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<p>1 Wednesday, 6 February 2013 2 (10.00 am) 3 THE CHAIRMAN: Good morning, Mr Tang. Before we resume with 4 your questioning, there is another matter I wish to 5 raise with counsel. 6 Mr McGowan, Mr Grossman told us yesterday that those 7 instructing you were putting together material to 8 respond to the various requests that we have 9 articulated. Can you tell us what the position is as to 10 providing that material? 11 MR McGOWAN: The documentation about the seat repairs and 12 other repairs to the vessel should be ready by either 13 tomorrow or Friday, sir. 14 THE CHAIRMAN: Yes, and the other matters? 15 MR McGOWAN: The other matters, the plans, the rest of the 16 plans as-is -- 17 THE CHAIRMAN: As-fitted. 18 MR McGOWAN: -- as-fitted, are here. There are still one or 19 two missing. I'm just asking for a list of the missing 20 ones. But we have some originals and copies. 21 THE CHAIRMAN: May we see those now, please? 22 MR McGOWAN: Yes, certainly. (Handed). 23 THE CHAIRMAN: Have counsel to the Commission seen these 24 documents? 25 MR McGOWAN: No. We've only just brought them downstairs.</p>	<p>1 motion now. 2 MR McGOWAN: Yes, Mr Chairman. 3 THE CHAIRMAN: Mr Tang, you told us yesterday of the process 4 in which Cheoy Lee were involved in the surveying of the 5 vessel, the final inspection and therefore the obtaining 6 of the licence. 7 A. Correct. 8 THE CHAIRMAN: And you gave us a list of the things 9 involved. But the starting point, of course, was the 10 application form to extend the licence. 11 A. Correct. 12 THE CHAIRMAN: Who compiled that application form? 13 A. The application form for extension of the licence was 14 prepared by me. 15 THE CHAIRMAN: Signed by you on behalf of the company? 16 A. Yes. 17 THE INTERPRETER: Sorry, there's some amendment. 18 (Question retranslated) 19 A. Sometimes it was signed by me and sometimes by my 20 superior. 21 THE CHAIRMAN: But it was always prepared by you; is that 22 the position? 23 A. Correct. 24 THE CHAIRMAN: We're dealing specifically now with the 25 application forms in relation to the 2011 survey, and</p>
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<p>1 THE CHAIRMAN: Perhaps you'd show them to them first of all. 2 MR McGOWAN: Certainly. 3 THE CHAIRMAN: What of the "fourth crew member" attendance 4 records? 5 MR McGOWAN: That I believe will be with you or with your 6 secretariat by lunchtime today. 7 THE CHAIRMAN: Thank you. 8 Mr Tang was going to check his records as to the 9 form of survey or inspection that included the asterisk 10 reference to child life jackets. Has that been done? 11 MR McGOWAN: We haven't spoken to Mr Tang, sir. No doubt 12 he'll be able to answer that question himself. 13 MR TANG WAN-ON (on former affirmation) 14 (All answers via interpreter unless otherwise indicated) 15 THE CHAIRMAN: Mr Tang, let me remind you that you continue 16 to give your evidence on your original affirmation. 17 You indicated yesterday that you wished to check 18 your records in relation to the surveys, I think, of 19 2011 and 2012. Have you done so? Have you caused that 20 to be done? 21 A. Not yet, but I will follow up later. Because yesterday 22 it was quite late. 23 THE CHAIRMAN: Mr McGowan, would you follow that up, please? 24 MR McGOWAN: Yes, I'll ask those instructing me to do so. 25 THE CHAIRMAN: If they'd be kind enough to set that in</p>	<p>1 then the one a year later, 2012. Were they both signed 2 by you? 3 A. Since it has been submitted to the Marine Department, 4 I can't remember whether they were both signed by me. 5 THE CHAIRMAN: Did you keep copies of your application form 6 for Hongkong Electric's records? 7 A. No. 8 THE CHAIRMAN: So the application form found its way to the 9 Marine Department and eventually that resulted in the 10 successful extension of the licence? 11 A. I submitted the application form to the Cheoy Lee 12 Shipyard, and the Cheoy Lee Shipyard would submit the 13 application form to the Marine Department. 14 THE CHAIRMAN: Yes. Thank you. 15 Mr Mok, we'd ask that the Marine Department produce 16 the application forms and all related documents in 17 relation to the applications for the extension of the 18 licences for the two applications that were made in 2011 19 and 2012. 20 MR MOK: Yes, I'll ask for that. 21 THE CHAIRMAN: Mr Shieh, we've asked Mr Mok, and he's going 22 to initiate the request with the Marine Department for 23 the production of that documentation related to the 2011 24 and 2012 applications. Do you ask that we extend that 25 to any earlier period or not?</p>

Page 5	1 MR SHIEH: Up until 2007. 2 THE CHAIRMAN: Mr Mok, can we extend that request up until 3 the year 2007? 4 MR MOK: Yes. 5 THE CHAIRMAN: Presumably these are either in hard copy 6 records or have been microfilmed. 7 MR MOK: Yes. We'll check that. 8 MR SHIEH: 2007 would be good enough, for present purposes. 9 THE CHAIRMAN: Thank you. 10 Mr Mok, we've received a signed witness statement by 11 Mr Wong Kam-ching, who was the inspector, apparently, 12 for the 2012 survey. 13 MR MOK: Yes. 14 THE CHAIRMAN: We'd ask that he give evidence, and we'd also 15 ask that we be provided with a witness statement from 16 Mr Lau, I think it is -- 17 MR MOK: Lau Wing-tat. 18 THE CHAIRMAN: -- who did the 2011 survey. 19 MR MOK: We'll do that. 20 THE CHAIRMAN: Mr Shieh, are there earlier inspections where 21 we ought to be seeking -- 22 MR SHIEH: Up to 2007, likewise. 23 THE CHAIRMAN: Very well. 24 Mr Mok, can you process it on that basis? 25 MR MOK: We will have to do more work then.	Page 7	1 Mr Pao, dealing with page 864 -- we're now with the 2 2012 final inspection record -- would you cause 3 enquiries to be made of Cheoy Lee to provide us with the 4 answer as to the identity of the Cheoy Lee 5 representative? 6 MR PAO: I can confirm that is a Cheoy Lee employee. 7 THE CHAIRMAN: Thank you for that. But what we want to know 8 is his identity, and we want to know whether or not 9 there was more than one Cheoy Lee representative present 10 at the time of the final inspection, 2012 and 2011. 11 MR PAO: I'll make enquiries. 12 THE CHAIRMAN: Mr Shieh, coming back to you again on the 13 same point. 14 MR SHIEH: Yes. 15 THE CHAIRMAN: Do we need to go beyond 2012 and 2011 for the 16 identity of the Cheoy Lee representative present at the 17 time of the final inspections? 18 MR SHIEH: As things now stand, probably not. But if 19 enquiries are going to be made anyway, and if it's not 20 too oppressive, it may well be that we can dovetail 21 everything all back to 2007. 22 MR PAO: I'll do that. 23 THE CHAIRMAN: Mr Pao, you hear what's said. Again, as 24 I indicated to Mr Mok, would you give priority to 2012, 25 2011 and so on.
Page 6	1 THE CHAIRMAN: Thank you very much. I think the priority, 2 though, if we can prioritise the work, is 2011 and 2012. 3 MR MOK: Yes. We'll get those two done first. 4 THE CHAIRMAN: Thank you very much. 5 Mr Tang, help me, if you would, if you're able. 6 First of all, be shown the document at page 864 in 7 marine bundle 4. It's my memory of your evidence -- if 8 you look at the bottom of that document. This is the 9 final inspection record, Marine Department record, the 10 one that you're looking to see if you've got a copy in 11 Hongkong Electric, and that's now being looked for. 12 It's my memory that you said that the signature at the 13 bottom left, on the "Owner/Agent" box, is not a Hongkong 14 Electric signature and therefore must be a Cheoy Lee 15 signature. Do I understand you correctly? 16 A. Correct. 17 THE CHAIRMAN: If you look at page 862, that's an inspection 18 record for July 2011. There is a similar signature 19 there, is there not? 20 A. Yes. 21 THE CHAIRMAN: Again, would that be a Cheoy Lee 22 representative or agent of Hongkong Electric, involved 23 in the process? 24 A. I believe that it was a signature from Cheoy Lee. 25 THE CHAIRMAN: Thank you.	Page 8	1 MR PAO: Thank you, Mr Chairman. 2 THE CHAIRMAN: Thank you very much. 3 Mr Mok, apologies for the delayed start, but these 4 are matters that are best set in motion. 5 Mr Beresford? 6 MR BERESFORD: Mr Chairman, just before we start, you asked 7 us to look at the plans. 8 THE CHAIRMAN: Yes. 9 MR BERESFORD: It appears that some are more relevant than 10 others, but they do contain details of holes through the 11 hull, basically, rudder and rudder stocks, the rudder 12 stuffing box, there are various other plans that are 13 relevant, so I would ask that a copy be provided to the 14 Commission. 15 THE CHAIRMAN: Yes. Obviously as a matter of priority, the 16 drawings that are relevant to Mr Tang's evidence about 17 his inspection and acceptance of the vessel are the 18 matters that should be identified first. So that whilst 19 he's still here, if it's necessary, those questions can 20 be raised with him. 21 MR BERESFORD: Very well. Thank you, Mr Chairman. 22 THE CHAIRMAN: Mr Mok. As I was saying, apologies for the 23 delayed start in the resumption of your questioning. 24 MR MOK: I have only very few questions left. 25 THE CHAIRMAN: Yes.

<p style="text-align: right;">Page 9</p> <p>1 Further examination by MR MOK (continued) 2 MR MOK: Mr Tang, good morning. 3 A. (In English) Good morning. 4 Q. I only have one or two questions left. If we could go 5 back to page 805. That was the certificate of survey 6 for 2011, the last document we looked at. Do you 7 have it? 8 A. Yes. 9 Q. Your evidence was that there were no children's life 10 jackets on board Lamma IV; right? 11 A. Correct. 12 Q. And when you received this document in July of 2011, you 13 noticed that there was an indication that there were 14 child life jackets on board; correct? 15 A. Yes, there is such an item. 16 Q. My question was that you noticed it. 17 A. I did take a glance, but I haven't really paid attention 18 to it. 19 Q. I thought you said before that you had looked at this 20 document many times; correct? 21 A. I said that this document was put in the steering gear 22 room, so all the crew members on board the vessels had 23 chances to look at it for many times. 24 THE CHAIRMAN: By that you mean the wheelhouse? 25 A. (In English) Yes, wheelhouse.</p>	<p style="text-align: right;">Page 11</p> <p>1 "no", Mr Tang? 2 A. Yes. 3 MR MOK: And when you saw that, were you not surprised? 4 A. Yes. 5 Q. So what did you do about that? 6 A. The Marine Department has checked all the life-saving 7 equipment on board the vessel, and I am perplexed that 8 how come it says that there is something we don't have, 9 and they asserted that there were such items. 10 MR MOK: He said, I think, there was a question mark in his 11 mind; correct? 12 THE INTERPRETER: "And I have a question mark in mind." 13 THE CHAIRMAN: So the question is, what did you do about it? 14 A. This vessel has been in place for more than 10 years, 15 and such life-saving items have been in place all along. 16 So even though I do have a question mark in mind, 17 I didn't take follow-up action because it has all along 18 been done that way. 19 THE CHAIRMAN: But you knew that there were no children's 20 life jackets on board, as I understand your evidence; is 21 that correct? 22 A. Correct. I knew that there were no children's life 23 jackets on board the vessel. 24 MR MOK: Did you object or complain to the Marine Department 25 and point out to them that this was a mistake, and ask</p>
<p style="text-align: right;">Page 10</p> <p>1 THE INTERPRETER: Sorry, "wheelhouse". 2 MR MOK: You also looked at it many times, didn't you? 3 A. It should be. 4 Q. And it is very clear from this document that there were 5 both adult life jackets and child life jackets on board; 6 correct? 7 A. Yes. 8 Q. And you noticed that? 9 MR SHIEH: Perhaps the question can be put in a timeframe. 10 After it's been issued, at the time it was handed over, 11 or after the accident -- 12 THE CHAIRMAN: Well, the timeframe is July 2012. 13 MR MOK: No, no. After -- 14 THE CHAIRMAN: When you received the certificate, you 15 noticed that it contained a reference to the fact that 16 child life jackets were on board the vessel. That's 17 what's being put to you, Mr Tang. What's the answer to 18 that? 19 A. As I have said, this document was provided to us from 20 Cheoy Lee and then we posted it on board the vessel. 21 And so I did have a chance to view it, but as for 22 whether I have a lot of chance to see it, I would say 23 that I do have chance to glance at it occasionally. 24 THE CHAIRMAN: Did you see that it asserted that on 25 Lamma IV, there were life jackets for children; "yes" or</p>	<p style="text-align: right;">Page 12</p> <p>1 them for an explanation? 2 A. No. 3 Q. So if you did not object or complain to the Marine 4 Department, do you agree that you were then obliged to 5 fulfil the requirement? 6 A. At that time, my opinion was that since the Marine 7 Department have checked all the items and have issued us 8 a certificate, then I believe that it should be safe. 9 Q. Mr Tang, one of my first questions to you was whether or 10 not you had familiarised yourself with all the laws and 11 regulations, and your answer was yes. So did you 12 realise in July of 2011 that there was an obligation to 13 provide child jackets on board? 14 A. I agree that I have said yes, but sometimes the minor 15 details could escape my notice. So I admit that I have 16 omitted this requirement and have failed to provide 17 children's life jackets. 18 Q. Can I take you finally to the 2012 certificate of 19 survey. Page 822. Having noticed, as you said, 20 a mistake in the earlier certificate of survey, when you 21 were issued this new certificate in May of 2012, did you 22 make it a point to see whether or not this mistake 23 persisted on this document? 24 A. At that time I didn't make it a point to follow up, 25 because I believed that this has been approved by Marine</p>

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<p>1 Department after surveys. So it should be okay, and so 2 I didn't take follow-up action. 3 Q. But according to your evidence, it was a mistake, wasn't 4 it, to indicate that there were child jackets on this 5 document? 6 A. As I have admitted earlier on, I have overlooked this 7 item and there was no child jacket on board the vessel. 8 Q. I just want you to confirm that you also noticed on this 9 document that there was a mistake, according to you. 10 THE CHAIRMAN: That's in May 2012 -- 11 MR MOK: Yes, correct. 12 THE CHAIRMAN: -- when the certificate was supplied. 13 A. At that time I didn't pay attention to this issue, but 14 now when I look at it, I realise that the same mistake 15 has been made, the same mistake of the previous year has 16 recurred. 17 MR MOK: Mr Tang, is it your evidence that when this 18 document was issued in May of 2012 or shortly 19 thereafter, you did not read the contents? Is this your 20 evidence? 21 A. Correct, because after Cheoy Lee provided this document 22 to us, we would make a copy and put it in the steering 23 room -- 24 A. (In English) Wheelhouse. 25 THE INTERPRETER: Sorry.</p>	<p>1 around the vessel to check whether or not there were or 2 were not children's life jackets on board? 3 A. Correct, but my crew members have been on board this 4 vessel for a long period of more than 10 years. So when 5 they told me there was no life jacket, I believed them. 6 Q. Let me again summarise your evidence. You say that 7 there were no children's life jackets on board because, 8 one, you had no records of any such purchase; and two, 9 you heard from some crew member that there were no 10 children's life jackets on board? Is that the evidence? 11 A. Correct. There was no children's life jacket. 12 Q. That's not my question. Do you remember the question? 13 A. I think I have answered your question. 14 Q. Let me repeat that. 15 THE CHAIRMAN: I think he has answered it. You're trying to 16 summarise it. 17 MR MOK: Thank you. 18 THE CHAIRMAN: But there remains another question to put to 19 him. 20 You were present at the surveys in 2009, 2010, 2011, 21 2012, were you not, Mr Tang? 22 A. Correct. 23 THE CHAIRMAN: On any of those four occasions, did you see 24 a single child's life jacket on board Lamma IV? 25 A. I personally have never seen that.</p>
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<p>1 A. -- the wheelhouse, and a copy would be kept in the 2 supervisor's file. 3 MR MOK: Do I take it also that you did not point out to 4 Mr Wong Kam-ching, who was the inspector on this 5 occasion, that there was such a mistake on the previous 6 certificate of survey? 7 A. Because Mr Wong hasn't discussed with me about this 8 matter or about the issue of children's life jacket. 9 THE CHAIRMAN: So the answer is you didn't tell him of the 10 earlier mistake? 11 A. Correct. 12 MR MOK: Mr Tang, I put it to you that the reason why it was 13 indicated on this document there were child jackets on 14 board was because, on the occasion of the inspection, 15 there were such life jackets on board. 16 A. According to my record, we have never purchased any 17 children's life jackets and there is no reason why such 18 life jackets should be present on board the vessel. 19 Q. Let me get this right. Your evidence is, Mr Tang, that 20 you say there were no child jackets on board because you 21 have no record that children's life jackets had been 22 purchased? Is that your evidence? 23 A. Correct, and all the crew members knew that there was no 24 children's life jacket on board the vessel. 25 Q. Does this mean, Mr Tang, that you yourself did not go</p>	<p>1 THE CHAIRMAN: Thank you. 2 MR MOK: But it was not you who arranged for the life 3 jackets to be shown to the inspector; is that right? 4 A. Correct. 5 Q. Who were the crew members who told you that there were 6 no child life jackets on board? 7 A. All the crew members told me this. 8 Q. You mean you asked all of them? 9 A. Yes. In fact, I have asked them. 10 Q. And when did you ask them? 11 A. After this incident took place, I confirmed with them, 12 because my record also showed that there isn't any. 13 Q. Does it mean that on the occasion of the 2012 14 inspection, there was no crew member who was responsible 15 for showing the inspector the life jacket; no such crew 16 member told you on that occasion that there was no child 17 life jacket? 18 THE CHAIRMAN: As I understand this evidence, he's saying he 19 made enquiries of all members of the crew. 20 MR MOK: After the incident. 21 THE CHAIRMAN: After the event, yes. 22 MR MOK: I'm asking him on that occasion -- that is, on the 23 occasion of the inspection -- no crew member actually 24 told him that contemporaneously. 25 A. My recollection is that during the whole process of</p>

