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<p>1 Friday, 22 February 2013 2 (10.00 am) 3 MR LEUNG TAI-YAU (on former affirmation in Puntì) 4 (All answers via interpreter unless otherwise indicated) 5 Examination by MR GROSSMAN (continued) 6 THE CHAIRMAN: Good morning, Mr Leung. 7 A. Good morning. 8 THE CHAIRMAN: May I remind you, before you continue with 9 your evidence, that you do so according to the 10 affirmation that you took yesterday. 11 A. Yes, I understand. 12 THE CHAIRMAN: Mr Grossman. 13 MR GROSSMAN: Thank you. 14 Good morning, Mr Leung. When we broke yesterday, we 15 were looking at your statement and we'd just finished 16 reading your paragraph 3. I want to continue now with 17 paragraph 4: 18 "I am physically fit and completed my last company 19 medical check on 9 August of last year. Company medical 20 checks are done every 2 years. Starting this year 2013, 21 all marine crew would have yearly check-up and I had 22 mine on 10 January 2013 and the result was normal." 23 Is that all correct? 24 A. Yes. 25 Q. Then you say:</p>	<p>1 Q. Then you say: 2 "Routinely we have weekly (every Saturday) emergency 3 training when we start the fire pump and test all the 4 fire hoses. This is usually done in the morning around 5 10 am and takes about 30 minutes to 1 hour. In addition 6 on the last Friday of each month I (if I am on duty) 7 would be responsible for performing demonstrations to 8 the passengers on how to don a life jacket properly. 9 I do this on 2 morning sailings and do the 10 demonstration on both main deck (both forward and back 11 cabins) and upper deck passenger saloons. It would take 12 me about 3 minutes to complete each demonstration, 13 explaining how to wear and tie the strings properly. 14 Normally it would take me less than a minute to properly 15 don a life jacket on myself, but passengers may require 16 a longer time. On both Lamma IV and Lamma II there were 17 life jackets under every seat in the passenger saloons. 18 There were also about 33-35 life jackets stored in the 19 crew room and another one in the wheelhouse on Lamma IV. 20 The number of life jackets on board exceeded the maximum 21 number of persons the vessel was allowed to carry which 22 was 232." 23 I just pause here to ask you this. When you talk of 24 life jackets, are those adult life jackets and/or 25 children's life jackets? In other words, were there any</p>
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<p>1 "No vessel on which I have previously worked has 2 been involved in a serious marine accident such as 3 a collision or grounding. Neither have I previously 4 been warned, cautioned or prosecuted by the Marine 5 Department, or any other statutory authority, for 6 infringement of any Ordinance or Regulation. Nor have 7 I been the subject of any disciplinary action by my 8 employer. I have no criminal record." 9 A. Yes. 10 Q. You then turn to deal with your duties. You say: 11 "My normal working hours follow the roster but 12 generally involve working from 8 am to 6 or 8 pm. 13 Typically I work between 42 and 50 hours a week. We 14 usually take rest at the jetty crew room when we are not 15 sailing during our shift." 16 Is that right? 17 A. Correct. 18 Q. I now move to paragraph 8: 19 "My duties on board involve tying up and untying 20 mooring lines when entering and leaving port, counting 21 the number of passengers on board before any sailing and 22 entering the number in the log book, looking after 23 passengers when on board, keeping a look-out at sea, and 24 generally assisting the coxswain and engineer." 25 A. Yes.</p>	<p>1 children's life jackets on board? 2 A. According to my knowledge, there is only one kind, one 3 style of life jacket. 4 Q. In your experience working for Hongkong Electric on the 5 vessels, have you ever seen children's life jackets? 6 A. No, I have never seen them. 7 Q. Then you carry on: 8 "Each life jacket was put in a thin plastic bag and 9 stored in an open velcro tape and nylon bag. The 10 plastic bags are very thin and can be torn easily. 11 I find the life jackets easy to access. We would do 12 a visual check every time we get on board to make sure 13 that the life-saving equipments, which also include the 14 inflatable life raft and lifebuoys on the open deck were 15 present and stored properly." 16 I'd like to show you some photographs, please, in 17 marine bundle 12, starting at page 4905. 18 On this page, can you tell us what we see in the top 19 photograph, first of all? 20 A. Yes, I'm looking at it now. 21 Q. Yes. Are there life jackets stored anywhere shown on 22 this photograph? 23 THE CHAIRMAN: We know where the life jackets are stowed, 24 Mr Grossman. Why don't you take him to that photograph? 25 MR GROSSMAN: I'm going to. But my understanding -- well,</p>

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<p>1 let me not say what my understanding was. But there may 2 be a possible relevance to the top photograph. 3 THE CHAIRMAN: Very well. 4 MR GROSSMAN: I'm sorry, I didn't hear the answer. 5 A. The photograph I'm looking at here, that you pointed to 6 me, the room is used to store various miscellaneous 7 objects such as cables. 8 Q. All right. Let's look at the bottom one on page 4905. 9 The door at the bottom, we've seen some Chinese writing 10 which we've been told says "15 life jackets". 11 A. Yes, I can see the words. 12 Q. How many life jackets are stored in each? 13 A. 10 in each of these cabins. 14 THE CHAIRMAN: How many lockers were life jackets stored in, 15 10 in each? 16 A. Four lockers. 17 MR GROSSMAN: If we go to page 4907 -- let me just go back 18 a minute. I'm told that what the witness said in 19 Cantonese was "the bottom two lockers have 10 each". Am 20 I right? 21 A. Yes. 22 Q. And the top lockers? 23 A. The upper two lockers, we have seven life jackets in 24 each, wrapped in plastic. 25 Q. I see. If we go to page 4907, we see photographs of the</p>	<p>1 sentences after that. Do you have it? 2 A. Yes, I can see it. 3 Q. "Us 3 crew members stayed and rested on board or around 4 the pier. We had our dinner in the jetty crew room. We 5 did not consume any alcohol. After dinner I took a walk 6 around the pier up to No. 1 berth and I remember that 7 I took a look at the Lamma IV and I saw that her 8 navigation lights were on (both red and green lights and 9 white masthead light)." 10 In paragraph 13, you deal with the people coming 11 back on board at 7.30. I want to go through it until 12 you see the figure "8.15 pm". 13 A. Yes, I can see it. 14 Q. Yes. You say: 15 "Some of the passengers went back onto the pier, 16 which meant I had to count them back on board again. 17 With everybody back on board I then went forward to 18 untie the forward mooring lines as instructed by the 19 coxswain. The wheelhouse and upper deck cabin lights 20 were switched off when we set sail. The main deck cabin 21 lights remained on." 22 All right so far? 23 A. Yes. 24 Q. In paragraph 14, you say: 25 "After untying the lines I made my way to the</p>
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<p>1 life jackets at the bottom, in the bottom locker. 2 A. Yes. 3 Q. Is this how they were normally stored? 4 A. Yes. 5 Q. Would there be any difficulty in taking them out? 6 A. No. 7 Q. Thank you. I want to go to the events of 1 October 8 2012. I'll start at paragraph 12. After you've 9 explained what happened in the earlier paragraphs about 10 the day's events, you go on to say this -- you've 11 explained in the earlier paragraphs, which I'm leaving 12 out. 13 "We then sailed to the public pier near the clock 14 tower in Tsim Sha Tsui and took on board about 40-50 15 passengers at about 1.30 pm. Among them was a company 16 staff named Lai Ho-yin. He introduced himself to us as 17 one of the organisers. I forgot whether he was wearing 18 a company logo t-shirt or not. He was holding a piece 19 of paper in his hand and he counted the numbers of 20 people on board. I also counted and wrote the numbers 21 on the log book which I believe was lost overboard due 22 to the collision." 23 After that, in this paragraph, you deal with what 24 happened on board. I want to go towards the end, when 25 you see the figure "8 pm". I just want to deal with the</p>	<p>1 wheelhouse to make a record in the deck log regarding 2 the number of passengers on board and the weather 3 conditions as is the normal practice. I entered the 4 main deck passenger saloon through the starboard door 5 and closed it after me. I checked the port side door 6 was closed and then went upstairs. The passengers moved 7 around after the vessel set sail. I estimated there 8 were about 20-odd passengers in the forward end of the 9 main deck passenger saloon and about 20-odd in the aft 10 end. The rest were on the upper deck with about 50-odd 11 but definitely not over 60 in the passenger saloon (as 12 I recall there were 63 seats but not all were occupied 13 and there were some empty seats) and about 20-odd on the 14 sun deck. Generally, during the normal sailing, there 15 would only be a few people who would sit at the sun 16 deck. Very rarely would all the seats on the sun deck 17 be occupied. Normally I would not expect a lot of 18 people sitting or standing on the sun deck and I would, 19 if that happens, ask them to go back to the cabins and 20 get seated, but since this was a fireworks display 21 excursion, naturally people would want to sit on the sun 22 deck to see the fireworks. After making the entry in 23 the log book I then went back into the upper deck 24 passenger saloon to check on the passengers and that the 25 air-conditioning was working well."</p>

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<p>1 Just to confirm this, when you talk of the log book 2 in this sentence, you're talking about the one that was 3 lost in the accident? 4 A. That's right. 5 Q. "Having done rounds of the upper and main deck passenger 6 saloons, which took about 2 to 3 minutes I made my way 7 back to the wheelhouse to help keep a look-out. The 8 upper deck passenger saloon was dark at that time and 9 I noticed that many of the passengers that had been 10 there before had either gone below (I remember some 11 passengers/children saying that they were not 12 comfortable with the lights out) or out onto the sun 13 deck, but there were also people who came inside from 14 the sun deck. 15 We had cleared the typhoon shelter by the time I had 16 completed my rounds and I noted we were west of Yung 17 Shue Wan. The wheelhouse door was open. I saw Lai 18 Ho-yin standing outside the wheelhouse when I was 19 heading there. As I entered the wheelhouse I spoke 20 a few words to the coxswain saying that everything in 21 the cabins was normal." 22 I just pause here to ask you, did you see the 23 engineer, Mr PS Leung? 24 A. I didn't notice him. 25 Q. Then you carry on:</p>	<p>1 yellow light, red and green sidelights and white 2 masthead light. I estimate it was about 300 metres 3 distant and heading straight at us. I said to the 4 coxswain that a ship was moving towards us at high speed 5 on the left. I noticed he steered Lamma IV to starboard 6 (but I could not see whether he was using the steering 7 wheel or the joystick to turn) in an attempt to avoid 8 that ship but I don't know if he was already turning or 9 turning in response to my warning. It was a hard and 10 noticeable turn as I could see that we were turning 11 right relative to the Shek Kok Tsui lighthouse. However 12 the other ship struck our port side astern and the whole 13 ship shook. It was dark in the wheelhouse so I did not 14 see whether the coxswain had decelerated by pulling the 15 control lever or pressed the horn button on his right." 16 A. Yes. 17 Q. Just let me ask you this. You say you didn't see what 18 the coxswain was doing. Could you feel whether or not 19 the ship was decelerating? 20 A. I was in a panic then. I didn't notice it. 21 Q. Do you remember whether or not you heard the sound of 22 the horn, the whistle? 23 A. No, not sound or alarm. I didn't hear any of it. 24 Q. Then you go on to say: 25 "I immediately ran back through the upper deck</p>
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<p>1 "I then stood behind the coxswain. He said to me 2 there was a vessel ahead coming directly at us." 3 I just pause there to ask you this. Before the 4 coxswain said anything to you, had you noticed this 5 vessel ahead of you? 6 A. I was in the passenger cabin. I didn't notice it. 7 THE CHAIRMAN: But now you're in the wheelhouse, and you're 8 having a conversation with the coxswain. That's the 9 question. Prior to the coxswain saying to you that 10 there was a vessel coming directly at you, had you seen 11 the vessel? 12 A. I didn't notice it. When I had walked in the 13 wheelhouse, I told the coxswain that things were normal 14 in every cabin. 15 THE CHAIRMAN: After the coxswain had told you that there 16 was a vessel coming directly at you, did you see that 17 vessel? 18 A. After the coxswain told me that a ship was coming 19 directly at us, I followed his word and I did see that 20 a ship was coming at us. 21 THE CHAIRMAN: Thank you. 22 MR GROSSMAN: In fact, your next sentence says: 23 "I immediately noticed through the first window to 24 the left of the middle window a catamaran sailing 25 towards us at high speed. I could see its flashing</p>	<p>1 passenger saloon onto the sun deck and saw that many 2 passengers had fallen and were injured. I also saw the 3 other ship which hit us. She was not too far away from 4 us and not moving. I asked the other passengers to take 5 care of the injured ones and ran down to the main deck 6 passenger saloon to check the passengers there. The 7 port side false ceiling had collapsed and there were 8 injured passengers there as well and so I again told the 9 other passengers to look after them. I then ran back up 10 the main staircase to the upper deck passenger saloon. 11 When I ran up the stairs, the Lamma IV has started 12 to tilt by the stern and all the lights went out. The 13 coxswain was standing inside the cabin outside the 14 wheelhouse and he yelled to the passengers to wear life 15 jackets. When I looked back towards the stern the other 16 ship was about 100 feet away from us." 17 A. 100 feet, yes. 18 Q. "I went to the upper passenger saloon and saw that the 19 water level was rising quickly into the saloon trapping 20 passengers inside. 21 I saw children at the last row on the port side. 22 I instinctively went there immediately to help them wear 23 life jackets. There was a girl and a boy aged 24 respectively about 7/8 and 5 accompanied by a man who 25 I believed to be their father. I took out two life</p>

