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| <p>1 Wednesday, 27 February 2013</p> <p>2 (10.00 am)</p> <p>3 THE CHAIRMAN: Mr Lai Sai-ming. Have you had an opportunity</p> <p>4 to consult with a lawyer?</p> <p>5 MR LAI SAI-MING: (Via interpreter) Yes.</p> <p>6 THE CHAIRMAN: And what is your position?</p> <p>7 MR LAI SAI-MING: (Via interpreter) The lawyer has advised</p> <p>8 me that as temporarily, for now, I don't need a lawyer</p> <p>9 to testify.</p> <p>10 THE CHAIRMAN: There's no need to tell us what the advice</p> <p>11 has been. That's a matter of privilege for you.</p> <p>12 Do we understand your position to be that you</p> <p>13 propose proceeding unrepresented?</p> <p>14 MR LAI SAI-MING: (Via interpreter) I understand.</p> <p>15 THE CHAIRMAN: That's what you intend doing?</p> <p>16 MR LAI SAI-MING: (Via interpreter) Yes.</p> <p>17 THE CHAIRMAN: Thank you. Please sit down.</p> <p>18 MR GROSSMAN: Sir, may I just make one observation. Bearing</p> <p>19 in mind potentially -- I say no more than potentially --</p> <p>20 there may be criticisms of the coxswain and of course of</p> <p>21 the crew, you may wish to ask the coxswain whether he'll</p> <p>22 be represented as far as submissions are concerned.</p> <p>23 THE CHAIRMAN: Thank you, Mr Grossman.</p> <p>24 Mr Shieh?</p> <p>25 MR SHIEH: Yes, Mr Chairman. The coxswain did say</p> | <p>1 A. I know that.</p> <p>2 THE CHAIRMAN: Mr Shieh.</p> <p>3 Examination by MR SHIEH (continued)</p> <p>4 MR SHIEH: Mr Wong, yesterday I was asking you questions</p> <p>5 about the fog light that you could see on the Lamma</p> <p>6 Island Hongkong Electric Power Station.</p> <p>7 A. Yes, I got it.</p> <p>8 Q. And you gave evidence that if a ship, if a coming ship</p> <p>9 is located near that light and also near the position of</p> <p>10 your vessel, then the effect of the light would be</p> <p>11 relatively big, and you would have more difficulty</p> <p>12 seeing it, meaning the vessel.</p> <p>13 A. Yes.</p> <p>14 Q. So have there been previous examples or incidents which</p> <p>15 illustrate this effect, maybe when you were close to</p> <p>16 that fog light and there is a ship that was close to</p> <p>17 your ship, and you couldn't see that ship and some</p> <p>18 dangerous incident occurred?</p> <p>19 A. I can't recall. I have no recollection of that.</p> <p>20 Q. But can I just explore with you what you mean by "if the</p> <p>21 coming ship is located near the light".</p> <p>22 A. Okay.</p> <p>23 Q. So the situation that you are describing is a situation</p> <p>24 where the coming ship, the ship is sailing towards the</p> <p>25 north -- right? Is that the situation that you have in</p> |
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| <p>1 "temporarily", perhaps paving the way to eventually</p> <p>2 being represented by way of submissions.</p> <p>3 THE CHAIRMAN: Well, of course, it's entirely a matter for</p> <p>4 him.</p> <p>5 MR SHIEH: Of course, it depends how it hangs, but it would</p> <p>6 be good to have some sort of idea. Of course, if he</p> <p>7 doesn't tell, he doesn't tell.</p> <p>8 THE CHAIRMAN: The Commission has ordered that he has the</p> <p>9 right to participate and be legally represented.</p> <p>10 Whether or not he chooses to avail himself of that right</p> <p>11 is a matter for him. But in the circumstances, we would</p> <p>12 invite you to call Mr Lai after this witness's evidence.</p> <p>13 MR SHIEH: Yes. And continue with the evidence as he left</p> <p>14 off?</p> <p>15 THE CHAIRMAN: Yes. What it will require, of course, is for</p> <p>16 counsel for the Commission to take over leading the</p> <p>17 evidence.</p> <p>18 MR SHIEH: Yes.</p> <p>19 THE CHAIRMAN: Thank you.</p> <p>20 MR WONG YUNG-SHING (on former affirmation in Punti)</p> <p>21 (All answers via interpreter unless otherwise indicated)</p> <p>22 THE CHAIRMAN: Mr Wong, good morning to you.</p> <p>23 A. Good morning.</p> <p>24 THE CHAIRMAN: May I remind you that you continue to testify</p> <p>25 according to your original affirmation.</p> | <p>1 mind?</p> <p>2 A. You see, I'm not a really well-educated man, so I'm not</p> <p>3 sure if I can be able to explain things to you.</p> <p>4 Q. It's fine. We can take it step by step. If you are not</p> <p>5 used to describing things by numbers, we can skip the</p> <p>6 numbers.</p> <p>7 A. Okay. I got it.</p> <p>8 Q. Can you give me a typical example that you have in mind</p> <p>9 whereby the light from the power station would affect</p> <p>10 your vision in detecting an approaching vessel, when</p> <p>11 your vessel is sailing towards Yung Shue Wan?</p> <p>12 A. It's very hard for me to analyse a situation like that.</p> <p>13 It will depend, you see, about the angle at which I will</p> <p>14 be sitting, and also the angle of the coming ship.</p> <p>15 Q. Have you had occasions when your vision of</p> <p>16 an approaching vessel had been impeded or hampered at</p> <p>17 a distance when the Sea Smooth was near the Shek Kok</p> <p>18 Tsui beacon?</p> <p>19 A. Not as seriously.</p> <p>20 Q. So the effect would be felt perhaps more significantly</p> <p>21 when Hong Kong & Kowloon Ferry ferries were closer to</p> <p>22 Yung Shue Wan?</p> <p>23 A. Yes, right. If we are near the Hongkong Electric Power</p> <p>24 Station, then the effect will be bigger.</p> <p>25 Q. And likewise, if I understand your earlier evidence</p> |

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| <p>1 correctly, if the approaching vessel was closer to the 2 Hongkong Electric Power Station, then likewise the 3 effect of the light would be greater, in terms of 4 hampering or impeding your vision? I'm talking about 5 the approaching vessel. 6 A. Correct. 7 Q. Thank you. Can I now look at your witness statement. 8 Holman Fenwick Willan bundle. The English is at 9 page 144. The Chinese is at page 145-2. 10 "As I was standing on my station, I felt that the 11 vessel slowed down very suddenly. A few seconds 12 afterwards there was a loud crash. I fell over and saw 13 the door leading to the bow was burst open." 14 A. Yes. 15 Q. A few questions arising from this. First of all, when 16 the vessel slowed down, you had already completed your 17 descent down the staircase? You were not on the stairs. 18 You were no longer on the stairs; you were standing on 19 a flat surface? 20 A. That's right. I was standing -- I had been standing for 21 a little while, a short while, already. 22 MR SHIEH: Could I have the plan of the Sea Smooth. 23 By reference to this plan, could I zoom in on the 24 main deck. First of all, let me do it step by step. 25 You can sort out the relative direction and position of</p> | <p>1 THE CHAIRMAN: So that was on the port side by the gangway 2 on that side of the vessel? 3 A. That's right. 4 MR SHIEH: From that, you could actually see -- how about 5 your two colleagues? 6 A. The other sailor colleague, I didn't notice where he 7 was. But for the engineer -- the engineer was at the -- 8 THE INTERPRETER: When the witness said this, his finger was 9 pointing on the starboard side of the vessel, going 10 down, also in the shaded area, inside the shaded area. 11 The witness was pointing at this when he said that the 12 engineer was at that position. 13 A. (Chinese spoken). 14 THE CHAIRMAN: So he was stationed by the other starboard 15 gangway entrance; is that it? 16 A. There was some railing there, inside the shaded area. 17 MR SHIEH: So basically you're on the port side, he's on the 18 starboard side? 19 A. That's right. He was on the starboard side. 20 Q. My second question is, again, approximately -- and this 21 doesn't call for a good deal of knowledge -- how long 22 afterwards, counting from the time you left the 23 wheelhouse, did you feel the vessel slowing down? 24 A. It wasn't as if the vessel slowed down abruptly. It 25 wasn't like that. It was just it was slowing down and</p> |
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| <p>1 the plan at the bottom of this page; yes? You know 2 which one is starboard, which side is port, and which 3 one is forward, which side is aft? 4 A. Do you mean the position that I was in? 5 Q. Yes. Please describe where you were standing at the 6 time when the vessel began to slow down. 7 THE INTERPRETER: The witness was pointing at the bow 8 forward side of the diagram, next to the numbers 34, 35, 9 36. His finger was pointing right in the middle of the 10 shaded area. 11 A. I was standing there. I was leaning there. There was 12 a box there. 13 MR SHIEH: Mr Wong, you can see the black arrow, that little 14 moving object, that black triangle moving in the shaded 15 area. 16 A. Yes, I can see it. 17 Q. Was it pointing to the area against which you were 18 leaning? 19 A. Go inside the shaded area, into the middle of it. Going 20 up, going up. 21 THE INTERPRETER: Yes, this is where the witness has just 22 pointed. 23 MR SHIEH: That was where people were to leave their luggage 24 and bags and stuff like that? 25 A. That's right.</p> | <p>1 slowing down. 2 Q. But in your witness statement at paragraph 18 you said 3 you felt the vessel slowed down very suddenly. So it 4 was not gradual. It was sudden enough for you to 5 specifically mention it, by using the adjective -- 6 THE CHAIRMAN: That's what the statement says. 7 MR SHIEH: Yes, that's what the statement -- 8 THE CHAIRMAN: What's your evidence, that is slowed down 9 gradually? 10 A. It has begun to slow down slowly. 11 THE CHAIRMAN: So it's incorrect to assert in your statement 12 that it slowed down very suddenly? That's incorrect? 13 A. I was just saying that it didn't stop all of a sudden. 14 That's what I'm saying. I can't really analyse it. 15 MR SHIEH: Let us talk about feelings. Did you give a jerk? 16 Did you almost fall down? 17 A. Yes, I was made to -- I fell down. I fell down 18 completely. I lurched forward and then I fell down on 19 the floor. 20 Q. But that was after the collision, the impact? 21 A. That's right. 22 Q. Did the slowing down have any effect on you, so that you 23 lost your balance but did not quite fall down? 24 A. If it is in a usual time, then that would happen. 25 Q. Well, let's skip over this question about the</p> |

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| Page 9 | <p>1 deceleration or slowing down. Just thinking about the 2 matter very broadly, from the time when you left the 3 wheelhouse to the time when the impact took place and 4 you fell down, around about how long did that take? 5 A. Very short time. But I can't tell really how long it 6 was. 7 Q. You walked out of the wheelhouse, walked down the 8 stairs, went to the shaded area where the baggage was 9 left. You leaned there. Shortly afterwards, the impact 10 took place. 11 A. That's right. 12 Q. Counted in terms of seconds but not minutes? 13 A. That's right. 14 Q. Third point. When you said you "saw the door leading to 15 the bow was burst open", where was that door? 16 Can we have the plan, please. 17 THE INTERPRETER: The witness was pointing at the bow of the 18 ship on the right-hand side of the diagram, with the 19 little triangle in the shaded area. Yes, that's where 20 the cursor -- exactly, that's the point. That's just 21 where the witness has just pointed. 22 MR SHIEH: That would be a door leading to the open area? 23 A. That's right. To the bow. 24 Q. Could you see what was outside the door after it was 25 burst open?</p> | Page 11 |
| Page 10 | <p>1 A. I saw that some object, something was very close by and 2 then just glided along. But ... 3 THE CHAIRMAN: Before we get to that, could you have a look 4 at a photograph to see if you can identify this door. 5 At police photograph 15. Page 15, yes. Is that the 6 door to the bow from the main deck that you're 7 describing? 8 A. That's right. 9 MR SHIEH: So what you are saying is that you looked through 10 that door which had burst open, and you saw the ship 11 gliding across some objects; correct? 12 A. I'm not sure if it was a ship. It was just some object 13 that glided along. 14 THE CHAIRMAN: Gliding past your vessel? 15 A. That object had actually touched our vessel already and 16 then glided abrasively along it. By the time I stood 17 up, it passed us already. 18 THE CHAIRMAN: So sliding down your vessel, in contact? 19 A. That's right. 20 MR SHIEH: Could you hear any sound from that object? 21 A. I didn't notice. Because I was in panic then, because 22 it happened all of a sudden. 23 Q. So by the time you stood up, you could no longer see 24 that object on the port bow of the vessel? 25 A. I wasn't outside then, so when I was standing up, I was</p> | Page 12 |
| | <p>1 still inside and then looked through the window. That's 2 why. 3 Q. You looked through the window. But after you had stood 4 up and looked out of the window, you could no longer see 5 that object? 6 A. As I was looking out of the window, I never went out, 7 and then there was the railing there and then I saw the 8 water gushing in, and then the people -- the ship 9 started listing and passengers started screaming. 10 THE CHAIRMAN: When you saw this object sliding down in 11 contact with your vessel, was that from your position on 12 the floor, or had you stood up in order to see that? 13 A. I was in the process of standing up already when I saw 14 that object. 15 THE CHAIRMAN: Thank you. 16 MR SHIEH: Can I just clarify. You emphasised you never 17 walked out. I understand. You don't have to repeat 18 that. I know you did not step out; right? No need to 19 repeat that. 20 A. Yes. 21 Q. No need to repeat that anymore. What I want to know 22 from you is when you saw that object gliding past your 23 vessel, did you see that through the window or did you 24 see that through the door, by looking outside? 25 A. Door.</p> | |
| | <p>1 Q. Paragraph 19: 2 "There was only one loud crash. There were no other 3 impacts." 4 A. Yes. 5 Q. Paragraph 20: 6 "I did not hear anything before the crash or before 7 Sea Smooth slowed down." 8 A. Yes. 9 Q. But the entire passenger cabin, main cabin, main deck, 10 was enclosed in windows, and the windows were all 11 closed? 12 A. Yes. 13 Q. And it would be possible for there to have been some 14 whistle or horn sounded from outside the vessel, but 15 because of the enclosed nature of the passenger deck, 16 you couldn't hear it, right? It's possible? 17 A. Yes. It would be possible. 18 Q. Right. Paragraph 21: 19 "I checked the passengers, and helped them." 20 That's correct? 21 A. Yes. 22 Q. So that was the passengers on the main deck; correct? 23 A. Yes. 24 Q. So did you patrol around the main deck? 25 A. At which particular point of time are you talking about?</p> | |

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| <p>1 Q. After you managed to stand up again. 2 A. I looked around and then it was very chaotic, and then 3 a few passengers walked out of the door. I followed 4 them and walked out. 5 Q. Out to where? 6 A. To the bow. 7 Q. Where the door burst open? 8 A. Yes. 9 Q. So you followed them out? 10 A. Yes. 11 Q. So you were standing in open deck? 12 A. That's right. The few passengers that have gone outside 13 the bow, they were standing on the starboard side, where 14 it was without the railing. 15 Q. Because the port side -- the port bow of the Sea Smooth 16 was damaged? The port side of the Sea Smooth was 17 damaged, the open deck, so the passengers stood on the 18 starboard side. Is that what you're saying? 19 A. Yes. 20 Q. You followed them out? 21 A. Yes. 22 Q. What did you do to them? 23 A. When I was outside, I could see the passengers in 24 a panic and I could hear screams inside, and I heard 25 somebody yell -- I don't know whether it was a passenger</p> | <p>1 A. Yes, that's right. All I had got was words from the 2 engineer and then I followed what he told me. 3 Q. Right. What words came from the engineer? 4 A. He told me what to do, what to do, what to do, what to 5 do. So I followed his instructions. But then, on the 6 other hand, I saw that there were passengers on the bow 7 outside there, and then I must take care of my own 8 bearing and position. 9 Q. Have you at any stage after the collision gone upstairs 10 to the upper deck and into the wheelhouse? 11 A. No. 12 Q. Have you at any time after the collision, while on the 13 Sea Smooth, seen the coxswain? I know you say you 14 haven't spoken to him. 15 A. I didn't notice. I wasn't aware of it. But probably 16 I shouldn't have seen him. 17 Q. Do you know or have you heard from anyone what he was 18 doing at the time of the collision, or shortly before 19 the collision? 20 Can I put it again. Do you know, or has anyone told 21 you, what the coxswain was doing shortly prior to the 22 collision? 23 A. No. 24 Q. Paragraph 22: 25 "The vessel then started listing to port. The</p> |
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| <p>1 or someone, or it was the coxswain himself -- saying 2 that we should don the life jackets. So I hurried in. 3 Q. So you hurried back into the main deck? 4 A. Yes. 5 Q. Right. Now, the next sentence of paragraph 21, you 6 said: 7 "The master told me there had been a collision with 8 a boat and to check that the passengers were okay. Some 9 passengers were hurt and had minor cuts." 10 A. Yes, I can see that. 11 Q. Where were you and where was the master when he told you 12 about a collision with a boat? 13 A. I didn't talk to the coxswain. I just heard it from the 14 engineer. So I followed what he told me. 15 Q. So that sentence in paragraph 21, "The master told me 16 there had been a collision with a boat", is not correct? 17 A. That's right. It's incorrect, because in my memory 18 I hadn't said such a thing. 19 Q. Right. In your memory you had not said such a thing, 20 and as a matter of fact, did the coxswain actually tell 21 you after the collision that Sea Smooth had collided 22 with another boat? 23 A. No, he didn't tell me that, because throughout, I had no 24 contact with the coxswain. 25 Q. "Throughout", you mean after the collision?</p> | <p>1 master asked the passengers to put on life-saving 2 jackets." 3 Is that sentence correct? 4 A. I would say the subject of this sentence, "coxswain", is 5 incorrect. All I did was -- the engineer was shouting 6 that the passengers -- that we should don the life 7 jackets, and I also saw that some passengers were 8 donning some life jackets. 9 Q. So it would read correctly, "The engineer asked the 10 passengers to put on life-saving jackets"? 11 A. Not requested or asked, it's that he instructed. But 12 I agree, yes, "engineer instructed" or ... 13 Q. I think I know what you are saying. I get the sense of 14 it. I'll move on. 15 "I calmed the passengers and also helped them to put 16 on life jackets. I also asked some passengers to go to 17 safer area." 18 A. Yes. 19 Q. "The engineer reported that there was water entering the 20 port hull and I saw that too." 21 A. Yes. 22 Q. "The passengers were very worried and some of them were 23 screaming after seeing the water ingress into the 24 passenger cabin." 25 A. Yes.</p> |