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<p>1 inspection, nobody has ever mentioned the children's 2 life jacket. 3 Q. But also, no crew member told you that there were no 4 child jackets on board on that occasion? 5 A. Correct. 6 Q. So it is possible that even though you had no record of 7 any purchase, that some crew member might have managed 8 to arrange for some child jacket to be shown to the 9 inspector? 10 THE CHAIRMAN: Is this a proposition you're going to canvass 11 with the crew members, because we're going to call them? 12 MR MOK: I don't know. I'm exploring this possibility. 13 THE CHAIRMAN: Let's not be fanciful, Mr Mok, with respect. 14 MR MOK: Right. Mr Chairman, if you don't think this is 15 helpful, then I won't pursue this. 16 THE CHAIRMAN: Well, we're dealing with negatives here. 17 MR MOK: Yes. 18 THE CHAIRMAN: You've pursued a line of "You weren't told" 19 a negative, not a positive. The witness has said, 20 "No-one ever mentioned child life jackets during the 21 inspection". 22 MR MOK: Okay. I'll leave it there. 23 Similarly, Mr Tang, I put it to you that in relation 24 to the 2011 inspection, the reason there was child life 25 jacket indicated on the certificate of survey is because</p>	<p>1 MR McGOWAN: Just before my learned friend asks questions, 2 I think there's one question which hasn't really been 3 put directly to this witness, and I'd like to do that, 4 which is whether he has ever personally seen 5 a children's life jacket on Lamma IV, either at 6 inspection or on any other occasion. 7 THE CHAIRMAN: I think he's answered that question, but if 8 he hasn't, we'll put it. 9 MR McGOWAN: Thank you. 10 THE CHAIRMAN: Have you ever seen a child's life jacket on 11 Lamma IV? 12 A. Never. 13 THE CHAIRMAN: Mr Beresford? 14 MR BERESFORD: Thank you, Mr Chairman. 15 Further examination by MR BERESFORD 16 MR BERESFORD: Mr Tang, the 2008 survey is at page 775 of 17 marine bundle 4. That's the one you did not attend, 18 where the minimum crew requirement was raised to four. 19 But you attended the next one, which is at page 796 of 20 the bundle, dated 27 October 2009. You see there at 21 paragraph 2 of the certificate it's certified that the 22 vessel is provided with 92 adult life jackets, no child 23 life jackets, and there are no asterisks on this form in 24 that paragraph. Do you see that, Mr Tang? 25 A. Yes.</p>
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<p>1 the inspector found that there were child life jackets 2 on that occasion. 3 A. I don't know what he saw that made him think that there 4 were children's life jackets, but the fact was that 5 there were no children's life jackets on board the 6 vessel. 7 Q. Similarly, you did not personally go around the vessel 8 to see if there were or were not child jackets on board 9 yourself? 10 A. In fact we almost ride on these vessels every day, so we 11 were familiar with this vessel, so we know that there 12 were no children's life jackets, and so we didn't pay 13 particular -- we didn't make it a point to check it. 14 Q. So your answer is that you did not, on that occasion, go 15 around the vessel to check whether there were child 16 jackets; correct? 17 A. Correct, because nobody mentioned children's life 18 jackets. So why should I make it a point to check it? 19 Q. And finally, similarly, there was no crew member on that 20 occasion who told you that there were no child jackets 21 on board? 22 A. Correct. 23 MR MOK: Thank you, Mr Tang. 24 THE CHAIRMAN: Thank you, Mr Mok. 25 Mr Beresford?</p>	<p>1 Q. Then the 2010 survey at page 798, dated 13 May 2010, is 2 in the same form and it certifies 92 adult life jackets 3 and no child life jackets. Do you see that, Mr Tang? 4 A. Yes. 5 Q. Then at page 805, we have the certificate dated 8 July 6 2011. Here we have a change, because instead of 7 a number, we have an asterisk by "adult life jacket(s)" 8 and "child life jacket(s)", and then an asterisk note at 9 the bottom of paragraph 2: "one life jacket for each 10 person on board". 11 A. Yes, I can see it. 12 Q. Are you able to explain how that change came to be, or 13 why it was made? 14 A. I am not sure why such change was made, because at that 15 time the survey inspector didn't tell me about this 16 matter. 17 Q. Did you ask for the change to be made? 18 A. At that time, we were not -- we haven't discussed this 19 matter. This certificate was given to us by Cheoy Lee 20 after it was provided by the Marine Department, and so 21 I have no idea about it. 22 Q. Another matter, Mr Tang. At page 774-59 of the RSRB1 23 bundle -- this is a page in the specification of the 24 vessel that was exhibited to your supplemental 25 statement. It contains a list of as-fitted drawings</p>

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<p>1 which were to be provided by the naval architect, at 2 paragraphs 9(a) to (k). I understand that your company 3 has now provided those, with the exception of items (b) 4 and (k). 5 Upon the completion of the vessel, Cheoy Lee were 6 required to provide Hongkong Electric with two copies 7 each of these drawings. Were they given to you? 8 A. Due to the lapse of time of more than 10 years, 9 I believe there was. And also some of them have been 10 located. 11 Q. Yes. I have a pile of them here. Everything except 12 items (b) and (k), I'm told. But what I want to know, 13 Mr Tang, is whether these would have been given to you. 14 A. Since it is present in my company, it should have been 15 provided to me. 16 Q. Would you have reviewed them when you received them? 17 A. These documents are very professional in nature, and 18 many of them are not comprehensible to me. So I just 19 take a look. 20 Q. So you didn't actively check them to see if they 21 conformed with the original drawings? 22 A. At that time I have 100 per cent trust in them, because 23 the vessel has been produced by Cheoy Lee and approved 24 by the Marine Department. 25 THE CHAIRMAN: I think we understand your approach on that.</p>	<p>1 THE CHAIRMAN: Yes, very well. 2 MR BERESFORD: We've got a copy here. (Handed). 3 Do you see that on the right-hand side, Mr Tang, it 4 has a list of items under the heading "Description", 5 including fire extinguishers and the like, and at the 6 bottom there are three items under the heading 7 "Life-saving appliances". Do you see that, Mr Tang? 8 A. Yes. 9 Q. Those three items are lifebuoys, life jackets, and 10 a 10-person inflatable life raft? 11 A. I can see. 12 Q. And it shows a total of 65 lifebuoys, 92 life jackets, 13 and one life raft? 14 A. Correct. 15 Q. And the 92 life jackets are shown as being 62 on the 16 main deck and 30 on the upper deck? 17 A. Correct. 18 Q. And the 92 corresponds to the number that we saw on the 19 earlier certificate of survey; is that not right? 20 A. Correct. 21 Q. Mr Tang, perhaps I can just show you one more document. 22 I don't know if you'll be able to throw any light upon 23 this, but just for completeness. 24 At page 3745, marine bundle 11, this is the last 25 certificate of survey for Lamma II before the incident.</p>
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<p>1 But the question is, did you check the drawings to see 2 whether they conformed with the original drawings? You 3 can answer that "yes" or "no". 4 A. No. 5 MR BERESFORD: Just give me one moment, please, Mr Chairman. 6 THE CHAIRMAN: Yes. 7 MR BERESFORD: I've got a drawing here marked as "Safety 8 Plan". I don't think there's been time for these to be 9 copied yet. At any rate, perhaps we have one copy. 10 THE CHAIRMAN: That's not one of the items on the list, 11 is it? 12 MR BERESFORD: It isn't, in fact, Mr Chairman, no. 13 THE CHAIRMAN: But the General Arrangement is. 14 MR BERESFORD: The General Arrangement we've already seen. 15 THE CHAIRMAN: But only through the potential expert that 16 Mr McGowan and Mr Grossman were going to call. 17 MR BERESFORD: But Hongkong Electric have produced that plan 18 already. 19 MR MCGOWAN: I think we gave it to you yesterday, sir. The 20 Commission had it yesterday. 21 THE CHAIRMAN: Tell me where it is then. 22 MR MCGOWAN: I'll see if I can find it. Mr Tang was asked 23 some questions about it yesterday. 24 MR BERESFORD: I wonder if I can just briefly show Mr Tang 25 the safety plan. We've got a copy here.</p>	<p>1 You will note that this too has a number of adult life 2 jackets, and zero child life jackets. 3 A. I can see. 4 Q. And it's dated 20 December 2011. 5 A. I see. 6 Q. So the change that I asked you about, going from 7 a specified number of adult life jackets to the 8 asterisks that we saw in relation to Lamma IV, has not 9 occurred in relation to Lamma II? 10 A. Yes. 11 Q. Are you able to throw any light upon that? 12 A. In fact I am just a user, and since the Marine 13 Department approved it, we just operate according to the 14 licence. So I am not clear about the conditions of the 15 Marine Department. 16 MR BERESFORD: Thank you, Mr Tang. 17 I have no further questions, Mr Chairman. 18 Questions by THE COMMISSION 19 THE CHAIRMAN: Would you have a look at page 805 of marine 20 bundle 4, please. That's the certificate for Lamma IV 21 for the period 8 July 2011 until a year later. It's 22 been pointed out to you already that this is the first 23 of these certificates that has the asterisk provision 24 that is to be found against adult and then, secondly, 25 child life jackets.</p>

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<p>1 A. I can see it. 2 THE CHAIRMAN: Do you see the bottom left of the form 3 indicates that the form appears to have been revised in 4 April 2011? Do you remember anything about that? 5 A. I didn't pay particular attention to it. 6 THE CHAIRMAN: Well, there are accompanying notes, are there 7 not, when one applies for various kinds of marine 8 licences that explain to you what is required of you. 9 Explanatory notes. Do you agree as a matter of general 10 principle that there are explanatory notes put out by 11 the Marine Department to help you apply for licences? 12 A. It seems that I haven't received such help in respect of 13 the explanatory notes. 14 THE CHAIRMAN: Are you aware that there are such explanatory 15 notes for applying for various licences? 16 A. Yes. 17 THE CHAIRMAN: Whilst dealing with that topic, Mr Mok, if 18 I could again engage you to assist us. No doubt there 19 is some form -- it might even be on the internet -- that 20 assists one with what this revision was in 2011, and 21 what was the -- 22 MR MOK: Any explanatory note accompanying. 23 THE CHAIRMAN: Yes, to explain this change. 24 MR MOK: Thank you. 25 MR SHIEH: I'm sorry, Mr Chairman, whilst on the same topic,</p>	<p>1 representative, and we always held meetings to discuss 2 with them as to how we can improve our work. And we 3 have discussed the issue that there were -- in 1997, 4 there were only 92 jackets, and we decided that each 5 passenger should have one life jacket. So in the year 6 1998, when the vessel was on the dock, on dry dock, we 7 put the life jacket under the seat so that each 8 passenger could have one life jacket when an accident 9 happened. This was our approach. 10 COMMISSIONER TANG: I see. Do you mean that the number of 11 life jackets recorded on the survey certificate does not 12 conform to the actual number on board, since 1998? 13 A. Correct. In fact the number of life jackets on board 14 the vessel is much more than the requirements on the 15 certificate. 16 COMMISSIONER TANG: Thank you. 17 MR McGOWAN: Sir, if it would assist the Commission, I have 18 actually got the receipt for the purchase of those extra 19 life jackets in 1997, and a receipt for the fitting of 20 the underseat arrangements in 1998. 21 THE CHAIRMAN: Very well. If you wish us to receive it, we 22 will do. 23 MR McGOWAN: I'll pass them to the secretariat. 24 THE CHAIRMAN: Yes. 25 Thank you, Mr Tang, for returning to continue your</p>
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<p>1 in fact the same notation, "MO207 (Rev April 2011)", is 2 also on the Lamma II certificate. 3 THE CHAIRMAN: Page 3745? 4 MR SHIEH: Page 3745. It's the same notation. So the same 5 notation, apparently two different forms -- 6 THE CHAIRMAN: There may be different revisions. This is 7 the only one we've concentrated on. There may have been 8 other revisions. 9 MR SHIEH: Yes. But the whole issue of the change in form 10 obviously would be part of the -- 11 THE CHAIRMAN: Mr Mok, can you see if you can help us with 12 that insofar as it applies to both vessels? 13 MR MOK: Yes, I'll draw attention to that. 14 THE CHAIRMAN: Thank you. 15 COMMISSIONER TANG: Mr Tang, can you help us to clarify one 16 point. Prior to 2011, there were only 92 adult life 17 jackets on board Lamma IV. Why were you prompted to 18 increase this number to 232, as happened during the 19 incident? That was the number of life jackets carried 20 on board then. 21 THE CHAIRMAN: At least that. He said "at least". 22 Your evidence is that there were at least 232 adult 23 life jackets on board Lamma IV. 24 COMMISSIONER TANG: Yes. 25 A. Correct. Because our company has our own</p>	<p>1 evidence. Now your evidence is complete -- I think this 2 time, subject to any of the material that is yet to be 3 provided to us, it will be complete -- you're free 4 to go. But thank you for assisting us with your 5 evidence. You may, of course, remain in the public 6 gallery if you wish. 7 A. Thank you, Mr Chairman. 8 (The witness withdrew) 9 THE CHAIRMAN: Yes, Mr Beresford. 10 MR BERESFORD: Mr Chairman, I wonder if I could just 11 retrieve the copy of the safety plan that I showed to 12 the witness before Mr Shieh takes the next witness. 13 THE CHAIRMAN: Yes. 14 (Handed). 15 MR SHIEH: Mr Chairman, the next witness is Dr Cheng Yuk-ki, 16 who is being recalled to deal with the experiments and 17 the result of his analysis. 18 THE CHAIRMAN: Thank you. 19 Please come forward, Dr Cheng. 20 DR CHENG YUK-KI (affirmed) 21 Examination by MR SHIEH 22 MR SHIEH: Good morning, Dr Cheng. Welcome back. 23 I understand that since you last gave evidence, you 24 have conducted certain chemical analyses of various 25 samples taken from the ship's lights, with various</p>