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<p>1 jackets under the seats and I helped the girl stand on 2 the seat so that I could put on the life jacket for 3 her." 4 I just pause here to ask you this. Did you have any 5 difficulty putting the life jacket on the little girl? 6 A. No, no difficulty. 7 Q. You then say: 8 "I told the man to do the same for the boy. The man 9 did not get a life jacket for himself. At this point, 10 some people came inside the cabin from the sun deck. 11 I helped the girl fully put on and tie the life jacket 12 in less than a minute. The ship kept tilting at the 13 time and water kept flooding in from the sun deck and 14 also through the staircase from the main deck as the 15 vessel kept sinking. The man donned a life jacket on 16 the boy but had not yet tied the strings so I took over 17 and finished tying his life jacket in about half 18 a minute. The life jackets fitted on both children all 19 right. 20 I was facing the back of the ship and at this point, 21 I started to hear the chairs behind me falling row by 22 row. There were about 3 people still sitting on the row 23 of seats right behind me and those seats fell as well 24 and collapsed on my right leg. The water was rising 25 quickly and soon reached above my chest. The children</p>	<p>1 I then saw a life raft which was opened and ahead of us 2 about 100 feet away. I believed it was the life raft 3 from the Lamma IV. No-one was on the life raft at that 4 time and we swam there. The current was quite fast and 5 we had to swim a rather long way as the raft was also 6 drifting. The man and I then helped the kids to get on 7 the raft. I then simply held onto the raft by the side 8 in the water. Eventually there were altogether about 9 5 to 10 people who got onto the raft, some holding 10 lifebuoys, some wearing life jackets, some without 11 anything. We were eventually saved by the Marine Police 12 or Firemen." 13 One last question, Mr Leung. Were you injured? 14 A. Yes, I was. 15 Q. In what way? 16 A. My right leg was hurt because it been trapped by the 17 chairs. 18 Q. Were you treated in hospital? 19 A. Yes, I was treated at Queen Mary Hospital. They 20 bandaged up my wounds and then they gave me a shot for 21 anti-virus. 22 MR GROSSMAN: Thank you very much. No further questions. 23 Someone else may wish to ask you questions. 24 THE CHAIRMAN: Mr Sussex, do you have an application? 25 MR SUSSEX: Mr Chairman, I do. With your permission, I'd</p>
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<p>1 whom I helped to wear life jackets were floating in the 2 water." 3 Just to clarify, was this the water inside the 4 cabin? 5 A. Yes. 6 Q. "The upper deck doorway to the sun deck which was 7 initially opened had been closed because of the water 8 flooding in. As my leg was trapped I asked the man to 9 push off the chairs for me. I opened the 10 second-from-aft window on the port side to help the two 11 children outside, then the man. I had to stand on the 12 collapsed chairs at that time. 13 After I helped the 2 children and the man out, I saw 14 another girl about 4 to 5 years old without a life 15 jacket near me trying to escape and she was drowning and 16 yelling for help. I immediately grabbed her and 17 I thought for a second whether I should stay with her 18 inside or swim out. I then decided to go out otherwise 19 we will all be drowned. I know how to swim. I did not 20 wear a life jacket. If I did, I would not be able to 21 climb through the window. 22 I pushed the girl out first and I then went out to 23 help her. I held her in my right arm and I also caught 24 hold of the girl with a life jacket whom I helped 25 previously with my left arm. The man grabbed the boy.</p>	<p>1 like to ask this witness some questions about his 2 sighting of the navigation lights on board the vessel -- 3 this is the Lamma IV, of course -- before she sailed 4 from the Hongkong Electric typhoon shelter. 5 THE CHAIRMAN: Yes. 6 MR SUSSEX: Also I'd like to deal with his observations in 7 the moments leading up to the collision, and lastly 8 I want to touch upon the question of the status of the 9 power on the vessel following the collision. 10 THE CHAIRMAN: Yes. Please ask those questions. 11 Examination by MR SUSSEX 12 MR SUSSEX: Mr Leung, with one minor exception concerning 13 the number of passengers in the upper deck passenger 14 saloon, you confirm the truth of the various written 15 statements which appear in the bundles before the 16 Commission? That's right, isn't it? 17 A. Yes. 18 Q. You made a statement to the police on 2 October which 19 was the day immediately following the casualty, and 20 you've said that that is true and you don't want to make 21 any amendments? 22 A. Yes. 23 Q. You were also taken to the notes of the interview you 24 had with the Marine Department on 1 November 2012, and 25 you said that that is all true, and you don't want to</p>

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<p>1 make any amendments to that? 2 A. Yes. 3 Q. In giving that confirmation, have you actually read 4 those statements recently? 5 A. Yes, I have. 6 Q. And you've also confirmed that the statement you gave to 7 Reed Smith Richards Butler is true? 8 A. Yes. 9 Q. I'm right, am I not, that you have sailed pretty 10 regularly with Coxswain Chow? 11 A. Yes. 12 Q. For how many years have you been sailing with him? 13 A. For the last two years I have been partnered up with 14 Coxswain Chow at Hongkong Electric. 15 Q. Just touching upon a few points. 16 In paragraph 12 of your statement given to Reed 17 Smith Richards Butler, you say that on 1 October 2012, 18 after dinner, you took a walk along the Hongkong 19 Electric pier up to berth 1. 20 A. Yes. 21 Q. Could I just ask you to go to police bundle O at 22 page 4654-2. Am I right that when you went out for this 23 walk after dinner, Lamma IV was tied up at berth 2, 24 starboard side to? 25 A. Yes.</p>	<p>1 THE CHAIRMAN: What time was this? 2 A. Around 6 o'clock. 3 THE CHAIRMAN: That's 6 o'clock in the evening, obviously? 4 A. 6 o'clock in the dusk. 5 THE CHAIRMAN: Thank you. 6 MR SUSSEX: After the vessel sailed from the Hongkong 7 Electric typhoon shelter, it was some two to three 8 minutes before you got to the wheelhouse; is that right? 9 A. Can you repeat the question? 10 Q. Yes. And I think this is tolerably clear from your 11 statement to Richards Butler. You said in paragraph 15: 12 "Having done rounds of the upper and main deck 13 passenger saloons, which took about 2 to 3 minutes 14 I made my way back to the wheelhouse to help keep 15 a look-out." 16 A. Yes, I can see it. 17 Q. Now, it's right that you didn't start doing those rounds 18 until you'd helped cast off from berth 2; is that right? 19 A. Yes, that's right. After the boat had set sail, then 20 I started to do my rounds. 21 Q. Right. So am I right to infer that it was about two to 22 three minutes after sailing that you went to the 23 wheelhouse? 24 A. After the ship had set sail, I took the entered entries 25 in the log book, and then after that I did my rounds.</p>
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<p>1 Q. And where do you say you walked to on the pier? 2 THE INTERPRETER: The witness has drawn a line on the 3 drawing showing where he took dinner, and the route he 4 took for his walk. 5 THE CHAIRMAN: Very well. Please show it to counsel. 6 (Handed). 7 Just for the record, the line you've drawn in black 8 begins slightly to the left of what's described in the 9 legend as "coxswain house". You then take it in an arc 10 of a circle, so that it goes around the legend "armoured 11 cable", and then it comes back to what appears to be the 12 pier itself at a point that is to the left of berth 1 13 and slightly down from it. 14 MR SUSSEX: And it's right, is it not, that the Lamma II was 15 tied up alongside berth 1? 16 A. I don't understand what you mean. 17 Q. Well, you've told us earlier that Lamma IV was tied up 18 alongside berth 2. 19 A. Yes. 20 Q. But there was another vessel tied up ahead of her, 21 wasn't there? 22 A. No, it's not right. 23 Q. I see. So is it your evidence that there was no vessel 24 ahead of the Lamma IV? 25 A. At that time, there was no vessel ahead of it.</p>	<p>1 Q. Right. So am I right or am I wrong, it's about two to 2 three minutes after sailing that you arrived at the 3 wheelhouse? 4 A. Actually I have been in the wheelhouse two times. 5 THE CHAIRMAN: Where were you when you filled in the log 6 book? 7 A. After I untied the mooring lines, and set it in place, 8 I closed up the right side door and then I walked inside 9 the wheelhouse and started taking entries on the log 10 book. After that, I climbed up the stairs to go toward 11 the main passenger deck there, and then I did my rounds, 12 to take a look at the passengers both in the front and 13 then in the back part. 14 MR SUSSEX: Right. If we go to the police statement which 15 you made on the day following the casualty -- 16 THE CHAIRMAN: It's a record of interview, is it not? 17 MR SUSSEX: No, I mean the police statement. 18 THE CHAIRMAN: Thank you. 19 MR SUSSEX: This is the police statement of 2 October which 20 is in police bundle M, starting at page 3338. The 21 translation is at page 3343-1. 22 You say about two-thirds of the way down the page in 23 the translation -- the Chinese starts at page 3338, and 24 it's in paragraph 4. The passage that I'm concerned 25 with starts "Then I cast off and shut the doors". Can</p>

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<p>1 you find that? 2 THE CHAIRMAN: It must be about two-thirds of the way 3 through that paragraph. 4 MR SUSSEX: Yes. 5 THE CHAIRMAN: It might help if you pick the up time. 6 8.15 pm. 7 MR SUSSEX: 8.15 pm. It says: 8 "Then the captain decided to start sailing at 9 8.15 pm and broadcast the message to the passengers. As 10 there were many children on board, I watched over them 11 at the passenger cabin until the time was up." 12 It's on page 3341, lines 4-5. It's a small point 13 I'm making, but you make it clear here that you did in 14 fact make two visits to the wheelhouse: 15 "Then I cast off and shut the doors. I went up to 16 the wheelhouse and reported to the captain that there 17 were 121 passengers. I made an entry in the log 18 navigation book. The captain set sailing. I also 19 checked the situation of the passenger cabin once more 20 and about two to three minutes later, I returned to the 21 wheelhouse to act as a look-out." 22 Do you confirm that that's an accurate record? 23 What I suggest to you is not accurate is the 24 sentence that then follows. 25 THE CHAIRMAN: I think we must make sure that Mr Leung has</p>	<p>1 "At the time of vessel collision, which part of the 2 wheelhouse were you at?" 3 And your answer as recorded here is: 4 "I had already patrolled past the cabins and 5 intended to enter the wheelhouse to act as a look-out. 6 Once I opened the door, I saw the vessel approaching us 7 very quickly. Therefore I immediately alerted the 8 captain and he steered to avoid it." 9 THE CHAIRMAN: Your question, Mr Sussex? 10 MR SUSSEX: My question is this. You've said that the door 11 was open. You have stated there that you opened the 12 door. Was the door open or closed? 13 A. Because when I was making the statement, I was blank in 14 my mind. I did not have a good memory. And I said the 15 door was open. 16 THE CHAIRMAN: So what was the position in fact? What was 17 the position as a matter of fact? 18 A. When I was making the statement, I was blank in my mind 19 and I couldn't recollect whether the door was open. 20 THE CHAIRMAN: Just to put this into context, this was 21 a statement that you gave at 5.15 in the morning of what 22 was now 2 October 2012; is that right? 23 A. Yes, correct. 24 MR SUSSEX: So are you saying that the police statement is 25 the inaccurate statement --</p>
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<p>1 seen the passage. 2 Could we have this passage drawn to his attention? 3 That requires you to read it in Cantonese. 4 A. Yes, correct. 5 MR SUSSEX: Now, the sentence that then follows -- it may be 6 a bad translation -- reads: 7 "Then the vessel departed from Lamma Island Power 8 Station." 9 Well, the point I'm trying to make is by the time 10 you returned to the wheelhouse for a second time, the 11 vessel had departed, had already sailed from Lamma 12 Island and had been sailing for about two to three 13 minutes; is that not right? 14 A. After three minutes. 15 Q. Yes, three minutes. Right. 16 Now, when you got to the wheelhouse, you say in 17 paragraph 16 of your Richards Butler statement: 18 "The wheelhouse door was open." 19 A. Yes. 20 Q. Could I ask you to go back to police bundle M, in the 21 statement we were just looking at, the answer to 22 question 1. It's in translation at page 3343-4, and 23 it's on page 3342 in the Chinese. 24 A. Yes. 25 Q. You were asked:</p>	<p>1 A. No, I wasn't saying that. I'm just saying that my 2 memory was not very clear. 3 Q. On 2 October? 4 A. I was making the statement a few hours after the 5 incident, that is 5 o'clock in the morning. 6 Q. So which is the accurate version? Was the door open, or 7 did you have to open it? 8 A. The door was open. 9 Q. Right. You also remember that you said in answer to 10 that first question: 11 "Once I opened the door, I saw the vessel 12 approaching us very quickly." 13 A. Yes. 14 Q. And yet in answer to a question from the Chairman today, 15 you said you didn't see the vessel until the coxswain 16 drew it to your attention. 17 MR GROSSMAN: Mr Chairman, to put that into context, he said 18 as soon as he got into the cabin, and he said everything 19 was -- as soon as he got into the wheelhouse, he said 20 everything was all right below with the passengers. 21 THE CHAIRMAN: Yes. I follow that. 22 Frankly, Mr Sussex, this slide-rule approach to the 23 detail is unlikely to be of much assistance to the 24 Commission. 25 MR SUSSEX: Well, I trust the Commission will bear with me</p>

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<p>1 because I certainly want to get it on the record. 2 THE CHAIRMAN: If you have a point, proceed. But I can tell 3 you now that the Commission takes on board what Mr Leung 4 has said about the time, the circumstances in which he 5 made his first statement, hours after he'd been sunk in 6 a vessel and escaped through a window to a raft, helping 7 others to survive. 8 MR SUSSEX: Yes. 9 A. Yes. 10 Q. Could I ask you then to go back to page 3343-3 in the 11 translation. The passage that I want is: 12 "When we travelled to the west of Yung Shue Wan, 13 I suddenly found a catamaran approach us at a high speed 14 at a distance of 300 metres from the port side. Then 15 I immediately alerted the Captain by saying, 'Port side, 16 a vessel is approaching us very quickly.' The Captain 17 immediately turned starboard to avoid it." 18 THE INTERPRETER: Was it the police bundle you're referring 19 to? 20 MR SUSSEX: I'm referring to police bundle M. 21 THE CHAIRMAN: It's towards the end of paragraph 4 of that 22 police statement. 23 If you pick up the numeral "300 metres", that may 24 help you locate it. 25 THE INTERPRETER: Yes, we've got it.</p>	<p>1 A. When he was turning right, turning starboard, I wasn't 2 looking at him because it was about 300 metres away. 3 Q. I'm sorry, I'm just asking you about the sequence of 4 events. You say that you said to the master, "Port 5 side, a vessel is approaching us very quickly", and then 6 the master immediately turned starboard to avoid it. 7 Is that inaccurate? 8 A. Yes. I don't know when he started the starboard 9 movement, because I wasn't looking at him. I couldn't 10 see him. 11 Q. All right. You say: 12 "However, the other party bumped against our port 13 side stern very quickly." 14 This is page 3343-4 in translation, at the top of 15 the page. 16 A. Yes. 17 Q. What do you mean by "very quickly"? 18 A. In a matter of seconds. 19 Q. In a matter of seconds. So following your sighting of 20 the vessel, your warning to the master, the collision 21 occurred in a matter of seconds; is that right? 22 A. No, it's not correct. 23 Q. All right. In what respect is it not correct? 24 A. 10 to 20 seconds later, then the collision happened. 25 Q. 10 to 20 seconds after you saw --</p>
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<p>1 MR SUSSEX: In both those passages in the police statement, 2 you state that it was you who alerted the coxswain to 3 the presence of the other vessel. 4 A. After I do my rounds and finish my normal duties and 5 then the captain told me that there was a ship coming at 6 us, after he told me this, and then I told him that, 7 yes, the ship was coming at us. 8 Q. So you're now saying that he told you there was a ship 9 coming towards you? 10 A. Yes, the captain told me that the ship was coming at us. 11 Q. Well, the answer that you gave to the police on 12 2 October was -- they said: 13 "Well, what response did the captain make? 14 Answer: He only steered and did not give any blast 15 or no other action. He also answered me, 'Yes. Don't 16 know why the vessel travels so near.' 17 This is question and answer 3, page 3343-5. 18 A. That's what my statement says. 19 Q. Right. And is it right? Is it correct? 20 A. Correct. 21 Q. It is correct? 22 A. Yes, it is. 23 Q. So let me just make sure I understand. Do you still say 24 that it was after you had spoken to the master that he 25 turned to starboard to avoid the vessel?</p>	<p>1 A. 10 to 20 seconds. 2 Q. After you saw the vessel? 3 A. Correct. 4 Q. So is that what you mean by "very quickly"? 5 A. Yes. 6 Q. Could I ask you to go to your Marine Department notes of 7 interview, which is marine bundle 1. In Chinese it 8 starts at page 40; in translation, it's at page 63-1. 9 The passage I want to draw your attention to starts: 10 "After unberthing, I returned to the wheelhouse and 11 saw that it was the coxswain who was operating the 12 vessel. When I was standing behind the coxswain and 13 maintaining a look-out, I saw there was in front of our 14 vessel a vessel with its navigation lights on. I saw 15 the red light, the green light and the mast light. The 16 position was about 10-20 degrees on our port side." 17 This statement was given a month after the 18 collision. Is that accurate? 19 A. Yes, it is accurate. 20 Q. That's accurate? So when you first saw the vessel, you 21 saw her on your port side at an angle of some 10 to 22 20 degrees; is that right? 23 A. Correct. 24 Q. You then say: 25 "It was then that the coxswain said that a vessel</p>