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| <p>1 Q. "They demanded that the ferry continue to Yung Shue Wan 2 before she sank." 3 A. I heard some passengers saying that. I only heard them 4 say so. 5 Q. Say to whom? 6 A. I didn't notice. All I did was -- what happened was, I 7 just heard somebody say that. 8 Q. When you said there was "water ingress into the 9 passenger cabin", that was water ingress through the 10 manholes, right, in the floor? 11 A. Yes. 12 Q. I think we've been through this, but for the record, can 13 I have the plan of the Sea Smooth. Could I have 14 a close-up near the port bow. 15 Mr Wong, could you identify on this plan where the 16 manhole is or the manholes were where water was 17 coming in? 18 THE INTERPRETER: The witness was pointing at the port bow, 19 near the port bow, right next to seat 3. 20 MR SHIEH: Right. 21 THE INTERPRETER: That's where he was pointing, yes. 22 THE CHAIRMAN: That's seat 3? 23 THE INTERPRETER: That's right. 24 THE CHAIRMAN: That we can see in photograph 15 in the 25 police photographs, can we not?</p> | <p>1 A. That's right. 2 THE CHAIRMAN: Earlier you told us that you heard that from 3 the engineer. 4 A. I can't recall that. I don't remember who told me 5 about it. 6 THE CHAIRMAN: Did you learn from some source shortly after 7 the collision that there had been a collision with 8 a boat? 9 A. I wasn't aware of what the source was, because it was 10 very chaotic then. 11 MR SHIEH: I think the purpose of the question is not to ask 12 you to name the person who told you. The purpose of the 13 question was to ascertain whether you were indeed aware, 14 from someone, something -- never mind who it was -- that 15 there had been a collision with a boat. You had not 16 crashed into a mountain, for example. 17 A. I didn't get any contact from anybody or anything that 18 there had been a collision with a boat. 19 THE CHAIRMAN: So you'd no idea what had caused the crash 20 that threw you onto the floor; is that what you're 21 really saying? 22 A. Yes. At that point of time, yes. 23 MR SHIEH: Mr Wong, there had been an impact -- you actually 24 saw an object -- which caused that chaos in your vessel. 25 Weren't you at least curious, as a matter of human</p> |
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| <p>1 A. Yes. 2 MR SHIEH: Paragraph 23: 3 "I stayed in the lower passenger cabin after the 4 collision. I did not see the boat that had hit us." 5 A. Yes. 6 Q. After the collision, and while still on board the Sea 7 Smooth, has anyone -- anyone, it doesn't matter whether 8 it's the engineer or whether it's the other sailor or 9 the coxswain -- told you that there had been a collision 10 with another boat? 11 THE CHAIRMAN: He's told us already that he heard that from 12 the engineer. He corrected it as being attributed to 13 the master. That's paragraph 21. 14 MR SHIEH: Because my understanding was that he heard from 15 the engineer the need to ask people to put on life 16 jackets, but -- 17 THE CHAIRMAN: No, he dealt with it in terms as to the 18 collision with a boat. 19 MR SHIEH: Yes. Thank you. 20 So, you were indeed aware from the engineer that 21 there had been a collision with a boat; correct? 22 A. I'm not sure, because I'm not sure who told me that, 23 that there was a collision with a boat. 24 THE CHAIRMAN: Well, it wasn't the master; that's your 25 evidence so far.</p> | <p>1 nature, to find out, to look, to ask, what incident had 2 occurred? 3 A. Because I never had any such reactions as you describe, 4 because I was in a panic then. So I didn't know what to 5 do. I heard shouts and screams about what I should do. 6 Then I followed my usual training and put on the life 7 jackets. 8 Q. Having put on your life jacket and helped the other 9 passengers, had it occurred to you then to ask, to look 10 around to see what it was that caused the impact? 11 A. I didn't put on a life jacket. 12 Q. But you helped others put on life jackets? 13 A. That's right. 14 No. 15 THE CHAIRMAN: You told others to put on life jackets? 16 A. Yes. There was a foreign female passenger standing 17 outside the bow, and then she didn't know how to put on 18 the life jacket so I helped her with it. Then there was 19 another passenger who was struggling with a buoy. 20 MR SHIEH: When you were out at the open area at the bow, 21 you could see that the port bow, the open area, was in 22 a really bad shape. It was damaged. One part of it had 23 simply gone. 24 A. Yes. 25 Q. Look at expert bundle 1, page 384. That is the port bow</p> |

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| <p>1 of the Sea Smooth. It was as bad as that; right?</p> <p>2 THE INTERPRETER: Is the photo on page 384?</p> <p>3 MR SHIEH: Yes, this is the one.</p> <p>4 THE CHAIRMAN: On the screen, hopefully, in front of you.</p> <p>5 A. Yes, I can see it.</p> <p>6 THE CHAIRMAN: And the red dotted line shows the part of the</p> <p>7 vessel that's missing, does it not?</p> <p>8 A. Yes.</p> <p>9 MR SHIEH: And also police album II, page 83. That's also</p> <p>10 the port bow of the Sea Smooth; yes? Correct?</p> <p>11 A. Yes.</p> <p>12 Q. You can see the door that sprung open?</p> <p>13 A. Yes.</p> <p>14 THE CHAIRMAN: Is that a door that's operated by the handles</p> <p>15 that we can see?</p> <p>16 A. There was actually --</p> <p>17 THE INTERPRETER: The witness was pointing at the horizontal</p> <p>18 line, saying that it is a latch.</p> <p>19 A. Both upward and downward of the latch, they are the</p> <p>20 back-up lock.</p> <p>21 THE CHAIRMAN: Is the downward -- the one you're pointing</p> <p>22 at, the bottom of the door, is that not a locking device</p> <p>23 for a watertight door?</p> <p>24 A. That's right.</p> <p>25 THE CHAIRMAN: Are you sure this door burst open?</p> | <p>1 Q. Why?</p> <p>2 A. Because it was very chaotic then. I was very busy</p> <p>3 taking care of people, with so much damage and also</p> <p>4 water ingress going on, plus the fact I had to take care</p> <p>5 of my own passengers -- that's why.</p> <p>6 Q. Mr Wong, what else could Sea Smooth have struck but</p> <p>7 another boat?</p> <p>8 A. At that time, I didn't give any thinking to it.</p> <p>9 Q. So from that, I take it that you are saying that it</p> <p>10 didn't occur to you, for example, to see whether or not</p> <p>11 anyone from the other object needed help?</p> <p>12 A. Correct.</p> <p>13 Q. Could I ask you to look at the police album, page 115.</p> <p>14 Do you see that --</p> <p>15 A. I can see it.</p> <p>16 Q. Do you see the steamer in the front of this photo?</p> <p>17 A. Yes.</p> <p>18 Q. What was that for?</p> <p>19 A. To steam rice with.</p> <p>20 Q. Whom did it belong to?</p> <p>21 A. Coxswain's.</p> <p>22 Q. Was it at that position at the time of the collision, at</p> <p>23 the time when you left the wheelhouse?</p> <p>24 A. It shouldn't be up on there. It should be on the floor.</p> <p>25 But, you see, the wheelhouse was very dark then, so</p> |
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| <p>1 A. Yes.</p> <p>2 THE CHAIRMAN: You didn't open it?</p> <p>3 A. No.</p> <p>4 THE CHAIRMAN: Thank you.</p> <p>5 MR SHIEH: So when you walked out and saw the state of the</p> <p>6 bow of the Sea Smooth, did it not occur to you something</p> <p>7 rather awful had happened?</p> <p>8 A. No.</p> <p>9 Q. You didn't think --</p> <p>10 A. What you're talking by "awful", it means what I saw,</p> <p>11 what happened to the bow, or some other things that I've</p> <p>12 seen?</p> <p>13 Q. Do you think this is awful, what you had seen?</p> <p>14 Something terrible, something disastrous?</p> <p>15 A. Yes.</p> <p>16 Q. Apart from what you saw on the Sea Smooth at the bow,</p> <p>17 did you see any other disastrous scenes? In the sea,</p> <p>18 for example?</p> <p>19 A. No.</p> <p>20 Q. But if something like that, as bad as that that we have</p> <p>21 seen in the photographs, had occurred to the Sea Smooth,</p> <p>22 did it ever occur to you for one split second as to what</p> <p>23 had happened to the other thing that had crashed with</p> <p>24 the Sea Smooth, whatever it may be?</p> <p>25 A. No.</p> | <p>1 I didn't quite notice it.</p> <p>2 Q. Had it been used during the course of that day at any</p> <p>3 time?</p> <p>4 A. It's been used by the coxswain on that day during the</p> <p>5 afternoon, but at which particular point of time,</p> <p>6 I don't recall.</p> <p>7 Q. Was it when the vessel was underway that he used it?</p> <p>8 A. No.</p> <p>9 Q. Where did you have lunch that day?</p> <p>10 A. I don't recall where in particular. Anyway, there were</p> <p>11 no particular arrangements for our meals. All we could</p> <p>12 manage was just to grab our own bite in between</p> <p>13 intervals.</p> <p>14 Q. So would you sometimes take your own meal box to the</p> <p>15 stern of the vessel, the open area, to eat that?</p> <p>16 A. Yes.</p> <p>17 Q. The open deck at the stern of the vessel?</p> <p>18 A. Yes.</p> <p>19 Q. So it may be that not all the crew would go there, but</p> <p>20 maybe you would take turns; yes?</p> <p>21 A. That's right.</p> <p>22 Q. That may be what happened at some stage during that day;</p> <p>23 correct?</p> <p>24 A. Yes. Also in a usual day, the ordinary day, we will do</p> <p>25 it like that.</p> |

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| <p>1 THE CHAIRMAN: Whilst the vessel was underway? 2 A. No. It is when the vessel has berthed and then we take 3 turns getting our meals, when there is time. But if 4 orders should come that there will be an extra ferry 5 run, then we will skip our meals and do our work. 6 MR SHIEH: Anyway, a passenger on board the Sea Smooth on 7 the main deck has given evidence that after the 8 collision, he saw a crew in blue uniform muttering to 9 himself, "It's Hongkong Electric again". 10 Did you hear that? 11 A. No. 12 Q. You didn't say that? 13 A. No. 14 Q. Have there been any prior incidents, dangerous 15 encounters, between vessels operated by Hongkong 16 Electric and Hong Kong & Kowloon Ferry? 17 A. Not that I know or not that I've seen, you know, in my 18 service, during my service. 19 Q. Have you heard from colleagues? 20 A. That, I wouldn't know. 21 Q. Is there anything that is not contained in the statement 22 that I have read out to you which you wish to tell us 23 which is relevant to the reason or the cause of the 24 collision? 25 A. No, nothing in particular.</p> | <p>1 THE CHAIRMAN: Before we move to that. 2 You had been arrested in respect of the offence of 3 manslaughter, had you not? 4 A. Yes. 5 MR SHIEH: But at an earlier point in time on the same day, 6 there was an earlier interview. The Chinese notes are 7 at page 3358. The English version starts at 8 page 3366-1. 9 This was earlier that day, 5.15 am to 6.50 am. 10 Mr Wong, you remember that prior to your arrest -- 11 THE CHAIRMAN: You say it was earlier but the notebook entry 12 you've taken him to was a post record, was it not, made 13 after the event? It was made at 7.35 am. We're not 14 told in the notebook entry when the arrest was, are we? 15 MR SHIEH: Earlier on in the note, it says, "Now I arrest 16 you". 17 THE CHAIRMAN: Yes. But we're not told when that event took 18 place. 19 MR SHIEH: No. But if one actually reads the police 20 interview at 5.15, it was still using the language of 21 "I enquire of you about the case", so -- 22 THE CHAIRMAN: Thank you. So that took place at an unknown 23 time after the initial interview; is that -- 24 MR SHIEH: At a stage when it was still "enquire", before 25 the post-record note.</p> |
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| <p>1 MR SHIEH: Mr Chairman, I might just have nothing more to 2 add, but could I just cross-check the interview. 3 THE CHAIRMAN: Please take your time. 4 MR SHIEH: Yes, there is one short point. 5 Mr Wong, you remember that following the collision, 6 following the incident, you attended the Sai Wan Ho 7 Marine Police Headquarters for the purpose of attending 8 interviews? 9 A. Yes. 10 Q. Could I ask you to turn to police bundle M. The police 11 notebook is at page 3355; that is the Chinese version. 12 The English version is page 3357-1. The text of the 13 notes can be found, for the Chinese version, at 14 page 3356. I'm afraid it's rather difficult to 15 decipher. But the English version is page 3357-1. 16 I won't ask you to try to read the writing, but 17 I simply wish to see whether you remember on that day, 18 which is 2 October, in the morning, in Sai Wan Ho Marine 19 Police Headquarters, you were arrested by the police and 20 you were also cautioned that you were not obliged to say 21 anything unless you wished to do so, but what you said 22 would be put into writing and given in evidence. Do you 23 remember that process? 24 A. Yes, I do. 25 Q. Then at page 3358 --</p> | <p>1 THE CHAIRMAN: Very well. 2 MR SHIEH: Again, at page 3360, the Chinese statement -- the 3 English translation is page 3366-3. You signed, 4 stating: 5 "I make this (statement) of my own free will. 6 I have been told that (I) need not say anything 7 (unless I) wish to do so and that whatever I say may be 8 given in evidence." 9 A. Yes. 10 Q. There are a few specific points I wish to draw to your 11 attention. 12 First of all, page 3363, the Chinese. The English 13 translation is page 3366-7. The question is: 14 "Normally, in the voyage, apart from the captain who 15 is inside the wheelhouse, where do you people stay at?" 16 A. Yes. 17 Q. The answer was: 18 "When we have nothing to do, we normally will enter 19 the wheelhouse for taking a break." 20 A. We will be doing that only after the ship has stopped. 21 Q. No, but the question was "during the voyage". 22 A. After such a lapse of time, I don't really recollect it 23 very clearly. 24 Q. You can't recollect what you said, or you can't 25 recollect your usual practice?</p> |

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| <p>1 A. I can't really recall this is what I had said. This 2 I can't recall clearly. 3 Q. But is it true, is it a fact that during the course of 4 a voyage or a journey, when the crew went and 5 congregated at the wheelhouse, they were there really 6 relaxing themselves and taking a rest, rather vigilantly 7 taking a look-out? 8 A. You see, when I was doing this interview, I didn't 9 really understand what was asked of me. 10 THE CHAIRMAN: You're not being asked about that now. 11 You're being asked as to whether or not it is in fact 12 the truth that during the voyage, the crew treated their 13 time in the wheelhouse as a break rather than 14 an opportunity to maintain a vigilant look-out. 15 A. No, not really. It's not like that. Each one of us, 16 all of us, would be doing the same thing. Some would be 17 doing the look-out, and then it all depends. When the 18 weather was good and the visibility was good, then of 19 course we will sit down and then we will take a rest, 20 take a break. But then when the weather was bad and 21 then the visibility was not good, then we would do the 22 look-out and then somebody would be more vigilant. 23 MR SHIEH: The next question and answer in this police 24 interview record: 25 "Question: During the voyage, did the captain</p> | <p>1 Hong Kong Ferry, what training have you had? 2 A. No. 3 Q. You've been on no courses? 4 A. None. 5 Q. Thank you. I want to ask you a question about the fog 6 light. You've mentioned that it can sometimes affect 7 vision. Have you ever complained about that? 8 A. No. 9 Q. Why not? 10 A. It's not for us sailors, you know, to do such a thing. 11 The coxswain himself should know what to do, whether to 12 complain or not. 13 Q. Had you ever mentioned this problem to the coxswain? 14 A. No. 15 Q. Thank you. Now, on the trip -- it's not clear to me, 16 I'm afraid -- were you actually keeping a look-out, or 17 were you relaxing? 18 A. It varies from time to time. Most of the time, I will 19 be doing the look-out. It also depends on the weather. 20 If it's foggy, rainy, then we'll pay more attention. 21 THE CHAIRMAN: You're being asked about this particular 22 voyage at 20:00 from Central Pier towards Yung Shue Wan. 23 What were you doing on that voyage? 24 MR GROSSMAN: On 1 October. 25 A. I was doing the look-out.</p> |
| <p>Page 30</p> <p>1 instruct anyone to do the look-out? 2 Answer: No." 3 That is true, right? 4 A. Yes. 5 Q. So from what you said, it's entirely voluntary, it's 6 entirely decided on the spot as to who was in the mood 7 to conduct a look-out? 8 A. Yes. 9 Q. Can I ask you this. Was there a sense of complacency in 10 the wheelhouse in the sense that everybody thought that 11 this is a route that people have been travelling for 12 don't know how many times, so it's something that need 13 not be the subject of any particular attention? 14 A. No, not really. 15 MR SHIEH: Thank you very much. I have no further 16 questions. 17 THE CHAIRMAN: Thank you. 18 Mr Grossman, do you have an application? 19 MR GROSSMAN: I do have an application, Mr Chairman. I want 20 to ask one question about training. I want to ask 21 a question about the fog light. And then one or two 22 questions about the trip, and post collision. 23 THE CHAIRMAN: Very well. Please proceed. 24 Examination by MR GROSSMAN 25 MR GROSSMAN: Mr Wong, since you started working for</p> | <p>Page 32</p> <p>1 Q. You were doing look-out. Why? 2 A. Because this is my responsibility. 3 Q. On that particular evening, was it your responsibility 4 specifically, or were you sharing it with others? 5 A. I shared it with others. 6 Q. And when you were keeping a look-out in the wheelhouse, 7 could you see clearly ahead of you? 8 A. Within daytime, or the evening? 9 Q. We're talking about just before the collision. 10 A. If the weather is good, then I can see further away. 11 Q. I'm only asking you about the night of 1 October, when 12 there was the collision with the other vessel. On that 13 night, could you see clearly ahead of you when you were 14 keeping a look-out? 15 A. That's right. I was looking ahead. It was very clear. 16 Q. I'd ask you to look, please, at the statement you gave 17 the following morning at 5.15. The English is at 18 page 3366-7. I'm sorry, I can't tell you where it is in 19 the Chinese, but I think it's on page 6 of the Chinese, 20 which would be page 3363. I'll read the question to you 21 as it's translated on page 3366-7: 22 "In this vessel collision incident, did you see the 23 vessel of the opposite party?" 24 That's the question. 25 THE INTERPRETER: It's barely legible. I'm trying to make</p> |

