yes, it was done by some other officer. 17 A. Yes. 18 Q. It was put to you that the officer or the Marine 19 Department did not bring to bear independent judgment in 20 relation to the hull inspection, in relation to the 21 access hole; do you remember that? 22 THE INTERPRETER: I was asked to repeat the question. 23 (Question retranslated) 24 A. Yes. 25 MS SIT: Your answer was that you need to discuss with your</p>

<p style="text-align: right;">Page 57</p> <p>1 colleagues. 2 A. Yes. 3 Q. Since you were not responsible for the hull inspection, 4 could you explain to us what you meant by that 5 statement? 6 A. I don't quite understand what you mean. 7 Q. Very well. I think I can move on to the next area. 8 I want to now ask you some questions about seats, Mr Yu. 9 Can the photo at expert bundle page 390 be put on 10 the screen. Thank you very much. 11 This morning you told the Commission that you could 12 see, when you did the final inspection in the initial 13 survey of Lamma IV, whether a through-bolt had been 14 used. Do you remember this answer? 15 A. Yes. 16 Q. I understand what is meant by a through-bolt is that 17 there is the self-tapping screw, and underneath there is 18 a nut securing it? 19 A. Yes. 20 Q. It's just so that we're on the same page with what we 21 are talking about. You confirmed to the Commission that 22 on page 390, this is what you would see from the top, 23 looking at the surface of the deck; right? 24 A. Yes. 25 Q. Can you tell us, looking at the plate, the mounting</p>	<p style="text-align: right;">Page 59</p> <p>1 A. What do you mean by -- 2 Q. Let me rephrase. It's slightly confusing. 3 You inspected the seats, as we understand it, on 4 15 February 1996. 5 A. Yes. 6 Q. But that was not the only occasion when the seats were 7 examined or checked as to whether they were secured? 8 Because they were checked every year in the annual 9 survey. 10 THE CHAIRMAN: Well -- very well. 11 Do you agree? 12 A. Yes. 13 THE CHAIRMAN: Is your check the first time the seats were 14 checked? 15 A. Yes, this is the first time for this one. 16 THE CHAIRMAN: Can you help us as to this, if you can in 17 particular with Lamma IV. Are the seats one of the last 18 things that are put onto the vessel in its construction? 19 A. Yes, I think so. 20 THE CHAIRMAN: Is the false ceiling fitted -- for what is 21 the ceiling in the main deck compartment, but attached 22 to the fibreglass of the deck for the upper deck, is 23 that fitted before the seats are put in? 24 A. Yes. 25 THE CHAIRMAN: Thank you.</p>
<p style="text-align: right;">Page 58</p> <p>1 plate, the bolt and what you see here in this picture, 2 can you see or not whether a through-bolt has been used 3 to secure the chairs? 4 A. I can see that a through-bolt has been applied. 5 MS SIT: Can the witness be shown his supplemental witness 6 statement, paragraph 7. It's page 3968-2 of marine 7 bundle 11. 8 THE CHAIRMAN: Yes. 9 MS SIT: Can I just trouble you, Mr Yu, to read to yourself 10 paragraph 7 to remind yourself of what you have said in 11 there, and then I'll ask you a question. 12 A. (In English) Okay. 13 Q. You've said in paragraph 7, and also in your answer to 14 the Commission you've accepted that there are actually 15 different ways to affix a seat on the deck. 16 A. Yes. 17 Q. But is it the case that the Marine Department's 18 requirement is not in relation to the method used, but 19 the result: whether the seats were properly or firmly 20 secured? 21 A. Yes. 22 Q. And this particular inspection that you carried out, the 23 final inspection in the initial survey, that was not the 24 only occasion where the seats, whether they are properly 25 secured, would be checked, was it?</p>	<p style="text-align: right;">Page 60</p> <p>1 MS SIT: Yes. If I may now ask you a very quick question 2 about the life-saving equipment, really just to get the 3 reference into the record. 4 When you were asked questions about the life-saving 5 equipment in your inspection you referred to the Blue 6 Book. 7 THE CHAIRMAN: If you're referring to the schedule of the 8 Blue Book as to buoys and whatever, we're familiar with 9 that. 10 MS SIT: I see. In that case I won't need to trouble this 11 witness, Mr Chairman. 12 Finally, on the question of the periodic survey, 13 Mr Yu, I think my learned friend Mr Grossman used the 14 word "routine" but, in light of your answer, 15 I understand that what you are referring to is that 16 there are three types of periodic survey, aren't there: 17 annual, biannual and quadrennial? 18 A. (In English) Yes. 19 Q. Are you referring to them as "routine"? Is that what 20 you meant by "routine survey"? 21 A. "Routine" refers to the annual survey. 22 MS SIT: I see. Thank you for that clarification. 23 I have no further questions, Mr Chairman. 24 THE CHAIRMAN: Thank you. 25 Mr Beresford?</p>