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<p>1 was sailing towards us. Before he could turn the 2 steering wheel, the vessels had already collided in 3 dozens of seconds." 4 First of all, can I confirm that that's an accurate 5 translation? 6 "It was then that the coxswain said that a vessel 7 was sailing towards us. Before he could turn the 8 steering wheel, the vessels had already collided in 9 dozens of seconds." 10 THE INTERPRETER: Counsel, should I translate the Chinese 11 again? 12 MR SUSSEX: Yes, please. That would be helpful. 13 THE INTERPRETER: Okay. 14 "At that time the coxswain had said that there was 15 a boat/vessel coming at us, and before he could manage 16 to turn his wheel, about 20 seconds or" -- 17 MR SHIEH: "Several ten seconds". 18 THE INTERPRETER: -- "several tens of seconds, then the 19 collision." 20 MR SUSSEX: And then you say: 21 "Before the collision, I felt that (the coxswain) 22 had steered starboard without accelerating or 23 decelerating." 24 Is that right? 25 THE INTERPRETER: Does it follow?</p>	<p>1 see what he was doing. 2 Q. You say in that paragraph, paragraph 16 of the statement 3 prepared with the assistance of Reed Smith Richards 4 Butler: 5 "It was dark in the wheelhouse so I did not see 6 whether the coxswain had decelerated by pulling the 7 control lever or pressed the horn button on his right." 8 A. Yes, I'm looking at the statement. I can see the 9 sentence. 10 Q. And is that accurate, that part? 11 A. Correct. It's accurate. 12 Q. Now, you've said that you didn't hear a horn signal or 13 a whistle signal. 14 A. That's right, I couldn't hear any of it at that time. 15 Q. Could I ask you, then, to go to the notes of interview 16 with the Marine Police. This in translation is at 17 page 63-4, where you record: 18 "I heard the coxswain say he had sounded the horn 19 before I entered the wheelhouse. That's why ..." 20 THE CHAIRMAN: This is the notes of interview of the Marine 21 Department, not the police. 22 MR SUSSEX: Sorry, the Marine Department, not the police. 23 The notes of interview of the Marine Department, in 24 translation at page 63-4, about halfway down the page. 25 It's page 43 in the Chinese.</p>
Page 30	Page 32
<p>1 MR SUSSEX: It's the next sentence but one. 2 THE INTERPRETER: Okay. 3 A. That's what I said when I was making the statement. 4 MR SUSSEX: Right. And is it accurate? 5 A. Because at that time my attention was all on the vessel 6 coming at us, I didn't pay attention, didn't notice any 7 movement or action taken by the captain. 8 Q. You didn't notice any movement taken by the captain? 9 A. That's right. 10 Q. You see, in paragraph 16 of your statement to Reed Smith 11 Richards Butler you say, "It was a hard and noticeable 12 turn". 13 THE CHAIRMAN: That's the statement prepared with the 14 assistance of Reed Smith Richards Butler? 15 MR SUSSEX: Yes. 16 A. Yes, I did say that. 17 THE CHAIRMAN: You see, on the one hand, you tell us, 18 perhaps understandably, your concentration was on the 19 vessel that you saw was coming straight at you, and not 20 on the actions of the captain. Is that in fact the 21 case, that that's what you were concentrating on, not 22 the captain, what he was doing? 23 A. Correct. 24 MR SUSSEX: So you didn't notice what the master was doing? 25 A. Because I was behind the coxswain and I was not able to</p>	<p>1 You say: 2 "I heard the coxswain say he had sounded the horn 3 before I entered the wheelhouse." 4 When did you hear the coxswain say that? 5 THE CHAIRMAN: Well, may I suggest we pursue this one first: 6 is that in fact true, that the captain said that? 7 Remember you're giving evidence on affirmation. 8 A. Because I was in the lower deck doing my rounds, 9 I couldn't hear any horn or sounding. 10 THE CHAIRMAN: No, you were asked this specific question. 11 Please focus on it. When you were in the wheelhouse, 12 did the captain say to you that he had sounded the horn? 13 Think carefully about this. 14 A. No, he didn't say that at that time. 15 MR SUSSEX: Are you there recording a conversation which 16 occurred after 1 October? 17 THE INTERPRETER: Sorry? 18 MR SUSSEX: Are you there recording a conversation with the 19 master which occurred after 1 October? 20 THE INTERPRETER: I don't really understand your question. 21 THE CHAIRMAN: Is this assertion that the captain made not 22 something he said in the wheelhouse that night, as 23 you've just confirmed, but something he said to you 24 later on in one of your conversations perhaps? 25 A. Yes.</p>

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<p>1 MR SUSSEX: And would I be right that you and Coxswain Chow 2 have in fact discussed the events of that night? 3 A. No. 4 MR SUSSEX: Would that be a convenient moment? 5 THE CHAIRMAN: Yes, certainly. 6 Mr Leung, we're going to take a 20-minute break now 7 and I'd ask you to be back so that you can resume your 8 testimony in 20 minutes. 9 Thank you. 10 (11.32 am) 11 (A short break) 12 (11.52 am) 13 THE CHAIRMAN: Mr Leung, let me remind you again you 14 continue to testify according to your affirmation. Do 15 you understand? 16 A. Yes, I do. 17 THE CHAIRMAN: Yes, Mr Sussex. 18 MR SUSSEX: In the police statement which you gave on 19 2 October last year, you were asked at question 8 -- 20 that statement in the Chinese starts at page 3338. It's 21 question 8, right at the end. In the English 22 translation, it's page 3334-6. 23 You were asked: 24 "Well, where was the launch mechanic at the time of 25 the vessel collision?"</p>	<p>1 collisions. 2 THE CHAIRMAN: Thank you, please ask the questions. 3 Examination by MR SHIEH 4 MR SHIEH: Mr Leung, good morning. 5 A. Good morning. 6 Q. I wish to ask you first of all questions about your 7 radar training. You say in your statement that you have 8 no strong recollection of having attended the radar 9 course which appeared in your company's records. 10 A. At that time, I don't have recollection of it. 11 Q. Could I show you some documents. Could I have RSRB 12 bundle 1. The Chinese is page 373; the English is 13 page 409. 14 Let me tell you what this document is. This is 15 a document produced by Mr Tang Wan-on of Hongkong 16 Electric. You know the name "Tang Wan-on"? 17 A. Yes, I know it. I know the name. 18 Q. He said he designed a radar course and he produced this 19 manual, training manual. I wish to ask you whether or 20 not you have any recollection of having seen this 21 manual. You can actually take a look at the hard copy 22 in the bundle and flip through it. 23 A. No, I have no recollection of it. 24 Q. No recollection. But anyway, you say in your statement 25 that it is normal practice for you to go to the</p>
Page 34	Page 36
<p>1 A. Yes. 2 Q. And that, of course, is a reference to Mr Leung 3 Pui-sang? 4 A. Yes. 5 Q. And you said: 6 "I did not see him at the wheelhouse. I did not 7 know where he was." 8 A. Yes. 9 Q. Would I be right that you do not say that he wasn't 10 there; you merely say that you didn't see him? 11 A. At that time I couldn't see him. 12 Q. But you can't say for certain that he wasn't there? 13 A. That's right. 14 MR SUSSEX: Thank you, Mr Leung. I have no further 15 questions. 16 THE CHAIRMAN: Thank you. 17 MS LOK: I have no questions. 18 THE CHAIRMAN: Thank you. 19 Mr Shieh? 20 MR SHIEH: Mr Chairman, I have a number of areas to explore 21 with this witness in terms of his radar training; system 22 of watch-keeping; the events leading to the collision, 23 including matters such as sounding of the horn and the 24 use of the flashlight; and also the Marine Notice; and 25 also incidents of previous near misses or near</p>	<p>1 wheelhouse after checking on the passenger areas, to 2 keep a look-out? 3 A. Yes. 4 Q. Has Hongkong Electric given you any instructions as to 5 the manner in which you are to help keep a look-out, 6 particularly whether or not you are to use your eyes or 7 whether you're going to use the radar? 8 A. Formally, officially, there was no such instructions. 9 Q. All right. Your usual way of doing it would be to look 10 at the radar or simply to keep a look-out using your 11 sight? 12 A. Usually I would just use my naked eye, my own vision. 13 Q. So in the evening of 1 October, let's say the tragic 14 accident had not happened, you would simply have used 15 your naked eye to keep a look-out? 16 A. That's right. 17 Q. So it's not your habit to look at the radar at all? 18 A. I would look at the radar when the weather is not good. 19 Q. Otherwise you would simply rely on your naked eye? 20 A. That's right. 21 Q. Have there been previous incidents or instances of near 22 misses or close encounters with other vessels in the 23 discharge of your duty as a sailor on board the 24 Lamma IV? I mean prior to the collision. 25 A. No.</p>

Page 37	1 Q. Have you heard of other crew members or colleagues on 2 other vessels mention that there had been near misses or 3 close encounters between Hongkong Electric vessels and 4 other vessels? 5 A. No. 6 Q. Just now, the question was asked of you where you were 7 when you observed the sidelights of Lamma IV after your 8 dinner. Do you remember that? 9 THE INTERPRETER: (Chinese spoken). 10 MR SHIEH: No, I was reminding him as to this line of 11 questioning. He had drawn a diagram. I was putting him 12 in context. 13 THE INTERPRETER: Okay, I'm sorry. 14 A. Okay. 15 MR SHIEH: You kindly drew us a diagram showing the route 16 that you took after your dinner, when you then walked to 17 berth 1 to take a look at Lamma IV at berth 2? 18 A. Yes. 19 Q. Now, the gentleman with white hair, Mr Sussex, asked you 20 whether or not Lamma II, the other vessel, was berthed 21 at berth 1 at that time, and you said it wasn't there. 22 A. Yes. 23 Q. Let me just clarify or perhaps refresh your memory as to 24 the arrangements that day. The earlier part of the 25 activity that day, Lamma IV was responsible for taking	Page 39
1 all the participants from various pick-up spots to Lamma 2 Island; right? Lamma II was not involved? 3 A. Correct. 4 Q. It was only after dinner, when people had to be taken to 5 see the fireworks and then maybe they then had to be 6 taken to disembarking points, that Lamma II had to be 7 brought in; correct? 8 A. Before the fireworks, at around 7.30, the participants 9 actually were divided into two groups. One to get on 10 Lamma II and one to get on Lamma IV. 11 Q. Thank you. The question is do have any recollection -- 12 if you don't, then tell us. I know time estimates are 13 difficult. Do you have any recollection as to when 14 Lamma II actually got to its berth? We know it's 15 berth 1. 16 A. Lamma II arrived at Lamma Island at around 7.50 pm and 17 then docked at a berth. 18 Q. Thank you. And therefore, prior to Lamma II's arrival, 19 there would be a clear line of vision from where you 20 stood at berth 1, to the two sidelights of Lamma IV? 21 A. Correct. 22 Q. Can I now refer you to your latest witness statement, 23 prepared by Reed Smith Richards Butler, which is in the 24 Reed Smith Richards Butler bundle at paragraph 16. The 25 English is page 1611; the Chinese is page 1603.	1 There is a point in this Inquiry that we are 2 interested in finding out, and that is to say, who was 3 where and doing what at the period shortly prior to 4 collision, as far as you can remember. 5 According to the evidence that we have heard, 6 Mr Leung Pui-sang told us that at a short period prior 7 to the collision, he was actually inside the wheelhouse 8 on the left-hand side of the coxswain, on the port side 9 of the wheelhouse. 10 The wheelhouse is not very big? You would agree 11 it's not very big? 12 A. I agree. 13 THE CHAIRMAN: Before we go any further, can you help me as 14 to how many seats there were in the wheelhouse? We know 15 about the coxswain's conning chair. How many other 16 seats were there? 17 A. There was a row of sofas near the starboard light, 18 inside the wheelhouse. 19 MR SHIEH: Starboard side? 20 THE INTERPRETER: "Starboard side". 21 MR SHIEH: Can you look at marine bundle 1, page 140. Look 22 at photo 1. Do you see that? 23 A. Yes, I can. 24 Q. Is that the row of sofas that you have in mind? 25 A. Yes.	Page 40