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<p>1 laboratory references; that's correct?</p> <p>2 A. Yes.</p> <p>3 Q. And you have as a result of that compiled a second</p> <p>4 report, which we can find in expert bundle 2, page 1095.</p> <p>5 Do you recognise this to be the second report that</p> <p>6 you have compiled?</p> <p>7 A. Correct.</p> <p>8 Q. Before I take you to that, let me just sort out the</p> <p>9 things that you will be showing to us. First of all,</p> <p>10 your second report, that is now on the screen, contains</p> <p>11 within it certain photographs that were taken of various</p> <p>12 samples; correct?</p> <p>13 A. Correct.</p> <p>14 Q. I'll be showing those to the Commission. On top of</p> <p>15 that, I may occasionally need to take you back to some</p> <p>16 photographs that you produced when you first gave</p> <p>17 evidence, because those actually were photographs of the</p> <p>18 various laboratory references, such as GPW 13415, 13413,</p> <p>19 et cetera, which contained rather close-up photographs</p> <p>20 of white powders and black substances. I will do that</p> <p>21 also, Dr Cheng.</p> <p>22 A. Okay. I understand.</p> <p>23 Q. That may be helpful.</p> <p>24 Thirdly, I understand that you have kindly prepared</p> <p>25 some videos for us; correct?</p>	<p>1 light (port) of Lamma IV". Could I ask you to turn to</p> <p>2 expert bundle 1. 13412 is in fact page 398-4. That's</p> <p>3 the port light. That's the one; correct?</p> <p>4 A. Correct.</p> <p>5 Q. Then the next one mentioned is 13413, which is the</p> <p>6 starboard one, which is page 398-5. That's starboard;</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. Then 13415 is the masthead light, and that is at</p> <p>10 page 398-3.</p> <p>11 A. Correct.</p> <p>12 Q. We don't seem to have 13414, but I don't believe that is</p> <p>13 particularly relevant for the purpose of your analysis,</p> <p>14 because you have not examined 13414.</p> <p>15 A. Correct.</p> <p>16 Q. Results of your examination -- because your purpose is</p> <p>17 to examine the chemical composition of the white and</p> <p>18 black powders recovered inside the damaged glass bulbs.</p> <p>19 At 3.1, you refer to "white powder attached to the</p> <p>20 long metal supports of the light bulbs in items</p> <p>21 GPW 13412, 13415", and you found that to be a mixture</p> <p>22 containing magnesium, sodium, chloride and oxygen, and</p> <p>23 you refer to photograph 1. Could I ask you to look at</p> <p>24 photograph 1, which is at page 1098.</p> <p>25 This is a photograph of the light bulb in 13412,</p>
<p>1 A. Correct.</p> <p>2 Q. The videos are, as I understand it, of experiments that</p> <p>3 you have done which show electrolysis, or possible</p> <p>4 electrolysis, when light bulbs come into contact with</p> <p>5 cold water?</p> <p>6 A. Yes, the electrolysis of seawater, and also a video</p> <p>7 which shows the light bulbs will crack when it comes</p> <p>8 into -- a hot light bulb will crack when it comes into</p> <p>9 contact with water.</p> <p>10 Q. Right. At an appropriate juncture I'll be grateful if</p> <p>11 you could let me know or let the secretariat know if you</p> <p>12 wish to refer to a particular video, and the relevant</p> <p>13 steps will be taken to project the relevant video onto</p> <p>14 the screen.</p> <p>15 A. Okay.</p> <p>16 Q. I understand these videos are muted -- no sound, muted?</p> <p>17 A. Yes.</p> <p>18 Q. Thank you. Dr Cheng, in your second report, if I can</p> <p>19 take you to page 1095 at the bottom, you refer at</p> <p>20 paragraph 1.1 to the request that the Commission had</p> <p>21 made of you to further examine certain light bulbs,</p> <p>22 GPW 13412 to 13415; correct?</p> <p>23 A. Correct.</p> <p>24 Q. Then over the page you set out the examination you</p> <p>25 conducted, 13412 being "One light bulb from the red</p>	<p>1 which is the port side sidelight light bulb; correct?</p> <p>2 A. Yes.</p> <p>3 Q. For another view of the port side light bulb -- well,</p> <p>4 first of all, on this photograph can you tell us where</p> <p>5 the white powder is that you refer to?</p> <p>6 A. In the first part, I refer to the white powder on the</p> <p>7 long metal support that I have highlighted in the</p> <p>8 photograph, this one. The second part of my finding is</p> <p>9 the white powder attached to the filament coil. That</p> <p>10 I also indicate in the photograph at the upper part.</p> <p>11 Correct, here. The cursor is pointed.</p> <p>12 Q. The broken filament coil --</p> <p>13 A. Yes, correct.</p> <p>14 Q. -- is the next part. So let me get it clear. The curly</p> <p>15 one, the curved one -- yes. That white powder contained</p> <p>16 magnesium, sodium, chloride and oxygen. The white</p> <p>17 powder on the broken filament coil contained a mixture</p> <p>18 containing magnesium, oxygen and tungsten; correct?</p> <p>19 A. Correct.</p> <p>20 Q. And although you have not put in a photograph of 13415,</p> <p>21 I take it that similar results followed; is that</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. Could I ask you to look at expert bundle 1, page 398-3.</p> <p>25 That is the photograph of 13415, the masthead light,</p>

<p style="text-align: right;">Page 33</p> <p>1 that you produced last time. Doing the best you can, is 2 it possible for you to tell us which part of the white 3 powder on this photograph you found to contain 4 magnesium, sodium, chloride and oxygen, and which part 5 contained magnesium, oxygen and tungsten? 6 A. The white powder on the long metal support, that is the 7 curved one -- yes, the cursor is now pointing -- 8 Q. Yes. 9 A. -- and white powder -- 10 Q. That one contained magnesium -- 11 A. Sodium, chloride and oxygen. 12 Q. Okay. 13 A. Correct. And the white powder I collected from the 14 filament coil -- would you please move the cursor to the 15 right. Yes, should be the coil exposed. The filament 16 coil. Not this one. Yes, here. Attached to the 17 filament coil. 18 Q. Okay. 19 A. This white powder was found to contain magnesium, oxygen 20 and tungsten. 21 Q. And tungsten. Very well. Could I then move on to 22 paragraph 3.2, when you deal with a black or dark purple 23 powder, because in 3.1 you have dealt with the white 24 powder. 25 Paragraph 3.2:</p>	<p style="text-align: right;">Page 35</p> <p>1 filament at page 398-5? 2 A. Sure. In the top photograph, we can find the white 3 powder. Yes, now the cursor is pointing. 4 Q. I see. So that is what you refer to as the tail of the 5 filament? 6 A. Correct. 7 Q. And that contains tungsten -- 8 A. And oxygen. 9 Q. -- and oxygen. Thank you. 10 Could I take you to your in-house experiment, when 11 you say at paragraph 4.1, at page 1096: 12 "It is commonly known that electrolysis of seawater 13 will cause deposition of magnesium hydroxide ..." 14 That being, in the footnote: 15 "... a chemical compound containing oxygen and 16 hydrogen. Elemental analysis of hydroxide was using 17 scanning electron microscope could only reveal the 18 presence of oxygen." 19 Does it mean even if you conduct a chemical analysis 20 to try to look for hydroxide, the result would only show 21 the presence of oxygen? 22 A. Correct. 23 Q. You go on to say: 24 "... magnesium hydroxide on the cathode (the 25 negative electrode). Therefore, the white powder</p>
<p style="text-align: right;">Page 34</p> <p>1 "Black (or dark purple) powder attached to the 2 filament coils on the short metal supports of the light 3 bulbs in items GPW 13412 [and] 13413 was found to 4 contain tungsten and oxygen." 5 Now, you did not refer to any particular photograph 6 here, so perhaps we'll look at the photograph that you 7 produced when you first gave evidence. First of all, 8 13412 is at page 398-4. 9 A. Yes. 10 Q. Could you identify the black powder that you refer to? 11 A. Yes. On the top right photograph. Now the cursor is 12 pointing, yes. 13 Q. Right. So that contains tungsten and oxygen? 14 A. Correct. 15 Q. And 13413 is page 398-5. So which part of it contains 16 tungsten and oxygen? 17 A. Also -- yes, the cursor is now pointing. 18 Q. Yes. Tungsten and oxygen. 19 Then at paragraph 3.3: 20 "White powder attached to the tail of the filament 21 of the light bulb in 13413 was found to contain tungsten 22 and oxygen." 23 So it's the same page, 398-5. 24 A. Correct. 25 Q. Can you identify the white powder to the tail of the</p>	<p style="text-align: right;">Page 36</p> <p>1 attached to the long metal supports of the light bulbs 2 in item GPW 13412, 13415 was likely to have originated 3 from electrolysis of seawater as well as the 4 precipitation of sodium chloride from seawater, 5 resulting a mixture containing magnesium, sodium, 6 chloride and oxygen." 7 Could we just pause here. When you conduct 8 a chemical analysis or you conduct a test to look for 9 chemical elements, is it correct that you don't do 10 a test to say "I look for magnesium hydroxide"; you look 11 for the presence of individual chemical elements in the 12 periodic table? 13 A. Correct. 14 Q. And you basically draw inferences as to out of these 15 various elements available, looking at all the 16 circumstances, in what form these elements would have 17 combined to formed to form compounds? 18 A. From my experiment, I will look for all the elements 19 present in the white powder. But in this case, as 20 I have noted, hydrogen cannot be detected. Then I'll 21 put the major result here. That will be relevant. 22 Because we know that in the seawater there should be 23 a lot of another element. But if the amount is just 24 present, very small traces, then I will not include it 25 in here. So the finding here just reveals the major</p>

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<p>1 element.</p> <p>2 Q. Yes, I know. But since hydrogen cannot be detected</p> <p>3 anyway --</p> <p>4 A. Yes.</p> <p>5 Q. -- but you've concluded that it contained magnesium --</p> <p>6 A. Hydroxide.</p> <p>7 Q. -- hydroxide, even though you could not detect hydrogen,</p> <p>8 and that is because you looked at all the circumstances</p> <p>9 and drew the inference that the likely compound --</p> <p>10 A. Because I have conducted an in-house experiment to</p> <p>11 confirm that oxygen in the presence of magnesium should</p> <p>12 be the magnesium hydroxide, and also because this is</p> <p>13 very basic chemical knowledge, that magnesium will form</p> <p>14 insoluble sort, that is white powder, in water. So even</p> <p>15 if I cannot find the presence of hydrogen, I understand</p> <p>16 that and I know that it is magnesium hydroxide.</p> <p>17 Q. Thank you. Is it an appropriate moment for you to</p> <p>18 explain to us the experiment? Because we're now moving</p> <p>19 from 4.1 to 4.2, where you're actually going to discuss</p> <p>20 your --</p> <p>21 A. Okay. Maybe first we can look the experiments up.</p> <p>22 Q. In the video?</p> <p>23 A. Yes, in the video. The video called "Electrolysis".</p> <p>24 Q. This is basically an exposition of what you say in 4.2;</p> <p>25 is that correct?</p>	<p>1 Even the cell on the left side was under water.</p> <p>2 This is the process I have conducted in the</p> <p>3 laboratory.</p> <p>4 But I need to clarify one point. Because when</p> <p>5 I prepared this report, I could not obtain a light bulb</p> <p>6 which is used on ships. So the experiment, I explain in</p> <p>7 paragraph 4.2, I used a light bulb for vehicle. That's</p> <p>8 why the voltage, I note that the direct current is</p> <p>9 12 volts only.</p> <p>10 But the experiment I just showed on the screen is</p> <p>11 after I could purchase light bulbs used for vessels, so</p> <p>12 I repeated the experiment again. But the result will be</p> <p>13 the same.</p> <p>14 Q. Right. So the set-up is, first of all, you put cells</p> <p>15 which means batteries, right, on the left-hand side --</p> <p>16 A. Yes, batteries. Yes. Correct.</p> <p>17 Q. -- then you complete the circuit on the right-hand side</p> <p>18 in the container, on the right-hand side.</p> <p>19 A. Correct.</p> <p>20 Q. And you complete the circuit. So current begins to flow</p> <p>21 through the red wire and the blue wire.</p> <p>22 A. Black.</p> <p>23 Q. Black wire. And electrolysis occurs, and you say that</p> <p>24 it is because you can see the bubbles coming out?</p> <p>25 A. Yes, and also the colour of the water turned turbid and</p>
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<p>1 A. Yes.</p> <p>2 Q. Perhaps you can talk us through it.</p> <p>3 (Video played)</p> <p>4 A. Now the --</p> <p>5 Q. If you want it to be paused, you can say.</p> <p>6 A. Yes, pause, would you. Please pause. Now, after my</p> <p>7 colleague completes the circuit, then we will see on the</p> <p>8 right side that is a broken glass bulb, and we will see</p> <p>9 some bubbles evolve from -- after the circuit is</p> <p>10 completed, then the bubbles start evolving and start the</p> <p>11 process I call electrolysis.</p> <p>12 Q. Sorry, can we pause here. When the circuit is</p> <p>13 completed, you mean a current --</p> <p>14 A. Current will flow through.</p> <p>15 Q. Flow through?</p> <p>16 A. Yes. Then we can start again. My colleague starts</p> <p>17 filling up on the left side two cells. It adds up to</p> <p>18 a total of 24 volts.</p> <p>19 Q. Yes.</p> <p>20 A. We can still see the right side, the bubbles still</p> <p>21 evolving, yes. The colour of the water changes because</p> <p>22 of the process of electrolysis.</p> <p>23 On the left side, now we find the water already</p> <p>24 filled up to the top of the cell, and the whole set-up</p> <p>25 now was under water.</p>	<p>1 we find some white powder starts to precipitate out.</p> <p>2 Q. Is that seawater in the right-hand --</p> <p>3 A. Correct, seawater.</p> <p>4 Q. Seawater in the right-hand side container?</p> <p>5 A. Yes. If we can see the video again, you can see at the</p> <p>6 beginning of the electrolysis, the water was quite</p> <p>7 clear.</p> <p>8 (Video played)</p> <p>9 Now we can see some white precipitate already coming</p> <p>10 out.</p> <p>11 Q. Could I just clarify, what's the significance of</p> <p>12 flooding the left-hand side, the container containing</p> <p>13 the batteries?</p> <p>14 A. I just want to show that even when that battery was</p> <p>15 under water, the whole process will still work.</p> <p>16 Q. I see. So the flooding of a compartment containing</p> <p>17 a battery does not necessarily immediately lead to the</p> <p>18 cut-off of electrical power coming from a battery?</p> <p>19 A. Correct.</p> <p>20 Q. You show the result of the experiment that you then</p> <p>21 conducted, paragraph 4.2 --</p> <p>22 A. Yes.</p> <p>23 Q. I understand paragraph 4.2 is conducted with a different</p> <p>24 type of light bulb, vehicle light bulb, whereas the --</p> <p>25 A. Yes, the one shown in the photo. I just --</p>

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<p>1 Q. Whereas the video --</p> <p>2 A. Can I --</p> <p>3 Q. Sorry.</p> <p>4 A. -- note that there's a typo on line 4 of paragraph 4.2.</p> <p>5 Q. Yes.</p> <p>6 A. Near the end, should be "the support of the cathodeand",</p> <p>7 there should be a space.</p> <p>8 Q. Thank you.</p> <p>9 So even though the voltage is different as between</p> <p>10 the bulbs which you used for 4.2 and the bulb you used</p> <p>11 for the video experiment, it does not detract from the</p> <p>12 ultimate conclusion as to the substance; correct?</p> <p>13 A. Yes. Both experiments revealed that white powder will</p> <p>14 deposit on one of the supports, that is the cathode.</p> <p>15 Q. Right. And if we look at the photograph, at</p> <p>16 photographs 2 and 3, which are page 1098 and 1099 --</p> <p>17 A. Photograph 2 shows the damaged light bulb before the</p> <p>18 experiment, that is clean.</p> <p>19 Q. Before it was put into the water with current put</p> <p>20 through?</p> <p>21 A. Yes, correct.</p> <p>22 Q. And photo 3 shows the aftermath, the white substances on</p> <p>23 the support and also the filament coil?</p> <p>24 A. Correct.</p> <p>25 Q. The support, the white powder in the support would be</p>	<p>1 Q. Whereas on top of that, near the tungsten bit, you may</p> <p>2 have in addition tungsten oxide perhaps mingled with</p> <p>3 magnesium hydroxide?</p> <p>4 A. Yes, mixed.</p> <p>5 Q. Thank you. Are you now going to show us another video?</p> <p>6 Because you mentioned that you would show us a video to</p> <p>7 demonstrate that a light bulb would indeed crack if you</p> <p>8 light up a tungsten filament inside, when it comes into</p> <p>9 contact with cold water.</p> <p>10 A. Okay.</p> <p>11 THE CHAIRMAN: What kind of light bulb was used?</p> <p>12 A. This one is a light bulb used for a vessel. I could not</p> <p>13 obtain exactly the same size. This one is a bit</p> <p>14 smaller, just a bit smaller. When we start the video,</p> <p>15 we will see the light bulb.</p> <p>16 THE CHAIRMAN: Is this 24-volt or 12-volt?</p> <p>17 A. 24-volt.</p> <p>18 MR SHIEH: Same for the previous video experiment?</p> <p>19 A. No, no. This one, the voltage will be similar to the</p> <p>20 one used on Lamma IV. But there are differences in just</p> <p>21 only the size. A bit smaller.</p> <p>22 Q. Right. But for the previous video experiment, what's</p> <p>23 the voltage; can you remember?</p> <p>24 A. Oh, sorry. That is the light bulb used for vessel, the</p> <p>25 previous video. But the light bulb I presented in my</p>
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<p>1 different from the white powder in the filament;</p> <p>2 correct?</p> <p>3 A. Correct.</p> <p>4 Q. Composition-wise.</p> <p>5 A. Just depends on the region I collect the white powder.</p> <p>6 Because the metal support and the filament coil will</p> <p>7 conduct electricity. So the electrolysis will take</p> <p>8 place all over the metal surface. But inside, close to</p> <p>9 the filament, because when the glass bulb was broken and</p> <p>10 oxygen comes in tungsten oxide will form, and that</p> <p>11 tungsten oxide will deposit near the filament coil.</p> <p>12 So during the process of electrolysis, in addition</p> <p>13 to the tungsten oxide, magnesium hydroxide also will</p> <p>14 deposit on the surface of the filament coil. So that</p> <p>15 makes up -- so that's why when I analysed the white</p> <p>16 powder near the filament coil, I reveal, in addition to</p> <p>17 magnesium, oxygen, and also sure because when the</p> <p>18 seawater dries we will find some sodium and chloride.</p> <p>19 That is commonly what we call salt. In addition to</p> <p>20 these things, I find tungsten and oxygen.</p> <p>21 Q. So to put in a simplistic basis, magnesium hydroxide</p> <p>22 almost should by default be there because of</p> <p>23 electrolysis, because it take place generally throughout</p> <p>24 the metallic support and also the tungsten filament?</p> <p>25 A. Correct.</p>	<p>1 statement is used for vehicle, because I could not</p> <p>2 obtain at that time.</p> <p>3 Q. Yes. I think we understand.</p> <p>4 Can you show us the video about the cracking.</p> <p>5 A. This is the light bulb used for the experiment.</p> <p>6 (Video played)</p> <p>7 Would you please pause here. When I started pouring</p> <p>8 water inside to the container beaker, I could hear some</p> <p>9 sound, but is not clear, cannot be recorded by the</p> <p>10 video, a sound of a crack. Then at that time, the light</p> <p>11 bulb has already cracked. But because the damage was</p> <p>12 not very severe, so oxygen just only come in slowly.</p> <p>13 And result, the burning of the tungsten, the process was</p> <p>14 a little bit slow. So that's why --</p> <p>15 THE CHAIRMAN: How long was it from the time that you first</p> <p>16 poured water over the bulb to the time it went out?</p> <p>17 A. Just as shown in the video. I think maybe 20 seconds.</p> <p>18 This result, the result is very similar to one of the</p> <p>19 light bulbs -- that is the one of GPW 13413.</p> <p>20 MR SHIEH: Page 398-5?</p> <p>21 A. Yes, correct. For that case, because the light bulb was</p> <p>22 not cracked, probably seawater cannot some into contact</p> <p>23 with the metal support and the filament coil. That's</p> <p>24 why for this case, the process of electrolysis has not</p> <p>25 taken place.</p>