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| <p>1 out the words. Okay.</p> <p>2 A. I can't see it.</p> <p>3 MR GROSSMAN: The answer was:</p> <p>4 "As it was dark, I was at the bow and unable to see</p> <p>5 anything outside actually."</p> <p>6 A. When did I say this?</p> <p>7 Q. You said this when you were being interviewed at 5.15 on</p> <p>8 2 October.</p> <p>9 MR SUSSEX: Mr Chairman, there's a suggestion that might be</p> <p>10 better translated as "When am I talking about?"</p> <p>11 THE CHAIRMAN: Yes, I can see what the issue is, as to</p> <p>12 whether or not this was whilst he was in the wheelhouse</p> <p>13 or when he was on the bow.</p> <p>14 MR GROSSMAN: Thank you.</p> <p>15 THE CHAIRMAN: Do you want to clarify that?</p> <p>16 MR GROSSMAN: Yes, I will.</p> <p>17 First of all, it says here:</p> <p>18 "As it was dark, I was at the bow and unable to see</p> <p>19 anything outside actually."</p> <p>20 Does it mean when the collision happened, you were</p> <p>21 at the bow, or did you mean something else?</p> <p>22 A. You mean after the collision, I went out the outside</p> <p>23 area at the bow? Is that what you mean?</p> <p>24 THE CHAIRMAN: We're trying to find out what your answer</p> <p>25 here addresses. What we're trying to find out is what</p> | <p>1 you had when you were sitting in the wheelhouse keeping</p> <p>2 a look-out?</p> <p>3 A. You see, when you are at the wheelhouse, the wheelhouse</p> <p>4 is higher. So when you are on the bow, then obviously</p> <p>5 it's lower. So which vision would be better, it's hard</p> <p>6 to judge.</p> <p>7 Q. When you say in this answer "it was dark, I was at the</p> <p>8 bow and unable to see anything outside actually", is</p> <p>9 that correct?</p> <p>10 A. This statement should not be correct, because if you are</p> <p>11 outside on the bow, you should be able to see some</p> <p>12 lights or some ships or crafts.</p> <p>13 When I was making the statement, maybe the officer</p> <p>14 taking my statement did not really understand what</p> <p>15 I meant.</p> <p>16 Q. If we just go to the next page -- in the Chinese, it's</p> <p>17 page 7, and it's page 3366-8 in the English. If we look</p> <p>18 at the third question. It starts, "How about the</p> <p>19 weather at that time?"</p> <p>20 Do you have that, Mr Interpreter? The third</p> <p>21 question on page 7 of the Chinese.</p> <p>22 THE INTERPRETER: I'm trying to make it out. You are</p> <p>23 talking about "How was the weather" and then whether the</p> <p>24 light was enough, right?</p> <p>25 MR GROSSMAN: Correct, yes.</p> |
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| <p>1 you were answering here. Because you use the word</p> <p>2 "bow"; you don't say "wheelhouse". So what were you</p> <p>3 talking about?</p> <p>4 A. I don't really recall what I said at that time, because</p> <p>5 it doesn't seem that this is what I really meant.</p> <p>6 THE INTERPRETER: I'm going to translate your question.</p> <p>7 A. So, the question is?</p> <p>8 THE CHAIRMAN: We're asking you what this answer addresses,</p> <p>9 because you use the word "bow"; you don't use the word</p> <p>10 "wheelhouse". Were you talking about the subsequent</p> <p>11 event when you went out to the bow after the collision,</p> <p>12 or were you talking about prior to the collision?</p> <p>13 A. Prior to the collision, I -- so I don't really</p> <p>14 understand. When I said this -- so when you are giving</p> <p>15 me this reference about I am at the bow position,</p> <p>16 I don't know which particular point in time this</p> <p>17 reference is referring to. It's hard for me to</p> <p>18 understand.</p> <p>19 MR GROSSMAN: All right. Let me ask you thing else about</p> <p>20 that sentence. When you were at the bow, were you</p> <p>21 unable to see anything outside, as you've said here?</p> <p>22 A. You can't put it in general. I mean, you have to see</p> <p>23 the vision, was it good or bad then, you know, when</p> <p>24 I was outside the bow.</p> <p>25 Q. Was it any worse or any different from the vision that</p> | <p>1 THE INTERPRETER: Okay. Because I wasn't looking at the</p> <p>2 English translation.</p> <p>3 A. Yes.</p> <p>4 MR GROSSMAN: You say:</p> <p>5 "As it was dark at that time, (I) was unable to see</p> <p>6 the environment outside."</p> <p>7 Is that correct?</p> <p>8 A. You mean inside the wheelhouse?</p> <p>9 Q. I want to know what you mean.</p> <p>10 A. I have to know whether you are asking me whether I am</p> <p>11 inside the wheelhouse or outside.</p> <p>12 THE CHAIRMAN: Well, look back at the previous two</p> <p>13 questions. One is about did you know who was inside the</p> <p>14 wheelhouse, and the other is about the speed. So it</p> <p>15 looks as though you're being asked about from the</p> <p>16 wheelhouse, doesn't it?</p> <p>17 A. Yes.</p> <p>18 MR GROSSMAN: So is it correct, then, that because it was</p> <p>19 dark outside, you were unable to see the environment?</p> <p>20 You couldn't see what was going on outside? When you</p> <p>21 were in the wheelhouse?</p> <p>22 A. Yes, that's right. The vision would not be too clear.</p> <p>23 MR GROSSMAN: Mr Chairman, I have one or two other small</p> <p>24 areas about this to ask about. I see the time. Would</p> <p>25 you like to adjourn now?</p> |

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| <p>1 THE CHAIRMAN: Very well. Certainly, if it's convenient for 2 you. 3 MR GROSSMAN: Thank you. 4 THE CHAIRMAN: Mr Wong, we're going to take a morning break 5 now for 20 minutes. May I ask you to resume your seat 6 in 20 minutes' time so we can continue with your 7 testimony. 8 A. I've got it. 9 THE CHAIRMAN: Mr Shieh, before we rise, I'm given to 10 understand that Mr Cheung Fook-chor may have arrived and 11 may be in the hearing room. 12 MR SHIEH: Yes, because he was scheduled next. 13 THE CHAIRMAN: Yes, I follow that. 14 MR SHIEH: But if we're going to have Mr Lai Sai-ming 15 following this Mr Wong -- 16 THE CHAIRMAN: I'll leave this for counsel to decide on, in 17 which order you think we ought to take them. I'm 18 conscious of the fact we're dealing with 19 an octogenarian, and we also have the benefit of counsel 20 who have attended. But that's a matter for you to 21 consider, as to in which order we take the witnesses. 22 20 minutes. 23 (11.35 am) 24 (A short break) 25 (11.55 am)</p> | <p>1 MR GROSSMAN: The answer is this: 2 "I worked 24 hours, returned for work 7.50 am till 3 11.30 pm (when the vessel) departed from Central for 4 Yung Shue Wan but there was additional special shift 5 during holidays where (the vessel) departed from Central 6 at 2.30 am. I then prepared to knock off work." 7 THE INTERPRETER: The witness has asked the translator to 8 read out the answer again, in the statement. 9 (Question retranslated) 10 A. I would like to emphasise that I didn't say such 11 a thing. But if you would like me to tell you about my 12 shift on that day, I can do it now. 13 MR GROSSMAN: Before you do that, this was read out to you 14 and you signed it as being correct. 15 A. You see, the statement that was just read out to me, 16 that's not what I really meant. You see, on that 17 evening, yes, there was a 2.30 ferry trip, yes, but then 18 after it we berthed at Pier 6. So the trip at 2.30 went 19 to Peng Chau. After we came back from Peng Chau, that 20 would be around 3-something, and then we rested at the 21 pier. And then the ship stopped service earlier. 22 THE CHAIRMAN: Are you trying to establish what hours he 23 worked on 30 September? 24 MR GROSSMAN: Yes. 25 THE CHAIRMAN: Why not ask him that?</p> |
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| <p>1 THE CHAIRMAN: Mr Wong, you continue to testify according to 2 your affirmation. Do you understand? 3 A. I understand. 4 MR GROSSMAN: Mr Wong, I just want to ask you one question 5 about how long you had been on duty that day; that is, 6 1 October, when the accident happened. 7 A. I was with my three other colleagues. 8 THE CHAIRMAN: Meaning you came on duty at 7.30 in the 9 morning? 10 A. Yes. 11 MR GROSSMAN: I wonder if you could look at what you told 12 the police, please. If you look at -- I think in the 13 Chinese, it's the end of page 4, the last question on 14 page 4 of the Chinese. And in English, page 3366-5, the 15 first question on that page. Do you have it? 16 THE INTERPRETER: Yes, we're looking at the Chinese version. 17 MR GROSSMAN: I wonder if you could explain what you meant 18 here. The question was: 19 "On 1 October 2012, what shift did you work?" 20 Do you see that? 21 THE INTERPRETER: We're trying to decipher barely legible 22 Chinese characters. 23 MR SHIEH: "(Chinese spoken)." 24 THE INTERPRETER: Thank you, counsel. I'm going to 25 translate it.</p> | <p>1 MR GROSSMAN: I'm about to. 2 THE CHAIRMAN: Please. 3 MR GROSSMAN: Did you work for the 24 hours before you 4 returned for work at 7.50 am on 1 October? 5 A. No. I had rested 24 hours, and then I reported for duty 6 the following morning. 7 Q. Right. After the collision happened and you berthed, 8 did you carry on duties on other vessels? 9 A. No. 10 Q. All right. I want to ask you a few questions about the 11 moment of the collision. You've told us how you fell 12 down, and as you were getting up, you saw through the 13 open door an object going past. 14 THE CHAIRMAN: I don't think "going past". Sliding past in 15 contact with Sea Smooth was his evidence. 16 MR GROSSMAN: I beg your pardon. Yes. 17 A. Yes, that's right. I saw that object gliding past it, 18 and then our ship started to list, and then there's 19 water coming in. 20 Q. Did you recognise this object? 21 A. It seems like it was a ship. 22 Q. You had no difficulty seeing it? 23 A. I couldn't really see it. 24 Q. You said that you saw the object which you thought was 25 a ship. Did you have any difficulty in recognising the</p> |

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| <p>1 object as a ship? 2 A. Yes, I would recognise it. I would say that it was 3 a ship, but I wasn't sure what type of ship it was. 4 Q. I take it it was lit up? 5 A. There was some dim light at the stern. 6 Q. You saw some lights, did you, from the stern? 7 A. Very dim. It was at the moment when the ship was 8 gliding past us. 9 Q. So when you say in your statement "I did not see the 10 boat", that's not quite correct, is it? 11 THE CHAIRMAN: Where does he say this? 12 MR GROSSMAN: Paragraph 23. 13 THE CHAIRMAN: Of the Holman Fenwick statement? 14 MR GROSSMAN: Of the Holman Fenwick statement. Page 144 in 15 the English. 16 A. You see, when I said that I saw the object that 17 I thought was like a ship, it was through the open 18 door -- when the door was open and I saw it, it seemed 19 like a ship. But afterwards, I paid no attention to it 20 because things became very chaotic and I didn't -- 21 Q. So your statement at paragraph 23, "I did not see the 22 boat that had hit us", is not correct? 23 A. Yes, you can say that. 24 Q. And did you see passengers on this ship? 25 THE INTERPRETER: On the other ship?</p> | <p>1 engineer, we patrolled the boat. 2 Q. And did you not concern yourself, even as a matter of 3 curiosity, as to what had happened to the other vessel? 4 A. There wasn't time for me then, you know, to think of 5 anything, of what to do, what not to do. 6 Q. All you had to do was look out the window. 7 A. But then I had my hands full, you know, with a lot of 8 things. How can I just look out the window? 9 Q. I know it's not your responsibility to decide whether to 10 go or whether to stop, but did it concern you that there 11 may have been damage to the other vessel, that people 12 may be in trouble? 13 A. No, I didn't think of that at that time. 14 Q. It didn't occur to you perhaps to throw lifebuoys 15 overboard, life belts overboard just in case they were 16 needed by the other vessel? 17 THE CHAIRMAN: Do you mean lifebuoys? 18 MR GROSSMAN: I said lifebuoys, yes. 19 THE CHAIRMAN: And then you said life belts. I'm not sure 20 what a life belt is. 21 MR GROSSMAN: It's what we landlubbers call a lifebuoy, 22 I think. 23 THE CHAIRMAN: Thank you. Lifebuoys. Everyone else has 24 managed to call them lifebuoys so far. 25 MR GROSSMAN: I'm learning.</p> |
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| <p>1 MR GROSSMAN: On the other ship. 2 A. No, I didn't see. 3 Q. You've told us you followed some of the passengers on 4 your ship straight out onto the bow. Did you see what 5 had happened to the other ship? 6 A. Yes. I didn't notice anything, because at that time the 7 bearing of our ship was towards Yung Shue Wan, and also 8 the situation was chaotic then. 9 Q. Did you not look to the port side, where the damage was, 10 to see if you could see the other vessel? 11 A. I didn't have enough presence of mind to think of that. 12 Q. But you'd seen the vessel from the doorway, you went 13 straight out, you've told us, onto the bow. It must 14 have just been a matter of a few seconds before you were 15 out on the bow. Surely you would have seen the other 16 vessel? 17 A. I really didn't see it. Because it's passed already. 18 Besides, it was very dark then. 19 Q. Was your vessel's searchlight on? 20 A. I didn't notice it. 21 Q. I see. After you'd shown the passengers how to put on 22 the life jackets, did you look at all to see what had 23 happened to the other vessel? 24 A. No. After that, I walked inside the cabin and then 25 I checked the window, and then together with the</p> | <p>1 A. No. 2 Q. You've told us how you've been a fisherman most of your 3 life and then worked on other ships. You've been on 4 ships practically since you were born. 5 A. Yes. 6 Q. You know that practically the most terrible thing that 7 can happen to a vessel at sea is that it has a collision 8 with another vessel? 9 A. Yes. 10 Q. And in those circumstances, surely you must have reacted 11 to see what happened to the other vessel? 12 A. I didn't have such a reaction at that time. 13 MR GROSSMAN: Thank you. No further questions. 14 THE CHAIRMAN: Mr Sussex? 15 MR SUSSEX: Mr Chairman, I have no application. 16 THE CHAIRMAN: Mr Lai Sai-ming, are there any questions you 17 wish to ask of this witness? 18 MR LAI SAI-MING: (Via interpreter) No. 19 THE CHAIRMAN: Thank you. 20 Mr Pao? 21 MR PAO: No questions, Mr Chairman. 22 THE CHAIRMAN: Mr Mok? 23 MR MOK: No questions. 24 THE CHAIRMAN: Thank you. 25 Mr Shieh?</p> |

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| <p>1 Further examination by MR SHIEH 2 MR SHIEH: Mr Wong, just now, Mr Grossman on my left asked 3 you questions about your vision when you were in the 4 wheelhouse. Do you remember that, about half an hour 5 ago? 6 A. Yes. 7 Q. He asked you, when you were in the wheelhouse, because 8 it was dark outside, you couldn't see what was going on 9 outside, and you said: 10 "Yes ... The vision would not be too clear." 11 A. You mean at that time, on that scene, right? 12 Q. Correct. 13 A. I would like to stress that at that time, it all depends 14 on my angle of vision and to tell you whether the vision 15 was clear enough or not. 16 Q. But in the evening of 1 October, it was nighttime and 17 all the lights were off in the wheelhouse, and look-out 18 would not be as good as it was during daytime. That you 19 would agree; correct? 20 A. I agree. 21 Q. Did the coxswain look at the radar, as far as you could 22 observe, prior to your leaving the wheelhouse? 23 A. I wasn't aware of that. I didn't pay any particular 24 attention to him. 25 Q. Have you paid attention to whether the coxswain had any</p> | <p>1 telling us what you know about certain damage stability 2 calculations that you were responsible for quite some 3 time ago. 4 A. Yes. 5 Q. Could I just ask you something about your background and 6 training. 7 A. Yes. 8 Q. What is your education level? 9 A. I graduated junior high. 10 THE INTERPRETER: Would that make sense, "junior high 11 school"? 12 THE CHAIRMAN: It might in America, but what does it mean in 13 Hong Kong? 14 THE INTERPRETER: That would be like under form 3 of 15 secondary school. 16 THE CHAIRMAN: Thank you. 17 A. Then afterwards, I studied at technical evening school, 18 enrolled in a course of naval architecture -- and then 19 I got a higher certificate in naval architecture. 20 MR SHIEH: Could you tell us about when you obtained these 21 qualifications? No need for the exact year, but which 22 decade? 23 A. Towards the end of 1969. 24 Q. Right. Can you tell us briefly your employment 25 background after obtaining these qualifications?</p> |
| Page 46 | Page 48 |
| <p>1 habit of regularly monitoring the radar? 2 A. He should have. 3 Q. You have seen him do that regularly? 4 A. Yes, sometimes I saw him doing that. Sometimes. 5 MR SHIEH: Thank you. I have no further questions. 6 THE CHAIRMAN: Thank you, Mr Wong. Your evidence is now 7 complete and you may leave the witness box and return to 8 the public gallery, if you wish to stay here. 9 Otherwise, you're free to leave. Thank you. 10 A. I've got it. 11 (The witness withdrew) 12 THE CHAIRMAN: Yes, Mr Shieh. 13 MR SHIEH: Mr Chairman, having considered the matter, we 14 believe that it would be better to call Mr Cheung 15 Fook-chor next, because he has been on standby and we 16 believe that his evidence is neat and self-contained and 17 is able to be speedily dealt with. 18 THE CHAIRMAN: Very well. 19 Mr Cheung, please come forward to the witness box. 20 MR CHEUNG FOOK-CHOR (sworn in Puntì) 21 (All answers via interpreter unless otherwise indicated) 22 Examination by MR SHIEH 23 MR SHIEH: Mr Cheung, good afternoon. 24 A. Good afternoon. 25 Q. You have come here today to assist the Commission in</p> | <p>1 A. Mainly I was responsible for ship draftsman, and then 2 also ship calculations. Draftsman; that would be the 3 job I was responsible for. 4 Q. All right. Have you ever worked for Cheoy Lee 5 Shipyards? 6 A. Yes, I have. I worked there for a long time. 7 Q. When did you commence employment with Cheoy Lee? 8 A. Around 1972. 9 Q. And when did you leave Cheoy Lee? 10 A. Around 2006, between 2006 and 2007. 11 Q. Right, and thereafter you went into retirement? 12 A. Yes. 13 Q. Are you aware of a set of rules or guidelines used by 14 the Hong Kong Marine Department, colloquially referred 15 to as "the Blue Book"? 16 A. Yes, I'm aware of it. 17 Q. In the course of performing your duties as a ship 18 draftsman and doing calculations, you had to be 19 reasonably familiar with the various requirements in the 20 Blue Book; correct? 21 A. Yes. 22 Q. Could I ask you to look at marine bundle 8, page 1761. 23 This is the cover for the Blue Book. 24 A. Yes. 25 Q. Can you turn to page 1769. Paragraph 12, under the</p> |