<p style="text-align: right;">Page 61</p> <p>1 MR BERESFORD: No further questions, Mr Chairman. 2 Questions by THE COMMISSION 3 COMMISSIONER TANG: Mr Yu, can you tell me whether the 4 Marine Department conducts any random supervisory checks 5 or audits on completed final surveys? 6 A. I'm not sure about this. 7 COMMISSIONER TANG: Thank you. 8 THE CHAIRMAN: Thank you, Mr Yu, for coming to assist the 9 Commission with your evidence. Your evidence is now 10 complete, and you're free to go. You may of course 11 choose to listen to the proceedings at the back of the 12 public gallery if you wish. Thank you for helping us. 13 A. (In English) Thank you. 14 (The witness withdrew) 15 THE CHAIRMAN: Yes, Mr Beresford? 16 MR BERESFORD: Mr Chairman, the next witness is Mr Ho 17 Kai-tak. I note the time. I don't know if you would 18 wish to start this after the luncheon adjournment. 19 THE CHAIRMAN: We can start now. 20 MR BERESFORD: Very well. 21 THE CHAIRMAN: It will encourage him. No doubt he's been 22 waiting all morning. 23 MR HO KAI-TAK (affirmed in Puntì) 24 (All answers via interpreter unless otherwise indicated) 25 Examination by MR BERESFORD</p>	<p style="text-align: right;">Page 63</p> <p>1 in the year 1995 or 1997 that the approval was done by 2 a team of colleagues. 3 Q. Yes, I see. 4 A. I'm not sure whether I have put the result of the 5 stability calculation and the plan into the paper box. 6 MS SIT: The witness was saying that he wasn't sure whether 7 he put the manual calculation into the drawing box. 8 THE CHAIRMAN: Thank you. 9 A. That's all. 10 MR BERESFORD: Thank you, Mr Ho. 11 Subject to those amendments, then, are the contents 12 of this witness statement and these notes of interview 13 true? 14 A. Yes. 15 MR BERESFORD: Thank you, Mr Ho. 16 Mr Chairman, if that would be convenient? 17 THE CHAIRMAN: Very well. 18 Mr Ho, we've reached our lunchtime now, so we're 19 going to adjourn until 2.30 this afternoon. May I ask 20 you to return so that we can continue with your evidence 21 at that time: 2.30. Do you understand? 22 A. (In English) Okay. 23 THE CHAIRMAN: Thank you very much. 24 2.30. 25 (1.00 pm)</p>
<p style="text-align: right;">Page 62</p> <p>1 MR BERESFORD: Good afternoon, Mr Ho. Thank you very much 2 for coming today to assist the Commission with its 3 Inquiry. I have some questions to ask you on behalf of 4 the Commission. 5 Mr Ho, you have made some previous statements in 6 relation to this matter, including an interview with the 7 Marine Department and a witness statement, which may be 8 found respectively in marine bundle 1, pages 34-16 to 9 34-25, with the translation at pages 34-41 to 34-51; and 10 marine bundle 11 for the statement at pages 4009 11 to 4015. 12 Mr Ho, do you have those documents before you, the 13 notes of interview and the witness statement? 14 A. Yes. 15 Q. Do you recognise your signature on each of those 16 documents? 17 A. Yes. 18 Q. Have you been given an opportunity to look at them 19 today, those two documents, and remind yourself of what 20 is said there? 21 A. Yes. 22 Q. Do you have any amendment you wish to make? 23 A. Yes. 24 Q. What is that, please? 25 A. Item 22 on page 34-19. I don't remember whether it was</p>	<p style="text-align: right;">Page 64</p> <p>1 (The luncheon adjournment) 2 (2.30 pm) 3 THE CHAIRMAN: Mr Ho, may I remind you that you testify 4 according to your affirmation. 5 Yes, Mr Beresford. 6 MR BERESFORD: Thank you, Mr Chairman. 7 Mr Ho, we had just finished identifying your 8 statements and you had confirmed the truth, subject to 9 those amendments that you made just before lunch. 10 You were formerly a senior ship inspector in the 11 Marine Department, and you retired from the Government 12 in 2011; is that right? 13 A. Yes. 14 Q. You had a Higher Certificate in Naval Architecture and 15 Shipbuilding from the Hong Kong Polytechnic, granted in 16 1983? 17 A. Yes. 18 Q. And between 1983 and 1990 you worked as a draftsman and 19 an assistant engineer in various marine consultancy 20 firms and shipyards; is that right? 21 A. Yes. 22 Q. In 1990 you joined the Marine Department as an assistant 23 ship inspector in the Local Vessels Safety Section, then 24 known as the Local Craft Safety Section. 25 A. Yes.</p>



<p style="text-align: right;">Page 65</p> <p>1 Q. And you were promoted to the rank of ship inspector in 2 1995? 3 A. If I remember correctly, it should be in 1993. 4 Q. 1993. Thank you. You remained in the Local Vessels 5 Safety Section until 2002, and then you were posted to 6 the Government Fleet Section where you remained until 7 your retirement; is that right? 8 A. Yes. 9 Q. Your duties included, amongst other things, liaising 10 with shipbuilders and shipowners? 11 A. Correct. 12 Q. Vessel inspection? 13 A. Yes. 14 Q. Overseas survey? 15 A. Yes. 16 Q. Tonnage measurement and valuation of detained craft? 17 A. Yes. 18 Q. Witnessing inclining experiments? 19 A. Yes. 20 Q. Lightship verifications? 21 A. Correct. 22 Q. And approval of stability calculations? 23 A. Yes. 24 Q. You have provided us with your witness statement to 25 explain your role as ship inspector in three things:</p>	<p style="text-align: right;">Page 67</p> <p>1 page 832? 2 A. I believe so, but I couldn't find a record of the date 3 pertaining to item (g). 4 MR BERESFORD: Then at the top of page 833, it appears that 5 you inspected or witnessed (a) rudder construction; (b) 6 principal dimensions; (c) draft marks and tonnage; (d) 7 seating capacity on 22 January 1996. 8 A. Correct. 9 Q. You've said in your statement that you also inspected 10 the hydraulic testing of piping? 11 A. Yes. 12 Q. You've also told us that you believe that you would have 13 entered the steering gear compartment for the purpose of 14 that inspection? 15 A. Yes. 16 Q. If I could show you a photograph at marine bundle 1, 17 page 162. This shows an access opening to the steering 18 gear compartment. Do you remember whether that is how 19 you would have entered the steering gear compartment? 20 I should remind you that there is also a hatch in the 21 deck above the steering gear compartment. 22 A. I'm not sure, but I remember that I have no difficulty 23 in entering into the compartment. Due to the lapse of 24 time, my recollection is not very clear, because I have 25 also visited other similar vessels. But I have</p>
<p style="text-align: right;">Page 66</p> <p>1 one, carrying out the inspection of Lamma IV on 2 22 January 1996? 3 A. Correct. 4 Q. Secondly, checking the Inclining Experiment and 5 Stability Calculation Booklet, which you've given us 6 a reference of marine bundle 2, page 322? 7 A. Yes. 8 Q. And checking the Damage Stability Information Booklet, 9 which you've given us the reference to as marine 10 bundle 2, page 338. 11 A. Correct. 12 Q. You refer to the file records of the Marine Department 13 which are contained in the document beginning in marine 14 bundle 4, page 841. 15 It appears from pages 832 to 833 of that document 16 that you carried out an inspection of the Lamma IV on 17 22 January 1996? 18 A. Yes. 19 Q. We see your initials at the bottom of page 832. Is that 20 your signature, by those initials? 21 A. Yes. 22 Q. And that's alongside the item marked (g). So is that 23 your item, or is that carrying over from the previous 24 inspection? 25 THE CHAIRMAN: Did you inspect items (a) to (g) listed on</p>	<p style="text-align: right;">Page 68</p> <p>1 an impression that it was easy to gain access into the 2 compartment, and I don't need to climb into it. 3 Q. Thank you. 4 A. So I believe this is the one. 5 Q. Thank you. In any event, the steering gear compartment 6 is only, as we know from the plans, 1.625 metres. So 7 you would plainly be aware of that access opening if you 8 were inside the steering gear compartment, wouldn't you, 9 Mr Ho? 10 A. Not necessarily, because you can make an access on the 11 surface of the tank, because it's only 1.625 metres. 12 Q. I'm not sure if you've understood my question, Mr Ho. 13 You say you believe you would have entered the steering 14 gear compartment; is that right? 15 A. Yes. 16 Q. Once inside, however you got in, you couldn't fail to 17 notice this opening, could you? 18 A. Which opening on the deck are you referring to? 19 Q. Not the opening on the deck; the opening in the 20 photograph. 21 A. As I have mentioned just now, I have inspected many 22 vessels after inspecting this one. So I couldn't recall 23 whether I entered from here or from the deck downwards. 24 All I can tell you is that I had no difficulty entering 25 into it.</p>