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<p>1 A. On the left side of the coxswain, I looked out and then 2 I spotted. 3 Q. In being able to spot it, your eyes would naturally have 4 to shift towards the left? 5 A. In the middle of the window, towards the left. I was 6 looking out on the left side of the middle window. 7 Q. May I ask you to look at marine bundle 1, page 139. 8 THE CHAIRMAN: I wonder, Mr Shieh, if it might not be easier 9 to do it through a photograph, perhaps page 140. 10 MR SHIEH: Yes. Photo 2 on page 140. We can see the helm 11 in the middle, and then we can see the series of windows 12 towards the left, towards the port side. 13 A. Yes, I can see them. 14 Q. Can you assist us as to which window it was that you 15 looked out, and that you saw the approaching vessel? 16 THE CHAIRMAN: There's no need to mark it. You can use 17 words. There are two windows to the port side that are 18 fixed, and one that is sliding. We can see that just by 19 looking at the photograph. 20 THE INTERPRETER: The witness was pointing at the middle 21 window, right in front of the wheel and the controls, 22 and not at any two of the windows on the left side. 23 THE CHAIRMAN: Thank you. So you're pointing at the window 24 where we see the compass next to the window, in front of 25 the -- or rather beyond the console and wheel?</p>	<p>1 A. I was looking out on the left side of the captain, and 2 then I could see that the boat was very fast, and then 3 immediately afterwards, collision. 4 Q. Either side, whether your eyes could catch it, very fast 5 or not very fast, the wheelhouse, as we can see in 6 police bundle page 543, is not very big. If we have 7 a look at the picture. Police photo album, page 543. 8 There wasn't a great distance between where the coxswain 9 was sitting and the left-most panel of windows. 10 A. The distance actually exceeds 10 feet, you know. There 11 should be a 10-foot space of activity between them. 12 Q. Between what? 13 A. Between the captain's conning chair up to the port side 14 window, up to the window on the port side. 15 Q. Let me get to the question and then I'll move on. If 16 somebody had been standing on the port side of the 17 wheelhouse, let's say in front of the panel, do you 18 think you could have missed that person or failed to 19 notice that person? 20 A. My attention then was in the forward direction. But of 21 course if I had turned and looked at it, of course 22 I would have seen him. 23 Q. Leung Pui-sang, the engineer, gave evidence that he 24 actually yelled upon seeing the approaching vessel when 25 he was inside the wheelhouse. Do you recall hearing any</p>
Page 42	Page 44
<p>1 THE INTERPRETER: Yes. And then the thing that he was 2 pointing at was on the top right corner of that window. 3 A. Yes. 4 THE CHAIRMAN: Thank you very much. Top right centre 5 window? 6 A. Yes. 7 THE CHAIRMAN: Thank you. 8 THE INTERPRETER: I'm correcting my translation. It should 9 be top left corner. 10 THE CHAIRMAN: Thank you. 11 THE INTERPRETER: I correct my translation: top left corner. 12 I'm sorry. 13 THE CHAIRMAN: Thank you. 14 MR SHIEH: But at any rate, the collision occurred on the 15 port side of the vessel? 16 A. Yes. 17 Q. As the vessel approached, your eye would -- did your 18 eyes follow the movement of the vessel as it approached? 19 A. Because it was very fast, I was unable to follow its 20 movement. 21 Q. So where were you looking? 22 A. It was only a matter of seconds that I was able to catch 23 sight of it, and then afterwards, collision. 24 Q. Where were your eyes? Which side were your eyes 25 focusing on or concentrating on?</p>	<p>1 yelling when you were in the wheelhouse? 2 A. There was a lot of screaming and crying shortly before 3 the collision, therefore I didn't notice that there was 4 yelling from him. 5 Q. Sorry, I'm talking about the period before the 6 collision, inside the wheelhouse. 7 A. I didn't notice it. 8 Q. Could I take you to the content of your paragraph 16. 9 There you said the coxswain said to you there was 10 a vessel ahead coming directly at you. 11 A. Yes. 12 Q. And then a few lines down, you said: 13 "I said to the coxswain that a ship was moving 14 towards us at high speed on the left." 15 A. Yes. 16 Q. Mr Leung, I know again after such a period of time you 17 may or may not be able to remember precisely the 18 sequence that things were said. But you were basically 19 repeating what he said to you. Why would you do 20 anything like that? 21 A. I don't understand your question. 22 Q. Let me get to the point so the relevance becomes clear. 23 One question that the Commission may wish to 24 consider is the adequacy of watch-keeping and when it 25 was that anyone first observed the approach of the Sea</p>

<p style="text-align: right;">Page 45</p> <p>1 Smooth. It could be said, and there is some evidence, 2 that the coxswain saw it first. There is some other 3 evidence -- a previous statement to the police or the 4 Marine Department -- which could suggest that the 5 coxswain did not notice it first, but it was let's say 6 you who noticed it first and who alerted the coxswain. 7 A. No. 8 Q. And there are a number of different statements given at 9 different points in time, and of course we'll bear in 10 mind the circumstances under which those statements were 11 made. But I simply wish to know that if the coxswain 12 had already seen a vessel approaching on the left and he 13 was announcing it or telling it to you, then why would 14 you, having seen it, repeat the same thing to the 15 coxswain? That is not a rather normal reaction that 16 people would adopt. 17 A. (Chinese spoken). 18 Q. You can either say something like, "Oh, it's so 19 dangerous", you may say, "He's a complete reckless 20 coxswain", or, "Why is he doing something so crazy?", 21 anything of that nature, but to repeat to the coxswain, 22 "There is a ship coming towards us at high speed", it 23 could be said that that is rather contrived. 24 You see, as a matter of natural reaction -- you can 25 say, "Yau mo gau cho", "He's mad".</p>	<p style="text-align: right;">Page 47</p> <p>1 beside the door of the wheelhouse. 2 Q. I think I understand. But leaving aside whether you 3 were strictly inside the wheelhouse or really at the 4 door or doing your duties at the main deck, at any time 5 prior to the collision you had not heard any horn? 6 A. Correct. 7 THE CHAIRMAN: Earlier on that day, when you as a crew 8 boarded the vessel, had you heard the whistle being 9 tested? 10 A. No, I didn't hear any of it on that day. 11 THE CHAIRMAN: I'm talking about when you as a crew boarded 12 the vessel and the equipment is checked. Did you hear 13 any whistle being sounded? 14 A. I didn't notice any of the horn, the sound of it, when 15 I was doing my duty. 16 THE CHAIRMAN: Thank you. 17 MR SHIEH: Could you look at marine bundle 1, page 140. The 18 bottom photo, photo 2. Do you see that cable leading 19 upwards? 20 A. Yes, I can see the cable. 21 Q. What is that? 22 A. I don't know. 23 Q. You know that there is a searchlight function? 24 A. Yes. 25 Q. How is that activated?</p>
<p style="text-align: right;">Page 46</p> <p>1 THE CHAIRMAN: I think he ought to give Mr Leung the 2 opportunity to reply now. 3 MR SHIEH: Yes. 4 A. It's like this. The captain told me that there was 5 a ship approaching us, right at us, squarely at us. 6 Then I looked and I saw that there was indeed a vessel 7 coming at us at high speed, and then I made the reply to 8 him. That's what happened. 9 Q. So you maintain that the coxswain saw it first, and it 10 was he who drew this to your attention; right? 11 A. Yes. 12 THE CHAIRMAN: So is your evidence really to this effect, 13 that you were confirming that you too had seen what he 14 had described? 15 A. That's right. After the captain had told me what he had 16 seen, I followed his direction and I indeed also saw 17 there was a vessel coming at us. 18 MR SHIEH: But at any time prior to the collision, you had 19 not heard any sounding of the horn? 20 A. By the time I had come beside the captain, in a matter 21 of 10 and 20 seconds, this period, I didn't hear any 22 sound or alarm. 23 Q. So whilst inside the wheelhouse, you didn't hear any 24 horn? 25 A. I was immediately behind the captain. I was right</p>	<p style="text-align: right;">Page 48</p> <p>1 A. There is a switch on the console, on the panel. 2 Q. On the panel, which activates the searchlight? If you 3 look at page 141 -- 4 A. Yes. 5 Q. -- photo 3, you can see in the second row from the 6 bottom there is an orange big button on the right-hand 7 side. Do you see that? 8 A. Yes, I'm looking at it. 9 Q. The button to its left, is that the searchlight button? 10 A. I don't know. I'm not clear or familiar with these 11 switches and dials on the panel. 12 Q. So did you notice the coxswain doing anything which 13 resulted in your seeing the searchlight flashing? 14 THE CHAIRMAN: I think that's two questions. 15 Did you see a searchlight kind of beam flashing 16 whilst you were in the wheelhouse? 17 A. No, I didn't notice. 18 THE CHAIRMAN: What I'm directing your attention to is from 19 Lamma IV, a shaft of light, bright light, being shone 20 forwards; did you see anything like that? 21 A. No, I didn't see it at that time. 22 THE CHAIRMAN: If you wish to pursue the second question, 23 do, by all means, as to operating the console. 24 MR SHIEH: But you would normally not operate the console, 25 and so you had no detailed knowledge as to the</p>

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<p>1 respective functions of various buttons; is that what 2 you're saying? 3 A. That's right. That's what I'm saying. 4 Q. And from where you were standing, you would have no 5 detailed knowledge or observation as to what particular 6 button or buttons the coxswain might have touched or 7 pushed in events leading to the collision? 8 A. Correct. 9 Q. From your statement, when your attention was first drawn 10 to that vessel, you estimated it was about 300 metres 11 heading straight. That would be around about a little 12 more than 1 cable, but less than 2 cables? 13 A. I'm not really familiar with the concept of cable 14 distance, but I would say that it's about 300 metres, 15 equivalent to 900 feet. 16 Q. In terms of navigational distance, that, broadly 17 speaking, was extremely close? 18 A. You can say that it is pretty close. 19 Q. When the coxswain said what he said to you, did you have 20 the feeling or impression that it was also the first 21 time that he noticed the vessel? Or did you get the 22 feeling that he was simply telling you of what he had 23 already known for some time? 24 MR GROSSMAN: I'm sorry, Mr Chairman, I don't see how he can 25 possibly answer that question in any helpful manner at</p>	<p>1 MR SHIEH: If you can't tell, you say you can't tell. 2 A. Before I had entered the wheelhouse, he should have 3 already spotted the vessel. 4 THE CHAIRMAN: What makes you say that? 5 A. Because as soon as I stepped in the wheelhouse, the 6 captain right away told me that there was a vessel 7 coming at us, and then I followed his direction -- and 8 the high-speed vessel was coming at us, and then 9 I followed his direction and looked at it, and indeed 10 there was a vessel coming very fast at us. 11 Q. Thank you. There is one point I wish to clarify about 12 this paragraph. In relation to that statement, "It was 13 a hard and noticeable turn", in paragraph 16 -- 14 A. Yes, I'm looking at it. 15 Q. Just now a question was asked, and I think your answer 16 was that you actually were not paying attention to the 17 movement of the coxswain himself. 18 A. Yes. 19 Q. And in fact you said you could not see whether he was 20 using the steering wheel or the joystick to turn. 21 A. Yes. 22 Q. So it might be something that one can read between the 23 lines, but can I just confirm that when you said, "It 24 was a hard and noticeable turn", you came to that 25 conclusion not because of the bodily movement of the</p>
Page 50	Page 52
<p>1 all. 2 THE CHAIRMAN: Well, I'm not sure that's right, Mr Grossman. 3 There might be a matter-of-fact communication, or there 4 might be alarm in his voice. 5 MR SHIEH: I was about to -- 6 THE CHAIRMAN: To that extent I think that the question is 7 one that the witness could try to address. It may be 8 that he can't help. 9 MR SHIEH: Because the witness might say, "I don't know". 10 The witness might say, "Yes", and then I would follow up 11 by asking, "From what other indicia did you come to that 12 basis?" And obviously the Commission would then form 13 its own view as to whether that is a reliable one. 14 THE CHAIRMAN: Certainly try to pursue it. 15 But we bear in mind what your point is, Mr Grossman. 16 MR SHIEH: Yes. Could the question be put. Because of 17 course the time of first notice is something the 18 Commission may wish to explore. 19 THE CHAIRMAN: So the question really is this. 20 From what the captain said to you -- that is, 21 Coxswain Chow -- did you get any impression as to 22 whether or not this was the first time that he'd seen 23 the vessel, or whether he was simply giving you 24 information about what he'd already seen? Or can't you 25 tell?</p>	<p>1 coxswain but because of what appeared next; that is to 2 say, because you could actually see the relative 3 movement of the Shek Kok Tsui lighthouse? 4 A. Yes. 5 Q. Thank you. There is one part of your statement that you 6 have given to I think it's the Marine Department, that 7 I wish to clarify with you. Is in marine bundle 1, 8 page 43. That's the Chinese. Could I just try to 9 locate the English version. The English equivalent is 10 page 63-4. 11 THE CHAIRMAN: What is the factual point? 12 MR SHIEH: The factual point is as to the question raised by 13 Mr Sussex as to the subsequent conversation he had with 14 the coxswain. 15 THE CHAIRMAN: About the whistle? 16 MR SHIEH: About the whistle, yes. It's halfway through 17 page 43 in the Chinese, and halfway down page 63-4 in 18 the English. The English sentence: 19 "I heard the coxswain say he had sounded the horn 20 before I entered the wheelhouse. That's why I did not 21 know whether the horn had been sounded." 22 Mr Leung, there is a sentence which says: 23 "(Chinese spoken)." 24 Can you see that? In the middle of page 43: 25 "(Chinese spoken)."</p>

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<p>1 A. Yes, I can see the sentence. 2 Q. I know the question has been attempted to be clarified, 3 but could I try it again. You heard the coxswain say 4 this to you? 5 THE CHAIRMAN: I'm not sure what's unclear about this, 6 Mr Shieh. 7 MR SHIEH: It was a subsequent conversation. 8 THE CHAIRMAN: Yes. 9 MR SHIEH: I simply wish to explore when that conversation 10 was. 11 THE CHAIRMAN: Very well. 12 MR SHIEH: Because it could be immediately subsequent to the 13 collision, or subsequent in the sense of recently, or 14 shortly before the interview. 15 THE CHAIRMAN: Very well. 16 MR SHIEH: Mr Leung, you heard the coxswain say to you he 17 had sounded the horn; correct? This is what you say 18 here? 19 A. Yes. 20 Q. Now, pay attention. I'm not asking you about hearing 21 the signal yourself, because I know you say you didn't 22 hear it. Did the coxswain say this thing to you let's 23 say immediately after the collision, or did he say it to 24 you in a conversation subsequently, let's say after you 25 both met up?</p>	<p>1 this to you? I'm not asking you for the precise date, 2 but was it immediately after the collision when you 3 still -- 4 THE CHAIRMAN: I think the first question is, did the 5 coxswain himself ever say that to you? 6 A. No. 7 MR SHIEH: So in fact there wasn't any subsequent 8 conversation. 9 Can I move to two lines above that in the Chinese 10 statement. You said: 11 "(Chinese spoken)." 12 A. Yes, I can see that. 13 Q. The English version is: 14 "It was then that the coxswain said that a vessel 15 was sailing towards us." 16 That is the sentence. 17 Mr Leung, I'm asking you this, because in the 18 Chinese you then went on to say, "wan mei juen tai". In 19 the English it's "before", I think, "the wheel could be 20 turned" -- "Before he could turn the steering wheel, 21 after tens of seconds the collision took place". 22 You were observing that after you heard the coxswain 23 say a ship was approaching, and there was no change of 24 direction of the vessel, then the collision occurred 25 after a few tens of seconds, here.</p>
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<p>1 A. It was after the incident, from a third party that told 2 me that the captain had sounded any horn and I couldn't 3 hear it. 4 THE CHAIRMAN: What was the date that you were told this? 5 A. I don't remember. 6 THE CHAIRMAN: Which month? 7 A. The actual month, I can't recollect. 8 THE CHAIRMAN: How many days or weeks after 1 October 2012? 9 A. Because there were so many statements made so I can't 10 really remember the specifically date. All I can 11 remember is that somebody asked me or told me that if 12 I heard the horn or the sound, and I didn't hear it. 13 THE CHAIRMAN: Was this conversation a week after the 14 events, a month after, yesterday? Try and help us. 15 A. One week after. 16 MR SHIEH: Mr Leung, the conversation you just described to 17 us was a conversation where somebody asked you, "Did you 18 hear the coxswain sound the horn?", and you said you 19 didn't hear him sound the horn. But the sentence in 20 your statement, if we can have a close-up of the 21 statement, it refers to what the coxswain said to you: 22 "ngor ting shuen cheung shuet". Just focus on the five 23 words: "ngor ting shuen cheung shuet", "the coxswain 24 said to me". 25 My question is, when did you hear the coxswain say</p>	<p>1 A. Because I did not see any change of the view outside my 2 vessel, and so I thought that there was no change of 3 direction. Afterwards, I could see the white beacon 4 light, and from that, I knew that we had changed 5 direction. 6 Q. I see. It's because I simply wish to ascertain the 7 meaning of that reference, "wan mei juen tai", before 8 the direction was changed. Do you see? Because here, 9 this statement suggests that the collision took place 10 before any change of direction by Lamma IV could be 11 made. 12 A. No. 13 Q. So basically you are saying that what was written in 14 your latest statement prepared by your lawyer is the 15 correct version; that is to say, although you did not 16 see the coxswain moving either the joystick or the 17 steering wheel, you could see there was a change of 18 direction because you could see the relative motion 19 outside, the Shek Kok Tsui -- 20 A. Yes. 21 Q. Why did you say -- 22 MR GROSSMAN: Sorry, before my friend carries on, this 23 statement was not written by the lawyer. 24 MR SHIEH: I stand corrected. It was prepared by the lawyer 25 on the instructions of this witness. I should say that.</p>