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| 1 heading "Bulkheads". | 1 watertight, or their equivalent plane bulkheads or the |
| 2 THE INTERPRETER: The witness said that he'd prefer looking | 2 distance between the transverse planes passing through |
| 3 at the screen. | 3 the nearest stepped portions of the bulkheads is less |
| 4 A. Yes, "Bulkheads". I can see that it's "Bulkheads". | 4 than ... 0.1L ..." |
| 5 MR SHIEH: I take it that even though you have chosen to | 5 I'll skip through the other references. |
| 6 give evidence in the Punti language, you are actually | 6 "... only one of these bulkheads shall be regarded |
| 7 able to understand the meaning of the English words in | 7 as forming part of the subdivision of the ship." |
| 8 these guidelines? | 8 There's no need to refer him to .03L, because I've |
| 9 A. Yes, understanding, a bit. | 9 only read out the 0.1L. The other, .03L, can be |
| 10 Q. If you can look at 12(v): | 10 ignored. |
| 11 "When any access opening is fitted in a watertight | 11 A. Yes, I understand what is read to me. |
| 12 bulkhead, it is to have an efficient closing appliance." | 12 Q. So, before we go into the details, this is a reasonably |
| 13 A. Yes, I know it. | 13 familiar rule to naval architects and draftsmen? |
| 14 Q. And that was the basis upon which you would interpret | 14 A. Yes, it should be. |
| 15 ship drawings; correct? | 15 Q. So, put very, very broadly, the Blue Book and the |
| 16 A. Yes, correct. | 16 relevant law imposes requirements as to watertight |
| 17 Q. Can I ask you to look at paragraph 15, over the page at | 17 subdivisions within a vessel, within a ship? |
| 18 page 1770. | 18 A. Correct. |
| 19 A. Yes, I can see it. | 19 Q. And these rules prescribe for certain tests to be |
| 20 Q. Look at the heading "Watertight Subdivision". | 20 fulfilled and certain requirements as to floodable |
| 21 A. Yes. | 21 length? |
| 22 Q. In this paragraph, it refers to regulation 5 of certain | 22 A. Correct. |
| 23 1984 regulations. | 23 Q. In the course of fulfilling these requirements as to |
| 24 A. Yes. | 24 floodable length, also certain tests called margin line |
| 25 Q. I'm not going to take up time by jumping to and from the | 25 calculations had to be conducted? |
| Page 50 | Page 52 |
| 1 underlying regulations, but just to suggest to you, you | 1 A. Correct. |
| 2 know that this regulation 5 is actually a misprint; it | 2 Q. Again, put very, very briefly and broadly, the rule that |
| 3 should actually be regulation 6? Are you aware of these | 3 we have just seen, the reference to 0.1L, basically |
| 4 intricacies of regulation numbering? | 4 stipulates that if you have two adjacent compartments -- |
| 5 A. I can't really recall it, what really was the situation | 5 A. Yes. |
| 6 at that time. | 6 Q. -- separated by a bulkhead -- |
| 7 Q. It's fine. I'm not going to test your memory about | 7 A. Yes. |
| 8 regulation numbers. But you do recall, broadly | 8 Q. -- but the length of one of these compartments is less |
| 9 speaking, that in conducting calculations about ship | 9 than 10 per cent of the length of the ship, then in such |
| 10 length and floodable length, et cetera, there is | 10 a case, in calculating floodable length or conducting |
| 11 a concept about schedule 1 of the applicable | 11 margin line calculations, the bulkhead separating the |
| 12 regulations? | 12 short compartment and the adjacent compartment shall be |
| 13 A. I don't remember schedule 1 and what that is. All I can | 13 disregarded. |
| 14 remember is that in dividing the compartment, I must | 14 A. I understand what you mean. |
| 15 calculate the division of the compartments according to | 15 Q. That is, again, broadly speaking, how the 0.1 rule |
| 16 the rules. | 16 operates? |
| 17 Q. Could I ask you to look at marine bundle 8, page 2084. | 17 A. Yes, I agree. |
| 18 At the top of that page, under (6), there is this | 18 Q. Thank you. Can I now ask you to look at some drawings. |
| 19 provision called "Minimum space of bulkheads". | 19 Marine bundle 2, page 172. That's the General |
| 20 THE INTERPRETER: Okay. The witness expressed that he'd | 20 Arrangement plan of the vessel known as the Lamma IV. |
| 21 prefer to look at the screen. | 21 THE CHAIRMAN: Mr Shieh, may I remind you that, depending on |
| 22 A. Yes. | 22 what it is you want to do with these drawings, we have |
| 23 MR SHIEH: It says: | 23 the Cheoy Lee version, which is the full version that |
| 24 "If the distance between two adjacent main | 24 I am holding up. |
| 25 transverse bulkheads required by these regulations to be | 25 MR SHIEH: Right. |

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| <p>1 THE CHAIRMAN: With octogenarian eyes, it may be easier to 2 follow. 3 MR SHIEH: Yes, that could be helpful. I think the actual 4 Cheoy Lee version is now being placed in front of the 5 witness. It is from the Wilkinson & Grist bundle. 6 You can see the General Arrangement plan in relation 7 to a vessel called the Lamma IV. Do you have any 8 recollection of having participated in conducting 9 calculations or inputting data for the purpose of doing 10 calculations for such a vessel? 11 A. Yes, I did participate somewhat. 12 Q. Right. Could I ask you to look at the bottom of this. 13 A. Okay, I'm looking at the bottom. 14 Q. Can you see five vertical lines inside the vessel? 15 A. Yes, I can see them. 16 Q. As a professional draftsman and naval architect, what 17 did -- obviously you didn't prepare this plan, someone 18 else did. But you had to interpret these plans. 19 A. Yes, you're right. 20 Q. So how would you interpret the meaning of those five 21 vertical lines? 22 A. These are the lines which would divide it into 23 compartments. You see, the vessel exceeds 24 metres in 24 length. 25 Q. So what do these denote? What do these vertical lines</p> | <p>1 Q. And then finally, steering gear compartment? 2 A. Yes, the steering gear compartment, that means the aft 3 peak. 4 Q. Can I now ask you to look at the next drawing in the 5 Wilkinson & Grist bundle, at page 44. Looking at the 6 top, "Side shell profile" -- 7 THE CHAIRMAN: Again, we have this full drawing provided by 8 Cheoy Lee. 9 MR SHIEH: Yes. 10 If we look at the side shell profile -- 11 THE CHAIRMAN: Which is the upper drawing on the Profile and 12 Deck drawing. 13 A. You going to ask me questions referring to side shell 14 profile; is that it? 15 MR SHIEH: Yes, that's it. 16 A. Yes, I'm ready. 17 Q. You can see the frame numbers at the bottom, the 18 horizontal line with various numbers? 19 A. Yes, I can see them. 20 Q. Those are frame numbers? 21 Never mind. I'll use these numbers for the purpose 22 of identification. If you look at number 18 from the 23 right -- 24 A. It should be numbers standing for sections. 25 Q. Right. If you look at number 18 -- can we have</p> |
| <p>Page 54</p> <p>1 represent? 2 A. These vertical lines stand for division of compartments. 3 Q. They divide the vessel into compartments. These are 4 bulkheads? 5 A. Yes, bulkheads. 6 Q. Right. They appear to be solid lines, vertical solid 7 lines. 8 A. That's right, they are vertical solid lines. 9 Q. What would a solid line mean to you in the context of 10 a plan like this? 11 A. I understand that if they are bulkheads, they will be 12 watertight bulkheads. 13 Q. Watertight bulkheads. Thank you. 14 And it would be divided by these bulkheads into 15 various compartments. Looking from the right-hand side 16 we can see "fore peak", correct, in the underdeck plan? 17 A. That's right. 18 Q. The next would be "void", a void space? 19 A. Yes, yes. 20 Q. And then the crew space? 21 A. Yes, crew space. 22 Q. Engine room? 23 A. Yes, engine room. 24 Q. Tank room? 25 A. Yes, tank room.</p> | <p>Page 56</p> <p>1 a close-up -- there is a vertical line at number 18, and 2 somewhere along the vertical line, we can see "WT BHD". 3 A. Yes, I can see them. 4 Q. That means "watertight bulkhead"; correct? 5 A. Correct. 6 Q. Moving along. Frame 13. There we see a vertical line, 7 "WT BHD". 8 A. Yes. 9 Q. And then moving along, we get to number 9, "WT BHD"; 10 correct? 11 A. Yes. 12 Q. Then towards the left, number 4? 13 A. Yes. 14 Q. "WT BHD"; correct? 15 A. Yes. 16 Q. Finally, just left of number 1, again, "WT BHD"? 17 A. Yes, I can see it. 18 Q. What do these vertical lines and these notations tell 19 you? 20 A. It means that they are watertight bulkheads. 21 Q. Can we move on down to the centreline profile. This one 22 has helpfully been marked. The five vertical lines have 23 helpfully been marked with asterisks, red asterisks. 24 A. Yes. 25 Q. These asterisks were not there in the original version,</p> |

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| <p>1 but these asterisks were only added for ease of 2 reference subsequently. 3 A. Okay, I understand that. 4 Q. But these five lines are solid lines on this plan. 5 A. Yes. 6 Q. And if you look at each of these vertical lines, they 7 all have this notation "WT BHD"? 8 A. Yes. 9 Q. So they tell you the same thing; that is to say, they 10 correspond with what we have seen on the side shell 11 profile, these watertight bulkheads creating watertight 12 compartments or dividing watertight compartments? 13 A. Yes. 14 Q. I'm not going to go through the rest with you. They all 15 look at the vessel from different perspectives. But 16 they all show similarly depicted bulkheads. 17 A. Okay. 18 Q. Could I ask you to look at the Shell Expansion plan. 19 Could you have the blown-up version of the Shell 20 Expansion plan, page 45 of the Wilkinson & Grist bundle. 21 A. Yes. 22 Q. If we look at the baseline, at the bottom, against the 23 number 18 we can see a vertical line but with small 24 horizontal dashes across. At 18. 25 We see something similar between 12 and 14. That</p> | <p>1 bit -- yes. It says: 2 "Frame spacing 1,250 mm apart throughout unless 3 otherwise stated." 4 A. Yes. 5 Q. So apart from transom to frame 0, all other distances 6 between different frames would be 1.25 metres? 7 A. Correct. 8 MR SHIEH: Mr Chairman, I have one more plan to show to this 9 witness. I'm conscious of the time. 10 THE CHAIRMAN: Perhaps we'll do that after lunch. 11 Mr Cheung, we're going to take our lunch break now. 12 We will resume at 2.30 this afternoon. Do you 13 understand? So may I ask you to be kind enough to 14 return so that you can continue your testimony at 2.30. 15 A. Yes. 16 THE CHAIRMAN: Thank you. 2.30. 17 (1.03 pm) 18 (The luncheon adjournment) 19 (2.30 pm) 20 THE CHAIRMAN: Good afternoon, Mr Cheung. May I remind you 21 that you continue to testify according to your original 22 affirmation. 23 A. I understand. 24 THE CHAIRMAN: Mr Shieh. 25 MR SHIEH: Mr Cheung, could I now take you to a further set</p> |
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| <p>1 should be a 13, but the number 13 is not shown. The 2 straight line between 12 and 14; do you see that? It's 3 similarly marked. 4 A. Yes. 5 Q. Between 8 and 10, again a similar line? 6 A. You mean -- 7 THE INTERPRETER: Witness was pointing. 8 A. -- that line? 9 MR SHIEH: Correct. 10 A. Yes. 11 Q. Move to the right, at 4, frame 4. 12 THE INTERPRETER: Move to the left? 13 MR SHIEH: Left, frame 4. Do you see that? Yes? 14 A. Yes. 15 Q. And then frame 1/2, if you move to the left-hand side. 16 THE INTERPRETER: The witness was pointing at that line. Do 17 you see that line? 18 MR SHIEH: That one, yes. 19 So there are five vertical lines, and if you look at 20 each of them, again they're all marked "WT BHD". 21 A. Yes. 22 Q. Now, in terms of measurement, from the transom to 23 frame 0, the distance was 1,000 millimetres. 24 A. 1,000 millimetres, that means 1 metre, right? 25 Q. Yes. And if you move down a little bit -- up a little</p> | <p>1 of plans, the Sections and Bulkheads plan. Wilkinson 2 & Grist bundle, page 46. There should be another set of 3 blown-up versions. 4 If we look at the bottom left-hand corner, it says 5 "Bulkhead at frame 1/2". Do you see that? 6 THE CHAIRMAN: At the bottom of the page. 7 A. Yes. 8 MR SHIEH: Could you then look at where there's a red 9 circle. Can you see that? 10 A. Yes, I can see it. 11 Q. There's a vertical line that leads to a rectangle which 12 says "Access opening 1200 x 600 ..." 13 A. Yes. 14 Q. "... W/50R at corner (port only)". Do you see that? 15 A. Yes. 16 Q. To the right of that, you can see "B", "B". On the 17 right-hand side. "B" and "B", yes. 18 A. Yes. 19 Q. If you look at the top right-hand corner, you can see 20 "Section B-B". Move up to the top right-hand corner of 21 the plan. 22 A. Yes. 23 Q. You're probably better at looking at these plans than 24 myself. If you look at this section B-B on the extreme 25 left of this, you can see the number "2" and then "B"</p> |

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| <p>1 and then in the middle there is a line across and on top 2 of that line there is "WT BHD". 3 A. Yes. 4 Q. Looking at the bottom left-hand corner, "Bulkhead at 5 frame 1/2", and then looking at section B-B at the top 6 right-hand corner, how would you interpret these parts 7 of this plan, the Sections and Bulkheads plan? 8 A. Section B-B would be the one that is cut away from the 9 B-B of bulkhead at 1/2 frame. That is, you take the B 10 and B of the diagram "Bulkhead at frame 1/2", take it 11 out, and that will be the one being shown at the top 12 right-hand corner. 13 Q. What does that tell you about the nature of the bulkhead 14 at frame 1/2? 15 Let me focus your attention on this particular 16 issue. At the bottom left-hand corner, you see for that 17 bulkhead it says -- there is an access opening marked 18 there. 19 A. Yes. 20 Q. In the top right-hand corner, there's an element marked 21 "WT BHD", which is a watertight bulkhead. So for the 22 bulkhead at frame 1/2, is it supposed to be watertight, 23 or is it supposed to have an access opening? 24 A. At that time, when I was looking at this, I felt that 25 these plans were very confusing.</p> | <p>1 MR SHIEH: Yes. I think Mr Mok's point is it may not be 2 entirely certain whether the witness meant at that time, 3 he spotted it. I'm going to follow that up. 4 THE CHAIRMAN: Yes, please do. 5 MR SHIEH: I was asking him who his superior was, but scrap 6 that question because I now backtrack and I'm going to 7 ask him a follow-up question. 8 Mr Cheung, doing your best, looking at these plans 9 now -- by these plans I don't just mean this Sections 10 and Bulkheads plan, I mean the totality of all the plans 11 we have looked at -- can you remember what 12 interpretation you took on the totality of these plans 13 at that time as to the nature of the bulkhead at 14 frame 1/2? Do you know what I mean by frame 1/2? 15 Frame 1/2 would be the bulkhead between the steering 16 gear compartment and the tank room. 17 A. If my superior asked me to start my work, then at that 18 point of time, first of all I'd ask him or her for 19 a general arrangement plan, and then if it is 20 watertight -- if there is no statement or any written -- 21 concerning whether it is watertight or not, then I would 22 have to check with other plans, for example profile and 23 deck. 24 Q. Right. Pause here. You used the word "would". So it 25 seems that you were describing what you now think you</p> |
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| <p>1 Q. Right. So what did you do as a result? 2 A. Given that it is confusing, I would decide on following 3 the instructions on the right-hand corner, watertight 4 bulkhead. 5 Q. But what would happen to that part of the plan which 6 says that there is to be an access opening? How would 7 there be an access opening and yet the bulkhead be 8 watertight? 9 A. In that case, I would go on doing my job based on the 10 premise that it was a watertight bulkhead, and after 11 I finished that part of the job, then I will wait for my 12 superior and see what his or her decision would be. 13 Q. Your superior being? 14 A. The one who gave me instructions concerning my work. 15 Q. Mr Lo? 16 MR MOK: I'm sorry, Mr Chairman. I think in that answer the 17 witness started by saying "If I had discovered this". 18 MR SHIEH: "If I had discovered this", yes. 19 THE INTERPRETER: Thank you. 20 THE CHAIRMAN: I'm sorry, where do you say the conditional 21 should be? 22 MR SHIEH: The witness actually answered the question, he 23 prefaced it by saying, "if I had have realised this". 24 THE CHAIRMAN: Well, it was translated as "I would proceed 25 on the premise that it was a watertight bulkhead".</p> | <p>1 would have done at the time, or should have done at the 2 time. Correct? Describing your general mode of 3 thinking. 4 A. Yes. 5 THE CHAIRMAN: Did the witness not make some calculations 6 based on his interpretation of these plans? 7 MR SHIEH: Yes, I'm going to ask him when he referred to 8 this -- 9 THE CHAIRMAN: Why can't be work backwards from those, to 10 get him to tell us what it is that he must have 11 proceeded on. 12 MR SHIEH: Yes. 13 Mr Cheung, when you said your superior asked you to 14 do something, I can tell you -- in fact, were you not 15 responsible for doing some damage stability calculations 16 for this vessel? 17 A. That's right. 18 Q. Can I ask you to look at that set of calculations in 19 marine bundle 2, page 337. 20 This is a letter from Cheoy Lee to the Marine 21 Department -- 22 A. Yes. 23 Q. -- enclosing a Damage Stability Information Booklet. 24 A. Yes, that's right. I can see that Cheoy Lee are sending 25 this booklet to the Marine Department.</p> |