<p style="text-align: right;">Page 69</p> <p>1 Q. All right. Well, I'll move on, Mr Ho. 2 THE CHAIRMAN: If you're moving on to another topic, there's 3 a matter I'd like to raise with the witness. 4 MR BERESFORD: Yes, Mr Chairman. 5 THE CHAIRMAN: At page 832, item (f), at the bottom of the 6 page, there is a reference to "measurement of principal 7 dimensions" and "seating capacity". Do you see that? 8 A. Yes. 9 THE CHAIRMAN: That reference to "seating capacity" is 10 repeated at the top of the next page, 833. What did you 11 do in respect of seating capacity, and how did you do 12 it? 13 A. There are two methods in taking the measurements. The 14 first one is to calculate the number of passengers plus 15 the passengers who are standing, and arrive at the total 16 capacity. This is done according to the requirements of 17 the Blue Book. 18 THE CHAIRMAN: Is that what you did? 19 A. Yes, this is enough. 20 THE CHAIRMAN: Were you given any drawings to show you how 21 many seats there were and where they were to be? 22 A. Usually this can be found in the GA. 23 THE CHAIRMAN: Perhaps, Mr Beresford, you'd show him what we 24 have got. 25 MR BERESFORD: Yes.</p>	<p style="text-align: right;">Page 71</p> <p>1 THE CHAIRMAN: Yes. 2 MR PAO: It is my understanding that it was the safety plan 3 that determines where the seat goes. 4 THE CHAIRMAN: That's as may be, but this witness is talking 5 about the General Arrangement and we have to deal with 6 evidence. 7 MR PAO: Yes. 8 MR BERESFORD: Thank you, Mr Chairman. 9 THE CHAIRMAN: So, given that that's the date of this plan, 10 October 1994, from what you told us earlier, usually you 11 get this from the General Arrangement. Does that help 12 answer the question as to where it is you got 13 information about seating disposition and capacity? 14 A. I don't remember whether it was 1994 or 1995, but I have 15 seen the GA, but I don't know whether this one is the 16 most updated. I will find the most updated one. 17 THE CHAIRMAN: How do we find that? 18 A. I can find it from the drawing box. 19 THE CHAIRMAN: Mr Mok, this is the drawing box in Mardep 20 that's been destroyed and what's been retained is on 21 microfiche? 22 MR MOK: Yes, I understand that a lot of documents have been 23 so converted. 24 MR BERESFORD: We heard this morning, Mr Chairman, that the 25 list of contents of the drawing box is in bundle R.</p>
<p style="text-align: right;">Page 70</p> <p>1 THE CHAIRMAN: Page 172. 2 MR BERESFORD: The GA is at page 172, Mr Ho. 3 THE CHAIRMAN: Is that where you got the disposition and 4 number of seats? 5 A. Correct. 6 THE CHAIRMAN: This drawing is dated -- perhaps we can have 7 a look at the date at the bottom, please. 8 MR BERESFORD: I believe we have a date of this drawing, 9 Mr Chairman. It will have accompanied a letter from 10 Cheoy Lee to the Marine Department, of course, shortly 11 before page 172. But then we've also heard evidence 12 that it formed the basis of the contract with the 13 architect in Singapore. 14 THE CHAIRMAN: We have a date on the larger version provided 15 by Mr Pao. 16 MR BERESFORD: That's the version I'm looking at, 17 Mr Chairman. 18 THE CHAIRMAN: 12 October 1994. 19 Would you show the witness the large drawing. 20 Look at the bottom box on the right-hand side. Is 21 there a horizontal column which begins with the word 22 "Drawn", then gives some initials, then gives a date? 23 It's the date 12.10.94. 24 MR PAO: Mr Chairman, there is one matter I would like to 25 raise.</p>	<p style="text-align: right;">Page 72</p> <p>1 I believe it's at bundle R, page 5505. 2 So, Mr Ho, I don't know if you followed that 3 exchange, but we're informed that the contents of the 4 drawing box were destroyed and all we have left is the 5 index of the contents of the drawing box, which is now 6 on the screen. 7 THE CHAIRMAN: We also have microfiche copies of the 8 documents that have been destroyed. Fortunately Cheoy 9 Lee don't pursue such a destruction-of-archives policy, 10 and we have originals from them. 11 MR BERESFORD: Mr Ho, perhaps I can help you. The Marine 12 Department's copy is at page 204 of the marine bundle. 13 THE CHAIRMAN: Copy of what? 14 MR BERESFORD: I'm not sure what you're being shown, Mr Ho. 15 What I want you to be shown is marine bundle 2, 16 page 204. 17 THE CHAIRMAN: That's not the General Arrangement. 18 MR BERESFORD: I'm sorry, page 172. 19 You see there it's marked "approved" by the Marine 20 Department? 21 A. Would you please repeat your question? 22 THE CHAIRMAN: The document that you're looking at, which 23 should be on the screen, page 172 -- 24 MR BERESFORD: I think Mr Ho is look at the Cheoy Lee copy. 25 Put down the large copy, please, Mr Ho, for the</p>

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1 moment. That is a copy that has been provided by Cheoy  
2 Lee.  
3 The document on the screen is page 172 of the  
4 documents that have been provided to us by the Marine  
5 Department.  
6 Do we have the list of contents scanned for the  
7 marine bundle, please.  
8 Mr Ho, if you can be shown marine bundle 1. This  
9 should contain an index to bundle 1 of documents  
10 possessed by the Marine Department. In fact I should  
11 direct your attention to the index at the beginning of  
12 bundle 2.  
13 This shows how the correspondence from Cheoy Lee,  
14 between Cheoy Lee and the Marine Department, has been  
15 provided to the Commission by the Marine Department.  
16 Where a drawing is superseded, it seems to be marked as  
17 such. So, for example, if you look at item 4,  
18 drawing 9-1, it says "superseded by (14) in tab 5".  
19 THE CHAIRMAN: We don't have this on the screen at the  
20 moment.  
21 MR BERESFORD: That looks like it, Mr Chairman.  
22 THE CHAIRMAN: Item 4 is a witness statement.  
23 MR BERESFORD: It's the wrong bundle.  
24 Right. I think we now have an index of marine  
25 bundle 2, and we can see at item 1 the letter from Cheoy

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1 Lee dated 9 November 2012 at pages 171 and 172, and the  
2 enclosure is General Arrangement drawing No. NC-391-1,  
3 which we know is page 172 of the bundle.  
4 Another example can be seen from item 3. You see  
5 there are two enclosures there, numbered (4) and (5),  
6 and indeed (6-1), all marked as being superseded by  
7 later versions. Do you see that, Mr Ho?  
8 A. Yes, I can see it.  
9 Q. As far as I am aware -- do flick through the index if  
10 you wish -- the General Arrangement drawing listed there  
11 at item 1, page 172, is the only General Arrangement  
12 drawing that we've been provided for the Lamma IV by the  
13 Marine Department.  
14 A. Just now you mentioned about a drawing superseding  
15 a former one, but I don't know which is which. I only  
16 know about the latest one.  
17 Q. Yes. Well, it appears that we've only been provided  
18 with the latest ones; that is the point I'm trying to  
19 make.  
20 THE CHAIRMAN: So coming back to what you were being asked  
21 about --  
22 A. Because I am unable to answer you as to whether the one  
23 you are provided with is the new one or the old one.  
24 THE CHAIRMAN: Well, if there's only one, it's both.  
25 There's only one.