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<p>1 THE CHAIRMAN: This is the starboard light bulb? 2 A. Let me check. 3 MR SHIEH: Yes, it is. 13413 is starboard. 4 A. Correct, the starboard light. The starboard light. 5 Q. But still there is some presence of tungsten and oxygen. 6 You say that's not tungsten oxide as a result of -- 7 A. It's tungsten oxide, yes. Just as I have documented in 8 my result of examination, paragraphs 3.2 and 3.3. 9 Q. Yes, but -- 10 A. Tungsten oxide was also revealed inside the light bulbs. 11 Q. Yes, but there's no magnesium hydroxide and that's 12 because no seawater went in and therefore no 13 electrolysis. 14 A. Correct. 15 Q. But why would tungsten oxide be formed if the bulb has 16 not cracked? 17 A. Because the bulb has cracked and oxygen can come in, and 18 the oxygen will react with the hot filament to form the 19 tungsten oxide that I have detected during my 20 experiment. 21 Q. But if the light bulb has cracked, why would seawater 22 not go in but oxygen go in? 23 A. It just depends on how large of the crack. Because 24 oxygen -- we have to say the air, the molecule is very 25 small. Just when the light bulb was cracked, the air</p>	<p>1 entirely submerged in water, so there could still be 2 some air or oxygen that goes in. Is that what you're 3 trying to suggest? 4 A. Yes. 5 THE CHAIRMAN: And the water that was used was seawater? 6 A. Yes. 7 THE CHAIRMAN: At ambient temperature? 8 A. Yes, correct. 9 MR SHIEH: So in the video experiment, the cracking actually 10 took place reasonably quickly after the water was poured 11 in? 12 A. Correct. 13 Q. You said we couldn't hear the "pop" sound, maybe. 14 A. Yes. 15 Q. But after about 20-odd seconds, the effect of submersion 16 is such that the light went out? 17 A. When I poured the water, I note that the light bulb 18 cracked almost immediately. It took some time for the 19 tungsten to burn out when the oxygen came inside. 20 That's why the light went off after about 20 seconds. 21 THE CHAIRMAN: So the filament fails because of the build-up 22 of tungsten oxide? 23 A. Because the oxygen, when the oxygen comes inside a light 24 bulb, it will react with the tungsten. And also because 25 now inside the light bulb, it is not a closed system,</p>
<p>Page 46</p> <p>1 can easily go inside. But for water, because we know 2 water has some surface tensions, or maybe the water will 3 come in, but very slow compared with air. So that's why 4 oxygen can come in. And also it depends on the pressure 5 of the light bulb design. Some light bulb design, the 6 pressure inside will be a little bit lower than outside, 7 the atmosphere pressure. Then the pressure difference 8 will cause the air to come in when the light bulb is 9 cracked. But I have not noted this information. But 10 this is one of the scenarios why air will come in faster 11 than water. 12 Q. But the cracking occurred because the hot bulb was 13 immersed or came into contact with seawater. 14 A. Correct. 15 Q. And if it's surrounded by seawater and even if small 16 cracks were to appear, then what goes in should be 17 seawater? What I'm thinking about is where would the 18 pure oxygen come from that goes in, if no water goes in. 19 Do you see what I mean? 20 A. If completely emerged in seawater -- when the light bulb 21 cracks, without air surrounding, I think seawater will 22 go inside. 23 Q. But there might be a point in time where maybe it's not 24 completely immersed in seawater, so that the temperature 25 differential caused it to break. But because it is not</p>	<p>Page 48</p> <p>1 then when the current flows through the filament, it is 2 very hot, will vaporise the tungsten. When the tungsten 3 comes out and the light bulb is not a closed system, it 4 will continue to vaporise away and at some time the 5 filament will break into two pieces and the light will 6 go off. 7 THE CHAIRMAN: Because the filament has been in effect 8 thinned -- 9 A. Yes. 10 THE CHAIRMAN: -- by vaporisation? 11 A. Correct. 12 THE CHAIRMAN: It's no longer strong enough to maintain the 13 flow of the current? 14 A. Correct. 15 MR SHIEH: And also by conversion into tungsten oxide -- 16 A. Yes. 17 Q. -- which can no longer give out light? 18 A. Yes, when -- if in some cases the tungsten vaporised 19 when we heat back to the filament, it will come back. 20 But when there is oxygen, when the oxygen reacts with 21 the tungsten, it cannot go back to tungsten. So the 22 presence of oxygen and the release of the pressure makes 23 the light bulb -- it's no longer a closed system. It 24 will cause the filament to burn out. 25 Q. Thank you. So a combination of vaporisation of tungsten</p>

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<p>1 plus oxidation? 2 A. Correct. 3 Q. Thank you. Could I take you to your conclusion, 4 Dr Cheng, page 1097: 5 "The black and/or white powders probably containing 6 tungsten oxide were recovered from the filaments of the 7 light bulbs in items GPW 13412 [that is port], 13413 8 [that is starboard], 13415. 9 A direct current was still flowing between the metal 10 supports of the light bulbs in items GPW 13412, 13415, 11 when the broken light bulbs were submerged in seawater. 12 The above findings provided further evidence to 13 strengthen my conclusion that the sidelights and 14 masthead light of Lamma IV were highly likely to have 15 been lit before their housing was flooded and the glass 16 bulbs were cracked by seawater." 17 The reason you only mentioned in 5.2 direct current 18 was still flowing was because you did not feel able to 19 conclude that direct current was flowing through 13413, 20 because of the absence of what you could detect to be 21 magnesium hydroxide. Is that correct? 22 A. Correct. 23 Q. Thank you. So scientifically, you cannot say a direct 24 current was probably still flowing through? 25 A. When it was submerged in water, correct.</p>	<p>1 Dr Cheng. 2 THE CHAIRMAN: Thank you. 3 Mr McGowan, do you have an application? 4 MR MCGOWAN: Yes, I do, please. It's just dealing with 5 a couple of matters arising from Dr Cheng's evidence. 6 THE CHAIRMAN: I think in that case we'll hear what we are, 7 but we'll do so after we've had an adjournment. 8 We're going to take our morning adjournment now, 9 Dr Cheng. It will be for 20 minutes, if you'd bear with 10 us. 11 A. Okay. 12 THE CHAIRMAN: 20 minutes. 13 (11.49 am) 14 (A short break) 15 (12.08 am) 16 MR SHIEH: Mr Chairman, there's one question that I would 17 perhaps like to follow up with Dr Cheng before 18 Mr McGowan makes his application. 19 THE CHAIRMAN: Yes, do, since no-one else has started. 20 MR SHIEH: Dr Cheng, welcome back. 21 You mentioned that electrolysis of seawater will 22 cause deposition of magnesium hydroxide, and you 23 concluded that the white powder in the long metal 24 supports was likely to have originated from electrolysis 25 of seawater as well as precipitation of sodium chloride,</p>
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<p>1 Q. Because you could not say there's been electrolysis, 2 because the outcome, the end result, the end product of 3 magnesium hydroxide, could not be detected? 4 A. Correct. 5 Q. Thank you. Let me just clarify one more point. 6 Last time when you gave evidence, you mentioned that 7 tungsten oxide is actually white in colour. 8 A. Yes, and also I have mentioned it has difference of 9 colour. It depends on the rate of reaction; that means 10 the amount of oxygen. It could be yellow, white and 11 deep purple. That's why I addressed here, because at 12 the beginning I think the white powder is enough, but 13 finally I found the black powder also gives some 14 important information. So I make it clear that it is 15 actually a dark purple. 16 Q. So that's paragraph 3.2; correct? 17 A. Correct. 18 Q. So when we look for tungsten oxide, in layman terms, you 19 don't just look for white? Black or deep purple could 20 also be tungsten oxide? 21 A. Yes. 22 MR SHIEH: Thank you, Dr Cheng. I have no further questions 23 for you, but other parties may. Could you please remain 24 seated. 25 Mr Chairman, I have no further questions for</p>	<p>1 resulting in a mixture containing magnesium, sodium, 2 chloride and oxygen. The question I want to ask you is, 3 where would the magnesium come from which would undergo 4 electrolysis to then become magnesium hydroxide? 5 A. In the seawater, which is excluding water, which is the 6 second abundant element in the seawater. 7 Q. Which would be magnesium? 8 A. Magnesium, yes. 9 Q. But in the absence of an electrical current, would 10 magnesium simply deposit on the surface of a metal such 11 as the metal support in this case? 12 A. No. 13 MR SHIEH: Thank you. 14 THE CHAIRMAN: Mr McGowan? 15 MR MCGOWAN: I'm not quite sure whether you gave me approval 16 before the break. 17 THE CHAIRMAN: I haven't as yet, because I haven't heard 18 what questions you want to ask. 19 MR MCGOWAN: I just want to ask him about the process he's 20 described and he conducted experiments on, and how 21 quickly the filament cools down. 22 THE CHAIRMAN: Yes. In what circumstances? 23 MR MCGOWAN: Well, when the power stops or when the filament 24 no longer becomes useable due to the thinning or the 25 deposit of tungsten oxide.</p>

<p style="text-align: right;">Page 53</p> <p>1 THE CHAIRMAN: Very well. 2 Examination by MR McGOWAN 3 MR McGOWAN: Doctor, just a few questions, please. 4 As I understand your evidence, once the filament 5 cools down, then the electrolysis of seawater can no 6 longer take place. 7 A. No. Electrolysis of seawater will take place once there 8 is electrical current flowing through the broken light 9 bulb. When the filament cools down, just only the 10 oxidation of tungsten will not be taking place. 11 Q. Right. And tungsten oxide only indicates access by just 12 air through the cracked glass? 13 A. Yes. 14 Q. And once that light goes out, then electrolysis of 15 seawater cannot take place, because there is no current 16 flowing through it for the electrolysis? 17 A. Because for the electrolysis, even the circuit was not 18 broken, seawater will replace the broken end to 19 conduct -- carry the current to result in the process of 20 electrolysis. So in the experiment I show in the video, 21 the filament has already broken. 22 You can see photo 2. That is the light bulb with 23 the filament broken, and at that time the light bulb was 24 not lit, no light. It's not hot. But the electrolysis 25 process will still take place.</p>	<p style="text-align: right;">Page 55</p> <p>1 THE CHAIRMAN: -- but electricity can still get through 2 because it's getting through seawater, electrolysis can 3 still take place? 4 A. Correct. 5 THE CHAIRMAN: Thank you for that. 6 Mr Shieh? 7 Further examination by MR SHIEH 8 MR SHIEH: Just to clarify certain concepts once and for 9 all, and also for I think my education. There are two 10 processes. Mr McGowan asked you what would happen or 11 what is required for there to be electrolysis, and the 12 question of temperature. Could I just try to see 13 whether I can get the matter mapped out simplistically. 14 The various substances that you found on the broken 15 bulbs were the result of two processes, one being 16 electrolysis, the other being oxidation; would that be 17 a fair summary? 18 A. Correct. 19 Q. Electrolysis of seawater results in magnesium hydroxide, 20 and for that you need electrical current; correct? 21 A. Correct. 22 Q. But that doesn't depend on temperature; correct? 23 A. Correct. 24 Q. The other process is oxidation. Now, that depends on 25 oxygen coming into contact with tungsten in high</p>
<p style="text-align: right;">Page 54</p> <p>1 THE CHAIRMAN: Because electricity is flowing through the 2 seawater, which provides a bridge? 3 A. Correct. 4 MR McGOWAN: Yes, but when that current supply stops, then 5 the electrolysis can no longer take place? 6 A. Correct. 7 MR McGOWAN: Thank you. 8 THE CHAIRMAN: Mr Zimmern? 9 MR ZIMMERN: Thank you, Mr Chairman. No, we have no 10 questions. 11 THE CHAIRMAN: Yes. 12 Mr Pao? 13 MR PAO: No questions, Mr Chairman. 14 THE CHAIRMAN: Mr Mok? 15 MR MOK: I have no question, Mr Chairman. But for the 16 record, I wonder if there's a mistake on page 53, 17 line 19, the record shows "even the circuit was not 18 broken". I don't know whether this is what the witness 19 meant, whether he meant to say "even if the circuit was 20 broken" or "was not broken". I'm not sure. 21 THE CHAIRMAN: It sounds as though you meant that even if 22 the circuit was broken, it could be maintained through 23 seawater, as I understood it you? So if the filament 24 has failed -- 25 A. Failed, yes.</p>	<p style="text-align: right;">Page 56</p> <p>1 temperatures; correct? 2 A. Exactly. 3 Q. So that is temperature-dependent. So once it cools 4 down, no more oxidation? 5 A. Correct. 6 Q. And the oxygen could have come from two things: first of 7 all, air which has gone into the light bulb through 8 a crack -- 9 A. Correct. 10 Q. Alternatively, seawater which has gone through a crack, 11 maybe a larger crack, because there is oxygen in 12 seawater; is that correct? 13 A. Seawater has oxygen, but I cannot confirm that without 14 the oxygen from air, just only the oxygen in seawater, 15 whether it will result in the formation of tungsten 16 oxide. I'm not pretty sure. 17 Q. Thank you. So oxidation would have resulted from 18 certainly the inflow of oxygen in air through cracks in 19 the bulb, the cracks possibly resulting from cold water 20 coming into contact with the hot bulb surface? 21 A. Correct. 22 Q. And the fact that sometimes the cracks have appeared as 23 a result of seawater contact, and yet seawater might not 24 have entered the entire bulb, could well be because the 25 entire light bulb might not have been submerged in</p>

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<p>1 water? I put it very clumsily. 2 A. Okay. 3 Q. Sometimes the light bulb might have come into contact 4 with seawater -- 5 A. Yes. 6 Q. -- so that it cracked, because of temperature 7 differential? 8 A. Difference, yes. Should be cracked very rapidly. 9 Q. Very rapidly. But because the entire light bulb might 10 not have been immersed in seawater immediately -- 11 A. Agreed. 12 Q. -- so ambient air might have entered through the crack 13 and resulted in oxidation? 14 A. Correct. 15 Q. Is that what you're trying to say? Because if all 16 seawater flooded in, you say you are not sure whether or 17 not the amount of oxygen in seawater would have been 18 enough to sustain oxidation? 19 A. Agree. Correct. 20 Questions by THE COMMISSION 21 THE CHAIRMAN: May we have page 1097 on the screen. 22 Paragraph 5.3. 23 The end result, as you sum up in your second report, 24 is to this effect: the evidence that you've alluded to 25 in your report and directed your oral testimony to</p>	<p>1 A. Yes, correct. 2 Q. At page 9 we can see your signature? 3 A. Yes, correct. 4 Q. The witness statement does not contain what lawyers 5 commonly call a translation clause, which says "This 6 witness statement has been explained to me by 7 Mr So-and-So from this law firm". Does it mean that you 8 yourself can actually read and understand English, but 9 you prefer to give evidence in your mother tongue, 10 Cantonese? 11 A. Correct. 12 Q. That's paragraph 2 of your statement. So it would mean 13 perhaps that when I refer to particular paragraphs of 14 your witness statement, I probably can perhaps speed the 15 up matter by simply asking you to read what has been 16 written, without the process of having to have it read 17 out? Are you comfortable with that? 18 A. I will try my best. 19 THE CHAIRMAN: Yes. If you need any help with translation, 20 just say so. 21 A. Thank you, Mr Chairman. 22 MR SHIEH: Although the simultaneous interpretation could 23 still look at the screen and then perhaps utter into -- 24 THE CHAIRMAN: Yes. Just for the witness's benefit: any 25 time you have any difficulty with language, just let us</p>
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<p>1 strengthens your conclusion that "the sidelights" -- 2 that is, the green and the red lights of Lamma IV -- 3 "and masthead light of Lamma IV were highly likely to 4 have been lit before their housing was flooded and the 5 glass bulbs were cracked by seawater". 6 That's your ultimate conclusion? 7 A. Yes. 8 THE CHAIRMAN: Thank you. 9 Thank you very much, Dr Cheng, for coming back to 10 assist us, and thank you for helping us by performing 11 those experiments and assisting us to understand your 12 evidence. Thank you very much. 13 A. It's my duty. Thank you, Mr Chairman. 14 (The witness withdrew) 15 THE CHAIRMAN: Yes, Mr Shieh. 16 MR SHIEH: Mr Chairman, the next witness is Mr Ng Siu-yuen 17 from Hong Kong & Kowloon Ferry Holdings Ltd. He's the 18 general manager. 19 MR NG SIU-YUEN (affirmed in Puntì) 20 (All answers via interpreter unless otherwise indicated) 21 Examination by MR SHIEH 22 MR SHIEH: Mr Ng, could I ask you to look at the Holman 23 Fenwick Willan bundle at page 1, which is a document 24 called "Witness Statement of Ng Siu-yuen". That is 25 yourself; correct?</p>	<p>1 know. 2 A. Thank you, Mr Chairman. 3 MR SHIEH: At paragraph 3 of your statement, you talk about 4 your position in the companies. You have colleagues who 5 supervise, but all of them would report to you 6 frequently; yes? 7 A. Yes, correct. 8 Q. Before we go to your position within the companies, 9 could we have something about your background, your 10 professional background, educational background, and 11 seafaring experience? 12 A. I have attained my education up to post-secondary -- 13 tertiary level, and my professional background is I am 14 a chartered member of the Chartered Institute of 15 Logistics and Transport, and I have been in this 16 profession for more than 30 years. 17 Q. When you say post-secondary education, you mean tertiary 18 education in a higher institute of education, or 19 university or polytechnic? 20 A. My education background was VTC. 21 Q. Do you have any seafaring experience or do you hold any 22 qualifications, certificate of competency and the like? 23 A. No. 24 Q. Do you have any interest -- I mean ownership interest -- 25 in Hong Kong & Kowloon Ferry Holdings Ltd?</p>