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| <p>1 THE CHAIRMAN: And it's dated, the letter, 6 March 1996. 2 A. I don't remember the date. 3 THE CHAIRMAN: But you can read it, can you not? Top right. 4 A. That's right. That's what is put on there. 5 MR SHIEH: That was during your employment with Cheoy Lee? 6 A. That's right. 7 Q. Your superior or the director of Cheoy Lee, Mr Ken Lo, 8 said that you were the person responsible for feeding in 9 the data for preparing these damage stability 10 calculations. Do you have any recollection? 11 A. That's right. 12 Q. Could I just take you through the various pages in this 13 document and then perhaps we can trigger your memory as 14 to how you have interpreted those facts. 15 At page 339, you can see -- first of all, pausing 16 here. You know that the scenarios that you were 17 proceeding on were so-called one-compartment flooding 18 scenarios? 19 A. Yes, I understand that. 20 Q. You conduct your calculation on the basis of flooding of 21 one compartment, and then see, for example, whether 22 margin line was submerged? 23 A. Margin line would be this line (indicates). 24 THE INTERPRETER: The witness was pointing at the diagram 25 where it shows the margin line.</p> | <p>1 Q. Page 344. "Damaged compartment -- steering gear 2 compartment". 3 A. Yes. 4 Q. In all these diagrams, the shaded part denotes that 5 compartment that is assumed to have been flooded? 6 A. Correct. 7 Q. Looking at all these calculations which you were 8 responsible for, can you now tell us, refreshing your 9 memory, as to the way you interpreted the drawings 10 concerning the bulkhead at frame 1/2, whether it was 11 regarded by you as watertight or not watertight? 12 A. According to the premise that they are watertight, to do 13 my calculations. 14 Q. But if we were to look at the Sections and Bulkheads 15 plan, page 46 of the Wilkinson & Grist bundle, at the 16 bottom left-hand corner of that plan, we can see for 17 bulkhead at frame 1/2, there is a notation of "access 18 opening". 19 Again, doing your best to think backwards, if you 20 had indeed conducted calculations on the basis that that 21 bulkhead was watertight, how did you rationalise the 22 existence of this access opening? 23 I don't mean this to be multiple choice, right, but 24 let me just give you the sort of answers that you may 25 wish to consider. If you truly can't remember, say you</p> |
| <p>Page 66</p> <p>1 A. This is where the margin line is. 2 THE CHAIRMAN: This is the purpose of the calculation: to 3 see the effect of one compartment flooded on the 4 integrity of the margin line, is it not? 5 A. That's right. 6 MR SHIEH: So, look at page 339. If you look at the top, it 7 says "Lost Buoyancy Data. Damaged compartment -- fore 8 peak compartment". 9 A. Yes. 10 Q. In the bottom right-hand corner of that vessel, you can 11 see a shaded area? 12 A. Yes. 13 Q. That denotes that compartment which is assumed to have 14 been flooded; yes? 15 A. That's right. 16 Q. Page 340. Look at the top left-hand corner: "Damaged 17 compartment -- void space". 18 A. Yes. 19 Q. Page 341. "Damaged compartment -- crew space". 20 A. Yes. 21 Q. Page 342. "Damaged compartment -- engine room 22 compartment". 23 A. Yes. 24 Q. Page 343. "Damaged compartment -- tank room". 25 A. Yes.</p> | <p>Page 68</p> <p>1 can't remember. This is not to force you to come up 2 with an answer. 3 For example, you might have asked somebody or you 4 might have used your own professional judgment to think 5 of a way in which a watertight bulkhead can have 6 an access opening but yet be made watertight; or you may 7 simply have missed out that part of the plan saying 8 "access opening" altogether. There are several of these 9 possibilities, maybe more. These are the things I am 10 looking for. 11 A. Like what I said just now, given this scenario, what 12 I had seen, then I will go ahead, proceed my work based 13 on the premise that it is a watertight bulkhead. After 14 I had done, then I would wait for my superior or 15 personnel from the Marine Department and see what they 16 would do. 17 MR MOK: Mr Chairman, I think he also started by saying "If 18 I had realised this", his answer. 19 THE INTERPRETER: That's right, yes. 20 THE CHAIRMAN: Realised what? "If I'd realised" what, 21 Mr Mok? 22 MR MOK: My understanding is, "If I had realised there was 23 an access opening", because my understanding is that he 24 may not have seen this particular drawing at all. 25 THE CHAIRMAN: Very well.</p> |

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| <p>1 MR SHIEH: I'll continue to pursue that. Because that was 2 the point I think when Mr Chairman raised it, and I was 3 going to pursue that, but then I took him backwards. 4 Now I come back to the point. I'm going to ask him that 5 question. 6 THE CHAIRMAN: Please. 7 MR SHIEH: Mr Cheung, doing the best you can, do you 8 remember at that time when you have conducted the 9 calculation, that you had indeed been aware of the 10 bottom left-hand drawing stating "access opening"? 11 Because you were saying "if I had noticed it", and we 12 are not entirely sure whether you are saying that you 13 did in fact notice it. 14 THE CHAIRMAN: Well, the first question is did you see the 15 Sections and Bulkheads drawings. 16 A. When I was doing my calculation on damage stability, 17 I hadn't seen these drawings. 18 THE CHAIRMAN: When you say "these", do you mean the 19 Sections and Bulkheads or any of the drawings? 20 A. That's right, only this particular drawing. 21 THE CHAIRMAN: You hadn't seen this one? 22 A. No, I hadn't seen this drawing, this particular drawing. 23 THE CHAIRMAN: When you are asked to do, for example, this 24 damage stability calculation, is it your response to ask 25 for the drawings so that you can start working? Is that</p> | <p>1 A. I wouldn't know that. I didn't know that. 2 THE CHAIRMAN: Just pursuing this line, why wouldn't you 3 simply ask for all the drawings relevant to the hull? 4 A. Whatever drawings he gave me, that's the one I would 5 look at. 6 THE CHAIRMAN: But why wouldn't you ask for them all? "Give 7 me the whole drawings"? 8 A. Yes, I did ask him but then he wouldn't know where he 9 had placed the drawings. 10 THE CHAIRMAN: Mr Shieh? 11 MR SHIEH: Two small points which may clarify this. John is 12 John Leizaola, right, the signatory of the letter? 13 THE CHAIRMAN: Perhaps we could put the letter back up. 14 MR SHIEH: It's the letter at marine bundle 2, page 337. 15 "JA Leizaola", that is John, correct? 16 A. Yes, that's right. 17 Q. Secondly, if you look at the Sections and Bulkheads plan 18 again, at the bottom right-hand corner you see this box 19 saying "Cheoy Lee Shipyards Ltd"? Do you see that? The 20 bottom right-hand corner, the box. 21 A. Yes, I can see it. 22 Q. Do you see handwriting saying "Yard No. 4625"? 23 A. Yes, I can see it. 24 Q. That basically means Lamma IV? 25 A. That's right.</p> |
| <p>Page 70</p> <p>1 what you do? 2 A. First of all, I would ask for the General Arrangement 3 drawings and then I will see if there are no words about 4 "watertight", then I will refer to Profile and Deck 5 drawing. 6 THE CHAIRMAN: Have a look at the General Arrangement 7 drawing that you've been asked to look at. So, having 8 regard to what that drawing contains, what would you 9 have done? I'm trying to reconstruct things. 10 A. See, there is nothing there, nothing written there. 11 THE CHAIRMAN: Nothing written about watertight bulkheads; 12 is that what you're saying? 13 A. No, there's no word "watertight". 14 THE CHAIRMAN: So then you'd have asked to see the Profile 15 and Deck drawing; is that right? And when you looked at 16 that, did that answer your basic enquiry? 17 A. Yes. I can see that. Watertight bulkhead, I can see 18 them. 19 THE CHAIRMAN: Who is the custodian of these drawings that 20 you asked to be produced to you? 21 A. My superior, John. 22 THE CHAIRMAN: Are these drawings kept in a box? 23 A. That, I don't know. He is the one to keep these 24 drawings. 25 THE CHAIRMAN: Are they kept together?</p> | <p>Page 72</p> <p>1 Q. That is your handwriting; correct? 2 A. Yes, that's right. 3 Q. So you had written on this Sections and Bulkheads plan? 4 A. Yes. 5 Q. Does it mean you had seen it at the material time when 6 you were preparing your calculations? 7 A. No. 8 THE CHAIRMAN: So when did you write it? 9 A. That is when he asked me to alter the sizes and 10 measurement. At that point in time, I wrote this number 11 on it. 12 MR SHIEH: Who asked you to change what size and 13 measurements? 14 A. The same John. 15 Q. To change what measurements? 16 THE INTERPRETER: The witness was pointing at frame 8. And 17 then you can see the two cloud shapes underneath, and 18 then you can see the little "8", "frame 8". 19 MR SHIEH: Yes? 20 THE INTERPRETER: Then the witness was pointing at the 21 little triangle-like line on the left cloud-shaped mark. 22 Can anybody show the cursor? 23 MR SHIEH: Yes. 24 THE INTERPRETER: A little bit up. Up. Here. No, a little 25 to the right. No, stay on the left cloud shape, yes,</p> |

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| <p>1 and then a little up. Just a little. Up a little. 2 Stop. This is where the witness -- 3 A. This is where he asked me about the alteration, here. 4 MR SHIEH: There are other cloud shapes at frame 6 and 5 frame 5. So were those all the alterations that you are 6 talking about, that your superior asked you to do? 7 A. That's right. Because all this signifies alterations. 8 Q. So your superior asked you to do some alterations, those 9 are the alterations, and when you did the alterations, 10 you put "Yard No. 4625" in that box? 11 A. That's right. 12 Q. How about the writing at the bottom right-hand corner? 13 I think it's 20 March 1995. 14 THE CHAIRMAN: Under the word "revision"? 15 MR SHIEH: Yes. 16 A. That's right. I put that down too. 17 Q. So as early as 1995, March, you had seen this and 18 written on it? 19 A. That's right. 20 Q. But the damage stability calculations we have been 21 looking at were enclosed under a letter in 1996, way 22 after you had written the date. In other words, when 23 you did the Damage Stability Calculation Booklet in 24 1996, that was after you had already put down the date 25 of 1995 in the bottom right-hand corner of the Sections</p> | <p>1 that it's a watertight bulkhead. 2 Q. So, let me see if I can help you. I know it's a very 3 alien environment, and people think of ifs and buts. 4 Are you saying that you don't recall having this 5 plan in front of you when you did the calculation, so 6 you proceeded on the basis that it's watertight 7 bulkhead, based on the Profile and Deck plan, but even 8 if you had seen the Sections and Bulkheads plan at the 9 time, you would still have interpreted it to mean 10 watertight bulkhead? 11 A. That's right. 12 Q. Help me with this. With the Sections and Bulkheads plan 13 in front of you, and with the drawing saying "access 14 opening", how would you have rationalised it to mean 15 a watertight bulkhead? 16 A. Like I told you, I would first of all go on working on 17 it based on the premise that it's the watertight 18 bulkhead. Afterwards, after I'm done, then I'll wait 19 for my superior or personnel from the Marine Department, 20 see what they would do. 21 MR SHIEH: Mr Chairman, I think I've asked enough times. 22 Perhaps I'll move on. 23 THE CHAIRMAN: I'm going to ask the question directly. The 24 only way that the access opening could be part of 25 a watertight bulkhead is if the door itself was</p> |
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| <p>1 and Bulkheads plan. 2 A. I don't really remember clearly about it. 3 THE CHAIRMAN: No, we appreciate that this was a long time 4 ago. But from the documents that you yourself have 5 marked, it's apparent, is it not, that you had seen the 6 Sections and Bulkheads drawings one year prior to the 7 letter which encloses the damage stability calculations? 8 A. Correct. 9 MR SHIEH: But are you suggesting that at the time conducted 10 the damage stability calculation, you did not actually 11 have this Sections and Bulkheads plan in front of you, 12 because it wasn't given to you? 13 A. Yes. 14 Q. So are you suggesting, or is it possible, that even 15 though you might have seen the Sections and Bulkheads 16 drawing a year ago, in 1995, or even written the date 17 on it, you didn't carry the data in your head and so 18 when you conducted the calculations a year later, you 19 didn't have it in front of you and therefore you didn't 20 take the information on that plan into account? 21 A. If I would be doing my damage stability calculation in 22 1996, and if I had seen these drawings, then I would 23 have made it -- 24 MR SHIEH: I think "I would still have". 25 A. -- I would still have calculated based on the premise</p> | <p>1 watertight, is it not? 2 A. Yes. 3 THE CHAIRMAN: Is that the basis on which you worked; though 4 it wasn't marked as such, that it had to be watertight 5 if it was in a watertight bulkhead? 6 MR SHIEH: I think the notion of a door was missing in the 7 translation. Perhaps it could be retranslated. 8 THE INTERPRETER: Yes, that's right. 9 MR SHIEH: I think the question is the only way it could be 10 watertight was if the door was watertight -- it focuses 11 on the door. 12 THE CHAIRMAN: You're quite right. It says "opening". 13 Let me put the question again. Although it says 14 "access opening", in order for it to be part of 15 a watertight bulkhead, there had to be a door there, did 16 there, one; and two, the door had to be watertight, did 17 it not? 18 A. That's right. 19 THE CHAIRMAN: Is that the basis, if you'd seen this 20 document, this drawing, at the time you did the 21 calculations, on which you would have proceeded? 22 A. That's right. 23 THE CHAIRMAN: Thank you. 24 MR SHIEH: The damage stability calculations were done on 25 the basis of a computer software; correct?</p> |

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| <p>1 A. Yes.</p> <p>2 Q. And you basically input the relevant data?</p> <p>3 A. That's right.</p> <p>4 Q. You know the origin of the software is from the</p> <p>5 University of Southampton?</p> <p>6 A. That's right, from England.</p> <p>7 Q. Now, I want to ask you some questions over the six</p> <p>8 compartments that were assumed to be damaged in the</p> <p>9 Damage Stability Booklet.</p> <p>10 We have looked at these various scenarios earlier.</p> <p>11 Basically you treated each of the compartments as</p> <p>12 a watertight compartment.</p> <p>13 A. That's right. Each one of them is a watertight</p> <p>14 compartment.</p> <p>15 Q. Were you aware that the length of the last compartment,</p> <p>16 the steering gear compartment, was less than 0.1, or</p> <p>17 10 per cent of the length of the vessel?</p> <p>18 A. I was not aware of it.</p> <p>19 Q. Had you known that it was shorter than 10 per cent of</p> <p>20 the length of the vessel, you would have actually not</p> <p>21 done a damage calculation scenario on the basis of</p> <p>22 flooding of that compartment alone; correct?</p> <p>23 A. Correct.</p> <p>24 Q. You would actually have done your damage stability</p> <p>25 calculation by merging the steering gear compartment and</p> | <p>1 confused here, because you have already assumed that all</p> <p>2 these bulkheads are watertight and you have treated</p> <p>3 these compartments, separated by watertight bulkheads,</p> <p>4 as individual compartments in doing your calculation.</p> <p>5 THE INTERPRETER: The question is, is it like that, right,</p> <p>6 counsel?</p> <p>7 MR SHIEH: I'm telling you that in your mind, all these are</p> <p>8 watertight anyway.</p> <p>9 A. Yes.</p> <p>10 Q. If all these are watertight, there's no question about</p> <p>11 making something watertight or bolting it, right? They</p> <p>12 are watertight in your mind.</p> <p>13 A. Yes, if they are watertight, then it's watertight.</p> <p>14 Q. Let me try one more time. The steering gear</p> <p>15 compartment -- I don't need to take you to the actual</p> <p>16 numbers. The watertight compartment, we all now know,</p> <p>17 is less than 10 per cent --</p> <p>18 THE CHAIRMAN: I think it would be useful to go to one that</p> <p>19 shows us the frames, to show how relatively small it is.</p> <p>20 24 frames, are there?</p> <p>21 MR SHIEH: If we simply look at the General Arrangement.</p> <p>22 THE CHAIRMAN: Whatever shows the relative size.</p> <p>23 MR SHIEH: The frames would be Profile and Deck. Wilkinson</p> <p>24 & Grist bundle, page 44.</p> <p>25 Look at the top part, "Side shell profile". It sets</p> |
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| <p>1 the tank room; correct?</p> <p>2 A. If I had known that, I would have told them to move it</p> <p>3 a little bit to the right and then that should have been</p> <p>4 enough.</p> <p>5 THE CHAIRMAN: By that you mean the steering gear</p> <p>6 compartment?</p> <p>7 A. No, no. I would ask them to move the watertight</p> <p>8 bulkhead, to move a little bit forward.</p> <p>9 MR SHIEH: To move frame 1/2 a bit forward?</p> <p>10 A. Yes, yes.</p> <p>11 Q. So, to lengthen the steering gear compartment?</p> <p>12 A. Yes.</p> <p>13 Q. But by that stage, it's no longer an option to tinker</p> <p>14 with the construction of the vessel.</p> <p>15 A. Okay. If there was no option, it was out of option,</p> <p>16 then of course we will open it, make it one compartment.</p> <p>17 Q. When you say "open it, make it one compartment", do you</p> <p>18 mean treat the tank room and the steering gear</p> <p>19 compartment as one compartment and then do the</p> <p>20 calculation?</p> <p>21 A. Or otherwise they could have bolted up the access</p> <p>22 opening.</p> <p>23 THE CHAIRMAN: You mean made it watertight?</p> <p>24 A. Yes, make it watertight.</p> <p>25 MR SHIEH: Mr Cheung, I think you are being a little bit</p> | <p>1 out all the frames and their numbers at the bottom.</p> <p>2 You can see frame 1/2 on the left-hand side. Yes,</p> <p>3 this is frame 1/2. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. That is the location of the bulkhead separating the</p> <p>6 steering gear compartment and the tank room?</p> <p>7 A. Yes.</p> <p>8 Q. And you can see the relative length of that in relation</p> <p>9 to the length of the vessel?</p> <p>10 A. Yes.</p> <p>11 Q. It's less than 10 per cent?</p> <p>12 A. Yes, I'm aware of that.</p> <p>13 THE CHAIRMAN: That's obvious at a glance, is it not?</p> <p>14 A. Yes, that's right. It should be obvious at a glance.</p> <p>15 MR SHIEH: So in conducting damage stability calculation,</p> <p>16 because the steering gear compartment, the length is</p> <p>17 less than 10 per cent of the length of the vessel, the</p> <p>18 steering gear compartment should not be taken as</p> <p>19 a flooded compartment for the purpose of calculation;</p> <p>20 correct? You should not treat only that compartment as</p> <p>21 having flooded.</p> <p>22 A. Correct.</p> <p>23 Q. The correct way of doing it would be to actually</p> <p>24 disregard the bulkhead and to effectively merge the tank</p> <p>25 room and the steering gear compartment, and regard that</p> |