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1 A. Then that's the one.  
2 THE CHAIRMAN: Right. Now, all we're asking you is, when  
3 you did your measuring of seating capacity, what did you  
4 do? You told us that usually you found it on the GA, as  
5 you called it; the General Arrangement. Now, this is  
6 probably obvious to you, but tell us what it is you  
7 found on it that enabled you to calculate where the  
8 seats were and the total number.  
9 A. As for the disposition of the seats, it is based on the  
10 drawing provided by the shipyard, and after checking  
11 against it and we find that there is no problem, then  
12 it's okay. As for the measurement, we calculate  
13 according to the Blue Book. I don't remember whether it  
14 was 16 inches or 18 inches at that time.  
15 But if, for example, there's 100 seats, then it  
16 means 100 passengers, plus the passengers who are  
17 standing. The standing passengers are calculated  
18 according to the area, and then the total number of  
19 passengers is arrived at by adding the total number of  
20 seats and the passengers who are standing. But for the  
21 passengers who are standing, we have to minus a lot of  
22 things.  
23 As for the measurement of the seats, I don't  
24 remember the exact measurement, but let's say it's  
25 16 inches times 18 inches, then one seat will correspond

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1 to one passenger. This is in accordance with the Blue  
2 Book.  
3 THE CHAIRMAN: Thank you.  
4 MR BERESFORD: Mr Ho, would you expect your calculations for  
5 the passenger saloons to correspond with those numbers  
6 on the upper deck plan and the main deck plan, where it  
7 says "passenger saloon, 63 Nos." on the upper deck plan,  
8 and "passenger saloon, 137 Nos" on the main deck plan?  
9 A. Yes, this is the way to calculate.  
10 MR BERESFORD: Thank you.  
11 THE CHAIRMAN: As far as standing passengers are concerned,  
12 were they permitted inside the main deck and the upper  
13 deck, in the cabins, or not?  
14 A. I am not sure, because I don't have a clear  
15 recollection. I am not sure about the upper deck. But  
16 the calculation is done according to the -- it's done by  
17 dividing the number of passengers against the total  
18 area.  
19 THE CHAIRMAN: Is that by a formula in the Blue Book?  
20 A. I believe so.  
21 MR BERESFORD: May I draw your attention, Mr Ho, to the Blue  
22 Book at pages 1802 to 1803.  
23 Is this what you were referring to?  
24 A. Yes.  
25 Q. Does this enable you to answer the Chairman's question

<p style="text-align: right;">Page 77</p> <p>1 as to whether standing was permitted inside the cabins? 2 A. I cannot see clearly. 3 THE CHAIRMAN: If you can't remember, just say so. Another 4 witness no doubt will be able to help us. 5 A. I don't remember. 6 THE CHAIRMAN: Thank you. 7 Yes, Mr Beresford. 8 Before you move on, when you performed this exercise 9 of measuring the seating capacity, did this then result 10 in approval for passengers of that number to be carried 11 at various places -- cabins and open deck -- on the 12 vessel? 13 A. I believe so. 14 THE CHAIRMAN: Thank you. 15 MR BERESFORD: Mr Ho, if we can return to page 833 of marine 16 bundle 4. We had just looked at the record of your 17 inspection on 22 January 1996. The next item says 18 "Inclining experiment was carried out &amp; witnessed", and 19 the date is given as 31 January 1996, and there is your 20 name. Is that signature yours? 21 A. Correct. 22 Q. You explain in your statement at paragraph 10: 23 "Although I no longer have any independent 24 recollection of events on 31 January 1996, typically: 25 (a) I would have looked at the 'General Arrangement'</p>	<p style="text-align: right;">Page 79</p> <p>1 section. There is a pendulum and weights. When the 2 weight was placed on one side, there will be an -- the 3 vessel would incline, and then we used a formula to 4 arrive at the GM. And also there is a KM in the 5 hydrostatic. But the main purpose is to find out the 6 GM. 7 MR BERESFORD: The inclining experiment is concerned with 8 intact stability; isn't that right? 9 A. Yes. 10 Q. And that contrasts with the Damage Stability Booklet, 11 which is concerned with damage condition, with 12 an assumption, in the present case, of one compartment 13 flooded? 14 A. Yes. 15 Q. In fact you make this point at paragraph 12(4) of your 16 witness statement? 17 Now, in relation to the inclining experiment, we can 18 see this beginning from page 322 of the bundle. You 19 tell us that the handwritten circles, figures, ticks and 20 calculations were written by you. 21 A. Yes. 22 Q. Just in relation to that, page 328 you have explained is 23 an extra sheet. It's a calculation sheet of yours. Is 24 that right? 25 A. Yes.</p>
<p style="text-align: right;">Page 78</p> <p>1 plan of a vessel before attending its inclining 2 experiment." 3 So that would be the General Arrangement such as we 4 have just looked at; is that right? 5 A. Yes. 6 Q. "During the inclining experiment, I would have taken 7 down notes on the relevant data noted (eg condition of 8 each compartments/tank, number of persons on board, 9 draft marks and data result of inclining experiment ... 10 and et cetera.) These notes would then be used by me to 11 check the stability calculations submitted by the 12 shipbuilder." 13 A. Yes. 14 Q. You say: 15 "If there were any unusual features observed during 16 the inclining experiment, I would have recorded it in 17 the file records of Mardep after I returned to the 18 office, and reported the same to my superior." 19 Who in that case was the surveyor of ships, Mr Leung 20 Wai-hok; is that right? 21 A. Correct. 22 THE CHAIRMAN: Can you give us a brief description of what 23 an inclining experiment involves? 24 A. The inclining experiment, the purpose of the inclining 25 experiment is to find the centre of the transverse</p>	<p style="text-align: right;">Page 80</p> <p>1 Q. It's not part of the Inclining Experiment Booklet? 2 A. No, this is not the case. We find the KM, but I have no 3 recollection about this document because it's only taken 4 out of context. 5 Q. Then at page 330, we see the lightship weight is 6 48.74 tonnes; is that right? 7 A. Yes. 8 Q. At page 323, we see the depth is measured as 9 2.88 metres. That's also apparent from the title page 10 at page 322. Can you just tell us, please, Mr Ho, where 11 is the depth measured? Where on the vessel? 12 A. The midship. 13 Q. Midships. Thank you. And then starting from page 338, 14 we find the Damage Stability Booklet. This also 15 contains a statement of the depth at page 338. Is this 16 the booklet that you examined? 17 A. Yes. 18 Q. We can see from pages 339 through to 344 -- perhaps 19 taking them one page at a time, page 339 measures the 20 lost buoyancy on the assumption that the fore peak 21 compartment is flooded; is that right? 22 A. Yes. 23 Q. And page 340, on the assumption that the void space is 24 flooded? 25 A. Yes.</p>