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<p>1 A. No. 2 Q. So you're not a shareholder? 3 A. No. 4 Q. You're an employee? 5 A. Yes. 6 Q. Are you a director? 7 A. I'm not a director of Hong Kong & Kowloon Ferry Ltd, but 8 I am a director of Islands Ferry Ltd. 9 Q. I think I should ask this question at the outset so that 10 you or your company's lawyers can attend to it in the 11 time which remains. It is this. In paragraph 3, you 12 gave a four-line description as to your position in the 13 company, and the reporting mechanism within the company. 14 A. Yes. 15 Q. What I wish to ask you is whether or not your company 16 has any kind of organisation chart setting out lines of 17 reporting, such as which groups of people report to 18 which manager, who reports up to which director who has 19 special responsibility for any particular area, that 20 sort of organisation chart. 21 A. Yes. 22 Q. I don't seem to be able to find that in the documents 23 provided by your company's lawyers. So is it possible 24 for you -- this is intended to be an open request -- or 25 perhaps your lawyers to liaise with you or maybe your</p>	<p>1 Ferry Company, you don't have a system whereby 2 individual or different directors are designated to look 3 after a particular area of operation? 4 A. Yes, there isn't any. 5 Q. Thank you. So when you say you report to the board of 6 directors, you simply tell the entire board? 7 A. Yes, correct. 8 Q. Would there be regular meetings between you and the 9 board, so that you could regularly report affairs of the 10 company to the board? 11 A. Yes, according to the actual situation at that time. 12 Q. Perhaps you might have misunderstood me. Because if it 13 is according to the actual situation, it may not be 14 regular. What I mean is, would there be fortnightly 15 meetings or monthly meetings, irrespective of whether or 16 not there is anything worthy of specifically bringing 17 up? 18 A. We hold the annual general meeting in accordance with 19 the company law, and we also report every two to three 20 months. 21 Q. Let's put annual general meetings to one side, because 22 usually only formal matters are transacted at annual 23 general meetings. 24 About your meetings every two to three months, you 25 would actually sit down with the board of directors and</p>
<p>Page 62</p> <p>1 company to produce such organisation charts as soon as 2 possible, either this afternoon or first thing tomorrow 3 morning? 4 A. Yes. 5 THE CHAIRMAN: Mr Zimmern, could you -- 6 MR ZIMMERN: We will attend to it, Mr Chairman. 7 THE CHAIRMAN: Thank you very much. 8 MR SHIEH: Just for your information, although I know no two 9 companies are ever the same, could I ask you to look at 10 the Reed Smith Richards Butler bundle, pages 269-273, 11 charts similar to this, or maybe even identifying 12 further up the chain to the board of directors. 13 A. Our charts will be a bit more simple than that. 14 Q. I understand. As I say, no two companies are the same. 15 But charts like this with arrows and names and who 16 reports to whom. 17 A. I believe I have similar ones. 18 Q. Is there a particular member or are there particular 19 members of the company's board of directors that you 20 yourself would report to? 21 A. As for the routine matters, I handle them myself. But 22 when there are special issues, I would report to the 23 board of directors. 24 Q. So you refer to the "board of directors" as a general 25 term. So does it mean that in the Hong Kong & Kowloon</p>	<p>Page 64</p> <p>1 you would tell them areas of concern, areas deserving 2 attention and the like? 3 A. This is more or less the case. 4 Q. These would be physical sit-down meetings? 5 A. Yes, correct. 6 Q. And that would be where? Shun Tak terminal? 7 A. It would be held in my own office. 8 Q. Which is where? 9 A. It is in a commercial centre in Wing Wo Street in Sheung 10 Wan. 11 Q. Yes. Because I can see from your witness statement the 12 address was Pier 4, New Reclamation, Central. What is 13 that address for? 14 A. This is a correspondence address. 15 Q. This is not Shun Tak, right? This is the new 16 reclamation where the Star Ferry and the cluster of 17 ferry terminals are, is it? 18 A. The new reclamation is piers 1, 2, 3, 4, 5 opposite the 19 IFC. But the reason why I have this address is because 20 previously, my address was in Pier 4. 21 Q. Thank you. So that cluster of piers where Star Ferry 22 and Outlying Islands Ferries are, that's the New 23 Reclamation area that this correspondence address 24 belongs to? 25 A. Yes, correct.</p>

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<p>1 Q. Thank you. You went on to say the various colleagues 2 and crew members, et cetera, would report to you 3 frequently. That's in paragraph 3. 4 A. Yes, correct. 5 Q. Do you have any company internal rules or guidelines as 6 to such reporting by various staff or crew to you? I'm 7 not talking about your reporting to higher up; I'm 8 talking about various people reporting to you. Do you 9 have documents, rules, guidelines as to how frequent, 10 how often they are to report to you? 11 A. I believe so, but I need to go back and look it up 12 before I could revert to you. 13 Q. Thank you. Just to make sure you understand what 14 I mean, I know your company has produced some minutes of 15 meetings, probably half-yearly meetings where crew and 16 staff have sessions to share their experience. I'm not 17 talking about the meeting minutes, because those have 18 already been disclosed. I'm talking about things like 19 internal guidelines or staff handbook which says, "There 20 shall be monthly briefing sessions" or "So and so should 21 have morning briefing sessions with the crew", those 22 sort of rules, written rules. 23 A. I understand. 24 Q. It may help, actually, if over lunch you could procure 25 those, because it may make questioning a bit easier.</p>	<p>1 Q. But all these different departments, as you say, because 2 you are -- well, would all these departments report to 3 you? 4 A. Yes. 5 Q. So you are the person immediately -- well, in terms of 6 hierarchy, you are the highest administrator within the 7 company? 8 A. You can put it that way. 9 Q. Because in terms of the directors, they may have 10 different work or they may have their own business 11 interests, and they don't actually go back to the office 12 and sit there 9-5. Is that a fair way of putting it? 13 A. This is true in respect of my company. 14 Q. I understand. There are companies and companies. There 15 are companies where directors actually sit in the 16 office, but not in the case of your company; correct? 17 A. Correct. 18 Q. Thank you. So, for example, the regular meetings that 19 you would have with your directors, the directors 20 wouldn't even have their own rooms in the office, right? 21 So they had to actually go to your office in Sheung Wan 22 to have meetings with you? 23 A. Correct. 24 Q. Could I ask you to look at paragraph 5 of your 25 statement. You say:</p>
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<p>1 Because otherwise I have no documents to go by and 2 I have to ask cold. 3 A. I will try my best. 4 Q. Thank you. Could I go then down to your paragraph 4, 5 when you talk about the operations department, which 6 would be responsible for the vessels, including 7 operation and maintenance, scheduling, deployment and 8 the operation of the piers. 9 Apart from the operations department -- I know it 10 may come from the organisation chart, but apart from the 11 operations department, what other departments does your 12 company have? 13 A. Since it is a small and medium enterprise, so its 14 organisation is quite simple. It includes the accounts 15 department, administration department, engineering 16 department and operations section. 17 Q. How many vessels does Hong Kong & Kowloon Ferry Holdings 18 Ltd operate? 19 A. We have currently 13 vessels. 20 Q. And how about Islands Ferry Company Ltd? 21 A. Four. 22 Q. Does Sea Smooth belong to Hong Kong & Kowloon Ferry or 23 Islands Ferry? I know it's in the documents, but can 24 I just check with you. 25 A. It belongs to Islands Ferry.</p>	<p>1 "This witness statement is made in response to the 2 issues raised in a letter from Messrs Lo & Lo dated 3 7 December 2012 to Messrs Holman Fenwick Willan." 4 You produce that letter as "A", which is at page 11 5 of this bundle. 6 A. Correct. 7 Q. Can we look at pages 11 and 12. 8 Page 11 first of all started off by asking for 9 witness statements. You were the witness put forward by 10 the company to produce the witness statement. 11 A. Correct. 12 Q. But when we then move on to documents, page 12, item 1: 13 "Disciplinary and accidents records in relation to 14 the subject coxswain and crew members of Sea Smooth." 15 This is an item of documents that have been asked 16 for. You were aware of this request, weren't you? 17 A. I have seen it. 18 Q. And item 2: 19 "A list of accidents and collisions in the past 20 5 years (2007-2012) involving Sea Smooth or its sister 21 vessels and provide information on the penalties or 22 fines (if any) imposed." 23 You were also aware of this request? 24 A. Yes, I have seen it. 25 Q. I won't go into the point that it has taken a long time</p>

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<p>1 for these to be provided.</p> <p>2 THE CHAIRMAN: No. That's a matter that I wish to go into.</p> <p>3 Mr Ng, this letter at page 11 is dated 7 December</p> <p>4 2012, is it not?</p> <p>5 A. Yes, I can see it.</p> <p>6 THE CHAIRMAN: It requested, did it not, if you look at</p> <p>7 page 12, the provision of this information by</p> <p>8 12 December 2012? Your witness statement is dated</p> <p>9 18 January 2013, is it not?</p> <p>10 A. Yes, Mr Chairman.</p> <p>11 THE CHAIRMAN: So why have you and your company not complied</p> <p>12 with the Commission's stipulated request in a timely</p> <p>13 fashion?</p> <p>14 A. I would like to make my apologies here. The delay was</p> <p>15 due to the fact that we have to collect the other</p> <p>16 information as well.</p> <p>17 THE CHAIRMAN: Nothing prevents you providing the Commission</p> <p>18 with such information that is at hand and explaining</p> <p>19 that you'll provide other material later, does it?</p> <p>20 A. I would like to apologise again, because I am not</p> <p>21 familiar with the relevant procedures.</p> <p>22 MR SHIEH: Mr Ng, now that the matter has been brought out</p> <p>23 into the spotlight, is it possible for you to really go</p> <p>24 back or cause your lawyers to liaise with your colleague</p> <p>25 in the office to provide the outstanding documents or</p>	<p>1 the moment, that's what we will do. But please don't</p> <p>2 strain our patience any more, Mr Ng.</p> <p>3 A. I believe that I won't let you down.</p> <p>4 THE CHAIRMAN: Thank you.</p> <p>5 MR SHIEH: Could I now ask you to look at paragraph 6 of</p> <p>6 your statement, at page 2 of the bundle:</p> <p>7 "All crew members were provided with a written</p> <p>8 guideline with details of their responsibilities to</p> <p>9 ensure the safe navigation and operation of the vessels</p> <p>10 when they commenced employment with the companies.</p> <p>11 A copy of the guideline is attached to this witness</p> <p>12 statement marked 'B'."</p> <p>13 That is the document at page 19, correct? The</p> <p>14 Chinese is actually at page 14, and the English is at</p> <p>15 page 19. Who drafted this set of guidelines?</p> <p>16 A. This guideline has been in place before I joined the</p> <p>17 company, so I'm unable to answer your question.</p> <p>18 Q. When did you join the company?</p> <p>19 A. I joined the company in August 2000.</p> <p>20 Q. So this set of guidelines has not been modified or</p> <p>21 updated at least since 2000?</p> <p>22 A. As far as I could remember, even if there were</p> <p>23 amendments, they were very minor in nature.</p> <p>24 Q. I can see that this set of guidelines is actually very</p> <p>25 short, and all the pages seem to be a composite</p>
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<p>1 records asked for in items 1 and 2?</p> <p>2 A. I will try my best.</p> <p>3 Q. Indeed, I would wish them to be available maybe after</p> <p>4 lunch, because it would simply take a phone call.</p> <p>5 It's an open request for Mr Zimmern or those</p> <p>6 instructing him to liaise with those in the office. Put</p> <p>7 a call out to stop them from going to lunch maybe.</p> <p>8 Because otherwise questioning may be hampered. Because,</p> <p>9 for example, I may have to ask questions about previous</p> <p>10 accidents. Some of them are mentioned in the minutes.</p> <p>11 THE CHAIRMAN: Is there any difficulty in doing that,</p> <p>12 providing them after lunch?</p> <p>13 A. I think there shouldn't be any problem.</p> <p>14 THE CHAIRMAN: Very well. Because thus far, we've been</p> <p>15 requesting the provision of material. But the Ordinance</p> <p>16 under which this Commission operates permits us to order</p> <p>17 the production of material, and if we need to go down</p> <p>18 that route, we will do so. Do you understand?</p> <p>19 A. I understand.</p> <p>20 THE CHAIRMAN: Failure to comply with our orders may</p> <p>21 constitute a contempt. Do you understand that?</p> <p>22 A. I understand.</p> <p>23 THE CHAIRMAN: And the Commission has been provided with</p> <p>24 powers to deal with contempt. But we hope we can</p> <p>25 achieve what we want to do through our requests, and for</p>	<p>1 document. So am I correct to think that whether you're</p> <p>2 a sailor, whether you're an engineer, whether you're</p> <p>3 a coxswain or master, all of them get the same clip of</p> <p>4 documents and they simply look at their respective</p> <p>5 positions and find for themselves what their duties are</p> <p>6 and what rules they have to obey?</p> <p>7 A. You can put it that way.</p> <p>8 MR SHIEH: Mr Chairman, I have something to ask about the</p> <p>9 content of the guidelines, but would it be</p> <p>10 an appropriate moment?</p> <p>11 THE CHAIRMAN: To take an adjournment? Yes, certainly.</p> <p>12 Mr Ng, we'll give you five more minutes over lunch</p> <p>13 so that you can come back armed with the material that</p> <p>14 we've asked you to produce. So we'll adjourn now and</p> <p>15 we'll resume at 2.30 this afternoon.</p> <p>16 A. Thank you, Mr Chairman.</p> <p>17 THE CHAIRMAN: Thank you.</p> <p>18 Mr Mok, there's a matter I wanted to raise with you.</p> <p>19 It's also related to the provision of material, although</p> <p>20 in contrast to Hong Kong & Kowloon Ferry, the Marine</p> <p>21 Department have been of great assistance to us. But</p> <p>22 this is a matter of importance, and that's why I've come</p> <p>23 back to it.</p> <p>24 On 28 January, the Marine Department was asked to</p> <p>25 furnish, through a witness who would be available to</p>