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<p>1 MR GROSSMAN: It's very important, since this is an open 2 hearing and one doesn't know how it's going to be 3 reported. 4 THE CHAIRMAN: No. But there is obvious wisdom, frankly, in 5 the system that obtains in criminal courts, and that is 6 all the evidence is dealt with orally in court, rather 7 than with prepared witness statements. We're operating, 8 as it were, a hybrid system here. One can see the 9 wisdom, in fairness to all parties, of evidence being 10 dealt with orally only. 11 MR SHIEH: I understand. I think Mr Grossman is concerned 12 that the way I put it, by saying it was prepared by 13 lawyers -- 14 THE CHAIRMAN: I understand what Mr Grossman's concerns are 15 but I'm addressing the broader issue, which is what 16 I think is the wisdom of having oral evidence only when 17 one is dealing with issues of this kind. 18 MR SHIEH: Yes. 19 Could I just test it with you, Mr Leung. Why did 20 you say "wan mei juen tai" -- in English, "before he 21 could turn the steering wheel" -- in this interview that 22 you gave to the Marine Department? 23 THE INTERPRETER: Sorry, counsel, when you say -- 24 MR SHIEH: "Test your evidence". 25 THE INTERPRETER: Okay.</p>	<p>1 A. Yes, I'm looking at it. 2 THE CHAIRMAN: Right. And the question is, do you recall 3 any briefing or any attempts being made to draw your 4 attention or that of your colleagues to this notice 5 concerning this fireworks display? 6 A. Yes. Yes, there was. Occasionally I had this 7 communication with my captain. 8 MR SHIEH: In what specific respect? 9 A. He said that on 1 October, our unit was responsible for 10 the tour for the fireworks display. 11 Q. Any particular reference to features of that trip, for 12 example that there would be children? 13 A. He didn't mention that, but I reasoned that there should 14 be children. 15 THE CHAIRMAN: And why did you reason that? 16 A. Well, fireworks displays are very entertaining and they 17 shouldn't be only confined to adults. There should be 18 children there too. 19 THE CHAIRMAN: Had you been on similar excursions on 20 Hongkong Electric vessels to watch fireworks with 21 employees, friends and families? 22 A. No, I've never done any such excursions before. 23 THE CHAIRMAN: Very well. I see that we've now reached 24 1 o'clock. 25 MR SHIEH: I may simply have nothing more to follow up, but</p>
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<p>1 A. This sentence, this statement was written by the Marine 2 Department officer. 3 MR SHIEH: But did you say it? 4 A. No, I didn't say it. 5 Q. But you signed it? 6 A. Yes, I did. However, you know, I wouldn't put it this 7 way, because I wouldn't put it in such wording. 8 Q. You received primary education, Mr Leung? 9 A. Yes. 10 Q. You are not used to reading a lot of Chinese characters 11 or words? 12 A. Yes. 13 Q. Could I now turn to a slightly different subject matter, 14 and that is the Marine Notice. 15 Could the witness be shown the miscellaneous bundle, 16 page 54 being the English, and page 63-1 being the 17 Chinese. 18 Do you recall any briefing or any attempts being 19 made to draw your and your colleagues' attention to this 20 Marine Notice concerning the fireworks display on 21 1 October? 22 THE CHAIRMAN: Before he answers that, I think Mr Leung 23 ought to be given the physical document and be invited 24 to flip through it. Turn over the pages so that you 25 know exactly what you're being asked about.</p>	<p>1 could I just review my notes and perhaps come back? 2 THE CHAIRMAN: Yes. I'd invite you, if you're considering 3 your position, to consider the survey conducted on 8 May 4 2012. 5 MR SHIEH: Yes. 6 THE CHAIRMAN: Mr Leung, we're going to take the lunch break 7 now and I'm going to ask you to be back here to resume 8 your testimony at 2.30 this afternoon. 9 Thank you. 10 (1.02 pm) 11 (The luncheon adjournment) 12 (2.30 pm) 13 MR SHIEH: I have one more question on the topic of the 14 Marine Notice, and then I will move on to the inspection 15 on 8 May 2012. 16 THE CHAIRMAN: Very well. 17 First let me greet Mr Leung. 18 Good afternoon, Mr Leung. 19 A. Good afternoon. 20 THE CHAIRMAN: May I remind you that you continue to testify 21 according to your affirmation. 22 A. I know that. 23 THE CHAIRMAN: Thank you. 24 Mr Shieh. 25 MR SHIEH: Mr Leung, before lunch were you were telling us</p>

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<p>1 about your knowledge of the Marine Notice concerning the 2 1 October fireworks and your awareness that there would 3 be children involved. 4 A. Yes. 5 Q. But you have also told us that you have not personally 6 been involved in any journey of this nature where 7 children were involved. 8 THE CHAIRMAN: I think that was in relation to fireworks. 9 MR SHIEH: Fireworks, yes. 10 A. Yes. 11 Q. So I take it that you had not considered any particular 12 safety issues concerning the presence of children on 13 board, such as children's life jackets? 14 A. Yes. 15 Q. Could I now turn to a different topic. 16 THE CHAIRMAN: Before you do that. 17 Had you been on one of the Hongkong Electric vessels 18 on other occasions, perhaps other recreational events, 19 when there were children on board? 20 A. Yes, I have. 21 THE CHAIRMAN: In 2012? 22 A. No. 23 THE CHAIRMAN: When? 24 A. I don't recollect the specific date. 25 THE CHAIRMAN: I appreciate that. I'm just asking for your</p>	<p>1 Q. So you were only aware of the fact that there would be 2 a fireworks display on 1 October, and you had discussed 3 the subject matter with the coxswain and the engineer, 4 but you had no personal knowledge as to the requirements 5 set out in this notice? 6 A. That's right. 7 Q. And nobody has told you about the requirement that all 8 children should wear a life jacket -- advised that all 9 children should wear a life jacket? 10 A. No, nobody told me that. 11 THE CHAIRMAN: Thank you. 12 MR SHIEH: Could I now turn to a different topic, and that 13 is the inspection by the Marine Department in May 2012. 14 For that, can we have marine bundle 4, page 864. 15 Let me tell you what this is. This is a record of 16 an inspection by a Marine Department inspector, 17 conducted of the Lamma IV on 8 May 2012. 18 A. Yes, I am looking at it. 19 Q. I don't suppose you would have any independent 20 recollection of whether you were there that day, so 21 could I assist you by asking you to look at the Richards 22 Butler bundle 1, page 4. This is a deck log sheet. 23 A. Yes, I can see it. 24 Q. It shows, under the "Duty crew" column -- Mr Chairman, 25 there is no English translation of the scribbling, but</p>
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<p>1 help. When, approximately? 2 A. One or two years prior to that, I was involved in 3 activities and the destination then was at Po Toi 4 Island. 5 THE CHAIRMAN: That's for walking and seafood, is it? 6 A. Yes. 7 THE CHAIRMAN: With families, including children? Is that 8 what you're saying? 9 A. Yes. 10 THE CHAIRMAN: Mr Shieh, I'd invite you, before you move 11 away from this topic, to deal with paragraph 6. 12 MR SHIEH: Of the witness statement? 13 THE CHAIRMAN: Of the notice, whether this witness was aware 14 of the advice given by the Marine Department. 15 MR SHIEH: Yes. Could I have the Marine Notice, 16 paragraph 6. Look at this notice at paragraph 6(b). 17 The English is in the miscellaneous bundle at pages 55 18 and 56. It's an annex. The particular paragraph 19 is 6(b). You can see the Chinese there: 20 "all children on board are required to don a life 21 jacket at all times." 22 A. Yes, I can see it. 23 Q. Did you actually personally read this notice at the 24 time? 25 A. No.</p>	<p>1 I can ask the witness to identify his name. Under the 2 heading "DH", "shui shau", that's your name? 3 A. Yes, that's my name. 4 Q. So you were on duty that day, 8 May 2012? 5 A. Yes. 6 Q. Do you recall that an inspection, the annual inspection 7 of the vessel, was undertaken by a Marine Department 8 inspector of the Lamma IV? 9 A. Yes. 10 Q. Thank you. Going back to marine bundle 4, page 864. We 11 have seen this document many times in previous parts of 12 these proceedings. At the bottom left-hand corner, we 13 can see a signature of someone representing the owner 14 and agent. It was signed by somebody from Cheoy Lee 15 called Hui Sum-wai. Are you aware of this person? 16 A. Yes, I am aware of this person. 17 Q. Because apparently he regularly attends these 18 inspections as an agent on behalf of Hongkong Electric. 19 A. Yes. 20 Q. And on the right-hand side, somebody signed as the ship 21 inspector. We know he is a Mr Wong, Wong Kam-ching, 22 from the Marine Department. Are you aware of this 23 person? 24 A. I have no recollection right now of his appearance. 25 Q. It's fine. Now, there are a few aspects of the</p>

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<p>1 inspection that I would like to explore with you. First 2 of all, number of crew. 3 First of all, were you there at the actual 4 inspection? 5 A. Yes. 6 Q. Part of the inspection was that there would have to be 7 survey or inspection or drill requiring the presence of 8 all the crew attached to this vessel. 9 A. Yes. 10 Q. So can you tell us the names of the persons who were 11 presented to the Marine Department inspector as being 12 the crew of Lamma IV on that occasion? Which persons 13 were presented as being the crew members of Lamma IV? 14 A. The captain. 15 Q. That's one, Mr Chow. 16 A. Yes. 17 Q. And then? 18 A. The engineer. Kwok Wah-hei, the engineer. 19 Q. Yes, whose name appears under the "engineer" volume at 20 RSRB bundle, page 4 -- Kwok Wah-hei; correct? 21 A. Yes, correct. 22 Q. And then? 23 A. And then I myself, Leung Tai-yau. 24 Q. Okay. So that makes three. Who is the fourth person? 25 Or was any fourth person presented?</p>	<p>1 Q. So Tang Wan-on was not on board for all these voyages; 2 right? 3 A. He was on board the vessel. 4 Q. Ah. And then I'm going to ask you about life jackets. 5 The life jackets on board were stowed under the seats, 6 one each; yes? The passenger seats. 7 A. Yes. 8 Q. And when the Marine inspector inspected the vessel that 9 day, do you now have any recollection as to whether or 10 not he inspected the life jackets? 11 A. In my recollection, he never boarded our vessel. 12 MR SHIEH: No, the crew space. He never entered the crew 13 space, "shuen yuen chong". I thought he said "shuen 14 yuen chong". 15 THE INTERPRETER: I mistranslated. I will correct my 16 translation. 17 A. In my recollection, the inspector did not enter the crew 18 space of the vessel. 19 THE INTERPRETER: I'm sorry. 20 MR SHIEH: Do you have any recollection of his looking at 21 the life jackets, any of them, under the seats? 22 A. Yes. 23 Q. How did he inspect or look at the life jackets under the 24 seats? Did he cursorily look at them, glance at them, 25 or did he count them one by one?</p>
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<p>1 A. And then the fourth one is by the name Tang Wan-on. He 2 is our marine officer. 3 Q. He was present that day also? 4 A. Yes. 5 Q. So was he there simply as some kind of a supervising 6 officer of Hongkong Electric? Or was he there playing 7 the role of a crew member? 8 A. I am not clear. 9 Q. What did he do on that occasion? 10 A. When we were doing the fire drill, he was there to help 11 us with the pump and also with the sprinklers. 12 Q. So put colloquially, he was not there as the boss; he 13 was there as one of you guys? 14 A. I am not clear about it. 15 Q. But if we were to look at the deck log sheet at RSRB 16 bundle 1, page 4, under "Duty crew", there are only 17 three names? 18 A. Yes. 19 Q. On that day alone, there was more than one voyage; 20 right? You can see that? You can see it from the log? 21 A. From Cheoy Lee Shipyard to Tai Kok Tsui, yes. 22 Q. Tai Kok Tsui to Cheoy Lee? 23 A. After it, we returned to Cheoy Lee Shipyard. 24 Q. And then after that? 25 A. From Cheoy Lee, we sailed to Lamma Island Power Station.</p>	<p>1 A. He inspected each seat. 2 Q. And counted them? 3 A. Yes. 4 Q. Did he actually take them out, to open them up and look 5 at what they looked like? 6 A. Yes, he did that. 7 Q. At random? 8 A. That's right. At random. 9 Q. So we know he did not go to the crew space, but did he 10 enter the wheelhouse to open up that cupboard or closet 11 under the radar where one could find life jackets? 12 A. I was then at the lower deck, and so I was not aware of 13 what's going on in the upper deck. 14 Q. To the best of your recollection, and obviously you can 15 only speak to what you have seen, were there any 16 children's life jackets on board that day? 17 A. We had only one style, one kind of life jacket on the 18 vessel. 19 Q. Adult life jackets? 20 A. Whether that style of life jacket was adult or not, I'm 21 not clear. 22 Q. We are going to arrange for one to be shown to you, but 23 before we do that, do you remember anyone showing 24 specific life jackets to the Marine inspector? Whether 25 they are described as adult or children's, do you</p>