<p style="text-align: right;">Page 81</p> <p>1 Q. Page 341, on the assumption that the crew space is 2 flooded? 3 A. Correct. 4 Q. Page 342, on the assumption that the engine room is 5 flooded? 6 A. Yes. 7 Q. Page 343, on the assumption that the tank room is 8 flooded? 9 A. Yes. 10 Q. And page 344, on the assumption that the steering gear 11 compartment is flooded? 12 A. Correct. 13 Q. So this damage stability calculation assumes, does it 14 not, that there is a watertight bulkhead between the 15 steering gear compartment and the tank room? 16 A. Yes. 17 Q. I wonder if you can just help us on one thing. You see 18 on page 344 the aft bulkhead is stated to be 19 minus 12.445 metres, which I understand to be 20 12.445 metres aft of midships; is that right? 21 A. Yes. 22 Q. And the forward bulkhead of the steering gear 23 compartment is stated to be 11.575 metres after the 24 midship line? 25 A. Yes, correct.</p>	<p style="text-align: right;">Page 83</p> <p>1 compartment? 2 A. Based on this document, the calculation is correct. But 3 at that time, I didn't notice the discrepancy between 4 the measurement and the data on the plan. 5 THE CHAIRMAN: Thank you. 6 MR BERESFORD: You say in your statement: 7 "I was not aware that for the purpose of calculating 8 damage stability, the 'one-compartment flooding' 9 assumption would be subject to any requirement as to 10 length referred to as '0.1L'." 11 A. Would you please repeat the question? I don't quite 12 understand it. 13 Q. Yes. Would you like to look at paragraph 12(5) of your 14 witness statement, page 4012. You say there in the 15 first sentence: 16 "I was not aware that for the purpose of calculating 17 damage stability, the 'one-compartment flooding' would 18 be subject to any requirement as to length referred to 19 as '0.1L'." 20 A. Yes. 21 Q. You say at the end of that paragraph: 22 "To my mind, the calculations presented in the 23 Damage Stability Booklet, which were done in respect of 24 each of the 6 compartments of Lamma IV, already 25 fulfilled the 'one-compartment flooding' requirement."</p>
<p style="text-align: right;">Page 82</p> <p>1 Q. If you compare that to the drawings for the ship -- 2 I think it's the Profile and Deck -- let me just 3 check -- that shows it most clearly. If we look at the 4 Profile and Deck plan at page 204 of the marine bundle. 5 You can look at the larger-size copy that's been 6 provided by Cheoy Lee if that's more convenient. Do you 7 see from the side shell profile at the top that the 8 distance from the transom to the 1/2 bulkhead is 9 measured as being 1,625 mm? 10 A. Correct. 11 Q. And we can see from the other plans that that 12 corresponds to the steering gear compartment. I can 13 show you those if you like. 14 So it appears from all the plans that the steering 15 gear compartment measured 1.625 metres, but it appears 16 from the Damage Stability Booklet that the length of the 17 compartment was 0.87 metres. Are you able to offer any 18 explanation for that discrepancy? 19 A. Usually when a builder submits the calculations, I will 20 take a brief look at the data, and if I don't see any 21 abnormalities, then I will trust all the data they 22 provided. 23 THE CHAIRMAN: Are you saying that you didn't notice this 24 mistake, if that's what it is, in the damage stability 25 calculation of the dimensions of the steering gear</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Yes. 2 Q. Then you say that, having checked and been satisfied 3 with the calculations in the Damage Stability Booklet, 4 you would have stamped it with the chop "seen" and 5 initialled it at the bottom right, and submitted them to 6 your superior, Mr Leung Wai-hok, for vetting. 7 A. Yes. 8 Q. We can see your initials, can we not, on page 338, to 9 the right of the "seen" stamp? 10 A. Correct. 11 Q. And at page 322, in the inclining experiment and 12 stability calculation, to the right of the "seen" stamp 13 there? 14 A. Yes. 15 Q. Thank you. Now, you have physically been present in the 16 steering gear compartment, as you have told us earlier. 17 So you would have known, would you not, that it was not 18 watertight? 19 A. At that time I don't know whether there is a door, but 20 if it is specified on the drawing that it is watertight, 21 then there would be a watertight cover there. 22 Q. So you inspected the vessel in January 1996? 23 A. I believe so. 24 Q. And six months later, you checked the Damage Stability 25 Booklet --</p>