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| <p>1 merged structure as being flooded? 2 A. Correct. 3 Q. But obviously at the time, you were not aware of the 4 shortness of the steering gear compartment when you did 5 the calculations; correct? 6 A. I did know at a glance that the steering gear 7 compartment was short, but I admit it was an omission on 8 my part. 9 Q. Let's come back to the software. Is it -- 10 MR MOK: I'm sorry, Mr Chairman. I think he also used the 11 word "so fat", which is "negligent". Yes, he was 12 negligent. 13 THE INTERPRETER: Thank you, counsel. He did use the word 14 "negligent". 15 THE CHAIRMAN: Just give me a moment, please. 16 But how could this come about? Because as we've 17 just established, and you've agreed, at a glance one can 18 see that this is considerably shorter than 10 per cent 19 of the hull. 20 A. Because I forgot the requirements of the relevant rules. 21 THE CHAIRMAN: So you'd forgotten about the 0.1L rule when 22 it comes to damage stability calculation for 23 a particular compartment? 24 A. That's right. 25 THE CHAIRMAN: And you proceeded on the basis that this was</p> | <p>1 Q. And then under the heading "Forward bulkhead", it's 2 11.575 metres. 3 A. That's right. 4 Q. These are the two bulkheads which together define the 5 steering gear compartment? 6 THE INTERPRETER: The witness said that 12.445 would refer 7 to the line in the middle of the shaded area. Here. 8 Point it down. Yes, that's the line. 9 MR SHIEH: I see. The 12.445 does not mean the line at the 10 very back? 11 A. No, no, no. 12 Q. But it says "Aft bulkhead: 12.445 metres". On the face 13 of it, it's telling us that this measures the 14 distance -- 15 A. Because the measurement, the length of the ship will be 16 measured starting with the line that I just pointed out, 17 up to the very line to the extreme left. That will be 18 the ship's length. 19 Q. Sorry, can you start again? 20 THE INTERPRETER: From the line that I just pointed out. 21 MR SHIEH: Which is where? 22 THE INTERPRETER: In the middle of the shaded area. Yes, 23 that's right. This is the line. 24 MR SHIEH: Yes. 25 THE INTERPRETER: Starting there, all the way to another</p> |
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| <p>1 a watertight compartment, the steering gear compartment? 2 A. Yes. 3 THE CHAIRMAN: That's why you produced the calculations in 4 the way that you did? 5 A. Yes. 6 THE CHAIRMAN: Thank you. 7 MR SHIEH: Now, did the software have any built-in mechanism 8 for catering for the 0.1L rule? Do you understand what 9 I mean? If you key in the figures and for example if 10 the computer or the software detects, "Ah, the data you 11 feed in tells me that this compartment is less than 12 0.1L", it would automatically adjust itself to do the 13 necessary calculation to, say, "disregard one bulkhead"? 14 A. No. 15 Q. Mr Cheung, one small point. If you look at the damage 16 stability calculation at marine bundle 2, page 344 -- 17 THE CHAIRMAN: That's the steering gear compartment? 18 MR SHIEH: Yes. 19 If you'd look at the figures on the left-hand side, 20 you can see under the heading "Compartment", "Aft 21 bulkhead: 12.445 metres". 22 A. Yes. 23 Q. That basically is the distance measured from midship; 24 correct? 25 A. Correct.</p> | <p>1 line on the right. 2 MR SHIEH: On the right? 3 THE INTERPRETER: On the right, that's right. The line on 4 the right, under the bow. 5 A. This is the length of the ship registered at the Marine 6 Department. 7 THE CHAIRMAN: Is that length overall as opposed to length 8 in the waterline? 9 A. This will be the length for the ship's volume. 10 MR SHIEH: Mr Cheung, let's deal with it step by step. 11 Under the heading "Compartment", on the far left, we see 12 "Aft bulkhead". 13 A. Yes. 14 Q. A bulkhead is simply a wall, in layman's terms; right? 15 A wall separating two compartments. 16 A. That's right. 17 Q. So we are talking about the distance from midship to 18 a wall at the aft of the vessel. 19 A. That's right. 20 THE CHAIRMAN: So what is this wall? What part of the 21 vessel is it? 22 A. Are you talking, Mr Chairman, the length that I just 23 talked about? That is -- 24 THE CHAIRMAN: I'm trying to find out what physical thing it 25 is. It's an aft bulkhead. Is it the stern plating?</p> |

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| <p>1 A. The bulkhead would be the hull at the stern. 2 THE CHAIRMAN: So the stern plates? 3 A. That's right. 4 THE CHAIRMAN: What then is the forward bulkhead? Is it 5 a steel wall? 6 A. Forward bulkhead would be the bulkhead. 7 THE INTERPRETER: That is right, the cursor right now. 8 Exactly where the cursor is pointing at. 9 THE CHAIRMAN: And it's a steel wall? 10 A. That's right. 11 THE CHAIRMAN: And from the drawing that we looked at, this 12 is the wall that has the access opening drawn in it on 13 the drawing; is that right? 14 A. Yes. 15 MR SHIEH: Right. Now, if we do some calculation, we use 16 12.445 and minus 11.575, that would give us the length 17 of that compartment; correct? 18 A. You mean the 12.4 minus the 11 -- right? 19 Q. Correct. 20 A. That means we'll be starting from the line in the middle 21 of the shaded area up to the bulkhead on the right; is 22 that what you mean? 23 MR SHIEH: No, that's not what I mean. I don't know how the 24 rudder stock came in. 25 Permit me to actually walk to the monitor. Is this</p> | <p>1 A. (Chinese spoken). 2 THE CHAIRMAN: Mr Cheung, would you be kind enough to draw 3 for us what you say is the dimension that is represented 4 by those two figures: aft bulkhead, 12.445; forward 5 bulkhead, 11.575? Can you draw that for us? Show us 6 what it measures. Do you have a pen and paper? Do you 7 need a ruler? (Handed). 8 MR SHIEH: Perhaps we can have that scanned and then 9 projected and he can do his explanation. 10 THE CHAIRMAN: That's what I have in mind. Let's just have 11 a quick look at it, but certainly we can have it 12 scanned. 13 Mr Cheung, we're going to have this scanned but 14 we're going to take a five-minute break -- we might be 15 grateful for that -- whilst that's being done, so we'll 16 adjourn for five minutes. 17 (3.44 pm) 18 (A short break) 19 (3.53 pm) 20 THE CHAIRMAN: Before you proceed with the questioning, just 21 a suggestion. I think in light of what Mr Cheung has 22 drawn here, where he's adverted to the rudder stock 23 centre, it might help -- you might be there already -- 24 to look at the General Arrangement, which in the profile 25 gives us that position on the vessel. On the upper</p> |
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| <p>1 the aft bulkhead (indicates)? 2 A. That's right. That's the aft bulkhead. 3 Q. Aft bulkhead; yes? 4 A. This is forward bulkhead. 5 Q. Aft minus fore equals the length of this compartment; 6 correct? Where I'm moving (indicates). 7 THE INTERPRETER: The witness was pointing at the line in 8 the middle, saying that's the one for 12.445. The line 9 in the middle. 10 MR SHIEH: But 12.445 was measured from midship. 11 A. That's right. You're right. 12 Q. From midship to this plate is 12.445; yes? 13 A. No, no, no. When you said starting from -- but we 14 wouldn't take the line you point in the middle as 15 centreline. 16 Q. It's not precise, okay. It's not precise. There will 17 be a line somewhere here called "midship". 18 THE CHAIRMAN: Mr Shieh, at the risk of complicating 19 matters, may I suggest that Mr Cheung be asked to draw 20 what he says is represented by these two measurements. 21 MR SHIEH: Yes. 22 THE CHAIRMAN: Where they're calculated from. 23 MR SHIEH: Yes. This is the point that's been puzzling us 24 because of the shortness of the result. 25 THE CHAIRMAN: Clearly it isn't the 1.625 --</p> | <p>1 drawing. 2 MR SHIEH: It's the Wilkinson & Grist bundle, page 43. 3 THE CHAIRMAN: You'll see there is marked the rudder, with 4 the rudder stock being visible as it goes through into 5 the boat. It may be that that would help Mr Cheung 6 explain things. 7 THE INTERPRETER: Should I translate? 8 THE CHAIRMAN: Please translate. But wait for Mr Shieh to 9 ask questions. 10 A. Yes. 11 MR SHIEH: That red arrow is pointing at what is called the 12 "drawing for rudder and rudder stock". 13 THE INTERPRETER: The witness was pointing at the line to 14 the left of the box. 15 A. That's called rudder stock. Only that line is called 16 rudder stock. 17 MR SHIEH: The cursor is pointing at the rudder stock; 18 correct? 19 A. Yes, that's right. That's where the cursor is pointing 20 at. 21 Q. Okay. Can we now go back to the drawing that you have 22 made. Let's do it step by step. 23 In the damage stability calculation, we had seen 24 some figures under the column heading "Aft bulkhead" and 25 "Forward bulkhead"; correct?</p> |

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| <p>1 I'm asking him to remember. I haven't actually 2 shown him. 3 A. Yes. 4 Q. They were in minus figures? One is minus 11-something, 5 the other is minus 12-something. That's correct? You 6 remember that? 7 THE INTERPRETER: The witness was looking at it. 8 A. That's right. 9 MR SHIEH: Right. So if it's minus, I take it that they 10 mean that they are measured to be behind something, aft 11 of a particular position? Correct? Measuring backwards 12 from a particular point; correct? 13 A. Yes, I understand that. 14 Q. So that point is midship; correct? 15 A. Correct. 16 Q. Right. So far so good. So the minus 11.575 figure 17 appears under the heading of "Forward bulkhead". 18 A. That's right. 19 THE INTERPRETER: The witness was pointing at the line, 20 saying that that's the aft bulkhead -- forward bulk -- 21 MR SHIEH: No, no, no. In the damage stability calculation, 22 the figure of minus 11.575 appeared under the 23 description "Forward bulkhead". 24 A. Yes. 25 Q. So what does that distance of 11.575 metres represent?</p> | <p>1 A. When I did my calculation, I used this rudder stock 2 centre, and I did not factor in the stern plate. 3 THE CHAIRMAN: What I'm asking is why don't you call "aft 4 bulkhead", for this calculation, "centreline of the 5 rudder stock"? That's what it is. 6 A. I am not the one who typed out "aft bulkhead". The 7 computer made it out. 8 THE CHAIRMAN: Thank you. 9 MR SHIEH: So let me try this. In fact, the 12.445 should 10 not be described as representing the distance of the aft 11 bulkhead from midship? 12 A. Correct. 13 Q. Because the wording of "aft bulkhead" came together with 14 the software? 15 A. Correct. 16 Q. In fact, you wanted that column to denote another 17 figure, another value? 18 A. He didn't ask me to denote that value. 19 Q. Anyway, you know the concept of aft perpendicular? 20 A. Aft perpendicular, as I understand it, would be -- 21 that's where the cursor is pointing at, all the way up. 22 That would be aft perpendicular. It would be called 23 "LBP". 24 Q. Where can we see that? 25 A. Yes, that will be the rudder stock centreline all the</p> |
| Page 90 | Page 92 |
| <p>1 It represents the distance from midship to what? 2 A. Starting from the centreline, midship, all the way up to 3 the -- 4 THE INTERPRETER: Could you point the cursor down? There, 5 that's right. This is the line. 6 A. Up to here. 7 MR SHIEH: Up to frame 1/2? The bulkhead between steering 8 gear compartment and tank room; correct? That was the 9 bulkhead that we've been looking at, with an access 10 opening and whether there was a door or whatever. You 11 know that bulkhead? 12 A. Yes. 13 Q. Okay. So far so good. We have established that 11.575 14 was from midship to that bulkhead which separates the 15 two compartments. How about the 12.445 figure? That 16 was from midship to where? 17 A. The minus 12.445 would start from the midship centre all 18 the way up to here. That's right. Where the cursor is 19 pointing at, that's right. 20 Q. That's the rudder stock? 21 A. That's right. The rudder stock centre. 22 THE CHAIRMAN: The centre of the rudder stock projected in 23 a vertical line up through the vessel? 24 A. That's right. 25 THE CHAIRMAN: Why do you call that the aft bulkhead?</p> | <p>1 way up. That will be LBP. 2 Q. Could I ask you to look at page 338 to see whether we 3 can actually get there. 4 I think we have sorted it out, but I'm going to -- 5 let me try. 6 You can see, page 338, "Principal Dimensions". 7 There is "length WL". 8 A. Yes. 9 Q. "Waterline"; correct? 10 A. Yes. 11 Q. And "length OA" means? 12 A. The length of the whole ship. 13 Q. "Overall"? 14 A. "Overall", that's right. 15 Q. For the purpose of damage stability, you used length of 16 waterline? 17 A. That's right, I'll be using the 24.890. I will be using 18 that figure. 19 Q. Yes, that 24.890 metres being the length upon which you 20 calculated damage stability? 21 A. Correct. 22 Q. Half of that is exactly 12.445; correct? 23 A. Correct. 24 Q. That happens to be the figure under the heading "Aft 25 bulkhead".</p> |

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| <p>1 A. That will be the rudder stock centre, right. 2 Q. When measuring length of the vessel, "length WL", the 3 aft-most point is the rudder stock centre; correct? 4 A. Correct. 5 Q. And for the purpose of calculating the forward portion, 6 the positive value, if we look at page 339, for example, 7 here we are talking about the fore peak compartment. 8 Now, for that, even though there is, as we see, 9 something called "Forward bulkhead", there is indeed no 10 forward bulkhead? 11 A. Correct. 12 Q. The value depicted by the forward bulkhead is actually 13 from midship to this point which hits the waterline 14 (indicates); correct? 15 A. Correct. 16 Q. So the language of "bulkhead" was used, but in fact the 17 values input under those two headings were not intended 18 to represent the distance to any particular piece of 19 plate or bulkhead? 20 A. No. 21 Q. The use of the language of "bulkhead" in some cases was 22 a misnomer, but it came with the computer software. Is 23 that a fair way of putting it? 24 A. Correct. 25 Q. Same applies to the aft bulkhead, when you turn to</p> | <p>1 of these damage stability calculations, for the minus 2 figures, the minus 12.445 is actually a measurement up 3 to the rudder stock centre? 4 A. Correct. 5 Q. And for the fore part, it actually reaches the point 6 that I had pointed to you just now on the waterline. 7 A. Correct. 8 Q. Mr Cheung, were you responsible for the damage stability 9 calculation for the year 1998? For that, can I show you 10 another set of calculations at marine bundle 3, 11 page 472. 12 A. Yes. 13 Q. This follows a similar layout. This time it's signed by 14 CY Cheung. 15 A. Yes. 16 THE CHAIRMAN: This is a letter dated 21 October 1998 from 17 Cheoy Lee Shipyards to the Director of Marine? 18 A. Yes. 19 THE CHAIRMAN: It encloses copies of the final Damage 20 Stability Information Booklets? 21 A. Yes. 22 MR SHIEH: Now, that was at a time after some ballasts had 23 been added; do you remember that? 24 A. I have to refer to -- 25 Q. Take a look. Have a look.</p> |
| Page 94 | Page 96 |
| <p>1 page 344? 2 A. Yes. 3 Q. But the waterline doesn't stop with the rudder stock. 4 I can understand the fore bulkhead bit, but as far as 5 the aft part, the waterline doesn't actually stop at the 6 rudder stock or the rudder stock centre. 7 A. Correct. 8 Q. So while I can understand why the fore bulkhead might be 9 a misnomer, why, for the purpose of calculating the 10 distance to the aft bulkhead, did you stop at the rudder 11 stock centre? 12 A. That's what the computer program gave out. So when 13 that's what the computer gave out, I would take it as 14 the aft bulkhead. 15 Q. Okay. So for some reason, the computer program took the 16 rudder stock centre as the aft-most part of the length? 17 A. I don't know how the computer ran it. Maybe there is 18 some correction done by it. 19 Q. But that would give an incorrect measurement for the 20 volume of the steering gear compartment. Do you agree? 21 Because it would have left out the bit from the rudder 22 stock centre to the real -- to the stern plate. 23 Correct? 24 A. I wouldn't know these things about computers. 25 Q. Be that as it may, your evidence is that for the purpose</p> | <p>1 THE CHAIRMAN: Perhaps -- 2 MR SHIEH: You may need to compare. 3 THE CHAIRMAN: To help him with the chronology, page 450 is 4 the letter that sets the ball rolling. 25 March 1998. 5 MR SHIEH: Yes. Page 450 is a letter, March 1998. 6 THE CHAIRMAN: Do you see that, Mr Cheung? 7 A. Yes. 8 THE CHAIRMAN: What's being enclosed at this stage is 9 estimated damage stability information. This is the 10 Marine Department addressing that subject. 11 A. There should be one document titled "Inclining 12 Experiment". 13 MR SHIEH: Page 452. Your handwriting, I believe? Your 14 handwriting? 15 A. That's right, my own handwriting. I'm checking if there 16 is any ballast added. Can you show it, put on the 17 screen where I can identify some data concerning added 18 ballast? 19 Q. In fact you may wish to go further at page 428. That is 20 Cheoy Lee to the Marine Department, dated 10 March 1998, 21 signed by CY Cheung. The first line actually says: 22 "We wish to keep you informed that as requested by 23 the shipowner, the Hongkong Electric Company, we are 24 going to install onboard the captioned vessel trimming 25 ballast of 8.25 tonnes of lead in fibreglass container</p> |