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<p>1 remember anyone taking out life jackets, showing them to 2 the inspector or laying them out to show the inspector? 3 I'm not talking about the inspector himself kneeling 4 down, maybe picking out a life jacket from under a seat. 5 I'm talking about somebody presenting life jackets to 6 the ship inspector. 7 A. No. 8 Q. Do you remember anyone mentioning or making any 9 reference to children's life jackets? 10 A. No. 11 Q. Maybe you now wish to have a look at a sample of a life 12 jacket. 13 THE CHAIRMAN: I think we can do that from here. 14 Is this the kind of life jacket that was under the 15 seat (indicates)? 16 A. Yes. 17 THE CHAIRMAN: With the name "Lamma IV" on it? 18 A. Yes, I can see it. 19 MR SHIEH: It is the practice of your company that life 20 jackets on board a vessel would be marked with the name 21 of that vessel? 22 A. Part of it. 23 Q. Some of them would not be marked? 24 A. Yes. 25 Q. How about those on Lamma IV? Would they all be marked</p>	<p>1 MR GROSSMAN: Mr Leung, I just want to ask you a few 2 questions to clarify some of the matters that were 3 raised this morning by my learned friend Mr Shieh, the 4 gentleman with the black hair on my right. 5 A. I understand. 6 Q. I want to start from when you actually went into the 7 wheelhouse just before the collision. 8 A. Yes, I know that. 9 Q. First of all, when you went into the wheelhouse, was it 10 light or was it dark in there? Were the lights on or 11 not? 12 A. The lights were all off. The lights in the wheelhouse 13 were all off. 14 Q. Thank you. I want to try and go through very quickly 15 what happened. It's been pointed out to you that of 16 course everything happened very quickly, and you've made 17 estimates of times and distances, et cetera. I want to 18 see if we can try and just run through that quickly. 19 A. I understand. 20 Q. I want to go through what I understand your evidence 21 was. 22 THE CHAIRMAN: No, Mr Grossman. The purpose of 23 re-examination is not to repeat the testimony; it is to 24 deal with inconsistencies. 25 MR GROSSMAN: Yes.</p>
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<p>1 with "Lamma IV"? 2 A. In my recollection, the life jackets put on the vessel 3 later on, in later times, they may not be so marked. 4 Q. Ah. Could I follow that up with you, about this idea of 5 life jackets added later on. 6 Why did that come about, life jackets being added 7 later? 8 A. Previously, the life jackets on the vessel numbered only 9 92. Later on, the company found out that the number 10 wasn't enough for each passenger to have one life jacket 11 each, so later on, they added the life jackets. 12 Q. When did this take place, the addition of life jackets 13 to increase it from 90-odd to one jacket per person? 14 A. I don't remember. I don't recollect the time. 15 THE CHAIRMAN: Can you help us at all? Last year, five 16 years ago, 10 years ago? 17 MR SHIEH: Or 10-odd years? 18 A. Around five years ago. 19 MR SHIEH: Mr Chairman, I have no further questions for this 20 witness. 21 THE CHAIRMAN: Thank you. 22 Mr Grossman? 23 MR GROSSMAN: I have a few. Just a few. 24 THE CHAIRMAN: Yes. 25 Further examination by MR GROSSMAN</p>	<p>1 THE CHAIRMAN: I'd invite you to address that, not to run 2 through it all over again. 3 MR GROSSMAN: I don't propose -- very well. 4 When you got to the door of the wheelhouse, when you 5 stood at the door, was this when the coxswain, the 6 captain, said to you, "There's a ship ahead", or was 7 that at a different time? 8 A. At that time. You are right. 9 Q. All right. Just so I understand it, you go to the door 10 of the wheelhouse and the captain says to you, "There is 11 a ship ahead"? 12 A. Yes. 13 Q. Did he say it in a normal conversational tone that we've 14 been using here, or did he shout it or scream it, or 15 what? 16 A. He was very nervous then. 17 Q. And you've said that at the same time, or almost the 18 same time, you saw this vessel and you said much the 19 same as he had said: "There's a ship ahead"? 20 A. Yes. 21 Q. Again, did you say it in the conversational tone that 22 we've been using in this hearing, or did you scream it 23 or shout it, or what? 24 A. I was very nervous then. 25 Q. To answer the question, were the two of you chatting or</p>

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<p>1 were you shouting or screaming, or what? 2 A. Because at that very moment, I saw that if the ship 3 coming at us had not changed its course, it would be 4 very likely that there will be a collision. 5 Q. Yes, I understand. I'm just trying to get the idea 6 of -- we're trying to picture what happened at the time. 7 Was it just chatting to each other, or were you shouting 8 or screaming, or what? 9 A. In a very nervous tone. 10 Q. All right. You've estimated that when you saw the 11 vessel, it was about 300 metres ahead of you. You've 12 estimated that. 13 A. Yes. 14 Q. You said that you regarded that as being pretty close. 15 A. Yes, if the course had not changed. 16 Q. Yes. That's right. If the vessel had not been heading 17 for you, but to pass you, would you have regarded 18 300 metres as "pretty close"? 19 A. Yes. 20 Q. Even if it was not heading towards you? 21 THE CHAIRMAN: If the nearest points of the two vessels had 22 been 300 metres at any time, would you have regarded 23 that as "pretty close", or not? 24 A. If they passed by us, you know, by a distance of 300, 25 I wouldn't call it "pretty close".</p>	<p>1 wearing uniform? 2 A. Yes, I did. 3 THE CHAIRMAN: Remind us what that uniform is. 4 A. Our uniform was in white colour, an overall in white 5 colour. 6 THE CHAIRMAN: White overalls? 7 THE INTERPRETER: White overalls, that's right. 8 THE CHAIRMAN: Was Mr Chow wearing the same? 9 A. I forgot. We have two kinds of uniform. One is in 10 shirt and then with deep blue trousers; and then the 11 other one is white working uniform. 12 THE CHAIRMAN: Well, does the coxswain normally wear a white 13 shirt and blue trousers? 14 A. Possible. 15 THE CHAIRMAN: Well, at all events, whichever one it was, 16 was Mr Chow wearing some kind of uniform? 17 A. Yes. 18 THE CHAIRMAN: What about the engineer; was he wearing 19 uniform? 20 A. The engineer was wearing the uniform that is the white 21 uniform. 22 THE CHAIRMAN: Overalls? 23 A. Yes, white overalls. 24 THE CHAIRMAN: What about Mr Tang Wan-on; what was he 25 wearing?</p>
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<p>1 THE CHAIRMAN: Thank you. 2 MR GROSSMAN: Thank you. 3 You've explained that you estimated that you saw the 4 other vessel about 10 to 20 degrees on the port side. 5 A. Yes. 6 Q. Is it possible -- I just ask you that -- that the 7 Lamma IV was already turning to the right, and that's 8 why you saw the other vessel at an angle? 9 A. Yes. 10 Q. Thank you. 11 Now, I want to ask you finally about the survey that 12 took place last year that you've been asked about this 13 afternoon. When Mr Tang Wan-on was present, was he 14 introduced as just another crew member, or as the marine 15 officer, "the boss"? 16 A. He said that if there is any help that we need, then he 17 will give us that help. 18 Q. And is that how he was presented to the Marine 19 Department people, as a person who would help if 20 necessary? 21 A. I'm not clear about it. 22 MR GROSSMAN: Thank you. 23 Thank you. 24 Questions by THE COMMISSION 25 THE CHAIRMAN: At that survey on 8 May 2012, were you</p>	<p>1 A. He was wearing plain clothes. 2 THE CHAIRMAN: Thank you, Mr Leung, for coming to assist us 3 with your evidence. Your evidence has finished and 4 you're free to go. But before you do, it's right that 5 we should commend you for the attempts that you made to 6 rescue people in the disaster. 7 Thank you. You're free to leave the witness box. 8 You may sit in the public gallery if you wish, or leave, 9 as you choose. 10 (The witness withdrew) 11 THE CHAIRMAN: Before you rise, and before Mr Leung Pui-sang 12 leaves the courtroom -- please, Mr Leung Pui-sang, just 13 wait there, please -- I've raised with counsel for the 14 Commission earlier a request that the Commission makes 15 that Mr Leung Pui-sang be recalled. That is to deal 16 with matters that were not dealt with that ought to be 17 dealt with. One deals with sound and the other with 18 light. 19 I'm going to ask Mr Leung Pui-sang to return to the 20 witness box to deal with those matters. 21 Now, it's a matter for counsel whether that's to be 22 done now or at some later stage, but having seen him in 23 the back of the public gallery, it seems it might be 24 convenient now. 25 MR SHIEH: Yes, because once the next witness goes in, it</p>

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<p>1 may well be over the weekend before we can have 2 an appropriate juncture. So we can recall Mr Leung 3 Pui-sang now. 4 THE CHAIRMAN: Mr Grossman, is there anything you wish to 5 say about that? 6 MR GROSSMAN: I had no idea this was happening. What my 7 learned friend says is perfectly sensible, to deal with 8 it and finish the crew. 9 THE CHAIRMAN: That's why I've told you what the Commission 10 has asked, and if there's no objection, we'll ask 11 Mr Leung to come back now. 12 MR GROSSMAN: I don't object. 13 THE CHAIRMAN: Thank you. 14 Mr Leung, would you return to the witness box. 15 MR LEUNG PUI-SANG (recalled) 16 THE CHAIRMAN: First of all, a word of explanation, 17 Mr Leung. Don't be alarmed that you've been asked to 18 return to the witness box. You've been asked to return 19 because the Commission thinks that there were one or two 20 matters that you ought to be asked to deal with that 21 haven't been dealt with so far. That's the only reason. 22 I'm going to remind you that the testimony you now 23 give is given under the affirmation that you took at the 24 outset. Do you understand that? 25 A. Yes, I understand.</p>	<p>1 recall having heard the sound of any horn sounded from 2 Lamma IV? 3 A. No, I didn't hear any of it. No, nothing. 4 Q. You seem to be wanting to say something. 5 A. No, no, no. I have nothing to say. 6 Q. Thank you. You, being the engineer, would be familiar 7 with the configuration of the buttons on the console in 8 front of the coxswain in the wheelhouse? 9 Why don't we look at the actual thing. Marine 10 bundle 1, photo collection, page 141. Photo 3. 11 Look at the row of buttons, the second row from the 12 bottom. On the right-hand side, you will see a huge 13 orange button or circle. Do you see that? 14 A. Yes, I can see it. 15 Q. There is a button to the left of that button, where the 16 cursor is pointing now. 17 A. Yes. 18 Q. What is that button for? 19 A. I don't recall it. I don't know what it's for. 20 Q. Is there a searchlight function? 21 A. The switch, the one that controls the searchlight, 22 should be on top. And there's something that we can 23 pull at. 24 Q. Look at page 140, photo 2. Can you see that thing that 25 you pull?</p>
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<p>1 THE CHAIRMAN: Listen carefully to the questions, and 2 I don't think this will take very long. 3 Yes, Mr Shieh. 4 Further examination by MR SHIEH 5 MR SHIEH: Mr Leung, in your witness statement -- I don't 6 think we need to turn it up -- you mentioned that when 7 Lamma IV departed Lamma Island in the evening of 8 1 October, you heard a sound from the horn and you 9 thought that that was the coxswain testing the horn. 10 Not in the evening, but in the morning, I'm sorry. 11 In the morning. 12 A. Yes. 13 THE CHAIRMAN: Just give me a moment, please, Mr Shieh. 14 MR SHIEH: The reference, Mr Chairman, is RSRB bundle 3, 15 page 1594, paragraph 14, the penultimate line. 16 THE CHAIRMAN: Yes, that's it. Thank you very much. 17 MR SHIEH: So that was in the morning? Midday? 18 A. It should be in the afternoon. 19 Q. Call it midday. 20 A. Before we set sail. 21 Q. Sometime past noon? 22 A. It should be around 12.30. 23 Q. Yes. Let's fast-forward to the departure from Lamma 24 Island in the evening. From the time of departure from 25 Lamma Island, up until the time of the collision, do you</p>	<p>1 A. Yes, that's right. 2 THE INTERPRETER: The witness was pointing at where the 3 cursor was pointing to. 4 MR SHIEH: Yes. You pull it? 5 A. Yes, I pull at it. 6 Q. You pull it down and then the searchlight would flash? 7 A. The searchlight should not be flashing. 8 Q. It would light up? 9 A. Yes, that's right; it would light up. 10 Q. Shine ahead? 11 A. There should be some angle at which the searchlight can 12 turn around. 13 THE CHAIRMAN: Is this the toggle that comes out of the 14 ceiling -- is this how you turn the searchlight, 15 physically, manually? 16 A. Yes. 17 THE CHAIRMAN: Do you think there is also a switch that 18 turns the searchlight on up there? 19 A. I don't know about that. Because usually it's the 20 captain that controls this kind of thing. 21 THE CHAIRMAN: So you're not sure where you press a switch 22 to light it up, but you are sure that this is the 23 physical mechanical device to change the direction of 24 the beam? 25 A. Yes.</p>