<p style="text-align: right;">Page 85</p> <p>1 A. Yes. 2 Q. -- on the basis that it had a watertight bulkhead 3 between the steering gear compartment and the tank room? 4 A. Yes. 5 Q. In fact, did you do it at the same time as the inclining 6 experiment? 7 A. No. 8 Q. So are you saying that you assumed, without inspecting 9 the vessel, that a watertight door had been fitted in 10 the course of that six months? 11 A. (Chinese spoken). 12 THE CHAIRMAN: Thank you, Mr Ho. Pause there. 13 A. Of course not, because at that time, when I examined the 14 compartment, I checked against the various items, for 15 example the bilge, the oil tank and the passengers' 16 inclination data, et cetera. This compartment has no 17 electricity, so I examined it with a torch. I remember 18 that there was a hole, but I don't remember whether 19 there was a door. 20 After the examination, there was a period of time 21 before the licence was issued. 22 THE INTERPRETER: Sorry. 23 A. There was a time before the final survey was done and 24 the issuance of licence, and the shipyard could fix the 25 door onto it after the final survey. A watertight door</p>	<p style="text-align: right;">Page 87</p> <p>1 MR BERESFORD: If I've understood the gist of your evidence 2 correctly, Mr Ho, you say there should have been 3 a watertight cover, and if there wasn't, it should have 4 been fitted later; is that right? 5 A. I believe so, but I don't know whether Cheoy Lee has 6 done that. 7 Q. No, but my question of you is, should that not have been 8 noted as an outstanding matter on the Marine 9 Department's record of inspections, for example on 10 page 833? 11 A. Which paragraph are you referring to? 12 Q. No, it's not there, Mr Ho. That's the point. I'm 13 asking you, shouldn't it have been there? 14 A. I don't know whether it is here, because when 15 I performed the inclining experiment, I only performed 16 the process. It is impossible for me to have reviewed 17 the whole file before doing the process. 18 Q. Mr Ho, there appears to be one other entry of yours in 19 this document, at page 834, in handwriting, dated 20 5 March 1997. Is that your entry and your signature by 21 your name? 22 A. Yes. 23 Q. Can you read it to us, please. What does it say? 24 A. (Chinese spoken). 25 Q. I only want to read it, Mr Ho.</p>
<p style="text-align: right;">Page 86</p> <p>1 should be installed during the final inspection, because 2 it says that it is a watertight compartment. So a door 3 should be installed. But whether it has been actually 4 installed or not, I don't know. 5 MR MOK: Mr Chairman, on the interpretation, where it says 6 "because it says that it is a watertight compartment", 7 I believe what the witness said was "because the 8 calculation showed that there should be a watertight 9 compartment". 10 THE CHAIRMAN: Just to confirm that, Mr Ho, are you saying 11 there should be a watertight door there based on the 12 drawing or on the calculation? 13 A. I believe both of them apply, because it indicates on 14 the drawing that it is watertight, and the calculation 15 was also done on the basis of watertight compartment. 16 And there was also a cover. 17 THE CHAIRMAN: I'm sorry, the last bit? There was also 18 a cover? A cover where? 19 MR SHIEH: There might be a point of translation: "(Chinese 20 spoken)", "should be a cover", I think. 21 THE CHAIRMAN: There should be a cover; is that it? 22 A. It won't be watertight without a cover. 23 THE CHAIRMAN: Yes. Both the drawing and the calculation 24 led you to that determination? 25 A. Yes.</p>	<p style="text-align: right;">Page 88</p> <p>1 A. It says here, on 19 February 1997, the outstanding items 2 need to be checked and they have been rechecked. And 3 then "HT", which means "hydraulic test" or "hose test"; 4 I can't see it. Then I don't know what has been done on 5 10 February. 6 Q. You mean 19 February? 7 A. The description and contents pertaining to 19 February 8 is missing, so I don't know what has been performed. 9 Q. Perhaps if you look at page 836. Is that the survey 10 referred to? 11 A. I believe so. 12 Q. So does that say: 13 "Outstanding item" -- is that 1(a) -- "of survey 14 dated 19.2.97 was checked/HT OK." 15 A. Now that I review this document, I have some 16 recollection. On 19 February 1997, in item 1(a), there 17 is a hose test that has been performed on the starboard 18 side. 19 Q. That's a hose test? H-o-s-e in English, is it? 20 A. Yes. 21 Q. At page 836, it appears to say "starboard side bottom 22 shell [something] 350 mm x 550 mm to be [something] &amp; 23 hose test required". 24 THE CHAIRMAN: "Renewed", isn't it? 25 MR BERESFORD: Is that "renewed", Mr Ho?</p>

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<p>1 A. I believe so.</p> <p>2 Q. What's that squiggle under the words "bottom shell"?</p> <p>3 A. "350 mm x 550 mm".</p> <p>4 Q. No, before that. On the same line and right-hand side</p> <p>5 of the word "shell".</p> <p>6 A. Are you referring to this one?</p> <p>7 Q. If you look at the screen, the cursor is just below what</p> <p>8 I'm asking about.</p> <p>9 A. Shell plate.</p> <p>10 Q. I see. Thank you.</p> <p>11 A. "PL" means p-l-a-t-e.</p> <p>12 Q. Thank you. And why did that require to be renewed?</p> <p>13 A. I can't give you an answer.</p> <p>14 Q. Mr Ho --</p> <p>15 A. Would you please repeat your question? I don't quite</p> <p>16 understand what you meant just now.</p> <p>17 Q. I withdraw the question. I don't think it's necessary</p> <p>18 for me to pursue it, on the starboard side.</p> <p>19 You tell us in your statement that you've now been</p> <p>20 told about the 0.1L requirement. You've been told that</p> <p>21 because of that requirement, the steering gear</p> <p>22 compartment and the tank room ought to have been</p> <p>23 considered as one compartment for the purpose of the</p> <p>24 Damage Stability Booklet. You say:</p> <p>25 "Even if that were the case, I believe that Lamma IV</p>	<p>1 compartment, the moment from this is larger than that of</p> <p>2 the engine room, I still believe that there is enough</p> <p>3 buoyancy from the figure.</p> <p>4 MR MOK: I believe that earlier the witness also said that</p> <p>5 there was a lot of reserve buoyancy.</p> <p>6 THE CHAIRMAN: Thank you.</p> <p>7 So even if the moment of the combined steering</p> <p>8 compartment and the tank room was greater than that of</p> <p>9 the engine room, there was still a reserve of buoyancy</p> <p>10 in the vessel; is that it?</p> <p>11 A. I believe so, because even though the moment of the</p> <p>12 steering room is smaller, but --</p> <p>13 THE INTERPRETER: Sorry.</p> <p>14 (Chinese spoken).</p> <p>15 A. Because even though the volume of the aft compartment</p> <p>16 together with the oil tank compartment is big, but since</p> <p>17 the buoyancy of the steering room compartment is not</p> <p>18 that big, so the moment -- even though the moment is</p> <p>19 affected, but it was not significantly affected.</p> <p>20 MR MOK: I think the witness also said that that's because</p> <p>21 of the small size of the steering gear compartment.</p> <p>22 THE CHAIRMAN: Yes. I think we have the effect of the</p> <p>23 evidence.</p> <p>24 MR BERESFORD: Thank you, Mr Chairman.</p> <p>25 I understand my learned friend Mr Shieh may have</p>
Page 90	Page 92
<p>1 would have satisfied the damage stability requirement,</p> <p>2 which was that the GMT ... should be a positive figure</p> <p>3 of no less than 0.05 metres. I come to that view by</p> <p>4 comparing the 'added volume' and GMT of the steering</p> <p>5 gear compartment together with the tank room and that of</p> <p>6 the engine room compartment, which is the largest</p> <p>7 compartment in Lamma IV."</p> <p>8 You say in the last sentence of your paragraph 14:</p> <p>9 "Even if the steering gear compartment and the tank</p> <p>10 room were considered together, there would still be</p> <p>11 sufficient buoyancy to meet the damage stability</p> <p>12 requirement."</p> <p>13 A. Yes.</p> <p>14 Q. But would you agree, Mr Ho, that if the steering gear</p> <p>15 compartment and the tank room together were flooded,</p> <p>16 they would have a greater moment than if the engine room</p> <p>17 were flooded?</p> <p>18 A. I agree.</p> <p>19 THE INTERPRETER: The answer is "I agree".</p> <p>20 MR BERESFORD: Yes, thank you.</p> <p>21 So it follows, doesn't it, that it's not enough just</p> <p>22 to compare the added volume of two compartments at the</p> <p>23 end of a vessel, and a compartment near the middle of</p> <p>24 the vessel?</p> <p>25 A. Even if by adding the aft compartment and the oil tank</p>	<p>1 a correction to the transcript.</p> <p>2 MR SHIEH: I might be mistaken, but the first line of the</p> <p>3 witness's answer, "Because even though the volume of the</p> <p>4 ... compartment together with the oil tank compartment</p> <p>5 is big", I thought he actually said, "Even though the</p> <p>6 moment of the compartment together with the oil tank</p> <p>7 compartment is big".</p> <p>8 That read in context would be the sense of what he's</p> <p>9 saying. Because the only thing that is big for those</p> <p>10 two compartments is the moment. That is what's being</p> <p>11 discussed.</p> <p>12 THE CHAIRMAN: Yes. Thank you.</p> <p>13 MR BERESFORD: Then there's one other matter you deal with</p> <p>14 in your statement, and that is in relation to your notes</p> <p>15 of interview. In your interview, you were asked about</p> <p>16 the 1995 Instructions and you wish to make a correction</p> <p>17 to say that it is in fact the Blue Book that was</p> <p>18 applicable in your opinion; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. I wonder if you can just help us with a few samples of</p> <p>21 your handwriting, please, Mr Ho. Going back to the</p> <p>22 inclining experiment and stability calculation, and in</p> <p>23 particular at page 325. You have told us that this is</p> <p>24 your handwriting, yes?</p> <p>25 A. I believe so.</p>

<p style="text-align: right;">Page 93</p> <p>1 Q. Could you just read it out for us, please, so that we 2 have a record of it on the transcript. 3 A. I can't see them clearly. 4 Q. Perhaps if you tell us where there are gaps, and then 5 just ... 6 A. I think this is displacement, and I can see that -- 7 A. (In English) "Correction for trim". 8 A. A correction for trimmer. I think it is "trimmer". 9 I don't know whether it is "trim". I believe that it is 10 "trim". Then "equals to PPCM x trim", and then this 11 word I believe is "correction". I'm not sure -- 12 MR SHIEH: "(Chinese spoken)". 13 A. Yes, the "PPC" is clear. I can see that. 14 MR SHIEH: No, "TPC". 15 THE INTERPRETER: "TPC", sorry. 16 A. The following characters are illegible, but I can see 17 the figures. 18 MR BERESFORD: Can you read out the figures, please, Mr Ho. 19 A. Then 1.7304 times I don't know what, and then times 20 2.1822, divided by 2-something, equals to 5.5 tonnes. 21 Q. That equals 5.5118? 22 A. I believe that this is a correction, and after -- 23 THE INTERPRETER: Sorry. 24 (Chinese spoken). 25 A. Minus the correction, and then the figure of</p>	<p style="text-align: right;">Page 95</p> <p>1 MR MOK: Yes. 2 THE CHAIRMAN: Thank you, Mr Ho. You'll be told what is 3 required later. 4 MR BERESFORD: I have no further questions, Mr Chairman. 5 THE CHAIRMAN: Mr Grossman? 6 MR GROSSMAN: Mr McGowan has an application. 7 MR MCGOWAN: May I ask questions about the standing capacity 8 that the witness mentioned? 9 THE CHAIRMAN: Yes, certainly. 10 Examination by MR MCGOWAN 11 MR MCGOWAN: Mr Ho, you told us that you counted the number 12 of seats and also calculated the standing capacity. 13 THE CHAIRMAN: I don't think he said he counted seats. He 14 said he calculated the capacity, I think. 15 MR MCGOWAN: Yes. 16 You used the GA diagram to do that? Is that 17 correct? 18 A. Yes. 19 Q. In fact, the GA diagram we were looking at has the 20 capacity marked on it, or the number of seats marked on 21 it. It's marine bundle 2 at page 172. In the lower 22 cabin, the passenger saloon has "137" marked on it; do 23 you see that? It's right in the middle, somewhere near 24 the staircase. "Passenger saloon, 137 Nos." 25 THE CHAIRMAN: Do you see it?</p>
<p style="text-align: right;">Page 94</p> <p>1 5.5118 tonnes is arrived at. 2 MR BERESFORD: Thank you. And then the last line? 3 A. It is the displacement. At that time, the displacement 4 during the inclination was at 57-point-something-zero, 5 and then minus the answer from the above line; that is, 6 5.5118, and then the answer is arrived at. This equals 7 to 51.50. 8 Q. Thank you. Mr Ho, I've also been asked if you would be 9 good enough to decipher your handwriting on pages 326, 10 328 and 329, but rather than take up everybody's time in 11 the hearing today, I wonder if I could ask you to do 12 that with the Department of Justice and ask them to 13 provide us with a transcript, as far as possible, in due 14 course. 15 A. Are you saying that you want me to explain the 16 calculation of the hydrostatic, or otherwise? 17 Q. Just to write out what the words are, as far as you can; 18 if you could do that, rather than here in the witness 19 box. 20 A. Are you saying that the handwriting on the hydrostatic, 21 or all the handwriting on the other pages as well? 22 THE CHAIRMAN: Mr Mok, may we ask you to deal with the 23 matter? 24 MR MOK: We'll follow up. 25 THE CHAIRMAN: Otherwise we'll never finish.</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Yes. 2 MR MCGOWAN: Right. If you move up, you see the upper 3 passenger saloon has "63 Nos". 4 A. Correct. 5 Q. So that's a total of 200. 6 A. I don't know how they arrived at this figure, whether it 7 is worked out by the shipyard or not, but after taking 8 the measuring, we put down our record on a book. 9 Q. Yes. I think, assuming we've counted it correctly, that 10 is actually the number of seats on the GA plan in both 11 those saloons. 12 A. As far as I understand, the shipyard may calculate the 13 number to be 137 on the main deck. But if I find out, 14 after taking my measurement, that it is actually 130, 15 then I will make a note of it. But I don't know whether 16 they arrived at this figure by adding them up. But 17 before I took the measurement -- 18 THE INTERPRETER: Sorry. 19 (Chinese spoken). 20 A. But we often find that our measurement, the number we 21 measure is less than what they get, probably because 22 they have more advantage if they have a larger number. 23 But the Marine Department will issue a licence according 24 to the number of passengers we calculated. 25 MR MCGOWAN: Yes. On the GA plan in front of you, Mr Ho --</p>



<p style="text-align: right;">Page 97</p> <p>1 if the cursor on the screen could be moved over a little 2 bit to the right -- you can see the number of passenger 3 seats shown under "Principal dimensions" as "200". 4 Could it be scanned over to the right-hand side, 5 please, to the box. There we are. Stop it there, 6 please. 7 "Principal dimensions", 200 seats, and there's 8 a note, "see note 9", which reads: 9 "Number of passengers permitted to carry on board 10 vessel ..." 11 A. Yes, this is like what I said before. The shipyard, the 12 factory designed this vessel on the basis that its 13 capacity is 200 passengers, but in issuing the licence, 14 we depend on the criteria that we calculate the area and 15 the number of passengers standing according to our own 16 measurement, and we issue the licence accordingly. 17 Q. Yes. And the total number of people to be carried on 18 board Lamma IV was 232. 19 THE CHAIRMAN: Do you want to give the witness a document so 20 he can see what you are going to say? 21 MR McGOWAN: Yes. I was going to ask him to look at either 22 the operating licence for 2012, which is in the -- 23 THE CHAIRMAN: It might be more helpful if you can show him 24 something from 1996. 25 MR McGOWAN: Yes. We don't seem to have the operating</p>	<p style="text-align: right;">Page 99</p> <p>1 which is 137, from the General Arrangement diagram we 2 were looking at earlier. 3 A. I have no recollection of this. I remember that there 4 is a booklet by which we worked out the calculation of 5 the number of seats and the standing spaces, but I can't 6 see from here. 7 Q. If there were 200 seats, plus the outside area, and that 8 was less than the total number of passengers -- 9 THE CHAIRMAN: What is the object of this questioning? 10 MR McGOWAN: It's the question of whether there was 11 overcrowding of the open upper deck, which was 12 suggested. 13 THE CHAIRMAN: Well, the upper awning, as it's described in 14 the survey, has 14 passengers. 15 MR McGOWAN: Yes, that's the number of seats, sir, 16 I believe. 17 THE CHAIRMAN: That's passengers, isn't it? 18 MR McGOWAN: Perhaps I can ask the witness. 19 THE CHAIRMAN: "Spaces" is what it's described as. That's 20 what the photographs show as the number permitted on the 21 upper outer deck: 14. 22 MR McGOWAN: Perhaps Mr Ho can help us with this, 23 Mr Chairman. 24 THE CHAIRMAN: Perhaps we could show him the photograph 25 then.</p>
<p style="text-align: right;">Page 98</p> <p>1 licence from 1996, perhaps for understandable reasons. 2 What I can do is -- 3 THE CHAIRMAN: What about the original certificate? Doesn't 4 that have the information? 5 MR BERESFORD: The certificate of survey, Mr Chairman, is at 6 marine bundle 2, page 384, and it gives the number of 7 passengers at condition 12. 8 THE CHAIRMAN: Thank you. 9 MR McGOWAN: Thank you very much. 10 Do you have that in front of you, Mr Ho? 11 A. Yes. 12 Q. That includes or comes to a total of 232 total persons? 13 A. Yes, it's even more. 14 Q. And that would include the people who had seats outside 15 on the open upper deck? 16 A. I believe so. The standing passengers are also included 17 in it there. 18 Q. Yes. The number of standing passengers is calculated on 19 the basis of the space throughout the vessel; is that 20 correct? 21 A. Yes. 22 Q. That will give us -- I think the extra number is 10. 23 A. Where is that "10" written, that figure? 24 Q. It's the number of seats on the lower deck, which is 25 137 -- sorry, on what's described here as the main deck,</p>	<p style="text-align: right;">Page 100</p> <p>1 Mr Beresford, can you help with that, the photograph 2 showing the number 14 on the upper outside deck? 3 MR McGOWAN: Yes. Well -- 4 THE CHAIRMAN: Just bear with me, Mr McGowan. 5 MR McGOWAN: I've got a reference, that was all. 6 THE CHAIRMAN: Please provide it, if you have. 7 MR McGOWAN: Police photographs III at photograph 42. 8 THE CHAIRMAN: Do you mean book III? 9 MR McGOWAN: Yes, book III. 10 MR BERESFORD: Photograph 42 should be at page 167. 11 MR McGOWAN: Yes. You'll need to zoom in to the forward end 12 of that deck near the pillar on the left-hand side. 13 That shows "14P". That is based on the number of 14 seats on that upper deck, isn't it? 15 THE CHAIRMAN: "This deck accommodates 14P". Is that what 16 it says? Just trying to decipher that sign: "This deck 17 accommodates 14P"? 18 A. I believe so, as seen here. 19 THE CHAIRMAN: Have a look at the survey. Page 384. 20 Doesn't that mirror what's written there? "Upper 21 awning", I think it's described as there, "14". Do you 22 see that? 23 A. Yes, I think so. 24 MR McGOWAN: That was based on the number of seats available 25 on that upper deck, wasn't it, Mr Ho?</p>

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<p>1 A. This is not referring to the seats. The seats are 2 referred to in the item above. But this item refers to 3 the upper awning, which means the outside, and this area 4 was -- then the 14 passengers was derived by dividing 5 the area, if I remember correctly. 6 I want to make an amendment. I don't know whether 7 the number 14 was derived from the area or not. I need 8 to refer to the photo. 9 It seems that there are some seats by looking at 10 this photo, but I don't remember whether the measurement 11 was based on the seats or from the area. I have no 12 recollection. And I don't know whether the seats were 13 added on afterwards or not. 14 Q. Yes. There are seats shown in the GA plan that we were 15 looking at earlier. Do you see them there, Mr Ho? 16 A. Here, the long ones are the seats? Because I don't know 17 what the long objects there are in the GA. I don't know 18 what they are. 19 Q. Thank you, Mr Ho. Can I just take you back to the 1997 20 certificate -- 21 THE CHAIRMAN: If we're moving on to another matter, we're 22 past time. 23 MR McGOWAN: It's just one question, sir. 24 THE CHAIRMAN: Do other counsel have questions? 25 MR MOK: I do, Mr Chairman.</p>	<p style="text-align: center;">I N D E X</p> <p>1 2 MR YU KICK-CHUEN, PHILIP (affirmed in Punti) .....1 3 Examination by MR BERESFORD .....1 4 Questions by THE COMMISSION .....33 5 Examination by MR GROSSMAN .....36 6 Examination by MR PAO .....43 7 Examination by MS SIT .....47 8 Questions by THE COMMISSION .....61 9 (The witness withdrew) .....61 10 MR HO KAI-TAK (affirmed in Punti) .....62 11 Examination by MR BERESFORD .....62 12 Examination by MR McGOWAN .....95 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
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<p>1 THE CHAIRMAN: In which case you can ask it tomorrow. 2 Mr Ho, we're going to take our evening adjournment 3 now and we'll resume tomorrow at 10 o'clock. So it 4 follows that I must ask you to come back tomorrow to 5 continue your testimony. Please be kind enough to be 6 here so that we can resume at 10 o'clock. 7 A. (In English) Okay. 8 THE CHAIRMAN: Thank you. 10 o'clock. 9 (4.34 pm) 10 (The hearing adjourned until 10 am on the following day) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	