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<p>1 give evidence in a witness statement, various categories 2 of information that are directly relevant to the terms 3 of reference of the Commission: the existing regime and 4 conditions of maritime safety concerning local passenger 5 vessels; present system of control; identifying areas of 6 inadequacy in the present system, of safety and control, 7 including surveys and inspections in relation to local 8 vessels; areas of risk assessment and risk control, if 9 any, relevant to those issues; and then, finally, as to 10 what steps have been taken subsequent to the events of 11 1 October 2012 to improve maritime safety and control in 12 relation to local vessels.</p> <p>13 All of these are matters that, as I've said on 14 an earlier occasion, must have been fully anticipated by 15 the Marine Department as areas that the Commission would 16 be required to be provided with information.</p> <p>17 You've told us earlier that this is underway, and 18 we've invited you to provide us with material, if 19 necessary, in tranches so that the matters can be 20 addressed. But as yet, although the request was made 21 that it be provided by noon on Monday, we're now beyond 22 noon on Wednesday and we have nothing. So give me some 23 encouraging news as to what material will be available 24 to us today.</p> <p>25 MR MOK: May I seek that news over lunch and see what I can</p>	<p>1 have been supplied by my instructing solicitors with 2 copies of the internal work orders relating to seat 3 repairs, and also the sign-in records for the fourth 4 crewman on Lamma IV.</p> <p>5 THE CHAIRMAN: Thank you for that, and thank you to those 6 who have arranged for that information to be made 7 available expeditiously.</p> <p>8 MR McGOWAN: I hope that more of your requests will be met 9 with later on today or tomorrow.</p> <p>10 THE CHAIRMAN: Thank you for that. 2.30. 11 (1.02 pm)</p> <p>12 (The luncheon adjournment)</p> <p>13 THE CHAIRMAN: Yes, Mr Zimmern.</p> <p>14 MR ZIMMERN: Mr Chairman, just to provide an update on the 15 documents requested.</p> <p>16 THE CHAIRMAN: Yes.</p> <p>17 MR ZIMMERN: As far as the letter goes, my instructions are 18 that there are no disciplinary or accident records of 19 the subject coxswain or crew of the Sea Smooth.</p> <p>20 THE CHAIRMAN: What was the difficulty in responding to that 21 enquiry timeously?</p> <p>22 MR ZIMMERN: I'm afraid I have no instructions on that. 23 As far as the second one, the list of accidents and 24 collisions in the past five years, a list has been sent, 25 I understand, but by email shortly before we restarted.</p>
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<p>1 come up with?</p> <p>2 THE CHAIRMAN: Yes. Let me explain the context in which 3 we're pressing for the material.</p> <p>4 The Commission, as all the parties know, is 5 addressing different terms of reference. But the second 6 and third terms of reference require us to address the 7 topics that are identified in the letter. To that end, 8 we have obtained the assistance of eminent mariners, 9 Captain Pryke on the one hand, and Dr Armstrong on the 10 other. Captain Pryke is here in Hong Kong again, and 11 he's available to digest this kind of material so that 12 he can be better informed in making recommendations to 13 us. He's here at considerable expense to the Hong Kong 14 taxpayer. It's clearly money well spent, but 15 nevertheless it can be money better spent if this 16 material is available to him now.</p> <p>17 MR MOK: Yes.</p> <p>18 THE CHAIRMAN: That's why we urge the supply of the material 19 as soon as possible.</p> <p>20 MR MOK: Yes. I think I now understand the context. Let's 21 see what we can do to co-operate in this regard.</p> <p>22 THE CHAIRMAN: I'm sure that you'll be able to press the 23 right buttons, Mr Mok.</p> <p>24 MR McGOWAN: Hopefully to give you some encouraging news, 25 Mr Chairman, during the course of the morning Lo & Lo</p>	<p>1 THE CHAIRMAN: To the Commission's solicitors?</p> <p>2 MR ZIMMERN: To the Commission's solicitors, correct. So it 3 should be on the way.</p> <p>4 THE CHAIRMAN: Very well. Thank you.</p> <p>5 MR ZIMMERN: As far as the organisational chart, that is 6 being sought and will be provided as soon as it's found. 7 Thank you.</p> <p>8 THE CHAIRMAN: Thank you.</p> <p>9 MR SHIEH: Mr Chairman, the reason I had not asked for 10 item 3 in the Lo & Lo letter is because in respect of 11 certificate of exemption, I understand the matter might 12 have been overtaken by events, because Mardep has 13 produced its own witness, I understand one Mr Lee, who 14 actually produced a certificate of exemption relevant to 15 Sea Smooth, and I would not wish to unnecessarily add to 16 the work that might have been done. Although that may 17 not provide an excuse for not answering the earlier 18 letter.</p> <p>19 THE CHAIRMAN: No. But obviously that's a realistic 20 approach. Thank you.</p> <p>21 MR SHIEH: Welcome back, Mr Ng.</p> <p>22 THE CHAIRMAN: May I remind you that you continue to testify 23 according to your original affirmation.</p> <p>24 A. Thank you, Mr Chairman.</p> <p>25 MR SHIEH: Before the lunch adjournment, I was asking you</p>

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<p>1 about attachment B to your witness statement, which is 2 the clip of documents, the Chinese of which starts at 3 page 14 and the English of which starts at page 19. 4 The guidelines were given to all crew members and 5 coxswains at the commencement of their employment, and 6 they would not be updated; is that correct? 7 A. Yes. Even if there is, it is very simple update. And 8 I would also like to add that, after this incident, we 9 are in the process of compiling a more comprehensive one 10 in reference to the guidelines of the other counterparts 11 in the trade. 12 Q. Apart from this, could I also ask you to look at 13 paragraph 13 of your witness statement. I jump ahead 14 because it deals with one same subject matter. 15 Paragraph 13 at page 3 of the Holman Fenwick Willan 16 bundle. Paragraph 13 says: 17 "Another guideline specifically on the manner in 18 which the crew members are to conduct themselves in 19 an emergency is posted on board the Sea Smooth. A copy 20 of the said guideline is attached ... marked 'D'. There 21 is also another document with guidance to the crew 22 members in an emergency situation. This was also 23 provided to them when they commenced employment with the 24 companies (copy attached marked 'E')." 25 You follow this paragraph, Mr Ng?</p>	<p>1 statement; is that correct? Page 6. This is starting 2 from 2013; yes? 3 A. Correct. 4 Q. I'll come to that in due course. I'm talking about the 5 pattern or the way the company managed its crew and 6 vessels prior to the incident. 7 Prior to this incident, the crew and the coxswains 8 would have to perform the drill during the annual 9 survey. But apart from that, there were no monthly or 10 bi-monthly drills or practices; is that correct? 11 A. As I have mentioned just now, there are irregular drills 12 performed. 13 Q. Who would have decided when these irregular drills were 14 to take place? 15 A. According to the order issued by the marine section and 16 the chief coxswain. 17 Q. Because if you look at paragraph 22 of your witness 18 statement: 19 "In addition, the crew members are required to 20 perform evacuation and emergency saving practice once 21 a year during the annual dry docking of the companies' 22 vessels before the surveyors appointed by the Marine 23 Department who attend the dry docking. The surveyors 24 have to be satisfied with the crew members' performance 25 before confirming that the vessels are in order and</p>
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<p>1 A. Yes. 2 Q. You refer to D and E. D is at page 32, with the English 3 at page 33; whereas E, the Chinese is at page 39 and the 4 English starts at page 42. 5 Can I just ascertain how these documents are being 6 disseminated or handed out. D, the one in table form at 7 page 33, would simply be posted up on the board; 8 correct? It would not be handed to the individual 9 employees for their safekeeping; correct? 10 A. Yes, but every year these would be performed in front of 11 the survey inspector during the dry docking every year. 12 Q. So what you are trying to say is that even though they 13 may not have been given a copy for safekeeping, because 14 they would have to perform the steps every year, you 15 would take it, you would infer that the crew members and 16 the coxswain would be reasonably familiar with the steps 17 contained there, because they would do the steps once 18 per year? 19 A. Yes, but I would also like to add that we also have 20 a drill that is performed irregularly. And also in some 21 committees, the Marine Department has stipulated that 22 the drill has to be performed every two months, once 23 every two months. But in order to strengthen this, our 24 company has decided to perform it every month. 25 Q. This is the subject of paragraph 27 of your witness</p>	<p>1 issuing the certificate of survey." 2 Do you see that? 3 A. Yes. 4 Q. It does not refer to the irregular drills that you have 5 just mentioned. 6 A. Here I only meant that the drill has to be performed in 7 order to successfully secure the certificate of survey. 8 But the witness statement required or requested of your 9 company asked your company to provide a witness 10 statement on the subject of any regime concerning 11 training of the crew as to how they were to conduct 12 themselves in an emergency. So that would have covered 13 annual drills and irregular drills. 14 So could I ask my question again. Your witness 15 statement actually did not mention the existence of 16 these irregular drills; do you accept that? 17 A. Correct. 18 Q. I have two things to follow up about these drills. 19 First, are there records of these irregular drills, 20 a logbook or anything of that sort? 21 A. In our deployment chart, the marine section would make 22 records of the cleaning of the floor, repair and drill. 23 Q. I think you used three Chinese characters: "sai, bo, 24 cho", so that would be "wash" -- 25 A. (In English) Yes.</p>

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<p>1 Q. -- "maintenance" and "drill"?</p> <p>2 A. (In English) Yes.</p> <p>3 Q. One stands for "wash", one stands for "maintenance", one</p> <p>4 stands for "drill"; is that correct?</p> <p>5 A. (In English) Correct.</p> <p>6 Q. Thank you. So there are indeed logbooks which logged</p> <p>7 these events of cleaning, performing maintenance and</p> <p>8 drilling?</p> <p>9 A. It should be.</p> <p>10 Q. Could they be made available? Subject to, obviously,</p> <p>11 a reasonable timeframe.</p> <p>12 THE CHAIRMAN: Well, there's been a reasonable time,</p> <p>13 Mr Shieh. There's been an unreasonable delay.</p> <p>14 Please make these records available. Do you</p> <p>15 understand?</p> <p>16 A. I understand, Mr Chairman.</p> <p>17 THE CHAIRMAN: Thank you.</p> <p>18 MR SHIEH: You see, Mr Ng --</p> <p>19 THE CHAIRMAN: If you need to communicate with someone so</p> <p>20 that the order can be given, please do so.</p> <p>21 A. Thank you, Mr Chairman.</p> <p>22 MR SHIEH: You see, the reason I'm asking, and I'm simply</p> <p>23 telling you this, Mr Ng, is that the letter from the</p> <p>24 Commission's lawyers asked for a statement telling us</p> <p>25 the system or the regime about training the crew members</p>	<p>1 documents containing instructions, written instructions</p> <p>2 from the shipping department given to the chief</p> <p>3 coxswain, saying, "Chief coxswain's duties are to order</p> <p>4 spot-checks or to organise irregular "sai, bo, cho" to</p> <p>5 show that people can be constantly on the alert as to</p> <p>6 how to conduct themselves in an emergency? Are there</p> <p>7 written instructions to, let's say, the shipping</p> <p>8 department, or from the shipping department to the chief</p> <p>9 coxswain that they should organise these irregular</p> <p>10 drills?</p> <p>11 A. These instructions are written in the deployment chart</p> <p>12 and sent to the marine section, and the officer in</p> <p>13 charge of the pier, as to which vessel needs to do these</p> <p>14 exercises. A copy would also be provided to the chief</p> <p>15 coxswain, and he would be informed as to which vessel</p> <p>16 needs to perform the wash, repair and drill.</p> <p>17 Q. Sorry, I'm feeling my way around because you are telling</p> <p>18 us this for the first time and I simply wish to</p> <p>19 understand what you're saying. So the "sai, bo, cho",</p> <p>20 the wash, maintenance and drill, are actually entries</p> <p>21 that are written on the deployment chart as some kind of</p> <p>22 instruction that individual vessels are supposed to</p> <p>23 perform these tasks at a designated date or time?</p> <p>24 A. Correct.</p> <p>25 Q. And these deployment charts, with notations of "sai, bo,</p>
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<p>1 how to behave in an emergency. So these logs about</p> <p>2 irregular drills would be rather relevant for the</p> <p>3 Commission to understand how frequently the crew members</p> <p>4 have been receiving such drills, or performing such</p> <p>5 drills. Do you understand?</p> <p>6 A. I understand it now.</p> <p>7 Q. Yes, you understand now.</p> <p>8 The second point I wish to follow up on these</p> <p>9 irregular drills is, are there any company guidelines,</p> <p>10 in written form, issued to those persons who were</p> <p>11 expected to organise these drills, to tell them how they</p> <p>12 should go about organising them and how frequently they</p> <p>13 should do it? Or was it simply a matter of mere</p> <p>14 understanding, an unspoken understanding that they</p> <p>15 should go about doing it?</p> <p>16 A. They have this written record of the wash, repair and</p> <p>17 drill, and they know what they are supposed to do.</p> <p>18 Q. No, but the wash, repair and drill -- correct me if I'm</p> <p>19 wrong. The wash, repair and drill would be something</p> <p>20 recorded after the thing has been performed. Is that</p> <p>21 correct?</p> <p>22 A. These are the orders given by the marine section and the</p> <p>23 chief coxswain, and the chief coxswain conducts</p> <p>24 inspections occasionally.</p> <p>25 Q. Let me just go straight to the point. Are there</p>	<p>1 cho" on various dates, were issued by whom to whom in</p> <p>2 the first instance?</p> <p>3 A. This instruction was issued by the shipping section to</p> <p>4 the officer in charge of the pier, to be disseminated to</p> <p>5 the vessel.</p> <p>6 Q. Yes. Issued by the shipping section to the officer in</p> <p>7 charge of the pier, and to be disseminated to the</p> <p>8 vessel. Who in the shipping section decides when these</p> <p>9 drills are to take place?</p> <p>10 A. The executive of the shipping section.</p> <p>11 Q. So this individual, the executive of the shipping</p> <p>12 section, decides "On this date there shall be 'sai, bo,</p> <p>13 cho' for this particular vessel, and on the other date</p> <p>14 there shall be 'sai, bo, cho' for that particular</p> <p>15 vessel"?</p> <p>16 A. Yes, this pattern was responsible by him.</p> <p>17 Q. Who is the executive of the shipping department?</p> <p>18 A. Mr Cheung Wai-on.</p> <p>19 Q. Was he the executive at the time of the casualty?</p> <p>20 A. Correct.</p> <p>21 Q. Right. So I presume these exercises would be</p> <p>22 conducted -- they may not all be conducted for all</p> <p>23 vessels on the same day. So one day it may be vessel A</p> <p>24 and the other day it may be vessel B; is that the case?</p> <p>25 A. You can put it that way.</p>

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<p>1 Q. Are there records as to what kind of drills had been 2 done or guidance or instructions as to what kind of 3 drills should be done? Do you see what I mean? 4 Instructions in advance as to what drills should be 5 done, and subsequently, any records as to what drills 6 have been done? 7 A. As far as I knew, the drill covers all the scope. As 8 for the record, it was written in the logbook. 9 Q. All the scope? You mean all the scope that we can find 10 at pages 32 and 33 of this bundle? 11 A. Yes, as far as I understand. 12 Q. Are there any records, job descriptions to this 13 executive in the shipping department, that one of his 14 responsibilities is to devise or to design or to 15 instruct such irregular "sai, bo, cho" to take place? 16 A. There is no written record, but he knew when it should 17 be done. 18 Q. So, for example, if this executive were one day to leave 19 your employment and somebody takes over, there won't be 20 a manual for an incoming new executive to really go 21 through and say, "Ah, this is what I have to do"? It 22 would simply have to be passed on by word of mouth, or 23 by oral instruction, by you, for example? 24 A. Yes, in principle this is correct. But Mr Cheung is not 25 the first executive. In fact he was the third one. And</p>	<p>1 the incident? 2 A. I will instruct my colleagues to do so. 3 THE CHAIRMAN: Thank you. And do so now, if you would, if 4 there's somebody here. 5 MR SHIEH: Maybe a nod and then someone will take the hint 6 and do it. 7 THE CHAIRMAN: I think they've been doing it by nods. Thank 8 you very much. 9 A. I'm sorry, Mr Chairman, he is not here. 10 MR SHIEH: Don't worry. Your counsel will pay attention. 11 If anyone from Holman Fenwick Willan comes back, I'm 12 sure that the thing will be triggered. 13 MR ZIMMERN: Our instructors are sorting this out as we 14 speak. 15 THE CHAIRMAN: Thank you very much. 16 Rest assured, it's being dealt with now. 17 MR SHIEH: In the first instance we'll confine it to Sea 18 Smooth because we just want to see how the pattern 19 unfolds, and we may or may not ask for other vessels. 20 A. I understand. 21 Q. Because not all crew are for ever and ever stuck with 22 one vessel; they get deployed among different vessels, 23 correct? 24 A. Agree. 25 Q. Can we come back to paragraph 13 of your witness</p>
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<p>1 he actually performed according to the previous records. 2 Q. Right. But there are no written instructions telling 3 him that he should do this, right? So he would have 4 heard from either his immediate predecessor, or learned 5 from you, that these things should be done; right? 6 Because if he simply looks at the log saying "sai, bo, 7 cho", it may mean very little to him. 8 A. You can understand it that way. But in fact there are 9 colleagues who would tell him what he should do. 10 Q. So basically your company relies on word of mouth from 11 one colleague to another, telling them that these 12 irregular drills should be ordered; correct? 13 A. I agree, but this practice is prevalent in the trade. 14 Q. In terms of paperwork, there would be the deployment 15 chart which would say "'sai, bo, cho' for this vessel on 16 this date", which would be equivalent to an order, and 17 also there would be an entry on the log which says, "It 18 has been done"; right? Two categories of documents 19 where we can see this concept of "sai, bo, cho"; right? 20 A. Agree. 21 Q. So is it possible, again, for you to arrange or for 22 instructions now to be provided for your solicitors and 23 those in your company to locate these two categories of 24 records: the deployment charts and also for the logs in 25 respect of Sea Smooth for, let's say, two years prior to</p>	<p>1 statement at page 3. Attachment E mentioned in that 2 paragraph, which is page 39 in the Chinese and page 42 3 in the English, is said to have been given to the crew 4 when they commenced employment. Correct? That's what 5 you say: 6 "This was also provided to them when they commenced 7 employment ..." 8 A. Correct. 9 Q. So am I correct to say that in terms of handing out 10 pieces of paper to the crew, two sets of papers 11 concerning safety and duties would be given to them when 12 they commenced employment? The first set is 13 attachment B at page 19 in the English, and page 14 in 14 the Chinese; the other set is attachment E, which is in 15 Chinese at page 39 and in English at page 42. These two 16 sets. 17 A. Correct. 18 Q. Then, going back to paragraph 6 of your witness 19 statement, you say at line 4: 20 "Additional guidelines and information would also be 21 provided to the crew members from time to time. These 22 would include specific instructions in relation to the 23 operation of the vessels, issues which may arise from 24 time to time and information/notices issued by the local 25 authorities which will include the Hong Kong Marine</p>