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<p>1 MR SHIEH: Could I ask you to look at the police photo 2 album, page 588. 3 A. Yes, I'm looking at it. 4 Q. That seems to be a close-up. 5 A. Yes. 6 Q. That is equivalent to that toggle that you pull? 7 A. We should pull it down. 8 Q. Yes, you pull it down. 9 A. Yes. 10 Q. And how do you control the angle with which the 11 searchlight would turn? 12 A. Your physical hand will turn left or right, by that 13 means. 14 Q. Turn to the previous page. This is a close-up of the 15 console. 16 A. Yes. 17 THE CHAIRMAN: Colour is a marvellous thing, is it not, 18 Mr Shieh? We now have a pink button. 19 MR SHIEH: The pink button at the bottom right-hand corner, 20 there is a button on the left-hand side of it but you 21 said you couldn't quite recall what it was. 22 Now we have actually a close-up which says 23 "searchlight". The Chinese appears to be "se dang". 24 A. Yes. 25 Q. Does that operate the same searchlight?</p>	<p>1 THE CHAIRMAN: Is the beam a narrow beam or is it a wide 2 beam? 3 A. Very hard to describe. It would be at the bow, but 4 I don't really recall it. 5 THE CHAIRMAN: Thank you. 6 MR SHIEH: Could I ask that Marine Notice 131 of 2012 be 7 shown to the witness. The English version is 8 miscellaneous bundle, page 53. The Chinese version is 9 miscellaneous bundle, page 63-1. 10 Leaving aside the details of this Marine Notice, at 11 the time prior to 1 October, were you aware that the 12 Marine Department has issued a notice concerning 13 arrangements for the fireworks display on 1 October? 14 A. No, I wasn't aware of it. 15 Q. So there was no system whereby crew members were 16 expressly notified of any paperwork generated concerning 17 the fireworks display on 1 October? 18 A. Yes, you are right. 19 Q. Was there some kind of a booklet of some sort or a file 20 or folder containing documents that crew members are 21 supposed to read from time to time? 22 A. There was a box on board the vessel, but only the 23 captain accessed the box and reads its content. 24 Q. So you had no habit or practice of paying specific 25 attention to any notice or circular, whether put in</p>
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<p>1 A. I'm not sure about it. I'm not clear about it. 2 Q. Be that as it may. That evening, after you entered the 3 wheelhouse, up to the moment of the collision, do you 4 remember seeing the coxswain touch or operate any button 5 or toggle which activated that searchlight? 6 A. I didn't notice it. 7 Q. Generally, in other words, including the period before 8 you entered the wheelhouse, did you notice that the 9 searchlight had been activated so that you could see the 10 beam of light shining ahead of the Lamma IV? It may not 11 be a continuous shining; it could just be a flash. 12 A. I am not clear about it. 13 Q. Lastly, could I ask that Marine Notice 131 of -- 14 THE CHAIRMAN: Before you get to that. 15 Have you witnessed this searchlight being used at 16 night on Lamma IV? 17 A. Yes, I have seen the captain using it before. 18 THE CHAIRMAN: How would you describe for us how bright and 19 how far distant the search searchlight beam goes? 20 A. Very hard to describe. But it would be ahead from the 21 bow of the vessel. But it's very hard to describe. 22 THE CHAIRMAN: Well, is it a bright beam? 23 A. You see, when we suspect that there be some garbage on 24 the sea, then we will turn on the searchlight to 25 ascertain it.</p>	<p>1 a box or in a folder or in a file, concerning harbour 2 arrangements or special occasions? 3 A. You are right. 4 Q. So basically it's a matter for the coxswain to pay 5 attention to these matters, and if there's anything 6 worthy of telling you, you would expect the coxswain to 7 tell you? 8 A. Yes. 9 MR SHIEH: Thank you. 10 THE CHAIRMAN: May I ask you to deal with paragraph 6 of the 11 notice. 12 MR SHIEH: Yes. Bearing in mind the witness wasn't actually 13 aware of the contents. 14 THE CHAIRMAN: I follow that. 15 MR SHIEH: I will still pursue that. 16 THE CHAIRMAN: Specifically by any other means that the 17 particular information was made available. 18 MR SHIEH: That he was informed of this requirement, yes. 19 This is part of an attachment or an annex to that 20 Marine Notice. 21 A. Yes. 22 Q. I take on board what you said, that you have not 23 actually seen it before, but now you are seeing it and 24 you can see paragraph 6(b) actually advises that all 25 children on board should wear life jackets, should don</p>

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<p>1 life jackets at all times. 2 Has anyone told you that the Marine Department has 3 advised vessels and vessel owners of this advice, this 4 suggestion that all children on board should don a life 5 jacket at all times? 6 A. No. 7 THE CHAIRMAN: Thank you. 8 MR SHIEH: Thank you. 9 THE CHAIRMAN: Mr Grossman? 10 MR GROSSMAN: No re-examination. 11 THE CHAIRMAN: Thank you very much. 12 MR SUSSEX: Mr Chairman, I wonder if I might just ask 13 a brief question? 14 THE CHAIRMAN: Yes, in which area? 15 MR SUSSEX: It's to do with light and sound signals. 16 THE CHAIRMAN: Yes, certainly. 17 Further examination by MR SUSSEX 18 MR SUSSEX: Mr Leung, could I ask you to take out police 19 bundle M and go to the document which starts at 20 page 3332 in the Chinese, and in translation it starts 21 at page 3333-1. 22 THE CHAIRMAN: What is the nature of the document? 23 MR SUSSEX: It's the police statement given on 2 October 24 2012. 25 THE CHAIRMAN: Thank you.</p>	<p>1 MR LAI SAI-MING (called) 2 THE INTERPRETER: The witness has asked me, the interpreter, 3 about the meaning of a Chinese character. 4 THE CHAIRMAN: Yes. By all means explain it to Mr Lai. 5 THE INTERPRETER: I'm going to ask the witness whether he 6 has religious belief. Is that appropriate? 7 THE CHAIRMAN: Yes, please. 8 THE INTERPRETER: "No, I don't have." 9 THE CHAIRMAN: Very well. Show the witness the affirmation. 10 MR LAI SAI-MING (affirmed in Puntì) 11 (All answers via interpreter unless otherwise indicated) 12 Examination by MR SUSSEX 13 MR SUSSEX: Mr Lai, do you confirm that you were at the helm 14 and in command of the vessel Sea Smooth when she 15 collided with the Lamma IV on 1 October 2012? 16 A. Yes. 17 Q. Could I ask you to go to police bundle M at page -- 18 I think it's 3345 in the Chinese. Do you confirm that 19 on 2 October 2012, at Queen Elizabeth Hospital, you were 20 arrested for the offence of endangering the safety of 21 others at sea? 22 A. Yes. 23 Q. Do you also confirm that you were advised that you were 24 not obliged to say anything unless you wished to, but if 25 you were to say anything, it would be taken down in</p>
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<p>1 MR SUSSEX: If I could then ask you to turn to page 3332 in 2 the Chinese, and 3333-7 in the translation. 3 There's a question which has been translated as: 4 "Prior to the vessel collision, did you hear any 5 alarm sound? Flashlight?" 6 Answer: (I) did not hear (that) or see any 7 flashlight." 8 A. Yes. 9 Q. Did you mean by your answer that you were not aware of 10 any sound or light signal from either vessel? 11 A. At that time all of my attention was at the bow of the 12 vessel coming at us, and therefore I did not notice any 13 sound or light. 14 Q. So this answer only related to the Sea Smooth, did it? 15 A. You can say that. 16 MR SUSSEX: Thank you. 17 THE CHAIRMAN: Thank you, Mr Leung, for returning to help us 18 with this extra piece of evidence. You are now free to 19 go. Of course, you may remain in the hearing if you 20 wish. 21 (The witness withdrew) 22 THE CHAIRMAN: Mr Sussex. 23 MR SUSSEX: Mr Chairman, I wonder if I might call Mr Lai 24 Sai-ming. 25 THE CHAIRMAN: Yes.</p>	<p>1 writing and given in evidence? 2 A. Yes. 3 Q. Did you understand those words when they were 4 administered to you? 5 A. I understand. 6 Q. And did you thereafter exercise your right to silence? 7 A. Yes. 8 Q. Now, could I ask you to go to Holman Fenwick bundle 1 at 9 page 124, and there's a Chinese translation that appears 10 at page 132-1. 11 Do you recognise this as a statement which you gave 12 to Holman Fenwick Willan on 4 October 2012, namely three 13 days after the collision? 14 A. Yes. 15 Q. We see from page 132 that you've signed the English 16 version of that statement. 17 A. Yes. 18 Q. And you did that on 18 January 2013. 19 A. Yes. 20 Q. Did you make amendments to that statement following its 21 being taken from you on 4 October? 22 A. No. 23 Q. What I propose to do is to read that statement to you 24 and ask you to confirm its truth. What I'd ask you 25 first of all is, have you read this statement recently,</p>

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<p>1 in the Chinese version? 2 A. Yes, I have. 3 Q. Are you content that it records the truth? 4 A. Yes. 5 Q. And are you content that that statement be received by 6 the Commission as your evidence in these proceedings? 7 A. Yes. 8 Q. At paragraph 3 of that statement, you record that you 9 started your career at sea in 1981 as a sailor on board 10 ferries for the Hongkong & Yaumati Ferry. 11 A. Yes. 12 Q. You record that in 1994, you were promoted to the status 13 of first officer. 14 A. Yes. 15 Q. And in 1997 you were promoted to the rank of captain. 16 A. Yes. 17 Q. And you say that you have served as captain on local 18 ferries ever since; that is, since 1997? 19 A. Yes. 20 Q. In paragraph 4 you tell us that you obtained your 21 Hong Kong certificate of competency as a master for 22 vessels of 60 gross tonnes and less, certificate number, 23 and then you give its number, 47022, in January 1985. 24 A. Yes. 25 Q. You tell us that on --</p>	<p>1 A. It's barely legible. 2 THE INTERPRETER: I can't even see the words. 3 MR SUSSEX: You can't? Okay. 4 THE CHAIRMAN: Perhaps you'd just read out the English, 5 which is legible. 6 MR SUSSEX: I did: 7 "Candidate considered competent to take charge of 8 a powered vessel of 300 tonnes and under as master." 9 A. Yes. 10 Q. And if we go to page 3920 of that bundle, do we see the 11 certificate that records your having completed a radar 12 operator's basic training course? 13 A. Yes. 14 Q. And then at page 3921, we see a certificate issued to 15 you in respect of in competency in radiotelephony. 16 A. Yes. 17 Q. Then at pages 3922 and 3923, do we see certificates 18 relating to first aid? "Basic ambulance aid" at 19 page 3922, and page 3923, "Elementary first aid and 20 proficiency in medical first aid". 21 A. Yes. 22 Q. And at page 3924 is your certificate relating to 23 fire-fighting. 24 A. Yes. 25 Q. At paragraph 5 of your statement, you tell us that</p>
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<p>1 THE CHAIRMAN: Do you have a reference for that? 2 MR SUSSEX: I will give the references to all the documents 3 in that paragraph in a moment. 4 THE CHAIRMAN: Thank you. 5 MR SUSSEX: You tell us: 6 "On 28 October 1997, my certificate was endorsed, 7 permitting me to sail as master on board vessels of 8 300 tonnes and less." 9 A. Yes. 10 Q. You also record: 11 "I hold appropriate certificates for training in use 12 of radar, life-saving appliances, fire-fighting 13 appliances, first aid, and radio. [That] certificate is 14 valid until 9 March 2023." 15 That is your master's ticket. 16 A. Yes. 17 Q. If we go to police bundle N(II) at page 3919. Do you 18 confirm that that is your Hong Kong certificate of 19 competency as a master? 20 A. Yes. 21 Q. In the right-hand bottom quarter, we see the words: 22 "Candidate considered competent to take charge of 23 a powered vessel of 300 tonnes and under as master." 24 The certificate is divided on that page into four 25 parts. It's page 4.</p>	<p>1 you've been one of the captains on board Sea Smooth 2 since June 2012? 3 A. Yes. 4 Q. Before you became one of the captains of the Sea Smooth, 5 you were a captain on board other ferries operated by 6 Hong Kong & Kowloon Ferry Company Ltd, running various 7 routes within Hong Kong waters? 8 A. Yes. 9 THE CHAIRMAN: When did you become an employee of Hong Kong 10 & Kowloon Ferry Company? 11 A. 1 July 2008. 12 THE CHAIRMAN: Thank you. 13 MR SUSSEX: Did those other ferries that you operated within 14 Hong Kong waters include fast catamaran ferries? 15 A. Yes, for the company. 16 Q. You tell us at paragraph 6: 17 "I usually work one day on, one day off." 18 A. Yes. 19 Q. "During the 24 hours that I am on duty, I rest when the 20 ferry is not operating." 21 A. Yes. 22 Q. You state in paragraph 7: 23 "My responsibilities on board are the safe 24 navigation of the ferry and supervision of the crew and 25 passengers."</p>

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<p>1 A. Yes.</p> <p>2 Q. As one might expect of a coxswain, you state:</p> <p>3 "I am in charge of the vessel and in overall</p> <p>4 command."</p> <p>5 A. Yes.</p> <p>6 Q. You describe the Sea Smooth in paragraphs 8 and 9.</p> <p>7 I don't know whether we need to trouble with that.</p> <p>8 THE CHAIRMAN: I don't think it's necessary to go into that.</p> <p>9 MR SUSSEX: The only thing I would draw attention to is in</p> <p>10 paragraph 9 you do confirm that the Sea Smooth is highly</p> <p>11 manoeuvrable.</p> <p>12 A. Yes.</p> <p>13 Q. In paragraph 10, you tell us:</p> <p>14 "The wheelhouse [of the Sea Smooth] is located at</p> <p>15 the forward end of the upper deck, and is raised</p> <p>16 slightly above the level of the upper deck."</p> <p>17 A. Yes.</p> <p>18 THE CHAIRMAN: Could you take us, at some stage convenient</p> <p>19 to you, to a photograph that shows us this?</p> <p>20 MR SUSSEX: Yes, I'm going to.</p> <p>21 And you tell us:</p> <p>22 "Passengers do not have access to the wheelhouse."</p> <p>23 A. Yes.</p> <p>24 Q. At paragraph 11, you tell us:</p> <p>25 "The wheelhouse is equipped with a centreline</p>	<p>1 A. Okay. That's what we call a sofa.</p> <p>2 Q. A sofa. And who tends to sit on the sofa?</p> <p>3 A. Mostly sailors.</p> <p>4 Q. And you tell us:</p> <p>5 "All the wheelhouse instruments and controls are</p> <p>6 contained within a console, forward of the conning</p> <p>7 chair."</p> <p>8 Do we see that at page 113?</p> <p>9 A. Yes, I can see it.</p> <p>10 Q. And you tell us:</p> <p>11 "The console contains a radar ..."</p> <p>12 Do we see the radar screen to the left of the wheel</p> <p>13 at page 113?</p> <p>14 A. On the right-hand side of the console.</p> <p>15 THE CHAIRMAN: Mr Sussex, is there the same kind of</p> <p>16 schematic diagram that we've been using from the marine</p> <p>17 bundle of photographs that shows the instruments, very</p> <p>18 usefully?</p> <p>19 MR SUSSEX: Not that I'm aware of.</p> <p>20 THE CHAIRMAN: Ms Lok?</p> <p>21 MS LOK: I need to check.</p> <p>22 THE CHAIRMAN: Thank you.</p> <p>23 MR SUSSEX: We see another picture of that radar, do we not,</p> <p>24 at page 118?</p> <p>25 A. Yes.</p>
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<p>1 conning chair, [where] I usually sit when navigating the</p> <p>2 ferry."</p> <p>3 A. Yes.</p> <p>4 MR SUSSEX: Could the witness be shown police photograph</p> <p>5 bundle I, pages 30 and 31.</p> <p>6 Do we see there a picture of the conning chair --</p> <p>7 A. Yes, I can see it.</p> <p>8 Q. -- in the wheelhouse of the Sea Smooth?</p> <p>9 A. Yes.</p> <p>10 Q. We see in that picture and the one that follows on the</p> <p>11 next page that there's another chair on the port side of</p> <p>12 the conning chair.</p> <p>13 A. Not the one in the foreground of the picture, but the</p> <p>14 one next to it in the background of the picture.</p> <p>15 Q. You are talking about page 31 now, are you?</p> <p>16 A. Yes.</p> <p>17 Q. The conning chair is the one immediately in front of the</p> <p>18 wheel, is it not?</p> <p>19 A. Yes.</p> <p>20 Q. But there's another one to the port side, to port of the</p> <p>21 conning chair. Who normally sits there?</p> <p>22 A. The engineer and the sailor.</p> <p>23 Q. If we move on to police bundle II, page 112, we see, do</p> <p>24 we not, that behind the two chairs that we've already</p> <p>25 identified, there is another -- there's a bench seat?</p>	<p>1 Q. Also within that console there are gauges for the main</p> <p>2 and auxiliary engines?</p> <p>3 A. Yes.</p> <p>4 Q. An automatic identification system?</p> <p>5 A. Yes.</p> <p>6 Q. The whistle controls and the CCTV screen?</p> <p>7 A. Yes.</p> <p>8 Q. You tell us:</p> <p>9 "All the navigation aids are accessible and visible</p> <p>10 from the conning chair."</p> <p>11 A. Yes.</p> <p>12 Q. You then go on to tell us:</p> <p>13 "The switches for the navigation lights are located</p> <p>14 about 2 to 3 steps away from the conning chair."</p> <p>15 A. That's right.</p> <p>16 Q. Do we see those at page 606 of police photograph</p> <p>17 bundle IX?</p> <p>18 THE CHAIRMAN: What I was looking for, Mr Sussex, my clerk</p> <p>19 has located. Marine bundle 8 at page 1983. Don't let</p> <p>20 me interrupt you, but it obviously makes it easier to</p> <p>21 digest the information.</p> <p>22 MR SUSSEX: Yes.</p> <p>23 I was asking you about the switches for the</p> <p>24 navigation lights. Do we see those at page 606?</p> <p>25 A. Yes.</p>

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<p>1 Q. And again at page 608, I think. 2 A. Yes, I can see. 3 Q. You tell us that those are located two to three steps 4 away from the conning chair. That's on the port side, 5 is it not? 6 A. Yes. 7 Q. I don't think we're concerned with CCTV. 8 You say: 9 "Also within reach of the conning chair is a VHF 10 radio and a [single short-band radio], which we use to 11 communicate with the company." 12 THE CHAIRMAN: Sorry, isn't that sideband? 13 MR SUSSEX: Sorry, single sideband, yes. 14 A. Yes. Only the single band was used by the crew to 15 communicate with the company. 16 Q. Yes. But it's right that you did use the VHF radio to 17 communicate with the Marine Department, did you not? 18 A. Yes. 19 Q. While we are looking at photographs of the wheelhouse of 20 the Sea Smooth, could I just ask you to go to page 115 21 in police photograph bundle II. 22 At the bottom of that photograph, in about the 23 middle of the page, we see an implement of some sort. 24 Can you tell us what that is? 25 A. It is an electric oven -- you can use it for cooking.</p>	<p>1 fulfilling their function of look-out? 2 A. That's right. 3 Q. Now, as we see from the photograph at page 112, the 4 wheelhouse windows are sloped. 5 A. Yes. 6 Q. If we look at pages 112 and 113, they follow the curve, 7 the shape, of the wheelhouse? 8 A. That's right. It curves all along. 9 Q. Right. And you tell us: 10 "In my experience, the view from the conning chair 11 is good." 12 A. Yes. 13 Q. Can you confirm to us that in your experience there's no 14 reason to question that the visibility from your 15 position in the conning chair was excellent? 16 A. Yes. 17 Q. And in the last sentence of paragraph 16, you tell us 18 that whilst you have to lean forward slightly in order 19 to see the bow of the ferry, the general view is good. 20 A. Yes. 21 Q. At pages 112 and 113 we see doors that lead to the 22 bridge wings. 23 A. Yes. 24 Q. Those bridge wings are outside areas to port and 25 starboard of the wheelhouse, are they not?</p>
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<p>1 Q. Right. As far as you recall, was that oven in that 2 location during the voyage on 1 October, the tragic 3 voyage on 1 October? 4 A. No. 5 Q. And was that oven used during the voyage on 1 October? 6 A. Yes. 7 Q. When was that? 8 A. Around the afternoon, but I don't recall the specific 9 time. 10 Q. So it was used on 1 October, but not on the voyage from 11 Central to Lamma with which we are currently concerned; 12 is that correct? 13 A. Correct. 14 Q. If we go back to page 112 in police photograph 15 bundle II, we see what was translated as a sofa. 16 A. Yes. 17 Q. And you say that that is usually used by the sailors 18 during a voyage. 19 A. Correct. 20 Q. You say: 21 "[It] is the same height as the conning chair, and 22 there is a good view through the wheelhouse windows from 23 that position." 24 A. That's right. 25 Q. And is it right that they sit there when they are</p>	<p>1 A. Yes. 2 Q. And it's possible, is it not, to control the vessel from 3 a manoeuvring station fitted on each bridge wing? 4 A. Yes, you can do that. 5 Q. In paragraph 18, you tell us about the day before the 6 tragic incident with which this Inquiry is concerned, 7 and you say that that was a day off duty for you. 8 A. Yes. 9 Q. You had been on duty on Sea Smooth on 29 September; is 10 that right? 11 A. Yes. 12 Q. And, consistent with the usual practice when you came 13 off from one day's duty, a relieving crew came on board 14 on the morning of 30 September? 15 A. Yes. 16 Q. Having handed over to the relieving master, you went 17 home. This is on the 30th. 18 A. Yes. 19 Q. You tell us that you had rested during the night. That 20 was while you were still on duty and before handing 21 over, but while the ferry wasn't operating; is that 22 correct? 23 THE INTERPRETER: "Yau gan" means "resting". 24 A. I was resting. 25 MR SUSSEX: So while you were actually still on duty, you</p>

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<p>1 managed to get some rest? 2 A. Yes. 3 Q. But having gone home, you were able to sleep from 4 8 o'clock in the morning until just after noon, 12 5 to 12.30? 6 A. Yes, correct. 7 Q. And on the day before the tragic incident, you say that 8 you had a relaxing day and you went to sleep at about 9 11 o'clock at night. 10 A. It should be starting to sleep at 11 in the evening. 11 Q. That's what I said. 12 A. Yes. 13 Q. In paragraph 19, you move on to events on 1 October. 14 A. Yes. 15 Q. You woke on that morning at about 6.20. 16 A. Yes. 17 Q. After a good seven hours' sleep. 18 You then went to Central Pier to rejoin -- 19 THE INTERPRETER: Hold on, please. The witness is trying to 20 say something. 21 A. I did not sleep for seven hours, but I boarded the Sea 22 Smooth at 7.30 in the morning. 23 MR SUSSEX: I'm sorry, I'm merely doing a bit of arithmetic 24 between your going to sleep at 11 o'clock at night, and 25 your telling us that you woke up at 6.20 in the morning.</p>	<p>1 check if the life jackets were enough, and whether they 2 were broken or damaged in any way. 3 Q. And you say you also checked the passenger cabins to 4 make sure they were clean and ready to take passengers. 5 A. Yes. 6 Q. You say you carry out these checks every time you board 7 the vessel. 8 A. Yes. 9 Q. Then in paragraph 21, you tell us: 10 "I ordered the engineer to check the machinery, and 11 to report to me." 12 A. Yes. 13 Q. Do you know what checks he then undertook? 14 A. For the duties carried out by the engineer, it's up to 15 him to know about it. 16 Q. I see. So you then received his report that everything 17 was working well? 18 A. Yes. 19 Q. You then say: 20 "I then gave a short briefing to the crew members 21 before proceeding to the wheelhouse." 22 A. Yes. 23 Q. Do you happen to remember what form that briefing took? 24 A. I briefed them about whether the life jackets were 25 enough, anything is broken, or the cabins were clean</p>
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<p>1 You do, I believe, have the statement in front of 2 you. Paragraph 19. 3 A. Correct. 4 Q. So you arrived on board Sea Smooth at 7.30, 07:30. 5 A. Yes. 6 Q. And you relieved the previous day's master. 7 A. Correct. 8 Q. And the engineer and two sailors also joined at that 9 time. 10 A. Correct. 11 Q. You had an exchange with the master whom you were 12 relieving. He told you that everything was normal and 13 the ferry was operating well. 14 A. Yes. 15 Q. He said there were no deficiencies on board. 16 A. Yes. 17 Q. And you say: 18 "After discussing the condition of the ferry with 19 the other master, I made an inspection of the vessel." 20 A. Yes. 21 Q. You say: 22 "I checked the safety equipment and life-saving 23 appliances." 24 What form did that checking take? 25 A. I ordered the crew, myself included, to tour around to</p>	<p>1 enough. 2 Q. Right. You then proceeded to the wheelhouse where you 3 checked all the navigational aids, including the radar, 4 steering controls and AIS. You tell us that all were 5 working well. 6 A. Yes. 7 Q. You explain at paragraph 23 that the first sailing for 8 passengers was due to occur at 08:40. 9 A. Yes. 10 Q. Before you performed that first sailing with passengers, 11 you bunkered at Cheung Sha Wan. 12 A. Yes. 13 Q. And having bunkered, you returned to Central Pier for 14 the first run with passengers, and that first run was to 15 Peng Chau. 16 A. Yes. 17 Q. At paragraph 25, you tell us: 18 "The trip to Peng Chau took about 25 minutes." 19 A. Yes. 20 Q. And having sailed to Peng Chau, you then sailed back to 21 Central Pier and followed the schedule sailing to and 22 from Lamma Island. 23 A. Yes. 24 Q. And that is the trip to Yung Shue Wan, isn't it? 25 A. Correct.</p>

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<p>1 Q. You tell us: 2 "Each trip from Central to Lamma Island takes about 3 20-25 minutes at a speed of about 20-22 knots." 4 A. Yes. 5 Q. You tell us: 6 "If the current is against us, we sometimes have to 7 [increase our speed to] about 23 knots." 8 A. Yes. 9 Q. And you say that the ferry schedule allows 30 minutes 10 for each trip. 11 A. Yes. 12 Q. Does that 30 minutes include the full operation of 13 taking on board passengers, the trip from Central to 14 Lamma, and allowing passengers to disembark? 15 A. That's right. 16 Q. So realistically, the passage time is 20-25 minutes? 17 A. Yes. 18 Q. At paragraph 26, you tell us something of the routine of 19 this. You say: 20 "Throughout the day, we made our scheduled trips to 21 and from Lamma Island. We keep in contact with the 22 company by SSB radio." 23 A. Yes. 24 Q. You record: 25 "On 1 October, we performed a voyage to Peng Chau</p>	<p>1 A. No, I wouldn't do that. 2 Q. So you would rely on navigation by sight? 3 A. Yes. 4 Q. You also tell us at the end of paragraph 28 that the VHF 5 radio was set to channel 14. 6 A. Yes. 7 Q. In paragraph 29, you say: 8 "At about 17:00, as it started getting darker, 9 I switched on the ferry's navigation lights, including 10 the yellow flashing light." 11 A. Yes. 12 Q. And you say: 13 "These stayed switched on for the rest of the 14 night." 15 A. Yes. 16 Q. At paragraph 30, you tell us of your practice in 17 navigating the Sea Smooth. You say: 18 "I have navigated between Central Pier and Lamma 19 Island hundreds of times." 20 A. Yes. 21 Q. That you navigate by sight? 22 A. When the weather was good, yes, I will be relying on my 23 eyesight. 24 Q. Right. And you say: 25 "I use landmarks and navigation marks to navigate."</p>
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<p>1 [that you've told us about] and six round voyages 2 between Lamma Island and Central Pier." 3 Is that right? 4 A. Yes. 5 Q. You say in paragraph 27: 6 "The weather throughout the day was generally fine, 7 with light winds. Visibility was good." 8 A. Yes. 9 Q. In paragraph 28, you say: 10 "Throughout the day, the radar ... was running." 11 A. Yes. 12 Q. You say: 13 "I usually kept the radar on the 0.75 miles range 14 scale." 15 A. Yes. 16 Q. And you say: 17 "The radar was working well, and was showing target 18 clearly." 19 A. Yes. 20 Q. Can you tell us how frequently do you make reference to 21 the radar? 22 A. Not by any specific moments. 23 Q. Right. But if you're sailing in what you perceive to be 24 good visibility, do you make reference to the radar, do 25 you turn to the radar very much?</p>	<p>1 A. Yes. 2 Q. You say: 3 "When I am navigating, I sit in the conning chair, 4 steering and adjusting the engine throttles as 5 necessary." 6 A. Yes. 7 Q. "I mostly navigate visually, and I only occasionally 8 glance at the radar." 9 Does that sentence relate to good visibility, 10 conditions of good visibility? 11 A. That's right. 12 MR SUSSEX: Mr Chairman, I see that it's past 4.30. Would 13 that be a convenient moment? 14 THE CHAIRMAN: Yes, it would. 15 Mr Lai, we're going to take the adjournment now and 16 we will resume with your evidence at 10 o'clock on 17 Monday. Please be kind enough to return so that you can 18 resume at that time. 19 A. I understand. 20 THE CHAIRMAN: Thank you. You can leave the witness box 21 now. 22 A. Thank you. 23 THE CHAIRMAN: Before we rise, there's one matter I want to 24 discuss with counsel. That is this. In view of the 25 length of these hearings, and in view of the time in</p>

<p style="text-align: right;">Page 109</p> <p>1 which this Commission is required to report by the Chief 2 Executive in Council, we propose to sit longer hours 3 beginning next week. We propose to begin that after the 4 crew themselves have finished giving evidence. Because 5 it of course is particularly stressful for them to be 6 giving evidence, and we don't want to lengthen matters 7 to put any stress on them. But as soon as we've 8 finished the crew, we propose to sit an extra hour, so 9 that we would sit until 5.30. We might take a short 10 break in the middle of the afternoon. 11 So we'll adjourn now until 10 o'clock on Monday. 12 (4.33 pm) 13 (The hearing adjourned until 10 am 14 on Monday, 25 February 2013) 15 16 17 18 19 20 21 22 23 24 25</p>	
<p style="text-align: right;">Page 110</p> <p>1 I N D E X 2 MR LEUNG TAI-YAU (on former affirmation in Punti)1 3 Examination by MR GROSSMAN (continued)1 4 Examination by MR SUSSEX16 5 Examination by MR SHIEH35 6 Further examination by MR GROSSMAN70 7 Questions by THE COMMISSION74 8 (The witness withdrew)76 9 MR LEUNG PUI-SANG (recalled)77 10 Further examination by MR SHIEH78 11 Further examination by MR SUSSEX85 12 (The witness withdrew)86 13 MR LAI SAI-MING (affirmed in Punti)87 14 Examination by MR SUSSEX87 15 16 17 18 19 20 21 22 23 24 25</p>	