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| <p>1 sometime next week." 2 A. Yes. 3 Q. I think this basically puts you in context, because we 4 are certainly not going to ask you to redo any 5 calculations for either the inclining experiment or 6 anything else. This simply tells you that this arose at 7 a time when Cheoy Lee was adding ballast of 8.25 tonnes. 8 A. I know that now. 9 Q. As a result, as you know, inclining experiment had to be 10 done, calculations had to be done, and Damage Stability 11 Booklet had to be resubmitted, reflecting the effect of 12 added ballast; right? 13 A. You are right. Correct. 14 Q. Okay. Now, we come to page 472. We still recognise 15 your handwriting on this Damage Stability Information 16 Booklet. So I can take it that you were responsible for 17 doing these calculations? If you read on to pages 474, 18 475, we can see your handwriting? 19 A. Yes, that's right. That's my own handwriting. 20 Q. I'm not going to go into the details of the figures with 21 you, but the short point I want to put to you is that, 22 for the purpose of dividing the vessel into 23 compartments, it still adopted the six-compartment 24 position? That is to say, you treated all bulkheads as 25 watertight?</p> | <p>1 ballast. 2 A. The approach was the same. 3 Q. Thank you. 4 THE CHAIRMAN: This was then submitted to a superior of 5 yours? 6 A. Correct. 7 THE CHAIRMAN: Who was this, in 1998? 8 A. See who is the one that issued the letter. 9 MR SHIEH: CY Cheung? 10 A. If CY Cheung is on this, then he is the superior. 11 THE CHAIRMAN: Have a look at page 428. See his name and 12 signature. That's back in March, when it all started. 13 March 1998. Is that him, CY Cheung, your superior? 14 A. At that point of time, yes, he was. 15 MR SHIEH: Right. The next time any calculations had to be 16 submitted to the Marine Department was in the year 2005. 17 First of all, were you still working at Cheoy Lee in 18 2005? 19 A. Yes. That's right, I was still working for Cheoy Lee. 20 Q. Could I ask you to look at marine bundle 4, page 667. 21 This is a letter signed by SY Lo. This is a letter of 22 21 September 2005. 23 A. Yes. 24 Q. This encloses stability booklets. 25 A. Yes.</p> |
| Page 98 | Page 100 |
| <p>1 A. Correct. 2 Q. And likewise, you had not merged the steering gear 3 compartment and tank room for the purpose of flooding? 4 A. No, I didn't do that. You are right. 5 Q. So basically the methodology was that you simply carried 6 over the methodology that you used for the 1996 7 calculations; correct? 8 A. Correct. 9 THE CHAIRMAN: What template did you use for 1998 10 calculations? Did you go back to drawings, or did you 11 use your earlier calculations, 1996? 12 A. I took over the set in 1996. And then I calculated 13 according to that set. 14 THE CHAIRMAN: So you went back to the 1996 method of 15 calculating it, and projected it forward with now lead 16 added, 8.25 tonnes. 17 A. That's right. I will use the figures of 1996, add the 18 8-odd tonnes of lead ballast, and then on that basis we 19 will do the inclining experiment again. 20 MR SHIEH: And also did the damage stability calculation? 21 A. That's right. That's right. 22 Q. In terms of treating bulkheads as watertight, treatment 23 of individual compartments, you simply followed through 24 the approach adopted in the 1996 calculations? The 25 numbers would have changed because of the adding of</p> | <p>1 Q. Let me again give you the background. Around about 2 2005, the position of the ballast was raised. 3 Take a look at page 639 in the same bundle. This is 4 letter from Cheoy Lee to the Marine Department, 27 June 5 2005. Cheoy Lee informed the Marine Department that 6 they wished to raise the existing ballast weights by 7 a height of 10 inches by means of aluminium frames 8 support. 9 A. I don't really remember it. 10 Q. Anyway, it tells you the background, okay? This set of 11 calculations is necessitated because of the raising of 12 the ballast. 13 A. Yes, I know that. 14 Q. So the end product of the calculations is enclosed at 15 page 667. The actual booklet starts at page 668. 16 These calculations follow a different physical 17 appearance and format than the two that we have seen 18 earlier, in 1996 and 1998. You see that? 19 A. Yes, I can see it. 20 Q. And we understand that was because new software was 21 being used? 22 A. That's right. The software was different. 23 Q. Do you remember using this new software to produce 24 damage stability calculations? 25 A. This damage stability calculation was not done by me; it</p> |

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| Page 101 | Page 103 |
| <p>1 was done by me colleague. 2 Q. I see. So even though you were still employed by Cheoy 3 Lee, as far as this set of calculations is concerned, 4 you didn't do it; it was done by your colleague? 5 A. That's right, it was done by my colleague. 6 Q. What was the name of your colleague? 7 A. It should be here. His name should be around here. 8 THE CHAIRMAN: Well, take your time. Have a look. 9 THE INTERPRETER: The witness was pointing at the "HYK" 10 under the title "By" on page 669. 11 MR SHIEH: I see. So "HYK" is who? 12 A. By the surname Kwok. 13 Q. But checked by you Fook-chor Cheung, "FCC"? 14 A. He put it down there with computer. 15 Q. Mr Kwok? 16 A. That's right. 17 Q. His initials would be "HY", right? 18 A. That's what he put down. 19 Q. Okay. "Check By FCC", that would be you, right? 20 Fook-chor Cheung? 21 A. He put my name down on it. 22 Q. You did check it, yes? 23 A. I didn't check it. 24 Q. Anyway, are you aware -- 25 THE CHAIRMAN: Have you had a chance to look through what it</p> | <p>1 Q. Right. He might be younger and therefore might be able 2 to use more fashionable software, but you basically 3 supervised him? 4 A. I wasn't the one who supervised him. 5 Q. So you basically handed over the task to him, after 6 doing the inclining experiment? 7 A. Correct. 8 Q. So you wouldn't be aware as to his methodology or his 9 approach or his interpretation of data or plans? 10 A. No, he wouldn't be aware of it but he would be 11 retrieving from among the old material. 12 Q. Do you know whether he actually dug up the old plans to 13 take a look, or whether or not he simply looked at the 14 old calculations and updated the data? 15 A. That's right, he looked at the old calculations. 16 THE CHAIRMAN: Do you know that? 17 A. That's right. 18 THE CHAIRMAN: The ones that you had done in 1998? 19 A. Correct. 20 THE CHAIRMAN: And 1996? Did he look at those as well? 21 A. I wouldn't know that, whether he did look at what the 22 data done in 1996. 23 THE CHAIRMAN: But he did look at 1998 calculations that you 24 had done, that we have seen? 25 MR SHIEH: After the adding of the ballast.</p> |
| Page 102 | Page 104 |
| <p>1 is you're denying checking? Give yourself a chance. 2 Have a look through it. 3 A. Because I was not familiar with this software. Even 4 though I looked at it, I had no idea what it was talking 5 about. 6 THE CHAIRMAN: So you can say just by looking at it you 7 didn't check it because you're not familiar with the 8 software; is that it? 9 A. That's right. 10 THE CHAIRMAN: Did you know that it had been presented on 11 the basis that you had checked it? 12 A. Then I don't know, I didn't know. I'm not clear 13 about it. 14 MR SHIEH: The name of the software is called Autohydro Pro. 15 If you look at the bottom of each page, it says 16 "Autohydro Pro". That is the software that you say you 17 are not familiar with; right? 18 A. Autohydro. 19 Q. So did you know why it says "Check by", and you? 20 A. Because after the inclining experiment, I handed over to 21 him, for him to do. That's why he put my name on it. 22 Q. "Him" as in Mr Kwok? 23 A. That's right. 24 Q. Would you be regarded as his superior? 25 A. That's right. He would regard me as his superior.</p> | <p>1 A. That, I wouldn't know. 2 THE CHAIRMAN: Does Mr Kwok still work at Cheoy Lee? 3 A. Now? 4 THE CHAIRMAN: Yes. 5 A. Not anymore. Not for a few years already. 6 THE CHAIRMAN: Do you know where he works? 7 A. I don't know. I don't know where he's working now. 8 MR SHIEH: I think Mr Pao may be able to ask his client. 9 THE CHAIRMAN: Can you assist? 10 MR PAO: I will try and find out. 11 THE CHAIRMAN: Thank you. 12 MR SHIEH: Thank you very much, Mr Chairman. I don't 13 believe I have any more questions. 14 THE CHAIRMAN: Just one matter while you're still on your 15 feet. 16 MR SHIEH: Yes? 17 THE CHAIRMAN: It's apparent, if you turn to page 697, with 18 this new software, the calculations are being done for 19 each of the compartments. It's saying that Mr Kwok 20 examined the compartments as being six watertight 21 compartments, is it not, and here he is looking at the 22 after peak, which is the steering gear compartment; is 23 that right? 24 THE INTERPRETER: "After peak" means what, "aft peak"? 25 THE CHAIRMAN: "After peak", which is another way of</p> |

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| <p>1 describing the steering gear compartment, is it not? 2 THE INTERPRETER: Thank you. 3 A. I don't know whether he examined it or not. 4 THE CHAIRMAN: The calculations are done on the same basis 5 that you'd done your calculations: six watertight 6 compartments. That is apparent from the way they're set 7 out, is it not? So the first one is the after peak, or 8 the steering gear compartment. 9 A. Correct. 10 THE CHAIRMAN: And that's the shaded area on the little 11 diagram of the vessel? 12 A. Correct. 13 THE CHAIRMAN: So if you turn to page 698, you'll see at the 14 bottom he next looks at the tank compartment. If you go 15 to the top of page 699, you'll see that that area is 16 shaded, and that's the area adjoining the steering gear 17 compartment, is it not? 18 A. No. 19 MR SHIEH: No, "adjacent", "gat lei". 20 A. Correct, adjacent to it. 21 THE CHAIRMAN: Right. Thirdly, he looks at the engine room, 22 page 700. So he's moving forward in the boat. He's now 23 in the third compartment. 24 A. Correct. 25 THE CHAIRMAN: Then at page 702 and page 703, he looks at</p> | <p>1 ascertain how many drawings Mr Cheung actually looked at 2 when he prepared the 1996 Stability Book, and also 3 a question on his interpretation of the Sections and 4 Bulkheads drawing when he first saw it in 1995. 5 THE CHAIRMAN: Very well, yes. Please do. 6 Examination by MR PAO 7 MR PAO: Mr Cheung, you remember telling the Commission that 8 when you prepared the 1996 Damage Stability Booklet, you 9 only looked at a few drawings? 10 A. Correct. 11 Q. One of them was the General Arrangement? 12 A. Yes. 13 Q. And the other one is Profile and Deck? 14 A. Yes. 15 Q. Have you looked at any other drawings when you prepared 16 the damage stability report? 17 A. There was another drawing that I used for calculations, 18 called "Lines plan". 19 Q. It's marine bundle, page 176. 20 If you look at the screen, Mr Cheung, is this the 21 one you are talking about? 22 A. Yes. 23 Q. So these are the three drawings that you looked at when 24 you prepared the damage stability report in 1996? 25 A. That's right. First of all, I asked them to give me</p> |
| Page 106 | Page 108 |
| <p>1 compartments 4 and 5. He calls them "voids", but one of 2 them I think we've called "crew space". Do you see 3 that? 4 THE INTERPRETER: On page? 5 THE CHAIRMAN: Pages 702 and 703. Yes, page 702 is damage 6 case 4. That, I think, was previously called "crew 7 space". But it's a fourth compartment. Then at 8 page 703, he looks at the fifth compartment: damage 9 case 5. Right? And then, finally, at page 705 he looks 10 at the fore peak. So he has followed the way you did 11 it: six watertight compartments. That's the basis of 12 these calculations, is it not? 13 A. Yes. 14 THE CHAIRMAN: Thank you. 15 Mr Grossman, do you have any application? 16 MR GROSSMAN: I do not. Thank you, Mr Chairman. 17 THE CHAIRMAN: Mr Sussex? 18 MR SUSSEX: Mr Chairman, I have no questions for this 19 witness. 20 THE CHAIRMAN: Mr Lai, I don't suppose you have any 21 questions, but let me ask you. 22 MR LAI SAI-MING: (Via interpreter) No. 23 THE CHAIRMAN: Thank you. 24 Mr Pao? 25 MR PAO: I just have two questions. I just want to</p> | <p>1 this drawing first, this drawing being shown on the 2 screen. 3 THE CHAIRMAN: So you asked for the lines plan first? 4 A. That's right. 5 MR PAO: And then you needed this drawing to input the data 6 of the size of various parts of the boat? 7 A. No, I need this line drawing to input all the data about 8 the boat hull. 9 MR PAO: The dimensions. 10 THE INTERPRETER: The dimensions of the boat hull. Thank 11 you. 12 MR PAO: When you were asked, Mr Cheung, whether you asked 13 for any other drawings from Mr Leizaola, you said that 14 you did, but you believe that the drawings were being 15 used somewhere else or words to that effect. Do you 16 remember that? 17 A. Correct, I remember. 18 Q. So the drawings were at various times being used by 19 other people or other engineers in the shipyard? 20 A. Correct. 21 Q. Mr Cheung, when you looked at the Sections and Bulkheads 22 drawings, which is W&G bundle, page 46 -- that's the 23 full-size drawing. 24 A. Yes. 25 Q. You remember doing something to this drawing back in May</p> |

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| Page 109 | 1 1995? 2 THE CHAIRMAN: Was it not March? 3 MR PAO: March, I'm sorry. 4 THE INTERPRETER: Doing something to this drawing? 5 MR PAO: Yes, changing certain figures. 6 A. Correct. 7 Q. So it's also this Mr Leizaola who instructed you to 8 change dimensions on certain parts of the drawing? 9 A. Yes. For example, you know, those that were circled by 10 cloud-shaped clouds. 11 Q. Did you just concentrate on the parts that you were 12 supposed to amend and -- well, I just ask that: did you 13 just concentrate on the parts that you were supposed to 14 amend? 15 A. Okay. 16 Q. So did you pay any attention to the other parts of that 17 drawing? 18 A. No. My concentration then was all on amending the 19 dimensions, the sizes. 20 Q. So when you look at this drawing now and see the 21 notation on the lower left-hand corner of this drawing, 22 and the contradictory notation on the top right-hand 23 corner of this drawing, do you find it confusing? 24 A. Yes. 25 Q. So when Mr Chairman asked you what would you have done | Page 111 | 1 MR MOK: Mr Cheung, I'm going to ask you one question to 2 follow up on what Mr Pao just asked you. 3 A. Okay. 4 Q. You said that if you had seen the Sections and Bulkheads 5 drawing, you would have found it confusing but you would 6 have proceeded on the basis that there was a watertight 7 bulkhead at frame 1/2. 8 A. Yes. 9 Q. And then you would leave it to your superior to decide 10 whether or not that would be correct? 11 A. Yes. 12 Q. On that basis, would you draw to your superior's 13 attention that there was something confusing or 14 ambiguous on this plan? Would you have drawn it to his 15 attention? 16 A. I would have done that, but I don't remember I did it 17 actually or not. 18 Q. Right. But if you had drawn it to his attention, then 19 you would have raised with him the question whether or 20 not the bulkhead in question was watertight; correct? 21 You would have raised that as a question? 22 A. Probably so. I probably would have raised such 23 a question. 24 THE CHAIRMAN: And what would have been the method of 25 raising it, confronted with this kind of fundamental |
| Page 110 | 1 had you noticed there is confusing or contradictory 2 notations, what would you have done, then you answered 3 to the effect that you would simply have proceeded on 4 the premise that it was a watertight bulkhead and leave 5 it to your superior to decide whether it's right or 6 wrong. So that was your answer? 7 A. Correct. 8 Q. But would you have asked Mr Leizaola beforehand about 9 these contradictory notations, before you proceeded? 10 A. I don't really remember whether or not. 11 MR PAO: That's fine. Thank you, Mr Cheung. 12 THE CHAIRMAN: Mr Mok? 13 MR MOK: Yes, Mr Chairman, I would like to follow up on 14 Mr Pao's questions relating to the superior -- 15 THE CHAIRMAN: Yes. 16 MR MOK: -- and also to draw his attention to the 17 Preliminary Trim & Stability Booklet prepared by 18 Naval-Consult, and ask him whether he had sight of that. 19 THE CHAIRMAN: Ah, yes. Tell me, if you would, if you've 20 got the reference, where that is? 21 MR MOK: Yes, I do. It's in the miscellaneous bundle, 22 I believe it's bundle B, at page 111. 23 THE CHAIRMAN: Thank you. Yes, please ask those questions. 24 MR MOK: Thank you. 25 Examination by MR MOK | Page 112 | 1 confusion? 2 A. I would have asked him, "Hey, this is watertight? What 3 about here on the access door, would that be watertight 4 too?" That's what I would have asked. 5 THE CHAIRMAN: So, oral? 6 A. Correct. 7 THE CHAIRMAN: Thank you. 8 MR MOK: And it is correct that by the time that you 9 prepared the Damage Stability Booklet, the vessel had 10 already been built? 11 A. Yes. 12 Q. So it would have been a simple matter of going to the 13 ship, inside the hull, to find out whether it was or was 14 not watertight? 15 A. No. You see -- I'll make it clear, as clear as I can. 16 When I was doing this, the ship had not been finished 17 yet. The ship was still being built in mainland China. 18 Q. At that stage, when you prepared the Damage Stability 19 Booklet, had the inclining experiment been conducted? 20 A. No. 21 Q. So in other words, you are saying that when you prepared 22 the booklet, the ship had not been completed? 23 THE CHAIRMAN: He's told us that already. It was still 24 being built in the mainland. 25 A. I don't understand what I'm being asked. |