Page 89	1 Department. This information is normally provided to 2 the coxswain of each vessel and they would in turn 3 inform the crew members on board the vessel. This 4 normally takes place at the commencement of each shift 5 when the crew members go on duty." 6 Can I just stop here. You've followed this 7 paragraph so far? 8 A. Yes. 9 Q. So when you talk about "Additional guidelines and 10 information would also be provided to crew members from 11 time to time", are you talking about written guidelines 12 that would be handed out to them from time to time, or 13 are you talking about oral instructions passed on to 14 them by the coxswain? 15 A. I would like to know what you mean by "oral instructions 16 passed on to them by the coxswain". 17 Q. We are not talking about the documents that were handed 18 to them when they first joined the company, because we 19 know what they are: the two sets of documents. Leave 20 them to one side. But let's say -- you are aware of 21 things called Marine notices issued by the Marine 22 Department; correct? 23 A. Yes. 24 Q. Without having to dig up the particular document, 25 although if you want me to, I can help you, for, let's	Page 91	1 instructions. 2 THE CHAIRMAN: Are you saying that the written notice from 3 the Marine Department was forwarded to the coxswain and 4 his crew, for example, for fireworks, sailing boat 5 competitions, parades, as you've put it? 6 A. Correct. 7 THE CHAIRMAN: How was that done physically? 8 A. When we receive such notice, we will add a covering 9 notice asking them to pay attention to this. 10 THE CHAIRMAN: How was it communicated? Was it handed over, 11 copied, or was it emailed, faxed? How was it done? 12 A. Usually we attach a document; for example when we 13 receive the notice from the Marine Department, we would 14 make a copy and then add in a document and hand it to 15 them, because the shipping department is at the pier. 16 So we can actually hand it over to them directly. 17 THE CHAIRMAN: And who would be doing the handing-over to 18 the coxswain? 19 A. These notices would be attached together with the 20 deployment chart for the officer in charge of the pier, 21 to be handed over to the coxswain. 22 MR SHIEH: So these would be handed over in hard copy 23 format, in other words? 24 A. Correct. 25 Q. Thank you. Then you went on in paragraph 6 to say:
Page 90	1 say, 1 October or any night with fireworks, Mardep would 2 issue special Marine notices to inform operators about 3 special arrangements and to tell people to be careful 4 and that sort of thing. You know that these notices are 5 issued from time to time? 6 A. Yes. Concerning the notice for leisure vessels, even 7 though it is irrelevant to the shipping department, we 8 did forward it to the crew. 9 Q. I see. So in terms of handing out documents to your 10 crew members, you would actually have ad hoc 11 communications of individual or specific events or 12 matters to look out for; you would actually issue these 13 ad hoc instructions or guidelines to your crew members? 14 A. Yes, this is basically correct. In the cases of special 15 event such as the fireworks on 1 October, or parades, or 16 the sailing boat competition, or any other special 17 event, we would convey these notices to the crew 18 members. 19 Q. And would it be the case that sometimes you would 20 communicate these notices or this ad hoc information in 21 writing, and sometimes you would simply orally tell the 22 coxswain, for him orally to tell the crew members? 23 A. Basically these are done in written form, except for the 24 cases where there are special circumstances, we would 25 also remind them orally in addition to the written	Page 92	1 "This information is normally provided to the 2 coxswain of each vessel and they would in turn inform 3 the crew members on board the vessel." 4 Are you talking about this process of handing over 5 hard copies of any relevant document, and then for the 6 coxswain to hand over? Because you use the word 7 "inform". That's why I'm a bit confused. Is this the 8 same process that you're talking about: handing over 9 hard copies of Marine notices and other relevant 10 documents? 11 A. Correct. 12 Q. Moving on in paragraph 6: 13 "When they go on duty and change shifts with the 14 previous crew members, the new crew members would make 15 a check of the vessel to ensure everything is in working 16 order and then the coxswain would have a short briefing 17 with the crew members where they will be reminded of 18 their job duties and anything specific arising from the 19 operation of the vessel during that shift." 20 Can I clear my head. Who is going to brief whom? 21 The previous crew would brief the new crew? Is that how 22 it works? 23 A. Maybe I should explain a little bit in detail. The crew 24 members of two different shifts would hand over the 25 duties. For example, if there is reparation work that

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<p>1 needs to be done but it is not of emergency nature, then 2 the crew member of the previous shift would inform the 3 crew of the next shift, who would then conduct follow-up 4 action. This also applies to special circumstances. 5 Q. So the coxswain for the -- so who from the previous 6 shift would inform the new crew? Was it the coxswain of 7 the previous shift, or a crew member of the previous 8 shift? 9 A. The coxswain would hand over the matter to the coxswain 10 of the next shift. In the same way, the engineer of the 11 previous shift would also inform his counterpart of the 12 next shift. 13 Q. Right. Paragraph 7: 14 "The staff of the operations department and the 15 chief coxswain of the companies would also inform the 16 crew members of these guidelines, information and ensure 17 compliance." 18 It's actually worded in a rather general way: "of 19 these guidelines, information". What guidelines and 20 information are you talking about? Because in terms of 21 the documents received right at the commencement, 22 they've already received it. 23 A. The guidelines are of a regulatory nature, and we would 24 remind them not to violate the regulations. For 25 example, if there is a notice from the Marine Department</p>	<p>1 A. I agree. 2 MR SHIEH: Could I focus on that line of enquiry, Mr Ng. 3 Collision Regulations could apply to numerous scenarios 4 at sea? 5 A. Correct. 6 Q. Whereas, as Mr Chairman observed, your company operates 7 a particular type of vessel, operating in a particular 8 type of locality at sea. Do you accept that? 9 A. Agree. 10 Q. Has it occurred to the company that perhaps more 11 specific guidelines or more specific attention should be 12 given in respect of certain clusters of rules and given 13 to the coxswains? 14 I'll put it again. 15 Has consideration ever been given to the possibility 16 of focusing the coxswain's attention to particular rules 17 which may be of specific relevance to your company? 18 A. I agree. And that is why, as I have mentioned 19 previously, our company is now in the process of 20 compiling a more detailed guideline which is of several 21 tens of pages and not just a few pages. 22 Q. Could I draw your attention to a document produced by 23 Hongkong Electric. It's in the Reed Smith Richards 24 Butler bundle. The Chinese is at page 286; the English 25 is at page 308.</p>
<p>Page 94</p> <p>1 that has not been carried out, we would also remind them 2 to pay attention and to carry it out. 3 Q. Can I focus on specific entries or items in attachment B 4 to your witness statement. The Chinese is at page 14, 5 and the English is at page 20. 6 Under the heading "Coxswain", "shuen cheung", first 7 item -- I'll read it out in English into the record, but 8 you can see from the Chinese it says: 9 "Steer the vessels safely and abide by the 10 International Regulations for Preventing Collisions at 11 Sea and relevant Hong Kong Maritime Ordinances." 12 That's item 1. Do you see that? 13 A. Yes. 14 Q. But it doesn't actually remind the coxswain of any 15 particular provisions or content of the Collision 16 Regulations. 17 A. But in my opinion, if somebody is qualified to work as 18 a coxswain, he would certainly abide by these 19 regulations. Also, during the fog season, we would also 20 inform them about the stipulations in the notices. 21 THE CHAIRMAN: This is the equivalent of a bus company 22 telling its bus drivers to obey the Road Traffic 23 Ordinance, isn't it? Whereas you're dealing with 24 specific high-speed craft who encounter specific 25 problems, are you not?</p>	<p>Page 96</p> <p>1 Let me say that I'm not using this as some kind of 2 a model or sample as to how these things should be done, 3 because obviously observations and submissions may have 4 to be made on the adequacy or inadequacy of Hongkong 5 Electric's way of doing things. But if we simply look 6 at this page, which is a guideline issued by Hongkong 7 Electric, you can see Hongkong Electric at page 286 -- 8 Mr Chairman, the English is at page 308 -- 9 THE CHAIRMAN: Yes, I have it. 10 MR SHIEH: -- went into some degree of specificity even on 11 collision, rule 8 of the Collision Regulations. And 12 Hongkong Electric is not even operating a fleet of 13 ferries as a matter of public transport. 14 THE CHAIRMAN: Fee-paying members of the public. 15 MR SHIEH: Yes. 16 What observations do you have in respect of the 17 level of specificity that we can find in Hongkong 18 Electric? Do you say it's really too much, unnecessary, 19 or would you think it's reasonable? 20 A. First of all, I would like to thank you for providing 21 a good sample for my reference. 22 As I have mentioned just now, we are in the process 23 of compiling a more detailed guideline, and I agree that 24 this is a reasonable guideline. 25 Q. Let me just put some suggestions to you, whether you</p>

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<p>1 agree. Because under "Coxswain", in your own 2 guidelines, page 14, for example, it says effectively 3 "Please obey the law", "Please comply with Collision 4 Regulations". It's almost saying nothing. I'm 5 suggesting this to you. Do you agree? 6 A. Thank you for your suggestion. This is why, as I have 7 said, we are in the process of enhancing our guideline. 8 THE CHAIRMAN: Have a look, if you would, at the last 9 paragraph. I'm looking at the English at page 308. 10 It's in these terms -- because this is what's apposite 11 to your coxswains of high-speed vessels, is it not? 12 This is what Hongkong Electric say: 13 "If necessary, to avoid collision or more time is 14 needed to decide on the situation, coxswain should 15 without a doubt reduce the speed or stop and/or reverse 16 to cause the vessel to stop, when deciding a safe 17 distance for the two vessels to pass, coxswain needs to 18 remember the vessel's capability and reaction, while 19 also predict the other's limitation and power, to put 20 all such factors into consideration." 21 That's the number 1 rule for high-speed vessels, is 22 it not, for coxswains? 23 A. I agree with Mr Chairman's observation, and I admit that 24 we are falling short in this area, and we will improve 25 in this area.</p>	<p>1 from shore lights or from back scatter of her own 2 lights ..." 3 Do you see that? 4 A. Yes. 5 THE CHAIRMAN: Then there is a separate consideration for 6 vessels equipped with operational radar; do you see 7 that? 8 A. Yes. 9 THE CHAIRMAN: These were factors that were highly relevant 10 to the coxswains of your vessels, including those that 11 were in charge of Sea Smooth, were they not? 12 A. I agree. 13 THE CHAIRMAN: So why didn't they find a place, perhaps the 14 first place, in the guidance given to such coxswains? 15 A. As I have mentioned, we have been falling short in this 16 aspect and I thank Mr Chairman for reminding me about 17 this, and in addition to this we would also remind them 18 to observe the safety regulations at sea, including 19 other conditions, and in the future we would incorporate 20 this factor into our guidelines. 21 THE CHAIRMAN: Yes, Mr Shieh. 22 MR SHIEH: Mr Ng, I know what you say now as to how the 23 company would go about doing things in future. But I'm 24 just trying to see why these matters had not occurred to 25 the company prior to the incident, when it is reasonably</p>
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<p>1 THE CHAIRMAN: May I ask that rule 6 of the Collision 2 Regulations be put up on the screen, please. Someone 3 can help me with the page number. Thank you. 4 There. You see, that's the rule that deals with 5 safe speed. Is that a rule you're aware of? 6 A. I have seen that. 7 THE CHAIRMAN: Let's just have a look at what it provides: 8 "Every vessel shall at all times proceed at a safe 9 speed so that she can take proper and effective action 10 to avoid collision and be stopped within a distance 11 appropriate to the prevailing circumstances and 12 conditions." 13 You're following this, no doubt, in the Chinese? 14 A. Yes. 15 THE CHAIRMAN: Then it provides: 16 "In determining a safe speed the following factors 17 shall be among those taken into account ..." 18 The first category, (a), is "By all vessels"; do you 19 see that? 20 A. Yes, I can see it. 21 THE CHAIRMAN: Item (ii) is traffic density; do you see 22 that? 23 A. Yes. 24 THE CHAIRMAN: Item (iv): 25 "at night the presence of background light such as</p>	<p>1 obvious that they are relevant, for example reminding 2 coxswains of safe speed and how to avoid collision, 3 specific rules in the Collision Regulations? 4 A. In fact we have from time to time issued notice to them 5 reminding them about the safe speed and also we have 6 issued notice during the fog season to remind them of 7 the safe speed and the other issues concerning 8 operation. 9 Q. Let's leave fog season to one side. I know what notice 10 you are talking about. I'll come to that later. 11 But you mentioned earlier that if people could pass 12 the relevant exams or obtain the relevant licences, they 13 should know the rules. That's what you said earlier. 14 A. Yes. 15 Q. Let me just be blunt about it, Mr Ng. Is there 16 a mentality of complacency in the company, that these 17 coxswains, maybe they live by the sea, they are very 18 experienced, and therefore they need no reminder, they 19 know how to go about doing their job and it's a waste of 20 time printing pieces of paper to them? 21 A. I cannot agree with you in this aspect, because the 22 shipping section and the coxswain were often reminded 23 about the issues. 24 Q. Were the coxswains receptive to being taught and 25 reminded of the rules, or did they have this mentality</p>

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<p>1 that, you know, "I know it all" and "Why treat me like 2 an idiot"?</p> <p>3 A. It is difficult for me to respond to this question 4 because each colleague is unique. They are all 5 different. I can't make an answer to cover them all.</p> <p>6 Q. I'm not trying to be difficult. The reason I ask this 7 is because -- again I come back to the old theme. 8 Knowing the rules generally is one thing, but knowing 9 how to apply them in tricky situations is another thing; 10 would you agree?</p> <p>11 A. Agree.</p> <p>12 Q. Your company operates ferries going on a variety of 13 routes; right?</p> <p>14 A. Our different subsidiaries operate a variety of routes.</p> <p>15 Q. Islands Ferry operate the route from Central to Yung 16 Shue Wan; correct?</p> <p>17 A. Correct.</p> <p>18 Q. Did you know that on this route, vessels of your company 19 may come to encounter vessels belonging to Hongkong 20 Electric coming from the power station, going past the 21 Shek Kok Tsui lamppost?</p> <p>22 A. Yes, I am aware of this.</p> <p>23 Q. They may go to Central, they may go to Ap Lei Chau, but 24 Hongkong Electric vessels would embark on a journey 25 which would interact with vessels of your company?</p>	<p>1 handled?</p> <p>2 A. Although I am not a professional seafarer, we did 3 discuss safety issues in our meetings when the chief 4 coxswain and the staff of the shipping section were 5 present.</p> <p>6 Q. You mention meetings. I may go straight to them, 7 although in terms of your witness statement they belong 8 to a different area. But let me ask you this. When you 9 talk about these meetings, these are the meetings held 10 probably once every six months, when everybody sits 11 together and exchanges views about the company? Is that 12 the sort of meetings?</p> <p>13 A. Apart from this, staff of our office also convene 14 meetings at irregular intervals to review similar 15 situations.</p> <p>16 Q. That would be among staff in the company; that wouldn't 17 involve the crew?</p> <p>18 A. You can't put it that way, because after holding these 19 meetings with the shipping section and chief coxswain, 20 they would disseminate the message to the crew.</p> <p>21 Q. Let me give you one or two examples. Has it occurred to 22 you or those in your company that maybe refresher 23 courses or -- I don't know how you do it -- friendly 24 tips be given to coxswains, such as, "When you round 25 that corner pay attention to these matters because some</p>
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<p>1 A. Agree.</p> <p>2 Q. Maybe during day-time, maybe at night?</p> <p>3 A. Agree.</p> <p>4 Q. Maybe at night, you know that navigators have to rely, 5 among other things, on lights?</p> <p>6 A. Yes, I'm aware of this.</p> <p>7 Q. And relying on lights, trying to make judgments based on 8 could lights could be a tricky, difficult matter?</p> <p>9 A. I'm not a professional in terms of navigation, so my 10 knowledge is only confined to just being aware.</p> <p>11 Q. Someone in your company, shipping department people, 12 should know; correct?</p> <p>13 A. I agree. At least the chief coxswain should know about 14 this.</p> <p>15 THE CHAIRMAN: And is the chief coxswain a qualified 16 seafarer?</p> <p>17 A. He is coxswain of the local craft.</p> <p>18 THE CHAIRMAN: And qualified himself to take charge of 19 vessels?</p> <p>20 A. Yes.</p> <p>21 THE CHAIRMAN: Thank you.</p> <p>22 MR SHIEH: Has it occurred to you or anyone in the company 23 that specific attention should be given to usual 24 situations facing your vessel, and guidance be given to 25 coxswains as to how these various situations can best be</p>	<p>1 people, you know, navigate in a ridiculous manner"? Or, 2 "At night pay particular attention to that particular 3 light which could blind you in the eye, to affect your 4 vision"? Something like that?</p> <p>5 A. We did have similar reminder, but not as the examples 6 you cited. For example, we would remind them to put 7 a marker buoy in places where collision has occurred, 8 immediately. I also personally remind them frequently, 9 "If you go slow, there won't be collision", something 10 like that.</p> <p>11 THE CHAIRMAN: This is the crew of your various vessels?</p> <p>12 A. Yes, Mr Chairman.</p> <p>13 THE CHAIRMAN: "If you go slow, there won't be collisions"?</p> <p>14 A. Yes, similar to this notation.</p> <p>15 THE CHAIRMAN: Where were these occasions where you gave 16 them this sage advice?</p> <p>17 A. I believe that I have mentioned this dozens of times in 18 the meetings with my staff, with my many staff.</p> <p>19 MR SHIEH: Yes, Mr Ng, of course if you go slow, chances of 20 collision are reduced. But if you go slow all the time, 21 chances of complaints or delay would increase. That is 22 why it's a tricky business to balance speed on the one 23 hand, and efficiency on the other. And that is how 24 skills come into play. Do you accept that?</p> <p>25 A. I absolutely agree. In fact when I give them this</p>

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<p>1 advice, my purpose is to remind them to observe safety. 2 Of course, as an operator, licensed operator of these 3 ferries, we have to reach the requirements of the 4 Transport Department to comply with their schedule of 5 sails. 6 Q. So telling people to go slow is only advice on a very 7 high level of generality. What I am asking for is -- 8 are reminders or specific courses or refresher courses 9 on how to deal with particular types of situations -- 10 I take it there's nothing like that? 11 A. I agree, but this is true in our other counterparts in 12 the trade. And even the reparation course was only in 13 place recently. 14 Q. Well, not necessarily having to ask experienced 15 coxswains to sit down for one hour to listen to 16 a lecture, but a circular maybe saying, "When rounding 17 this corner, pay attention to this" -- there's none of 18 that? 19 A. We do have similar notice and also, as I have mentioned, 20 oral reminders were more prevalent in the trade, in the 21 industry. 22 Q. Can I ask you to look at police bundle B, page 759 for 23 the Chinese, and page 764-4 for the English. 24 Let me tell you what this is. This is the police 25 statement of a passenger on the Sea Smooth, Mr Niu.</p>	<p>1 received such complaint. 2 THE CHAIRMAN: Thank you. 3 MR SHIEH: Let me go straight to the point, Mr Ng, and tell 4 you why I'm pursuing this line of enquiry. On the face 5 of it, the reported reaction of the man in blue, on Sea 6 Smooth, would suggest that there might have been 7 previous incidents concerning Hongkong Electric. 8 Otherwise he wouldn't say "yau hai", "It's Hongkong 9 Electric again". 10 A. I absolutely agree with your observation, but I really 11 haven't received any such complaint. 12 Q. Let's leave that to one side. If something had indeed 13 happened in the past involving Hongkong Electric, then 14 the crew in question may or may not have reported or 15 complained about the matter to someone higher up in the 16 hierarchy? We don't know at this moment. Although you 17 say you haven't received it, we don't know for sure at 18 this moment. And we don't even know what that incident 19 might have been, whether it's one incident or more than 20 one incident, or whether it's some regular occurrence on 21 this route, so that it's widely known, even without the 22 need for a complaint. 23 Now, depending on whether the crew members have or 24 have not reported the matter up to the hierarchy, we may 25 have to look at the question of whether or not anyone</p>
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<p>1 Mr Niu has actually testified in this Inquiry. 2 Look at page 759 at the bottom, paragraph 6. The 3 English version is page 764-4. If I can read out the 4 English version. 5 Paragraph 6 actually describes his description of 6 the events immediately after the collision. This is 7 what Mr Niu observed in the cabin of the Sea Smooth. 8 He said: 9 "After the vessel had stopped for 10-20 seconds, 10 a male shipman in blue uniform (a Chinese male aged 11 over 40) walked towards the bow from the stern through 12 the cabin. He walked and said 'It's Hongkong Electric 13 again' -- "(Chinese spoken)" -- "Then he went out of 14 the cabin to the bow." 15 Do you see that? 16 A. Yes. 17 Q. Have you or your company ever received any information 18 or complaints from any of your crew members of incidents 19 or near misses concerning vessels of Hongkong Electric? 20 A. As far as I'm concerned, I haven't received such 21 information. 22 THE CHAIRMAN: But in your position in the company, do you 23 know of whether or not there's been any such complaint 24 lodged? 25 A. I should know it, but what I mean is that I haven't</p>	<p>1 ought to have done anything to respond to these 2 occurrences. 3 Could I ask you to help us on this. You told us 4 that you have not heard about any report, and if you say 5 you haven't, I can't press you any further on that. But 6 is it possible for you to ask, go back and check with 7 those on board the Sea Smooth that night, who would be 8 the person who might have uttered "Yau hai kong tang"? 9 Because someone identified a crew member as having said 10 so. 11 THE CHAIRMAN: Before you press that question, Mr Shieh, 12 we're anticipating hearing from all of the crew of Sea 13 Smooth, are we not, in due course? 14 MR SHIEH: Yes. I've looked at their witness statements. 15 None of them mentioned anything of that nature. 16 THE CHAIRMAN: Yes. But I think it's probably more 17 desirable, subject to any submissions you have to make, 18 that the enquiry is made here in the open nature of this 19 hearing rather than being done by one witness of 20 another. Subject to anything you have to say. Normally 21 one would not -- 22 MR SHIEH: I see. In other words asking the crew direct, 23 rather than -- 24 THE CHAIRMAN: All of the crew. Someone in a blue uniform, 25 according to this neutral witness, uttered this. Now,</p>

<p style="text-align: right;">Page 109</p> <p>1 who is it? Was it uttered? If it was, why was it 2 uttered? That ought to be an enquiry done here, openly. 3 MR SHIEH: Yes, I can see that. In fact I was toying with 4 various possibilities. Because if none of them actually 5 admit to it, we may have to call Mr Niu or his wife to 6 actually identify the person through an ID parade here. 7 THE CHAIRMAN: Yes. But I think for current purposes, it's 8 better not to be done through one witness of another 9 potential witness. It ought to be done openly here, by 10 you and by the Commission. 11 MR SHIEH: Very well. But the point is in the open because 12 Mr Niu has actually testified. 13 THE CHAIRMAN: Yes. I'm aware of the point. 14 MR SHIEH: Yes. 15 But as far as you were concerned, you had not 16 received any complaint that there had been incidents 17 concerning Hongkong Electric? 18 A. Because in respect of this incident, we have referred to 19 our records and we found that we have never had any 20 incident involving Hongkong Electric. 21 Q. But not just accidents; near misses or dangerous 22 encounters? 23 A. But as you have mentioned just now, if these are not 24 reported, it would be impossible for us to know. 25 THE CHAIRMAN: I was going to pursue this.</p>	<p style="text-align: right;">Page 111</p> <p>1 A. These should be two of the incidents. 2 Q. Two of the incidents? So there are other incidents? 3 A. I believe there are, but these two particular incidents 4 were mentioned in the meetings we held with our members. 5 Q. Let me just recap, and perhaps for the assistance of the 6 Commission, because having been through the documents, 7 I think I know what Mr Ng is trying to say. You mean 8 that in a series of minutes of meetings among crew 9 members and management such as yourself, two incidents 10 were specifically mentioned involving Sea Splash and Sea 11 Splendid, and that's why incidents concerning these two 12 vessels have been extracted and given to us now, even 13 though there may be other incidents the reports of which 14 are yet to be dug out? 15 A. Basically I agree with what you said, but these two 16 incidents were not extracted because the record reminded 17 me about what happened close to the time when the 18 meeting was held. 19 Q. I don't quite follow. Basically the two written 20 reports -- I don't know whether they've been scanned 21 yet, but I think translations are in the course of being 22 done. The reports on Sea Splendid and Sea Splash do not 23 cover the sum total; there are other incidents involving 24 vessels owned by Hong Kong & Kowloon Ferry and Islands 25 Ferry; correct?</p>
<p style="text-align: right;">Page 110</p> <p>1 In, say, 2012, prior to these events, so that's the 2 first nine months of the year, how many incidents were 3 reported by your employee crews whilst at sea? 4 Incidents they'd encountered whilst at sea? 5 A. Mr Chairman, we will furnish you with the relevant 6 information in due course. 7 THE CHAIRMAN: Now is the time to do it, not in due course. 8 Can you help us at all? Do you have any reports of 9 incidents? 10 A. As far as my recollection is concerned, there isn't 11 a lot of them. 12 THE CHAIRMAN: Was there any one? 13 A. I'm sorry, Mr Chairman, I really can't recall. 14 THE CHAIRMAN: Has there been any complaint in the last five 15 years, any reported incident? 16 A. Yes, Mr Chairman. 17 THE CHAIRMAN: Perhaps Mr Shieh will pursue the matter. 18 MR SHIEH: In fact some documents have been handed over 19 after lunch in response to the query made before lunch. 20 Could I simply ask the witness whether he has those in 21 mind. 22 Mr Ng, when you mention reports in the past five 23 years, are you talking about written reports concerning 24 incidents surrounding the vessel Sea Splash, 25 "Hoi Yeung", and Sea Splendid, "Hoi Ching"?</p>	<p style="text-align: right;">Page 112</p> <p>1 A. Agree. 2 MR SHIEH: In fact, just as I was asking, I was handed 3 an email which this time sets out a list of incidents 4 and perhaps some accidents. 5 THE CHAIRMAN: I have that. That's in English. 6 MR SHIEH: That's in English, yes. 7 THE CHAIRMAN: Yes. 8 MR SHIEH: But the two accident reports involving Sea 9 Splendid and Sea Splash were in Chinese. I don't know 10 whether translations have been done yet. 11 THE CHAIRMAN: I don't think so, but we've got the Chinese 12 on the screen. 13 MR SHIEH: Yes. I can perfectly well save the examination 14 on those two particular documents until tomorrow, 15 because I have other questions on a similar topic to 16 pursue. So rather than to ask questions on a document 17 for which no translations have yet been done, I can 18 actually deal with some other subject matter. 19 THE CHAIRMAN: If that's the case, thank you, and please do. 20 MR SHIEH: In the meantime, these will be paginated and put 21 into the Holman Fenwick Willan bundle. 22 Could I now address with you -- going back to your 23 witness statement -- paragraph 9, page 3. You say: 24 "The duties of the engineer include operating and 25 maintaining the engines and other mechanical</p>

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<p>1 equipment ... to ensure the vessel sails in a safe 2 condition. 3 The sailors are mainly responsible for the mooring 4 ropes, cleaning of the vessels and taking care of 5 passengers." 6 Basically you are simply repeating or summarising 7 what was said in the document at page 15 in Chinese, and 8 pages 20 and 21 in English; correct? 9 A. Agree. 10 Q. Before I go further, in fact, I was reminded by 11 Mr Beresford to ask you one question. 12 There is an arrangement between your company and 13 Hongkong Electric sometimes for your company to provide 14 crew members to serve on board Hongkong Electric 15 vessels; correct? 16 A. We do have this agreement in place. 17 Q. On or prior to 1 October, were you aware that in the 18 evening of 1 October, employees of your company would 19 actually be serving on the Lamma II? 20 A. Even though I was on leave and not in Hong Kong at that 21 time, I was aware of this. 22 Q. So you knew that on that evening, there were special 23 arrangements about the special-purpose use of Hongkong 24 Electric vessels in connection with a leisure trip? 25 A. I learnt from my colleague that -- this colleague has</p>	<p>1 Q. I know. I'm talking about reminders or guidelines to 2 Sea Smooth coxswains that when they round Shek Kok Tsui 3 or when they are on the way to Lamma, "Watch out, 4 because you may see vessels that you don't normally see 5 coming up Lamma Channel that evening". 6 A. As I have mentioned previously, we have disseminated the 7 notice by the Marine Department to our crew. 8 THE INTERPRETER: "To our staff", sorry. 9 MR SHIEH: Yes. That deals with how vessels should behave 10 when they are near the restricted area, in the harbour 11 area. But I don't think they would deal with issues of 12 navigation in the Lamma Channel, the area we are 13 concerned with. 14 A. We didn't mention this point in particular, but as 15 coxswain, he should pay attention to the situation of 16 the harbour at all times. 17 THE CHAIRMAN: I think the point being made is this. You 18 had special knowledge, as it were, that there were going 19 to be unusual movements of Hongkong Electric vessels 20 coming into the path, in broad terms, of Sea Smooth 21 because you had provided one of the crews for one of the 22 two vessels, namely Lamma II. But you didn't pass that 23 information on to the coxswain of Sea Smooth. That's 24 what Mr Shieh is asking you. 25 A. Thank you, Mr Chairman. I knew that the Hongkong</p>
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<p>1 been informed by Hongkong Electric that the vessel will 2 be going to a fireworks display. 3 Q. And had any thought been given by the company to -- in 4 view of the fact that first of all it's a fireworks 5 evening, and secondly that Hongkong Electric would be 6 having a leisure boat trip for the purpose of viewing 7 fireworks, had it occurred to you or your company to 8 issue specific instructions to your coxswains concerning 9 issues of safe navigation? 10 A. According to the agreement, as far as our staff were 11 seconded to Hongkong Electric, they would have to comply 12 with the instruction of Hongkong Electric. The reason 13 I say this is because their orders were very often 14 amended. 15 Q. What I mean is, did it occur to you or your company to 16 issue a circular or reminder that, "Oh, this evening is 17 fireworks night and also, beware that there are going to 18 be vessels coming out of the power station that you 19 won't normally see on normal nights. Be careful. Watch 20 out"? 21 A. As far as I knew, a colleague of the shipping section 22 has talked about this with Mr Cheng, the coxswain. 23 Q. Who is Mr Cheng, the coxswain? 24 A. He is Mr Cheng Muk-hei, the coxswain of Lamma II on that 25 night.</p>	<p>1 Electric had a vessel which would go to view the 2 fireworks, but they didn't inform us about the time. 3 MR SHIEH: Mr Chairman, I note the time. 4 THE CHAIRMAN: Yes. 5 MR SHIEH: I'll continue tomorrow. 6 THE CHAIRMAN: Just dealing with that last matter, was your 7 company not told of the scheduled movement of the 8 vessels in order that the crew would know what to do, 9 where to be, when to board the vessel, where to go? 10 A. Yes, Mr Chairman. 11 THE CHAIRMAN: Yes, I thought you might remember that. 12 Perhaps we'll come to that tomorrow. 13 MR SHIEH: Yes. 14 MR ZIMMERN: Just to update the Commission, my instructions 15 changed during the course of the examination and we have 16 now provided Messrs Lo & Lo accident records regarding 17 the subject coxswain of the Sea Smooth, and also the 18 list of accidents and collisions is enlarged to include 19 incidents, I understand, which I think is what has given 20 rise to my learned friend's questions regarding the 21 incidents of Sea Splendid, which two documents were 22 provided at the express request of Mr Shieh. 23 THE CHAIRMAN: Yes. 24 MR ZIMMERN: Should my learned friend want any further 25 documents from the list, then he's certainly welcome to</p>

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<p>1 ask.</p> <p>2 THE CHAIRMAN: Thank you. So amongst the material now</p> <p>3 provided are accident records of the coxswain of Sea</p> <p>4 Smooth; that is to say, the coxswain on 1 October in the</p> <p>5 incident?</p> <p>6 MR ZIMMERN: That is correct, yes.</p> <p>7 THE CHAIRMAN: Thank you.</p> <p>8 Mr McGowan, you were hopeful that you were going to</p> <p>9 provide us with something?</p> <p>10 MR McGOWAN: Yes, sir. Can I just check, because certain</p> <p>11 documents have been passed this afternoon.</p> <p>12 It's the records of the life jacket purchases, the</p> <p>13 receipts.</p> <p>14 THE CHAIRMAN: Yes. I've seen those already. Thank you.</p> <p>15 Mr Mok, if I can come to you again.</p> <p>16 MR MOK: Yes. What we envisage is that the evidence will be</p> <p>17 provided in three tranches. Tomorrow we'll be in</p> <p>18 a position to file a statement dealing with the safety</p> <p>19 appliances, which is a subject which we recently have</p> <p>20 been canvassing in evidence. On Friday, we intend to</p> <p>21 file a further statement dealing with as many of the</p> <p>22 topics as we can within the time limit that we have so</p> <p>23 far. That's on Friday.</p> <p>24 Then after the team has had a short break during the</p> <p>25 Chinese New Year, we hope to be able to finish with the</p>	<p style="text-align: center;">I N D E X</p> <p>1 MR TANG WAN-ON (on former affirmation)2</p> <p>2 Further examination by MR MOK (continued)9</p> <p>3 Further examination by MR BERESFORD19</p> <p>4 Questions by THE COMMISSION24</p> <p>5 (The witness withdrew)28</p> <p>6 DR CHENG YUK-KI (affirmed)28</p> <p>7 Examination by MR SHIEH28</p> <p>8 Examination by MR McGOWAN53</p> <p>9 Further examination by MR SHIEH55</p> <p>10 Questions by THE COMMISSION57</p> <p>11 (The witness withdrew)58</p> <p>12 MR NG SIU-YUEN (affirmed in Punti)58</p> <p>13 Examination by MR SHIEH58</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 rest of the topics maybe sometime at the end of next</p> <p>2 week.</p> <p>3 THE CHAIRMAN: We'll see where we are then on Friday.</p> <p>4 MR MOK: Yes. In the past couple of days I understand that</p> <p>5 part of the team has been diverted to meeting with</p> <p>6 Captain Pryke and dealing with --</p> <p>7 THE CHAIRMAN: Then time is being put to good use.</p> <p>8 MR MOK: That's right -- to deal with specific requests for</p> <p>9 information and discussions with him. That's one of the</p> <p>10 reasons why some of the members have not been put to</p> <p>11 particular use in terms of the drafting --</p> <p>12 THE CHAIRMAN: Thank you for that information. As I say, it</p> <p>13 means time is being put to good use.</p> <p>14 MR MOK: It is.</p> <p>15 THE CHAIRMAN: Thank you.</p> <p>16 Very well.</p> <p>17 Mr Ng, we're going to adjourn now and we'll resume</p> <p>18 tomorrow to continue your testimony at 10 o'clock. May</p> <p>19 I ask you to return so that you're able to resume at</p> <p>20 10 o'clock tomorrow. Thank you very much.</p> <p>21 (4.38 pm)</p> <p>22 (The hearing adjourned until 10 am on the following day)</p> <p>23</p> <p>24</p> <p>25</p>	