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| <p>1 THE CHAIRMAN: I think Mr Cheung has given the answer. When 2 the calculations were being done, the ship was not 3 finished yet; still being built in the mainland. 4 MR MOK: Thank you. 5 Now, when you approached the -- if you had 6 approached your superior with the question of whether or 7 not the bulkhead was watertight, do you know what he 8 would have done to resolve that issue? 9 A. I don't know. 10 Q. Thank you. One more question. May I draw your 11 attention to a document which is in the miscellaneous 12 bundle B at page 111. This is a document called 13 Preliminary Trim & Stability Booklet, and it was 14 prepared by the company called Naval-Consult, which you 15 can see at the bottom. 16 A. Now I can see it. 17 Q. Do you know this company was the designer of the vessel? 18 A. I don't know. 19 Q. I see. May I just ask you, have you ever seen this 20 document before? You may be able to flip through it to 21 see whether or not you have seen this. 22 THE CHAIRMAN: Yes. Please take your time to have a look 23 through it. 24 A. No, I have never seen this document before. 25 MR MOK: May I just draw your attention to one page of this</p> | <p>1 Q. Mr Cheung, do you understand that the designer had in 2 fact performed some calculation on the basis that both 3 the steering gear compartment and tank room had been 4 flooded at the same time? 5 Do you understand these two pages? 6 A. I don't know. 7 THE CHAIRMAN: Perhaps we could help you if we go forward. 8 If we have a look, for example, at page 147. Do you see 9 he's there addressing the engine room separately? Do 10 you see that? That's a separate compartment he's 11 looking at now. 12 A. That's what he put on. That's what is put on there. 13 THE CHAIRMAN: If you look at page 153, he's looking at the 14 crew space compartment separately. 15 A. Yes. 16 THE CHAIRMAN: At page 159, he's looking at the void 17 space -- that's another compartment -- separately. Do 18 you see that? 19 A. Yes. That's what he says. 20 THE CHAIRMAN: Finally, page 165, he looks at the forward 21 peak separately. So he's considered the vessel on the 22 basis of a total of five compartments, not the six that 23 you looked at. Do you agree? 24 A. I can't see it. 25 THE CHAIRMAN: Page 165 is the fore peak, I think. So all</p> |
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| <p>1 document, which is page 141. You will see the fourth 2 line from the top says "Steering & tank room damage with 3 passenger crowding". Do you see that? 4 A. Yes, I can see it. 5 Q. What is shown on this page is a set of calculations on 6 the basis that both the steering gear compartment and 7 the tank room were flooded. 8 THE INTERPRETER: Where would that be? 9 MR MOK: I'm just telling him. 10 THE INTERPRETER: Okay. 11 MR MOK: You can see, for example, at the middle part of 12 this page, under the word "hull", there is a reference 13 to "steering room compartment flooded", and also "tank 14 room compartment flooded". 15 A. Yes. 16 Q. Then you will see certain figures at the bottom of the 17 page: "Draft at aft perpendicular", 1.997 metres, and 18 "Draft at front perpendicular", 0.448 metres. 19 A. Yes, I can see it. 20 Q. Then over the page, you will see at the bottom of the 21 next page, "GM at equilibrium". Then you will see 22 a margin of 1.613 per cent. 23 A. I understand the English. 24 Q. Yes. 25 A. Yes.</p> | <p>1 that's being suggested to you -- we acknowledge that you 2 say you've never seen this before, but this, by the 3 designer, is an approach at looking at five compartments 4 separately flooded, and one of them is steering and tank 5 taken together. 6 A. I can only see forward -- "FPT damage with passenger 7 crowding". 8 THE CHAIRMAN: Perhaps we needn't trouble you any more since 9 you haven't seen the document. 10 MR MOK: Yes. May I just ask this question. If you go 11 back, please, to page 141. Now, this calculation was 12 based on both the steering room and the tank room 13 compartments being flooded. Do you remember? 14 A. Yes. That's what he said, "steering & tank room 15 damage". That's what he said. 16 Q. In other words, these two compartments were treated as 17 one compartment. 18 A. Yes, that's what he says. 19 Q. My question is, Mr Cheung, if you had seen this 20 calculation and this booklet, would it have influenced 21 or affected the way you did your Damage Stability 22 Booklet and calculation? 23 A. It wouldn't. 24 Q. It would not? 25 A. It would not.</p> |

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| <p>1 Q. Would you like to explain why? 2 A. Because the Marine Department did not require that there 3 will be two compartments both being damaged. 4 Q. I see. You mean that the requirement was 5 one-compartment flooding, but not two-compartment 6 flooding? 7 A. Correct. 8 Q. I see. Finally, by the time you did the final Stability 9 Booklet at the beginning of 1996, the vessel had been 10 completed; right? 11 A. Yes. 12 Q. And by that time, in order to find out whether or not 13 the bulkhead at frame 1/2 was or was not watertight, all 14 one needed to do would be to go and inspect? 15 A. It didn't occur to me to go there to take a look. All 16 I did was just find out the old calculations and then 17 base on the old calculations, proceed based on old 18 calculations. 19 Q. This old calculation that you refer to, that's the 20 calculation which was marked "estimate", right, which 21 was done in 1995? 22 A. The earliest one, the one done earliest. 23 MR MOK: Thank you. 24 I have no further questions. 25 THE CHAIRMAN: Thank you.</p> | <p>1 Paragraph 30 ends with: 2 "I mostly navigate visually, and I only occasionally 3 glance at the radar." 4 Do you see that? 5 A. Yes, I can see it. 6 Q. Could I take you back to paragraph 28. You said: 7 "I usually kept the radar on the 0.75 miles 8 range ..." 9 A. Yes. 10 Q. Was it not a bit short? 11 A. This is what I usually set it. 12 Q. I know, but was it a bit short? It's less than 1 mile. 13 A. This is what I would usually set at. I don't feel that 14 it's too short. 15 THE CHAIRMAN: Even at the speed that your vessel moves at 16 outside the harbour? 17 A. Correct. 18 MR SHIEH: Do you have a habit of long-range scanning using 19 the radar, at least at the commencement of a voyage? 20 A. If the weather is not good, bad, then I would use it. 21 If the weather is good, then I would not. 22 Q. And on the evening in question, you did not? 23 A. Correct. 24 Q. We now move to paragraph 31 of your statement: 25 "The incident voyage started when we departed</p> |
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| <p>1 Mr Shieh? 2 MR SHIEH: No further questions. 3 THE CHAIRMAN: Thank you, Mr Cheung, for making yourself 4 available, and apologies for the delay in bringing you 5 on to give your evidence. But thank you for helping us. 6 A. Thank you. 7 THE CHAIRMAN: Your evidence is complete now, and you're 8 free to go. Of course, you may stay and listen to other 9 evidence if you wish. Thank you. 10 A. Thank you. 11 (The witness withdrew) 12 THE CHAIRMAN: Yes, Mr Shieh. 13 MR SHIEH: Having completed Mr Cheung's evidence, we'd next 14 ask you to call the captain, Mr Lai. 15 THE CHAIRMAN: Mr Lai, would you be kind enough to step 16 forward and resume your place in the witness box. 17 MR LAI SAI-MING (reaffirmed in Puntì) 18 (All answers via interpreter unless otherwise indicated) 19 Examination by MR SHIEH 20 MR SHIEH: Mr Lai, on the previous occasion, when Mr Sussex 21 was leading you in giving your evidence, you stopped at 22 paragraph 30 of your witness statement. So could we now 23 have paragraph 30 of your witness statement. The 24 English version is Holman Fenwick bundle. It starts at 25 page 127.</p> | <p>1 Central Pier No. 4 on schedule at about 20:00. On 2 departure, all the navigation aids were working, the 3 radar was set to the 0.75 miles range, and the 4 navigation lights were showing. The weather was fine. 5 Visibility was good, about 6 miles or more." 6 A. Yes. 7 Q. Coming back to the question of your use of the radar, at 8 night, even if visibility was good, a visual look-out 9 would still not be as satisfactory as a visual look-out 10 during daytime; you would agree with that? Because at 11 night basically you are simply relying on lights, 12 navigation lights. 13 THE INTERPRETER: You mean relying on lights or navigation 14 lights? 15 MR SHIEH: If you simply use visual look-out at night, 16 basically you are dependent upon navigation lights of 17 other vessels. 18 THE INTERPRETER: I understand. Thank you. 19 A. Yes. 20 MR SHIEH: And form a judgment as to their aspect and their 21 relative bearings and the manner of their approach. 22 A. Yes. 23 Q. Do you regard that as a safe manner of navigation, only 24 occasionally glancing at the radar? 25 A. That's right. When the weather was good and then when</p> |

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| <p>1 I was relying on my visual, yes. That's what I would 2 do. 3 Q. Has the company or your employer ever impressed upon you 4 the value of using radar as an aid to navigation? 5 A. No. 6 Q. Paragraph 32: 7 "About 3-4 minutes after leaving the pier, the 8 engineer and two sailors came to the wheelhouse. The 9 sailors sat on the bench, which is fitted at the port 10 side, aft of the wheelhouse. From that position, the 11 sailors helped keep look-out." 12 A. Yes. 13 Q. "The engineer sat on a chair next to the bench and 14 entered the details in the vessel's log book, which 15 includes the departure time, the number of passengers on 16 board, the weather conditions and the visibility." 17 A. Yes. 18 Q. Again, just for the record, we've seen it many times -- 19 marine bundle 8, page 1982. This depicts the 20 wheelhouse. 21 A. Yes. 22 THE CHAIRMAN: But others have pointed out that it's not 23 entirely accurate, is it? 24 A. Okay. 25 THE CHAIRMAN: To start with, it's missing a fridge next to</p> | <p>1 Q. Right. So disregarding the precise order in which they 2 came back, their position was as we have just described? 3 A. Correct. 4 Q. Wong Tai-yau would be actually on the port side of the 5 settee; correct? 6 A. I was navigating. I did not turn my head around. So 7 I didn't know where he was sitting exactly. 8 Q. All right. But you were aware that the engineer was 9 seated at that chair next to the table behind you? 10 A. Yes. 11 Q. You did look back? 12 A. No. 13 Q. How did you know he was behind you? 14 A. Because he was exchanging a few remarks with me. 15 Q. Right, okay. 16 "At nighttime the wheelhouse is dark. After leaving 17 Central Pier, I switched off the CCTV screen." 18 If we can have page 1983 of marine bundle 8. The 19 CCTV screen is item 5 on the left-hand side; correct? 20 A. That's right. 21 Q. "The only lights in the wheelhouse were from the radar, 22 the compass and the engine gauges." 23 A. Yes. 24 Q. "These are all fitted with a dimmer switch, which 25 I turned down as much as possible, so that there was</p> |
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| <p>1 the settee on the port side. 2 A. Yes. 3 MR SHIEH: And on the right side of the settee, there is 4 a table; correct? 5 THE INTERPRETER: The witness was pointing at -- can the 6 cursor show up? Yes. A little bit down. Down a little 7 bit. Down. Here. That's right. This is where the 8 witness was pointing. 9 A. That's where the table was. 10 MR SHIEH: Yes, but it was actually adjacent to the settee, 11 because after putting a fridge on the port side of the 12 settee, the settee had to be moved to the right? 13 A. Yes. 14 Q. Thank you. And your chair, the chair that you were 15 sitting on when you were conning, would be the chair 16 immediately in front of the helm; correct? 17 A. Yes. 18 Q. And the sailors sat on the settee; yes? 19 A. Yes. 20 Q. And the engineer sat on the chair next to the small 21 table next to the settee? 22 A. Yes. 23 Q. They did not all come into the wheelhouse at the same 24 time; right? They came back at different times? 25 A. I don't really -- I'm not clear about it.</p> | <p>1 hardly any light in the wheelhouse." 2 A. Yes. 3 Q. Why did you want to keep the wheelhouse dim? Is it to 4 facilitate your look-out? 5 A. Correct. 6 Q. The engineer and the members of the crew came back three 7 or four minutes after leaving the pier. That was when 8 the vessel was still in Victoria Harbour; correct? 9 THE INTERPRETER: "Came back" means -- 10 MR SHIEH: Back to the wheelhouse. 11 A. Yes. 12 Q. Paragraph 34: 13 "After clearing Central Pier, there are speed 14 restrictions within Victoria Harbour, so I kept the 15 ferry's speed at less than 15 knots. The area of 16 15 knots restrictions ends at the easterly cardinal buoy 17 marking the southern fairway." 18 A. Yes. 19 Q. "On passing this buoy I increased to our service speed 20 of about 21-23 knots. The Sea Smooth is permitted to 21 proceed at a maximum speed of 35 knots in this area." 22 A. Yes. 23 MR SHIEH: Mr Chairman, I see the time. It's 5.30. 24 THE CHAIRMAN: Yes. Mr Lai, although you have only just 25 resumed your evidence, you'll be aware, since you've</p> |

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| <p>1 been here, that we're at the end of our day now.</p> <p>2 A. I understand.</p> <p>3 THE CHAIRMAN: So we're going to adjourn now and resume</p> <p>4 tomorrow at 10 o'clock.</p> <p>5 A. I understand.</p> <p>6 THE CHAIRMAN: Please be good enough to return so that you</p> <p>7 can resume your testimony at that time.</p> <p>8 A. I understand.</p> <p>9 THE CHAIRMAN: For everyone's information, we will not be</p> <p>10 sitting tomorrow afternoon until not before 3 o'clock.</p> <p>11 That's because my co-Commissioner has another commitment</p> <p>12 which is unavoidable. That's how I'm going to list it.</p> <p>13 We'll start as near to 3 o'clock as we can, but not</p> <p>14 before 3 o'clock. Thank you.</p> <p>15 MR SHIEH: Very well. Mr Mok indicated to me that he wished</p> <p>16 to follow up on the application for Mardep witnesses.</p> <p>17 May I just inform the Commission that the team for</p> <p>18 the Commission have been going through the helpful</p> <p>19 attempt to trim down the evidence, and we should be able</p> <p>20 to let Mr Mok and the Commission know our response to</p> <p>21 Mardep's attempt to trim down and reshuffle the</p> <p>22 evidence, so perhaps the matter can then be taken from</p> <p>23 there.</p> <p>24 THE CHAIRMAN: When will you be able to advise us and him as</p> <p>25 to your position?</p> | <p>1 (5.35 pm)</p> <p>2 (The hearing adjourned until 10 am on the following day)</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |
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| <p>1 MR SHIEH: Tomorrow morning.</p> <p>2 THE CHAIRMAN: Mr Mok?</p> <p>3 MR MOK: Mr Chairman, I think the main focus is to see</p> <p>4 whether or not we will be allowed to lead the evidence</p> <p>5 of the Mardep witnesses in relation to the second part</p> <p>6 of the Inquiry, or whether or not Mr Shieh will be doing</p> <p>7 the leading of the evidence, so that we can be prepared</p> <p>8 to do that.</p> <p>9 THE CHAIRMAN: Well, I'll hear both of you on that. We'll</p> <p>10 deal with that tomorrow.</p> <p>11 MR MOK: Yes. Maybe after this witness.</p> <p>12 THE CHAIRMAN: Yes, very well.</p> <p>13 MR MOK: Thank you.</p> <p>14 MR SHIEH: We'll be in a position to inform the Commission</p> <p>15 as to our position on the in-principle question as to</p> <p>16 whether or not the Mardep witnesses can be called and</p> <p>17 which part of the statements, and chances are, because</p> <p>18 they deal with matters which really go to Mardep's</p> <p>19 explanation of various matters, it would be Mr Mok,</p> <p>20 being Mardep's counsel.</p> <p>21 THE CHAIRMAN: That's certainly my initial reaction, that it</p> <p>22 falls within your case, as it were. But I'll hear from</p> <p>23 counsel tomorrow.</p> <p>24 MR MOK: Yes. Thank you.</p> <p>25 THE CHAIRMAN: So, 10 o'clock tomorrow, please.</p> | <p>1 I N D E X</p> <p>2 MR WONG YUNG-SHING (on former affirmation2</p> <p style="padding-left: 40px;">in Punti)</p> <p>3 Examination by MR SHIEH (continued)3</p> <p>4 Examination by MR GROSSMAN30</p> <p>5 Further examination by MR SHIEH45</p> <p>6 (The witness withdrew)46</p> <p>7 MR CHEUNG FOOK-CHOR (sworn in Punti)46</p> <p>8 Examination by MR SHIEH46</p> <p>9 Examination by MR PAO107</p> <p>10 Examination by MR MOK110</p> <p>11 (The witness withdrew)118</p> <p>12 MR LAI SAI-MING (reaffirmed in Punti)118</p> <p>13 Examination by MR SHIEH118</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |