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<p>1 Thursday, 28 February 2013 2 (10.00 am) 3 MR SHIEH: Mr Chairman, could I first report on the 4 situation concerning the Mardep witnesses. 5 THE CHAIRMAN: Yes. 6 MR SHIEH: We've been able to look at least at the statement 7 of Mr Wong Wing-chuen, who is likely to be the main 8 witness because he has filed a number of statements, and 9 Mardep has -- 10 THE CHAIRMAN: I have a box file of his material. 11 MR SHIEH: Yes. We have looked at the helpful attempt by 12 the Department of Justice to re-jig and to blue-pencil 13 his various statements. 14 In relation to all the previous statements, bar the 15 latest one, we are content that those parts that have 16 been excised, they do not need to be adduced because 17 those parts really are parts which duplicate with the 18 witness statements of other witnesses. 19 I've informed Mr Mok of that. So in a way, if he is 20 to lead Mr Wong Wing-chuen, in relation to the previous 21 statements, he can follow the format of the table which 22 the Department of Justice had prepared. 23 We may need a bit of time to look at any other 24 witness or witness statements. 25 But in relation to the latest statement by Mr Wong</p>	<p>1 proposal, as my learned friend suggested, is when 2 I start Mr Wong Wing-chuen, I'll go through his evidence 3 and when it comes to the last statement, then we will 4 make submissions to the Commission as to whether or not 5 that too can be read. 6 THE CHAIRMAN: Yes. 7 MR MOK: So we can leave that to the tail end. 8 THE CHAIRMAN: I am concerned, when you say we will go 9 through his evidence -- we have perhaps developed 10 a practice where we do things twice. Once is in the 11 written statement and another time is when it's all 12 dealt with -- 13 MR MOK: Orally. 14 THE CHAIRMAN: -- orally. 15 MR MOK: Yes. 16 THE CHAIRMAN: And that is becoming cumbersome. If it's the 17 position of Mardep, as Mr Shieh has indicated, that it 18 wishes to traverse everything that's been asserted that 19 it doesn't agree with, that can be dealt with by putting 20 its witness statements on our website as a key document. 21 And then we can focus on what's actually in issue, which 22 is what would help us. 23 MR MOK: We'd be happy to do that. 24 THE CHAIRMAN: I can tell you now what we're interested in 25 in particular is the way in which the drawings that</p>
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<p>1 Wing-chuen, we have taken the view that it's largely 2 argumentative and really case-putting rather than 3 informing the Commission of anything new or anything in 4 the nature of primary facts. And therefore we do not 5 believe that that part is going to assist, largely. 6 I've had a word with Mr Mok. Mr Mok obviously takes 7 the view that his instructions are that Mardep wishes 8 there to be a statement putting on record the position 9 of the Marine Department on various matters which they 10 take issue with Dr Armstrong's evidence. 11 But in view of the stage which we have now reached 12 and we are in the middle of the evidence of the 13 coxswain -- so instead of taking up time now debating 14 whether or not that statement needs to be read or not, 15 or whether or not it should be taken away or anything of 16 that nature, we believe that since a large part of 17 Mr Wong Wing-chuen's evidence is going to be permissible 18 and read out anyway, we shelve the issue of the last 19 statement of Mr Wong Wing-chuen until such time as 20 Mr Wong is to be called, so that the flow of the present 21 evidence does not get in a way disrupted by any kind of 22 argument this morning. 23 THE CHAIRMAN: Well, that seems sensible. 24 Mr Mok? 25 MR MOK: Yes. I talked to my learned friend and my</p>	<p>1 Mr Cheung spoke about yesterday were approved, and lead 2 ballasts added and then raised. I invite you to focus 3 on that and the Marine Department's role in that. 4 MR MOK: Yes, we'll certainly attempt to deal with that. 5 THE CHAIRMAN: Let's not interrupt Mr Lai's evidence now. 6 We'll come back to that later. 7 MR MOK: Yes. Thank you. 8 MR LAI SAI-MING (on former affirmation in Punti) 9 (All answers via interpreter unless otherwise indicated) 10 THE CHAIRMAN: Mr Lai, good morning to you. 11 A. Good morning. 12 THE CHAIRMAN: May I remind you that you continue to testify 13 according to your original affirmation. 14 A. I understand. 15 THE CHAIRMAN: Mr Shieh. 16 Examination by MR SHIEH (continued) 17 MR SHIEH: Mr Lai, could I have your witness statement back. 18 It's in the Holman Fenwick bundle. The English is 19 page 128, and the Chinese is page 132-3. 20 Yesterday we were looking at paragraph 34, and we 21 stopped at the juncture where you were talking about 22 Southern Fairway and increasing your speed to about 23 21-23 knots. 24 A. Yes. I can see it. 25 Q. Paragraph 35:</p>

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<p>1 "I navigated through the Sulphur Channel and south 2 of Green Island. This was my usual route to Lamma 3 Island." 4 A. Yes. 5 Q. Could I have miscellaneous bundle, page 1. Could the 6 cursor zoom in. 7 So basically you are aware the cursor is pointing 8 now between Hong Kong Island and Green Island; correct? 9 A. Yes. 10 Q. And you were about to turn port? 11 A. I should sail straight ahead. 12 THE CHAIRMAN: First of all you cross the Lamma Channel at 13 right angles, do you not? The fairway? 14 A. That's right. 15 MR SHIEH: You cross the Western Fairway and then turn port? 16 A. That's right. 17 Q. Thank you. Could I now come back to your witness 18 statement. Paragraph 36: 19 "In this area there were many small boats and yachts 20 heading towards Victoria Harbour for the fireworks 21 display which was due that night. Most of the small 22 crafts were going through the Sulphur Channel." 23 A. Yes. 24 Q. So did you have it in mind that that evening there could 25 be a lot of vessels sailing towards Victoria Harbour</p>	<p>1 seconded, but whether he was seconded to be concerned 2 with the fireworks display, that, I don't know. 3 Q. Do you know Cheng Muk-hei? 4 A. Yes, I know him. 5 Q. He's a coxswain; correct? 6 A. Yes. 7 Q. Did you know that he had been seconded to take charge of 8 the Hongkong Electric vessel Lamma II that evening? 9 A. I don't know. 10 Q. Look at paragraph 37. 11 "I had to alter course and ... speed on a number of 12 occasions, perhaps about 2-3 times, for some of the 13 small crafts. I cannot now recall the exact details of 14 the manoeuvres." 15 A. Yes. 16 Q. But you can tell us that the number of vessels were more 17 than the ordinary or normal number of vessels on 18 an ordinary night, a non-fireworks evening? 19 A. That's right. That's true, in the Victoria Harbour. 20 Q. Paragraph 38: 21 "As I navigated through the Sulphur Channel, I could 22 see Lamma Island ahead, so I knew that the visibility 23 was good." 24 A. Yes. 25 Q. When you say "more than the usual number in Victoria</p>
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<p>1 from various directions? 2 A. Yes. 3 Q. In fact, they would be coming from an opposite direction 4 from the direction that your vessel was sailing or 5 travelling? 6 A. Yes. 7 Q. Did it cause you to be particularly vigilant in keeping 8 any look-out as to vessels coming from opposite 9 directions which would be more than the usual numbers on 10 an ordinary night? 11 A. Yes, I would. 12 Q. You would? All right. Now, you work for Hong Kong 13 &amp; Kowloon Ferry? 14 A. Yes. 15 Q. You are aware of a practice or an arrangement whereby 16 employees of Hong Kong &amp; Kowloon Ferry were seconded to 17 navigate vessels of Hongkong Electric, are you, 18 generally speaking? 19 A. Yes. 20 Q. And are you aware that in fact that very evening, 21 employees or an employee of Hong Kong &amp; Kowloon Ferry 22 had been seconded to navigate a vessel for Hongkong 23 Electric for the purpose of viewing the fireworks in 24 Victoria Harbour? 25 A. Yes, I was aware that there was a master that had been</p>	<p>1 Harbour", but vessels had to go to Victoria Harbour from 2 various directions. 3 A. Most of them were sailing from the south of Green 4 Island. 5 Q. You know on Hong Kong Island, south, there are quite 6 a number of piers or points where boats can pick up 7 people and from then on travel or sail towards Victoria 8 harbour? 9 A. I don't know. 10 THE CHAIRMAN: Most of the traffic would be coming from 11 Aberdeen that night, would it not, coming through 12 Sulphur Channel? 13 A. Yes, I know that. 14 MR SHIEH: Thank you. 15 Paragraph 39: 16 "I crossed the Western Fairway at right angles to 17 the traffic lanes, to a point north of Lamma Anchorage. 18 I then altered course to port, to pass through the 19 anchorage." 20 A. Yes. 21 Q. Paragraph 40: 22 "By this time, we were clear of the small 23 recreational crafts heading for Victoria Harbour." 24 A. Yes. 25 Q. Paragraph 41:</p>

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<p>1 "There were 4-5 ships at anchor in Lamma Anchorage. 2 I adjusted my course as necessary to avoid them, but 3 keeping my heading in general to about 180 degrees. The 4 weather and visibility were good, so I did not look at 5 the compass or radar very often." 6 A. Yes. 7 Q. It may simply be a matter of personal impression, but 8 the engineer, Mr Lo, had actually given evidence that 9 you had a practice or habit of regularly checking the 10 radar. 11 A. I will occasionally glance at it. 12 Q. But not regularly? 13 A. That's right. Not regularly. 14 Q. It's not a regular pattern, put it that way? 15 A. That's right. When the weather is good, there wouldn't 16 be a regular pattern for me in looking at the radar. 17 Q. Paragraph 42: 18 "I could see the beacon off Shek Kok Tsui. The 19 beacon has a bright white flashing light. I planned to 20 pass about 10 ship's lengths, about 300 metres, off the 21 beacon as usual, before altering course gradually to 22 port, to head for Yung Shue Wan. This was my usual 23 route. This is also the usual route for all the ferries 24 running from Central to Yung Shue Wan on Lamma Island." 25 A. Yes.</p>	<p>1 "As I passed through the anchorage I noticed that 2 the tidal stream was setting to the east. It was quite 3 strong, probably about 1 knot." 4 Correct? 5 A. No, incorrect. 6 THE CHAIRMAN: Because east would mean it was an ebbing 7 tide, would it not? 8 A. Yes, yes. 9 THE CHAIRMAN: But it wasn't an ebbing tide; it was 10 a flooding tide? 11 A. When collision happened, when it occurred, the ship, the 12 vessel edged towards the reefs. (Chinese spoken). 13 THE CHAIRMAN: Don't worry about the reefs and what you 14 might have done and why you might have done it later on. 15 What was the tide doing, the current, as you went 16 through the North Lamma Anchorage? 17 A. I didn't notice it. 18 THE CHAIRMAN: So we can delete the two sentences in 19 paragraph 43, can we? That's not right? 20 A. Yes, you can delete the last two sentences. 21 THE CHAIRMAN: Thank you. 22 MR SHIEH: Mr Chairman, there may be a different way of 23 separating sentences. Do you actually mean the entire 24 paragraph 43, or simply the sentence about "strong" and 25 "1 knot"?</p>
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<p>1 THE CHAIRMAN: Where were you when you first sighted the 2 beacon off Shek Kok Tsui? 3 A. I have already entered the anchorage area. 4 MR SHIEH: If we can help you with the miscellaneous 5 bundle 1. Could you briefly indicate to us, roughly 6 indicate to us by directing the cursor, as to where ... 7 A. My rough position would be -- 8 Q. -- when you first saw the beacon. 9 THE INTERPRETER: Can you put the cursor down? Down, down. 10 A little bit to the right. Down again. Just a little 11 bit, yes. 12 The witness has confirmed that the cursor is 13 pointing at the position. 14 THE CHAIRMAN: And what it's pointing at is the Chinese 15 characters for "North Lamma Anchorage", as written on 16 the chart? 17 MR SHIEH: Yes. 18 THE CHAIRMAN: Is that right, Mr Lai? 19 THE INTERPRETER: We can't really see. 20 MR SHIEH: "(Chinese spoken)", because it actually starts 21 with "Lamma", so you can't see the "Pak" is the first 22 character. The "Pak" appears in the middle". 23 A. Roughly there. 24 Q. Okay. Coming back to your witness statement, at 25 paragraph 43:</p>	<p>1 THE CHAIRMAN: Well, it's for the witness to tell us what to 2 delete. Because he's taken issue certainly with it 3 setting to the east. By all means pursue it, if you 4 think one might be saved. 5 MR SHIEH: Yes. 6 Mr Lai, can I just clarify this with you. Do you 7 mean as you passed through the North Lamma Anchorage, 8 you actually didn't pay any attention to the direction 9 of the tide? 10 A. Correct. 11 Q. Thank you. So in fact the entire paragraph 43. 12 THE CHAIRMAN: Yes. 13 MR SHIEH: So the entire paragraph 43 can be removed; 14 correct? 15 THE INTERPRETER: Was that a question? 16 MR SHIEH: Yes. The entire paragraph 43 can be removed? 17 A. Yes. 18 Q. Thank you. Paragraph 44: 19 "Once we were clear of the anchorage there were no 20 other ships or small boats ahead of us. There was 21 a very bright light at the entrance to the Lamma Power 22 Station typhoon shelter, and other usual shore lights 23 and lights from the power station, but other than those, 24 I could see no other lights or vessels." 25 A. Yes.</p>

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<p>1 Q. At this juncture, could I ask you to look at the police 2 photo album. 3 THE CHAIRMAN: Before you do that. 4 This judgment that "there were no other ships or 5 small boats ahead of us", as you put it, was that as 6 a result of your visual observation? 7 A. Yes. 8 THE CHAIRMAN: Thank you. 9 MR SHIEH: Could I ask you to look at the police album at 10 page 636. Do you recognise this image? 11 A. It is a light of the Hongkong Electric typhoon shelter. 12 Q. It was switched on 24 hours a day; correct? Although 13 you may not be able to see it clearly in broad daylight. 14 A. I don't notice it, whether it's on or not in the 15 daytime, but in the evening, yes. 16 Q. Whatever the weather conditions, good or bad, foggy or 17 clear, it would be switched on, as far as you are 18 concerned? 19 A. Correct. 20 Q. Page 646. This is a photo taken on a different evening, 21 of the same light. On the evening of 1 October, the fog 22 light would be -- when you saw the fog light, was it 23 more or less the same kind of intensity? 24 A. Yes. 25 Q. Has this light ever caused you any problem or difficulty</p>	<p>1 A. On that particular evening, perhaps because of 2 occasional slip of my attention, momentarily -- 3 momentary slip of my attention, I did not pay attention 4 to the radar. 5 Q. In fact is there a sense of complacency in your mind 6 that because you have been travelling or sailing the 7 same route for so many times without problem, and every 8 journey is the same, and so you don't really need to do 9 anything extra or be especially vigilant by way of 10 look-out? 11 A. Yes. 12 Q. Let's talk about the wheelhouse generally. A few 13 minutes after leaving the pier in Central -- 14 THE CHAIRMAN: Before you move on to that topic, it is in 15 the wheelhouse, but would you have a look at the marine 16 photograph, I think it is, page 1983, of the wheelhouse, 17 with the legend that shows us where the instrumentation 18 was. 19 The radar screen is number 6, is it not? 20 THE INTERPRETER: Okay, the witness just confirmed that the 21 photo on the screen is very clear to him. 22 A. Yes, that's right. 23 THE CHAIRMAN: So in that position, it was easy for you to 24 look at it at a glance, was it not? 25 A. I would have to turn my head and then lower my head</p>
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<p>1 in terms of your visual look-out? 2 A. No, in my memory. None, in my memory. 3 Q. So there have been no incidents, for example, where this 4 light somehow hampered your vision so that you were 5 unable to notice or detect an approaching vessel at 6 night until a dangerously close distance? 7 A. I don't understand what you are asking me. 8 Q. Have you ever felt that the intensity of this light in 9 the evening had somehow hampered your ability to notice 10 approaching vessels from a distance? 11 A. Yes. 12 Q. How did that happen? 13 A. I would have to pay very great attention before I can 14 detect that there was a vessel, or that there must have 15 been navigation lights. 16 Q. Did you that evening pay particular attention to 17 approaching vessels, because of the presence of this 18 light? 19 A. Yes. 20 Q. Did you pay more frequent attention to the radar? 21 A. No. 22 Q. Was that not the sensible thing to do? That if you feel 23 that your vision, naked eye, could be hampered, then 24 a more accurate way of noticing approaching traffic 25 would be to look at the radar?</p>	<p>1 before I can do that. 2 THE CHAIRMAN: Why was that? 3 A. Because I am -- my height is higher than the radar 4 screen, and then the radar screen is there, slanting. 5 THE CHAIRMAN: Even if you had to do that, that was a matter 6 of a small movement, was it not? A matter of a second? 7 A. Yes. 8 THE CHAIRMAN: So why didn't you glance at the radar as you 9 came closer to this light that has caused you 10 difficulties? 11 A. That's right. Because I was distracted. My attention 12 was distracted. 13 THE CHAIRMAN: By what? 14 A. That's why I didn't look at the radar. 15 THE CHAIRMAN: By what was your attention distracted? 16 A. Because I was looking ahead, my eyes were looking ahead, 17 and I did not want to distract my vision to look at the 18 radar. 19 THE CHAIRMAN: So you're saying this was a deliberate 20 decision not to look at the radar, for that reason? 21 A. Yes, because of my lapse of attention and therefore 22 I did not look at the radar. 23 MR SHIEH: But, you see, Mr Lai, it is not as if if you 24 looked at the radar you're going to miss out any 25 approaching traffic, because the whole point of looking</p>

Page 17	1 at the radar is to enable you to look at echoes of 2 approaching objects. Do you understand what I mean? 3 You're not being asked to, like, pick up something from 4 the floor that would actually take your attention off 5 the surrounding circumstances completely. 6 A. Yes, I understand that. 7 Q. And if objects are near, you would be able to see them 8 very nearby anyway. But looking at the radar would be 9 able to help you detect the approach of objects from 10 further apart. 11 A. Yes, but then on that evening, I was -- because of my 12 lapse of attention, I did not look at it. 13 Q. Just one very small point. These display panels emit 14 light, right, whether it's the radar monitor or the 15 light panel in front of you? 16 A. Yes. 17 Q. Have you ever felt the light from the radar monitor to 18 be too bright, so as to hamper your vision when you move 19 your eyes back to a visual look-out? 20 A. I would adjust the intensity of the brightness to where 21 it is suitable for me. 22 THE CHAIRMAN: So that's never been a problem? 23 A. Correct. 24 THE CHAIRMAN: Looking at the radar screen didn't interfere 25 with your night eyes; that is, your ability to observe	Page 19	1 Q. Three of them really at the back of the wheelhouse, 2 right? Two sailors on the sofa, and the engineer on 3 that little chair next to the table. 4 A. Yes. 5 Q. The engineer filled in the log book on that table; 6 right? 7 A. Yes. 8 Q. And the two sailors remained on the sofa throughout the 9 voyage, until the time they left the wheelhouse, shortly 10 before the intended -- well, shortly before the arrival 11 at Yung Shue Wan. Yes? 12 A. Yes. 13 Q. As far as the engineer is concerned, after filling in 14 the log book, were you aware of where he was sitting and 15 where he moved to? 16 A. I don't know. 17 Q. Were you aware of his movements behind you at all, such 18 as whether or not he ever stood behind you or he ever 19 stood behind the chair next to you to look at the 20 console or the display panel? 21 A. Yes, he did. 22 THE CHAIRMAN: What did he do? 23 A. He looked at the panels to check whether they are 24 running normally. 25 MR SHIEH: Where was he when he did that?
Page 18	1 navigation lights? 2 A. Correct. 3 MR SHIEH: Let's talk about other occasions when you said 4 the fog light had the tendency to hamper your ability of 5 visual look-out. On other nights, are you saying that 6 you would be particularly vigilant and look at the radar 7 more as you approached Yung Shue Wan, because of that 8 fog light? 9 A. On that particular night, I really did not pay attention 10 to the radar. It was a momentary lapse of my attention. 11 Q. So usual practice would be that despite your preference 12 for naked-eye visual look-out, are you saying that on 13 ordinary nights, you would nonetheless have utilised the 14 radar more as you approached that light? 15 A. It varies from occasion to occasion. (Chinese spoken). 16 Q. So basically it depends on your preference on 17 a particular night? 18 A. Correct. 19 Q. And it so happened on 1 October you looked at it less? 20 A. Yes. 21 Q. I was going to ask you about the general scene or 22 atmosphere in the wheelhouse. A few minutes after the 23 ferry departed from the pier in Central, the other crew 24 members congregated in the wheelhouse? 25 A. Yes.	Page 20	1 A. On my right-hand side. He was -- I was seated on the 2 chair. He was on my right-hand side looking -- 3 MR SHIEH: Look at marine bundle 8, page 1982. 4 THE INTERPRETER: Can the cursor move up to the right. To 5 the right. No, no. Here. Stop here. 6 The witness identified that the cursor is pointing 7 at where the engineer was standing. That's the position 8 that he was standing. And then from that position, he 9 looked at the panel. 10 THE CHAIRMAN: And what instruments did you understand he 11 was checking? 12 A. I don't know. Just panels. Because there are many 13 different kinds of panel there. 14 THE CHAIRMAN: Well, he's an engineer. Was he checking the 15 engine instruments, as far as you were concerned? 16 A. Yes, yes. 17 MR SHIEH: Checking the engines are running properly and 18 there's no malfunctioning, signals being lit up, that 19 sort of thing? 20 A. Yes. 21 Q. He was on your right when he did that; yes? 22 A. Yes. 23 Q. Did that take long, that he stood on your right-hand 24 side and looked at the console? 25 A. I don't remember.

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<p>1 Q. So there was that occasion when he stood on your right 2 to look at the console, and then I presume he did not 3 stay there for the entire journey; yes? 4 A. Correct. 5 Q. So after standing on your right and taking a look at the 6 console, what did he do? 7 A. He walked backward, and then I don't know what he was 8 doing. 9 Q. The engineer recalls that he did look at the dashboard 10 and the switches in front of you, but he recalls that he 11 actually stood behind the chair on your left-hand side, 12 your port side. 13 A. No, he was standing here. 14 THE INTERPRETER: When the witness said "he was standing 15 here", his finger was pointing at where the cursor is 16 pointing now. 17 THE CHAIRMAN: So he stood on your right-hand side, when you 18 were seated on the conning chair? 19 A. Correct. 20 MR SHIEH: So he was actually in a rather unique position to 21 look at the radar, if he had stayed in that position on 22 your right? He was in a particularly good position to 23 be able to observe the radar if he was indeed standing 24 on your right-hand side? 25 A. I'm not clear about it. I'm not sure about him.</p>	<p>1 MR SHIEH: After crossing the Western Fairway, you turned 2 port. If one were to pay a casual visit to the 3 wheelhouse, one would see you at the conning chair, two 4 sailors on the sofa, and the engineer at the small chair 5 next to the table, right? That would be the usual set 6 up at that juncture? 7 A. Can I not answer hypothetical questions? 8 Q. I can ask you a different way. Is it a habit of the 9 crew to station themselves in this manner during a night 10 trip? 11 THE INTERPRETER: At the back of the wheelhouse? 12 MR SHIEH: Correct. 13 A. Yes, they had. 14 Q. Sailors on the sofa, engineer next to that little table? 15 A. Yes. 16 Q. And you did not give any explicit order for any 17 particular member of these three to be on any visual 18 look-out; correct? 19 A. Correct. 20 THE CHAIRMAN: Why not? 21 A. Because the company had not given me any specific 22 instructions. 23 THE CHAIRMAN: But you're the master of the vessel. 24 A. No, I did not give any specific instructions to them 25 about the look-out.</p>
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<p>1 Q. Anyway, your evidence is that, having stayed there for 2 an amount of time, he left and went to the back of 3 the -- 4 THE CHAIRMAN: He walked backwards, is what he said. 5 MR SHIEH: He walked backwards, to the back of the 6 wheelhouse? 7 A. That's right, he walked backward and then just a little 8 behind me. But he didn't leave the wheelhouse. 9 Q. He had gone back to the little chair at the back of the 10 wheelhouse? 11 A. I didn't look backwards, so I wouldn't know whether he 12 walked there or not. 13 Q. Was that a rather usual pattern of conduct or behaviour 14 in the wheelhouse? That is to say, shortly after 15 commencement of the voyage, everybody would go back to 16 the wheelhouse, engineer stood in front of the panel, 17 looked at the display, and then they all retreated to 18 the back of the wheelhouse and sat there? 19 A. Yes. 20 Q. So if one were to pay a casual visit to the wheelhouse, 21 let's say at the turning point when you turned port to 22 approach -- turned port into I think the Western 23 Fairway -- 24 THE CHAIRMAN: I think he crossed the Western Fairway at 25 right angles.</p>	<p>1 THE CHAIRMAN: But you're being asked why, why not? 2 A. You see, because each one of them was my colleague and 3 since the company had not given me any specific 4 instruction, that's why. 5 MR SHIEH: I see. Let me try -- I'm sorry, Mr Chairman. 6 THE CHAIRMAN: Are you suggesting that you didn't have the 7 power to order them to keep a look-out? 8 A. Yes. 9 MR SHIEH: I see. Try and see whether I'm putting the 10 matter fairly to you. Basically even though you have 11 the title of "coxswain", you think that unless the 12 company had expressly told the other members of the 13 crew, you regard them to be basically on a similar level 14 to you? You're all colleagues, and you didn't feel able 15 to give orders to them; is that a fair way of putting 16 it? 17 A. No. I would say that for cleaning and then manning 18 their stations are concerned, these I can give orders, 19 instructions to them. But regarding look-out -- but 20 I did not instruct them, or anybody, to keep a look-out. 21 THE CHAIRMAN: Because you didn't have the power to do so; 22 is that what you are saying? 23 A. No. In ordinary times, when the weather is bad, then 24 I will ask them to have look-out. If the weather is 25 good, then I don't necessarily ask them to do the</p>

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<p>1 look-out. But when the weather is bad, then I will ask 2 them to do it. 3 THE CHAIRMAN: So you had the power, but you chose not to 4 use it on that night because the weather was good; is 5 that it? 6 A. Correct. 7 THE CHAIRMAN: Thank you. 8 MR SHIEH: And the company had not installed any system of 9 encouragement of vigilant look-out by particular members 10 of the crew in the wheelhouse? 11 A. No. 12 Q. So to put the matter rather bluntly, on 1 October, for 13 all you know the three members of the crew could have 14 been sleeping behind you and you were the only person 15 paying any degree of attention to things around you 16 after the vessel had turned port? 17 A. I don't know whether they are sleeping or they are doing 18 the look-out. I didn't see them. 19 Q. But because there was no company requirement that they 20 should do look-out, or any one of them should do 21 look-out, and because you didn't tell them to carry on 22 any look-out, you are not in a position to tell us 23 whether in fact there was any look-out behind you? 24 A. Yes. 25 Q. Actually, what was the atmosphere in the wheelhouse?</p>	<p>1 A. Correct. 2 Q. Could I now move to paragraph 45 of your statement: 3 "As we were almost abeam of the beacon off Shek Kok 4 Tsui, the engineer and two sailors left the wheelhouse 5 to prepare for our arrival at Yung Shue Wan. This was 6 the routine they usually followed." 7 A. Yes. 8 Q. Can I backtrack a bit. About the fog light, did you 9 lodge any complaint to your superiors about the fog 10 light from Hongkong Electric hampering your vision? 11 A. I heard from my colleagues that this fog light had been 12 there for a long time. For myself, I only worked in the 13 company for a few years. I for myself had not lodged 14 any complaint. 15 Q. So basically even though it might cause you some 16 inconvenience in look-out, you thought, well, if nothing 17 has gone wrong in the past, nothing would go wrong, you 18 could handle it and therefore life goes on as usual. 19 That's the sort of mentality, is it? 20 A. Correct. 21 Q. When the other three members left the wheelhouse, they 22 left together; correct? 23 A. Yes. 24 Q. When you said when you were almost abeam, they left the 25 wheelhouse -- so you are not quite -- it was not quite</p>
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<p>1 Was there any chatting going on, eating ...? 2 A. Occasionally they would exchange a few remarks. 3 Q. Did you take part in the chat? 4 A. Seldom, because I was paying my attention on navigating. 5 Q. Let's talk about the chair on your left, on your port 6 side. In the evening of 1 October, nobody ever sat 7 there; right? 8 A. Correct. 9 Q. Actually, as a matter of habit, did any one member of 10 the crew habitually sit there during voyages? 11 A. No particular person. Whoever wanted to sit there, he 12 can sit up there. 13 Q. But the position of that chair is especially helpful in 14 terms of keeping a look-out; right? It's close to the 15 window. 16 A. It should be. 17 Q. Are you able to offer any explanation why nobody 18 particularly wanted to sit there? 19 A. That, I don't know. 20 Q. Is it because sitting there connotes some degree of 21 responsibility and nobody wanted to be in that position? 22 A. I don't really know why they didn't like to sit up there 23 or why occasionally there will be somebody seated up 24 there. 25 Q. So basically it's random?</p>	<p>1 on your port side, right? It was ahead on the port 2 side, was it, when they left? Or was it actually abeam? 3 Paragraph 45. 4 A. A little ahead. Not really abeam. 5 THE CHAIRMAN: At what angle did it lie ahead? 6 A. (Indicates). 7 THE CHAIRMAN: Are you able to tell us in degrees off the 8 bow? 9 THE INTERPRETER: 30 degrees, right? 10 A. I don't know. I don't know what degree. 11 THE CHAIRMAN: You don't know how to tell us in degrees? 12 A. I didn't notice what degrees it was. 13 THE CHAIRMAN: Well, tell us in the best way you can. You 14 can only do it by demonstrating; is that it? 15 MR SHIEH: 10 o'clock? 16 A. More or less. 17 THE CHAIRMAN: And at what distance was it when they got up 18 and left the wheelhouse? 19 A. I don't remember. 20 THE CHAIRMAN: Yes, Mr Shieh. 21 MR SHIEH: "Once we were abeam of the beacon, I started 22 slowly altering course to port, heading to pass off the 23 beacon O Tsai Pai." 24 That's paragraph 46. 25 A. It should not be "pass off", it should be "pass toward"</p>

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<p>1 O Tsai Pai. 2 Q. Yes, I was about to ask you. O Tsai Pai is actually 3 nearer Yung Shue Wan; it's immediately before Yung Shue 4 Wan. 5 A. That's right, yes. It was nearer Yung Shue Wan. 6 Q. Can I have expert bundle 1, page 361. 7 We can O Tsai on the right-hand side. There's 8 a star there. That's the beacon at O Tsai Pai; correct? 9 A. Yes, I can see it. 10 Q. So that's what was guiding you in terms of your steering 11 direction when you wanted to approach Yung Shue Wan? 12 A. I will navigate, drive down to the south, west of O Tsai 13 Pai, and then I will be looking at lights, at Yung Shue 14 Wan, to guide me. 15 Q. All right. You corrected paragraph 46 of your statement 16 and instead of "pass off" it's "heading towards"; 17 correct? 18 A. Correct. 19 Q. At that point in time, you did not notice any approach, 20 approaching vessel ahead of you? 21 A. No, I did not see any ship -- I did not see ships, 22 vessels, approaching me. 23 Q. Paragraph 47: 24 "My normal approach is to pass about 400-500 metres 25 west of O Tsai Pai, and I adjust my course from the Shek</p>	<p>1 A. Yes. 2 MR SHIEH: In your language, "very close"? 3 A. Correct. 4 Q. "The black shadow appeared in the very bright light 5 shining from the Lamma Power Station typhoon shelter." 6 A. Yes. 7 Q. "I knew at once it must be a small boat." 8 Correct? 9 A. Yes. 10 Q. "I do not recall seeing any navigation lights on the 11 other vessel." 12 A. Yes. 13 Q. It was at a time when you were still turning port; yes? 14 A. No, I was sailing straight. 15 Q. But you were, as you say -- but you were already abeam 16 of the beacon. Starting to turn port. 17 A. I have already made my turn already, and that's why 18 I was sailing straight ahead. 19 Q. I see. You've made your turn already? 20 A. Correct. 21 THE CHAIRMAN: That's the turn that you make at the Shek Kok 22 Tsui beacon? 23 A. That's right, after I already made my turn and then 24 I was sailing straight ahead. 25 MR SHIEH: Could I have the expert bundle 1, page 361.</p>
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<p>1 Kok Tsui beacon as necessary. I usually start slowing 2 the engines once the vessel is abeam of O Tsai Pai." 3 A. Yes. 4 Q. Paragraph 48: 5 "As I was still making my turn to port, towards 6 O Tsai Pai, I suddenly saw a black shadow almost right 7 ahead, and very close, about 2-3 ship's lengths." 8 Correct? 9 A. Correct. 10 Q. When you say "ship's lengths", you are having 11 a reference to the length of the Sea Smooth? 12 A. Yes. 13 Q. Sea Smooth was about 28 metres in length? 14 A. Yes. 15 Q. So let's say three ship-lengths would be 80-odd metres. 16 A. You see, it's between -- it's about 2-3 ship-lengths, so 17 only a rough figure. 18 Q. It's less than a cable, or at most one cable, on your 19 estimate? 20 THE CHAIRMAN: His estimate is nothing to do with a cable. 21 It's 2-3 ship-lengths. That's 56-84 metres. 22 MR SHIEH: Yes, but I was about to translate that into 23 cables. But anyway, he didn't use -- 24 THE CHAIRMAN: Let's not trouble with cables. 2-3 25 ship-lengths, a black shadow.</p>	<p>1 This is the result of plots made by an expert, 2 a master mariner, based on the radar echoes of the two 3 vessels detected in the Marine Department radar system. 4 You may be able to see, very finely, that actually 5 there are two lines, one red and one black. 6 A. Yes. 7 Q. But that is because of the different data captured by 8 the Marine Police and the Marine Department. But let's 9 leave that difference to one side, because that is 10 relatively immaterial for our purposes. 11 A. I understand. 12 Q. Now, the top part obviously relates to the track of Sea 13 Smooth. Could the cursor move along the track of the 14 top part, yes, move down. 15 This is the track of the Sea Smooth. 16 A. You mean the red one? 17 Q. Yes, just stick to the red one. 18 A. Okay. 19 Q. There's objective evidence that the collision took place 20 around about 8:20:17. 21 A. I didn't pay attention to my watch. 22 Q. I understand. But I'm trying to work backwards as to 23 the possible position when your colleagues left you and 24 when you first sighted the black shadow. 25 You can see Shek Kok Tsui beacon here, right, being</p>



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1 the star a little bit -- 10 o'clock off Shek Kok Tsui?  
2 A. Yes.  
3 Q. Now, whether you look at the black line or the red line,  
4 you see that the Sea Smooth -- that is, your vessel --  
5 actually had already turned slightly to port a little  
6 bit before it got abeam of the Shek Kok Tsui beacon?  
7 A. Yes.  
8 Q. Even before the Sea Smooth was strictly abeam of -- even  
9 before the vessel was abeam the beacon, you had already  
10 taken steps to turn port; correct?  
11 THE INTERPRETER: Can the cursor point up to the circle.  
12 Here, the circle. The witness said, "Here. It should  
13 be around here, then the vessel start to turn port."  
14 THE CHAIRMAN: So that's at approximately 20:19:30 or  
15 thereabouts? Do you see the times written on the chart,  
16 black and red, there?  
17 A. More or less.  
18 MR SHIEH: If we look at the corresponding position at  
19 20:19:20 of Lamma IV -- I would ask you to look down.  
20 On the right-hand side, you can see an arrow, 20:19:29.  
21 That's it, yes.  
22 That was the position of the Lamma IV at around  
23 about the corresponding time. Because if you look up,  
24 the red bit says 20:19:32. Do you see?  
25 Move down the cursor to the right-hand side. Yes,

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1 20:19:29. So around about that time Lamma IV was in  
2 that position.  
3 A. I understand.  
4 Q. At that position, Lamma IV was already quite a way from  
5 the fog light at the power station.  
6 A. Yes.  
7 Q. In other words, even if the fog light might have had  
8 some effect on your ability to detect objects close to  
9 it, Lamma IV was already, in a way, quite away from the  
10 zone whereby the fog light would have an impact?  
11 A. Because there were no navigation lights. Therefore  
12 I was unable to see the vessel.  
13 Q. So you couldn't see navigation lights, whether port or  
14 starboard, red or green, or even the masthead light?  
15 None whatsoever?  
16 A. Yes. I didn't see any lights.  
17 THE CHAIRMAN: Did you see any lights at all on the other  
18 vessel, the Lamma IV?  
19 A. It was only after the collision and then -- it was at  
20 the point of colliding with it that I saw that there  
21 were lights on it. There were lights on it, on its  
22 lower deck.  
23 THE CHAIRMAN: The lower deck cabin was lit?  
24 A. Correct.  
25 THE CHAIRMAN: But you only noticed that as you collided?

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1 A. After I have seen the black shadow and then after the  
2 moment of collision, that's when I saw it.  
3 MR SHIEH: Mr Chairman, I can see the time.  
4 THE CHAIRMAN: Yes, we'll take our morning break now.  
5 Mr Lai, we're going to take a break for 20 minutes.  
6 Please be back in your seat to resume in 20 minutes'  
7 time.  
8 A. I understand.  
9 THE CHAIRMAN: 20 minutes.  
10 (11.36 am)  
11 (A short break)  
12 (11.55 am)  
13 THE CHAIRMAN: Mr Lai, may I remind you that you continue to  
14 testify according to your original affirmation.  
15 A. I understand.  
16 MR SHIEH: Mr Lai, could I just come back to the point in  
17 time when you -- obviously, you say you first saw that  
18 dark shadow or black shadow about 2-3 ship-lengths away,  
19 right, when you first saw it?  
20 A. Yes.  
21 Q. But at the time when you first turned port, you hadn't  
22 seen it yet; right?  
23 A. Yes.  
24 Q. But let's look at the expert's plot. Let's look at  
25 20:19:32. 20:19:32, looking at your vessel -- so it was

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1 around about the time when you were turning port; yes?  
2 A. Yes.  
3 Q. And the equivalent position, if we move down the cursor,  
4 is around about 20:19:29.  
5 I know nothing can be exactly exact, but that is the  
6 sort of distance that we are talking about. But just to  
7 confirm with you, that is not the sort of distance when  
8 you first saw the other vessel, right? When you first  
9 saw the other vessel, it was much, much closer than that  
10 shown in relation to 20:19:32?  
11 A. I don't understand your question.  
12 Q. Let me try again.  
13 Look at the position of your vessel at 20:19:32.  
14 THE CHAIRMAN: Mr Shieh, this is, with respect, perfectly  
15 obvious. There's a difference between 2 boat-lengths  
16 and any of these calculated positions on the chart.  
17 MR SHIEH: Yes. Perhaps I'll skip this question and I'll  
18 move on to deal with the use of radar and the 0.75-mile  
19 range.  
20 THE CHAIRMAN: Please.  
21 MR SHIEH: Mr Lai, I'll put it differently. If you look at  
22 20:19:32, and you look at 20:19:29, being the position  
23 of Lamma IV at around about that time. Now, if you move  
24 the two positions to the left-hand side, you will see  
25 that the expert had actually done a "one nautical mile"

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<p>1 scale. Can you see? Can the cursor point to that 2 vertical line which denotes "one nautical mile"? 3 THE CHAIRMAN: I take it, Mr Shieh, all of this leads up to 4 the question as to when it was that the vessels were 5 within 0.75 of a nautical mile? 6 MR SHIEH: Yes. 7 THE CHAIRMAN: Can we not get to that point? 8 MR SHIEH: Yes. 9 THE CHAIRMAN: Can we not put that to the witness? 10 MR SHIEH: Mr Lai, at that point in time, let's say 11 20:19:32, the two vessels, looking at this chart, would 12 have been well within the range of your radar, which is 13 0.75 nautical miles. 14 A. Because on that evening, I will just glance at the radar 15 only. I did not really look squarely at the radar. 16 THE CHAIRMAN: We understand that. But what's being put to 17 you is that at 20:19:32, when you began to make your 18 move to turn to port, Lamma IV was within the 0.75 19 nautical miles radar range set on your radar set, was it 20 not? 21 A. I didn't see it. 22 THE CHAIRMAN: You're just being asked about distances, not 23 whether you looked at it on the radar. But you accept, 24 do you not, that at that time, which is about 50 seconds 25 before the collision, the two vessels were within 0.75</p>	<p>1 Q. Right. Can I now move on to paragraph 49: 2 "I immediately put the engines to full astern, and 3 the rudders to hard to starboard." 4 Correct? 5 A. Yes. As soon as I spotted the vessel, I turned my wheel 6 and then I pulled down the control lever, pulled it as 7 hard as I can. I pulled it down all the way. 8 Q. Pulling it down all the way, that is to put it to full 9 astern so as to decelerate; correct? 10 A. My left hand was -- pushed the wheel to the right, and 11 then my right hand pulled the lever down as much as 12 possible. 13 Q. You turned starboard by using the helm; right? 14 A. I used the joystick. 15 Q. "The vessel's speed reduced rapidly, and we started 16 altering course to starboard. Seconds later the 17 collision occurred. The bow of our port hull collided 18 with the port side of the other vessel, close to her 19 stern." 20 A. Yes. 21 Q. Paragraph 50: 22 "The angle of blow was about 45 degrees, with the 23 port bow of Sea Smooth leading astern on the other 24 vessel." 25 A. Yes.</p>
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<p>1 nautical miles and Lamma IV would have been on your 2 radar screen? 3 MR SHIEH: Looking at the screen, looking at the matter now. 4 Not talking about then. Then, of course, you didn't 5 see. But looking at the screen now, and looking at the 6 relative positions. 7 A. Yes. 8 Q. You described your position that evening as -- well, 9 it's a careless omission, did you say? Something to 10 that effect? 11 A. That's right, because that evening the weather was good 12 and then I did not pay particular attention to the 13 radar. 14 THE CHAIRMAN: It's not a question of paying "particular 15 attention", is it? If you'd paid any attention to the 16 radar, you'd have seen Lamma IV as the two vessels 17 closed on each other, from three-quarters of a nautical 18 miles distant. 19 A. I did not pay attention to it. 20 MR SHIEH: Well, it may be an obvious question: had somebody 21 stood next to you and looked at the radar, then it would 22 have been spotted, correct? 23 A. Questions like "if", this kind of question, I don't 24 really know because I would not know that had there been 25 somebody there, he would have spotted it.</p>	<p>1 Q. "Both bridge wing doors were shut. I did not hear any 2 whistles, or any warnings on the VHF before the 3 collision." 4 A. Yes. 5 Q. "I did not have time to sound whistle signals after 6 I saw the other vessel. I did not notice whether the 7 other vessel was turning or altering her speed at the 8 time of the collision." 9 A. Yes. 10 Q. So it would be possible that whistles had been sounded, 11 but because of the enclosed nature of the wheelhouse, 12 you couldn't hear it? 13 A. It's impossible, because at ordinary times, if there are 14 any whistles blowing from other ships, the sound would 15 be loud. And then as a captain, I'm very sensitive to 16 this kind of sound. 17 THE CHAIRMAN: That's the whole purpose of whistles on 18 ships, is it not? So that it can be heard at 19 a distance? 20 A. Yes. 21 MR SHIEH: So in your view, the enclosed nature of the 22 wheelhouse would not be a factor preventing you from 23 hearing any whistles? 24 A. Correct. 25 COMMISSIONER TANG: Did you see any searchlight from the</p>

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<p>1 other vessel?</p> <p>2 A. No.</p> <p>3 COMMISSIONER TANG: Thank you.</p> <p>4 MR SHIEH: Thank you.</p> <p>5 Paragraph 52:</p> <p>6 "The impact was hard. I was pushed forward into</p> <p>7 a leaning position by the collision, but I stayed in the</p> <p>8 chair and I was not thrown against the wheel or the</p> <p>9 console."</p> <p>10 Correct?</p> <p>11 A. Yes.</p> <p>12 Q. Paragraph 53:</p> <p>13 "I was very shocked by what had happened. The other</p> <p>14 vessel had passed down our port side. I opened the port</p> <p>15 side bridge wing door. I could see the other vessel</p> <p>16 about 2 ship's lengths off our port quarter, slowly</p> <p>17 drifting further away. I shouted to them, and asked if</p> <p>18 everything was okay, but there was no response."</p> <p>19 A. Yes.</p> <p>20 Q. Before I move on, I've been reminded by Mr Sussex,</p> <p>21 kindly, that I have not put the last sentence of</p> <p>22 paragraph 51 to Mr Lai.</p> <p>23 Can we look back at paragraph 51.</p> <p>24 "I did not notice whether the other vessel was</p> <p>25 turning or altering her speed at the time of the</p>	<p>1 THE INTERPRETER: I think the Chinese translation is</p> <p>2 a little bit different. Okay, I'll read on.</p> <p>3 A. Yes.</p> <p>4 MR SHIEH: When you saw the vessel, that dark vessel, when</p> <p>5 you stepped out on the wing bridge, was it tilting? Was</p> <p>6 it in a tilted position? The bow turning slightly up at</p> <p>7 an angle?</p> <p>8 A. No.</p> <p>9 Q. So it was still floating in a normal position?</p> <p>10 A. He was just drifting, drifting, drifting away.</p> <p>11 THE CHAIRMAN: Could you see any damage on the other vessel?</p> <p>12 A. I didn't notice it.</p> <p>13 COMMISSIONER TANG: Did it occur to you that you could turn</p> <p>14 on your searchlight to see the environment clearer?</p> <p>15 A. No, it didn't occur to me because by then, it was very</p> <p>16 chaotic inside the cabin already, and then people were</p> <p>17 screaming already. I had to walk back in to take care</p> <p>18 of things.</p> <p>19 MR SHIEH: You said you shouted and asked if anything was</p> <p>20 okay, and no response. But could you hear people</p> <p>21 screaming and shouting on the other vessel?</p> <p>22 A. I didn't hear it. I didn't pay attention to it;</p> <p>23 I didn't hear it.</p> <p>24 Q. I don't mean whether you heard anyone responding to you,</p> <p>25 saying, "I'm not okay", but after a collision people</p>
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<p>1 collision."</p> <p>2 A. Yes.</p> <p>3 Q. Was it because it really was a matter of a split second</p> <p>4 and you were not in a position to pay detailed attention</p> <p>5 to that sort of matter?</p> <p>6 A. That's right. That's correct. Because it happened all</p> <p>7 of a sudden, therefore I did not have time to notice it.</p> <p>8 Q. And according to you, you were taking steps to turn the</p> <p>9 engine full astern and also to turn hard to starboard?</p> <p>10 A. That's right.</p> <p>11 Q. Coming to the position when you opened the port-side</p> <p>12 wing door. Did you actually walk out to the wing?</p> <p>13 A. As soon as I opened the door, I started shouting out and</p> <p>14 asking them whether they are all right, "Are you all</p> <p>15 right? Are you all right?"</p> <p>16 Q. Right. Even though it was dark, as you said, and no</p> <p>17 navigation lights, you could still see the shape of the</p> <p>18 vessel; right?</p> <p>19 A. Yes.</p> <p>20 Q. Paragraph 54:</p> <p>21 "The other vessel was quite dark. There were no</p> <p>22 lights forward. I could see that she was a ferry boat,</p> <p>23 about the same length as Sea Smooth. She had two decks.</p> <p>24 The upper deck was dark, but the lower deck had cabin</p> <p>25 lights."</p>	<p>1 would scream and shout and there would be chaos on the</p> <p>2 other vessel. Could you hear any screaming or shouting</p> <p>3 noises of that nature?</p> <p>4 A. There were noises and screaming going on in my vessel,</p> <p>5 but I did not hear screaming or noises from the other</p> <p>6 vessel.</p> <p>7 Q. Paragraph 55:</p> <p>8 "I went into the upper deck passenger cabin, and</p> <p>9 asked if any passengers were hurt. Some passengers on</p> <p>10 the upper deck told me that they were injured."</p> <p>11 A. I did not walk out into the passenger cabin on the upper</p> <p>12 deck. I just opened my sliding door of the wheelhouse,</p> <p>13 poked my head out and asked them if anybody has been</p> <p>14 hurt.</p> <p>15 Q. So you would delete the first part of the first sentence</p> <p>16 of paragraph 55, which suggested that you actually went</p> <p>17 into the main deck passenger cabin?</p> <p>18 A. Yes, you can delete it.</p> <p>19 Q. Instead you would say you poked your head out of the</p> <p>20 wheelhouse door and asked if any passengers were hurt?</p> <p>21 A. (Chinese spoken).</p> <p>22 Q. Perhaps I will show him the sketch or the plan, for him</p> <p>23 to show us where he poked his head out.</p> <p>24 Could we have marine bundle 8, page 1982.</p> <p>25 Where did you poke your head out and ask whether</p>

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<p>1 anyone was hurt? 2 THE INTERPRETER: The witness -- please move the cursor up 3 to the "UP". Here, yes. Then a little to the left. 4 Still a little bit. Yes, here. No, back here. 5 This is where the witness was pointing. He said, 6 "This is where I poked my head out and shouted loudly at 7 them if anybody has been hurt." 8 MR SHIEH: That was the only exit from and entrance to the 9 wheelhouse; correct? 10 A. Yes, only exit to the passenger cabin. 11 Q. Right, okay. So you did not actually leave the 12 wheelhouse for any time? 13 A. Correct. 14 Q. Thank you. Because if I were just to read your 15 paragraph 55, I might have understood it to mean that 16 you had actually left the wheelhouse unattended. But 17 you now say you actually remained in the wheelhouse, 18 although sticking your head out? 19 A. No, no, no. I didn't leave the wheelhouse. 20 Q. Thank you. 21 "I ordered the engineer and the two sailors to check 22 whether any other passengers were hurt, and whether 23 there was any damage to Sea Smooth." 24 A. Yes. 25 Q. Where and when did that take place, your ordering the</p>	<p>1 side and I ordered the passengers to put on their life 2 jackets." 3 A. Yes. 4 THE CHAIRMAN: What did he actually tell you? 5 A. He said there is a big hole in the bow and the seawater 6 is rushing in. 7 THE CHAIRMAN: Rushing in where? 8 A. In the passenger cabin, rushing in into the passenger 9 cabin. 10 THE CHAIRMAN: Into what was this big hole, did he tell you? 11 A. On the port bow position. 12 THE CHAIRMAN: In your statement, it says: 13 "... there was water ingress to the port side hull 14 spaces forward." 15 Do you see that? 16 A. Yes. 17 THE CHAIRMAN: Is that a reference to watertight 18 compartments in the hull? 19 A. Yes. 20 THE CHAIRMAN: Did he tell you how many were breached on the 21 port side? 22 A. He said there is a big hole there. He didn't say how 23 big. 24 THE CHAIRMAN: Did he tell you how many compartments in 25 these watertight compartments in the hull were breached,</p>
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<p>1 engineer and the two sailors to do that? 2 A. It was after I have asked them about whether there were 3 passengers that had been hurt. It was after that, then 4 I ordered them to look at -- to check the damage of the 5 vessel and if other passengers had also been hurt. 6 THE CHAIRMAN: Were they in your presence when you gave 7 these orders? 8 THE INTERPRETER: Sorry, can you repeat the question? 9 THE CHAIRMAN: Were they in your presence when you gave 10 those orders? 11 THE INTERPRETER: Thank you. 12 A. No. They were not, because I was shouting then. I was 13 shouting these orders. 14 MR SHIEH: So the three of them did not come back to the 15 wheelhouse to see you; you just shouted from the 16 wheelhouse, hoping that any one of them would be able to 17 hear you? 18 The three of them did not come back to the 19 wheelhouse to see you; you simply shouted from the 20 wheelhouse, hoping that any one of them would be able to 21 hear your orders? 22 A. That's right. 23 Q. "The engineer told me that the port bow was damaged and 24 there was water ingress to the port side hull spaces 25 forward. The vessel also started listing to the port</p>	<p>1 or had water in them? 2 A. No, he didn't say. 3 THE CHAIRMAN: Did you ask? 4 A. At that time I was busy speaking in the radio and also 5 the VHF, talking to the -- communicating with the 6 company. I was busy doing that then. I have no time 7 for other things. 8 THE CHAIRMAN: So the answer is "no", is it? 9 A. That's right. 10 THE CHAIRMAN: How many watertight compartments are there in 11 each hull, in the hull? 12 A. I don't remember how many. 13 MR SHIEH: So this conversation with the engineer whereby he 14 made a report to you took place at around about the time 15 when you were on the radio with the Marine Department; 16 is that what you're saying? 17 A. Yes. 18 Q. Because earlier, you mentioned "the company". Do you 19 mean the Marine Department or the ship company, or you 20 can't recall, it's simply that you were speaking to 21 someone? 22 A. It was very chaotic then, but I did speak to the Marine 23 Department and also I did speak to the company. 24 Q. Anyway, so in a state of chaos, the engineer came in, 25 you were speaking into a radio, and he reported to you</p>

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<p>1 the damage. That's, roughly speaking, what happened?</p> <p>2 A. Yes, that's right. I was doing the communication.</p> <p>3 Q. Did you tell the engineer that your vessel had collided</p> <p>4 with another vessel?</p> <p>5 A. I don't remember whether I had told him that.</p> <p>6 Q. Paragraph 57:</p> <p>7 "The passenger cabin was chaotic. The passengers</p> <p>8 were very scared and frightened. They said we might</p> <p>9 sink and demanded that we should sail to the pier at</p> <p>10 Yung Shue Wan immediately which is not far away as they</p> <p>11 can see it through the passenger cabin windows. I was</p> <p>12 concerned about the safety of the other vessel, but</p> <p>13 I had to look after Sea Smooth and her passengers, so</p> <p>14 I decided to continue slowly to the pier at Yung Shue</p> <p>15 Wan, in order to make sure that my passengers were</p> <p>16 safe."</p> <p>17 A. Before I left the scene, I asked the Marine Department,</p> <p>18 asking them if I might leave the scene because at that</p> <p>19 time, there was water coming into my vessel. The</p> <p>20 passengers were all agitated. So to ensure the safety</p> <p>21 of my passengers, I left the scene.</p> <p>22 Q. Did you say in the conversation with the Marine</p> <p>23 Department you actually asked for their permission for</p> <p>24 you to leave the scene?</p> <p>25 A. I don't remember. I just said -- because it was very</p>	<p>1 actually Lamma IV and not Lamma II?</p> <p>2 A. Yes.</p> <p>3 Q. How did you know that?</p> <p>4 A. Because I recognised the captain. Because the company</p> <p>5 assigned the captain to navigate that vessel.</p> <p>6 Q. What did you recognise? Can you repeat that? Because</p> <p>7 I might have missed it.</p> <p>8 THE CHAIRMAN: "I recognised the captain" was the</p> <p>9 interpretation.</p> <p>10 MR SHIEH: Yes, that was the interpretation but I wish to</p> <p>11 get the Chinese phrase.</p> <p>12 THE CHAIRMAN: Yes, certainly.</p> <p>13 MR SHIEH: Because I know he said "(Chinese spoken)". Whom</p> <p>14 or what did you recognise?</p> <p>15 THE INTERPRETER: I'm sorry, I must correct my translation,</p> <p>16 because I now heard what he said actually.</p> <p>17 A. I recognised the vessel because I had driven the</p> <p>18 Lamma IV before. I had driven that vessel before.</p> <p>19 That's why I recognised the vessel. Not the captain.</p> <p>20 MR SHIEH: Not the captain?</p> <p>21 A. I didn't recognise the captain, but I recognised the</p> <p>22 boat itself.</p> <p>23 THE CHAIRMAN: When you say you'd driven it before, were you</p> <p>24 the coxswain of the Lamma IV on some earlier occasion?</p> <p>25 A. That's right, because on previous occasions the company</p>
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<p>1 dangerous then, and then there was water coming in --</p> <p>2 I have to return to the pier.</p> <p>3 Q. I'm not going to trouble you with looking at the actual</p> <p>4 transcript or the actual recording unless it is</p> <p>5 absolutely necessary, but do you remember that when you</p> <p>6 called the Marine Department, you referred to your</p> <p>7 vessel being next to -- I think the reference is called</p> <p>8 "Dang Fo Pai", and the English translation is -- it's</p> <p>9 simply Dang Fo Pai, Mr Chairman.</p> <p>10 You described your vessel's position as being near</p> <p>11 Dang Fo Pai, off Lamma Island?</p> <p>12 A. Yes.</p> <p>13 Q. What is Dang Fo Pai?</p> <p>14 A. The flashing light off Shek Kok Tsui.</p> <p>15 Q. I see. So that was a colloquial term for the Shek Kok</p> <p>16 Tsui beacon?</p> <p>17 A. Among us, yes, it is.</p> <p>18 Q. Were you aware of what vessel you had hit? Apart from</p> <p>19 the fact that it is, in your language, "a ferry boat"?</p> <p>20 THE CHAIRMAN: A two-deck ferry boat.</p> <p>21 MR SHIEH: A two-deck ferry boat.</p> <p>22 A. At the point of colliding, I knew that it was Lamma IV.</p> <p>23 Q. So not only were you able to tell that it was a ferry</p> <p>24 boat, you were actually able to know that it's</p> <p>25 a Hongkong Electric ferry and you were able to tell it's</p>	<p>1 had assigned me to navigate to Hongkong Electric, to</p> <p>2 drive the vessel.</p> <p>3 THE CHAIRMAN: And when was that in relation to 1 October of</p> <p>4 last year?</p> <p>5 A. I don't remember.</p> <p>6 THE CHAIRMAN: Was it in 2012?</p> <p>7 A. That's right.</p> <p>8 MR SHIEH: So the state of the vision is that you were even</p> <p>9 able to recognise the vessel as one which you had driven</p> <p>10 before?</p> <p>11 A. Yes. At the moment of collision, right away</p> <p>12 I recognised that it was Lamma IV.</p> <p>13 Q. Was it because of any words painted?</p> <p>14 A. No, it's the look of the vessel itself that helped me</p> <p>15 recognise it.</p> <p>16 Q. Was it different from Lamma II, for example?</p> <p>17 A. Yes.</p> <p>18 Q. Thank you. I ask this because actually when you</p> <p>19 reported to Marine Department, you expressly said you</p> <p>20 hit "Hongkong Electric 4", and that's why I asked you.</p> <p>21 And you confirm that you knew it's Lamma IV?</p> <p>22 A. That's right. That's correct.</p> <p>23 Q. But in paragraph 57, you were explaining your decision</p> <p>24 to sail back to Yung Shue Wan, because of safety of your</p> <p>25 own passengers. But did you take any action yourself,</p>

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<p>1 or order the crew members to at least find out what had 2 happened to the other vessel? 3 A. Because it was very chaotic then, and then there were so 4 many noises, and I myself was talking, and then the 5 radio was sounding, the telephone was ringing. I was 6 very busy then. 7 THE CHAIRMAN: So is the answer "no"? 8 A. Correct. 9 MR SHIEH: And according to you, it was because of the 10 chaotic situation at that time and those were 11 preoccupying your mind? 12 A. That's right, okay, preoccupied with my own passengers 13 and also our own situation. 14 Q. But if your vessel was damaged so badly -- you know, 15 hull damage, water ingress, tilting -- did it occur to 16 you that the same thing or maybe something worse could 17 have been happening to the other vessel? 18 A. No, it didn't occur to me because the passengers were 19 all in a panic. So my priority then was to take care of 20 my own passengers first. 21 Q. The Sea Smooth was a much more sturdy, strongly built 22 vessel than Lamma IV? 23 A. I don't know. 24 Q. Anyway, you said the passengers were scared and 25 frightened and they said, "we might sink." How did you</p>	<p>1 to the pier at Yung Shue Wan. 2 59. I also called the company by SSB radio, and 3 reported the incident to them. I told the company 4 similar to what I told Mardep." 5 A. This is more or less what I did. 6 Q. Thank you. Can I ask you about a photograph which is in 7 the police album at page 115. Do you see a steamer in 8 that photograph? 9 A. Yes, I can see it. 10 Q. That was yours; right? 11 A. Yes. 12 Q. At the time of the collision, was it placed at that 13 position? 14 A. No, it was on the floor. 15 Q. It was used for heating up meals; correct? 16 A. Yes. Sometimes I used it, that's right. And also 17 sometimes I used it to cook instant noodles with. 18 Q. Did you use it that day? 19 A. I used it in the afternoon. 20 Q. To heat up your lunch? 21 A. Yes. 22 Q. Did you use it in the wheelhouse? 23 A. Yes. 24 Q. Did you eat your lunch whilst the vessel was underway, 25 in the wheelhouse?</p>
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<p>1 hear all that? Were you in the wheelhouse when the 2 passengers made the request and demand, or did you stick 3 your neck out into the cabin, or were you told by the 4 engineer or other crew members that these were the 5 demands and reactions of the passengers? 6 A. I was speaking into the radio then and I heard that 7 there were screams and then there's water coming in. 8 That's how I know. 9 COMMISSIONER TANG: But did any passenger from Sea Smooth 10 ask you to stay on to help Lamma IV? 11 A. No. 12 MR SHIEH: Did any passenger walk into the wheelhouse and 13 make demands of you in respect of where you should go 14 and what you should do about the vessel? 15 A. I don't remember clearly. I don't remember it clearly. 16 Q. Do you remember any foreigner, foreign passenger coming 17 in and making any demands or requests? 18 A. No, I don't remember clearly. 19 Q. Paragraph 58: 20 "After I returned to the wheelhouse, I called Mardep 21 by VHF and also spoke to them with my mobile phone. 22 I told them there had been a collision near Lamma Island 23 and my vessel was damaged. I also told them there was 24 water ingress into Sea Smooth and the situation was very 25 dangerous just now so that I had to carry the passengers</p>	<p>1 A. No. 2 Q. So where did you eat after heating it up with this 3 steamer? 4 A. After the ship had berthed, and then I would make use of 5 the window of time and then to finish my meal as soon as 6 possible. Because I've been in this trade for a long 7 time. This is how it was. 8 Q. So you would heat it in the wheelhouse, but in terms of 9 eating you would wait until the vessel had berthed and 10 then you would squeeze in as much time as you could to 11 eat your meals? 12 A. Yes. 13 Q. Would you eat at the pier or would you eat somewhere on 14 the vessel when the vessel was berthed? 15 A. After the ship had berthed and then when the passengers 16 have disembarked, I would be eating my meal inside the 17 wheelhouse. 18 Q. I see. You would eat inside the wheelhouse? 19 A. Yes. 20 Q. Have you ever eaten on the vessel while the vessel was 21 underway? 22 A. No. 23 Q. From your own personal experience, and also from what 24 you have heard from other colleagues, have there been 25 any close-quarter situations or close encounters with</p>

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<p>1 Hongkong Electric vessels in the past? Near misses? 2 A. No. 3 Q. You have been seconded to Hongkong Electric to navigate 4 their vessels before; yes? 5 A. Yes. 6 Q. So you would know some of the crew members or masters of 7 Hongkong Electric? 8 A. Yes. 9 Q. Do you know Chow Chi-wai, the coxswain of Lamma IV? 10 A. Yes, I know him. 11 Q. In what context? 12 A. When the company seconded me to drive Hongkong Electric 13 vessels, I knew him when I was doing the night shift, 14 I being the captain, he also being a captain. 15 Q. Did you have any interaction or encounter with him in 16 your past working experience? 17 A. No. No, nothing much, except for a few remarks 18 exchanged between me and him concerning shift relief, 19 things like that. Other than that, nothing much. 20 Q. Do you come from a seafaring family or fishing family? 21 A. I was born into a fishing family. 22 Q. So effectively you grew up with the sea, yes? 23 A. Yes, for the last few decades I have been living with 24 the sea. 25 MR SHIEH: Thank you, Mr Lai. I have no further questions</p>	<p>1 MR GROSSMAN: And the Chinese is at page 3352-17. 2 You eventually declined to answer, as was your 3 right, but I just want to ask you about a couple of the 4 questions that you did answer. 5 First of all, the police had arrested you or were 6 investigating you for a case of endangering the safety 7 of others; do you remember that? 8 THE INTERPRETER: I'm sorry. Hold on. Let me get all the 9 documents. The English one. 10 MR GROSSMAN: The police said that they were investigating 11 a case of endangering the safety of others, and you were 12 told that you didn't have to answer any questions if you 13 didn't want to. And after explaining what they were 14 going to do, they asked you a few background questions. 15 We can look first of all at paragraph 39, which is at 16 page 3352-88 in the English. 17 The question that you were asked was: 18 "(Your) education level." 19 Answer: Had never received education." 20 Is that correct? 21 A. No, that was not the answer that I gave. My answer 22 I gave was, I did not receive any official education but 23 I did attend evening schools. And then I finished -- 24 you see, come winter time, then there would be a -- the 25 trade would be slackening. Then I would have time to</p>
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<p>1 for you. 2 Mr Chairman. 3 THE CHAIRMAN: Thank you. Mr Grossman, do you have 4 an application? 5 MR GROSSMAN: I do, Mr Chairman. There are four areas. I'd 6 like to ask the witness a few questions about his 7 background; secondly, about the wheelhouse; thirdly, 8 about the trip itself; and fourthly, about the aftermath 9 of the collision. 10 THE CHAIRMAN: Yes. Please proceed. 11 MR GROSSMAN: Thank you. 12 Examination by MR GROSSMAN 13 MR GROSSMAN: Mr Lai, can you tell us a bit about your 14 education? 15 A. I did not receive any official education. But 16 I attended evening school before, and then -- I attended 17 evening school up to primary 1, to primary 2. Primary 1 18 and primary 2. And then I enrolled the course on and 19 off. 20 Q. You see, there's one document that you haven't been 21 referred to yet. That's a recording of a statement you 22 made to the police on 16 October 2012. The translation 23 is at page 3352-79. 24 Mr Chairman, that's just been given to us. 25 THE CHAIRMAN: Yes.</p>	<p>1 attend school for one to two months, or two to three 2 months. 3 THE CHAIRMAN: That may be the fact, but what you're being 4 asked is, is that what you said in this interview? This 5 was a video-recorded interview, was it not? 6 MR GROSSMAN: Yes, it was. 7 A. Yes. 8 THE CHAIRMAN: So did you say that you'd never received 9 education? Is that the answer you gave? 10 A. I did not receive formal education. 11 THE CHAIRMAN: No, you're being asked about this answer. 12 Because otherwise we're going to listen to a video. Did 13 you say this or not, that you'd never received 14 education? 15 A. No, I didn't say that. 16 THE CHAIRMAN: Very well. 17 MR GROSSMAN: Can you read and write Chinese? 18 A. I can read a lot. I mean, I can understand a lot. But 19 for writing it, only a little bit. 20 Q. Do you speak or understand any English? 21 A. No. 22 MR GROSSMAN: I want to go on to another topic, Mr Chairman. 23 I don't know if that's a convenient time. 24 THE CHAIRMAN: Yes. If it's convenient for you, we'll take 25 the break now.</p>

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<p>1 Mr Lai, we're going to take the lunch break now. 2 Let me remind everyone that this afternoon, we'll resume 3 at not before 3 o'clock. So as close to 3 o'clock as 4 we're able to, we'll resume. 5 Do you understand, Mr Lai? 6 A. Yes. 7 THE CHAIRMAN: Thank you. 8 (1.02 pm) 9 (The luncheon adjournment) 10 (3.01 pm) 11 THE CHAIRMAN: Mr Lai, may I remind you that you continue to 12 testify according to your affirmation. 13 A. I understand. 14 THE CHAIRMAN: Mr Grossman? 15 MR GROSSMAN: Thank you. 16 Mr Lai, when was the last time you had a medical? 17 THE CHAIRMAN: If you're moving on to another topic, we have 18 this video of the record of interview. 19 Mr Lai, you deny saying, do you, to the police that 20 you'd never received education? 21 A. Yes. 22 THE CHAIRMAN: Very well. Watch this video, please. We're 23 starting, apparently, at item 36. 24 (Video played) 25 THE CHAIRMAN: Thank you.</p>	<p>1 MR GROSSMAN: Yes, indeed. 2 THE CHAIRMAN: That's the audio then, not the screen. The 3 audio. Listen to what's said. 4 (Video played) 5 THE CHAIRMAN: Thank you. 6 THE INTERPRETER: Okay. The question is: 7 "First of all, I would like to ask your academic 8 qualification." 9 Then the answer is: 10 "I [not clear] did not study for." 11 MR GROSSMAN: Thank you very much. 12 Mr Lai, this morning I asked you if you had told the 13 police that you had no education, and you said no, that 14 was incorrect. 15 A. Because when I was making my statement at the Queen 16 Elizabeth Hospital, I told the police officer that my 17 education level was at primary 2. 18 Q. No, you told the police you had no education. We've 19 heard it. We've seen it transmitted. Why did you say 20 that? 21 A. I understand, but my meaning is different. That's not 22 what I mean. 23 Q. All right. Let me ask you this question: when did you 24 last have a medical check? 25 A. Year 2000.</p>
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<p>1 Yes, Mr Grossman? 2 MR GROSSMAN: Perhaps, Mr Interpreter, you could translate 3 the last question and answer that were given on the 4 screen. 5 A. Yes. 6 MR GROSSMAN: Could you translate it to English. 7 THE CHAIRMAN: We have the English at counter 40, 8 Mr Grossman. You read it out earlier. 9 MR GROSSMAN: The witness has denied that he said it. I'd 10 just like the interpreter to confirm that he did say 11 what is reported. 12 THE CHAIRMAN: Would you like it played again? 13 THE INTERPRETER: No need. 14 THE CHAIRMAN: The key point is this, that he said that he'd 15 never received education. 16 THE INTERPRETER: That's right, I understand. But I would 17 like to translate direct from the Chinese script. 18 THE CHAIRMAN: Yes. 19 MR GROSSMAN: Mr Interpreter, I think it's better if you 20 just look at the screen and interpret what is said on 21 the screen, because the witness says what is recorded is 22 not correct. 23 THE INTERPRETER: Okay. Then could it be rewound? 24 THE CHAIRMAN: Do you want the witness to listen to the 25 audio track, which is the primary evidence?</p>	<p>1 Q. When did you last have your eyesight checked? 2 A. I don't remember. 3 Q. Before 2000? 4 A. I don't recall. 5 Q. After you joined Hong Kong Ferries, or before? 6 THE CHAIRMAN: By that you mean Hong Kong &amp; Kowloon Ferry? 7 MR GROSSMAN: I beg your pardon. Hong Kong &amp; Kowloon Ferry. 8 A. Before I joined it. 9 Q. I'd like you to look at some other documents, please. 10 Holman Fenwick Willan bundle. 11 These, Mr Chairman, are the crew's responsibilities. 12 THE CHAIRMAN: Thank you. 13 MR GROSSMAN: Holman Fenwick Willan bundle. The Chinese is 14 at page 14, and the English is at page 19. Do you have 15 it? 16 In the English, at the bottom of page 19, it talks 17 of the responsibilities of the coxswain. Do you see 18 that? 19 A. Yes, I'm looking at the Chinese version of it. 20 Q. Yes. Have you ever seen it before? 21 A. Even if I had, I wouldn't remember it. 22 Q. So you don't know whether you've seen it? 23 A. You can put it that way. 24 Q. So how do you know what your responsibilities are? 25 A. My responsibility, as I understand it, would be to drive</p>



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<p>1 the vessel and then instruct the crew to do the cleaning 2 work and various other things. I have been in this 3 industry for a long time. That's about the kind of 4 things that I'd be responsible for. 5 Q. Has anyone ever explained to you on Hong Kong &amp; Kowloon 6 ferries specifically what your duties are? 7 A. No. 8 Q. Have a look, please, a little further on at what is 9 called the "regulations for maintaining discipline and 10 service standard". The Chinese is at page 17; the 11 English is at page 23. 12 Have you ever seen this document before? 13 A. Yes, I have seen it before, but I don't remember its 14 content very clearly. The company did give me this 15 document before, but I don't remember when I read it. 16 Q. Where is it kept, do you know? 17 A. When I start started working for the company, I was 18 given this one along with other documents. 19 Q. And where is it kept? 20 A. It was given to me. 21 Q. Do you still have it? 22 A. I don't remember. I don't remember whether it's still 23 with me or not. 24 Q. Very well. There's another document I'd like you to 25 look at, and that is in the Holman Fenwick Willan</p>	<p>1 Q. I understand. You were reporting an incident that had 2 happened. 3 A. Yes. 4 Q. Were you disciplined for any of these incidents? 5 A. No. 6 Q. You joined Hong Kong &amp; Kowloon Ferry in 2008, I think; 7 is that right? 8 A. Yes. 9 Q. And prior to that, you'd served on other ferries as 10 captain? 11 A. Yes. 12 Q. Had you been involved in any collisions or near misses 13 prior to joining Hong Kong Ferry? 14 A. I don't remember. 15 Q. But it's possible? 16 A. No, it should not be. 17 Q. So these unfortunate incidents have only happened since 18 you joined Hong Kong Ferry? 19 A. Yes. 20 Q. Very well. You've told us that you knew on this 21 particular day, 1 October, that you had to be 22 particularly vigilant because it was the fireworks night 23 and there were going to be lots of small craft around 24 which wouldn't be on normal routes. 25 A. Yes.</p>
<p>1 bundle. 2 Mr Chairman, these are records of incidents that 3 have happened, minor incidents, I should say, concerning 4 Mr Lai when he was in charge of a vessel. 5 THE CHAIRMAN: Thank you. 6 MR GROSSMAN: If you would look first at the Holman Fenwick 7 Willan bundle. Page 211 is the Chinese; page 214 is the 8 English. There you report a minor incident where there 9 was a minor contact with another vessel. Do you see 10 that? 11 A. Yes, I can see it. 12 Q. And at page 212 in the Chinese, page 215 in the English, 13 you see a report by you of a minor collision with 14 a rubber tyre on the pier which caused damage. Do you 15 see that? 16 A. Yes. 17 Q. And at page 213 in the Chinese, page 216 in the English, 18 you report another incident where your starboard bow 19 connected with the port bow of another vessel. In fact, 20 you were sailing then on a vessel called -- I'm sorry. 21 You were sailing the Sea Smooth, and you were in 22 collision with the Chun Choy No 3 vessel. 23 A. I wasn't sailing then. I had berthed at the pier 24 already. It was Chun Choy, when he was backing up, he 25 hit me at the stern.</p>	<p>1 Q. So did you keep up this vigilance all the way to Yung 2 Shue Wan, or until the collision? Until the collision, 3 yes. 4 A. Yes. 5 Q. You've told us this morning that in fact you weren't 6 particularly vigilant, you didn't bother to look at the 7 radar, and you said you were distracted. 8 MR SHIEH: Mr Chairman, I -- 9 A. I was distracted and then therefore I didn't look at the 10 radar. But, you see, the weather then was good. And 11 I was doing my visual with my naked eye. 12 MR SHIEH: Mr Chairman, I believe that in connection with 13 the answer about being distracted, the whole context was 14 that the follow-up question was immediately asked about 15 what distracted him, and then I thought he gave 16 a follow-up answer that looking at the radar would be 17 a distraction and therefore he didn't want to be 18 distracted. 19 THE CHAIRMAN: Yes. 20 MR SHIEH: I think that was the overall context. 21 THE CHAIRMAN: Yes. I think it's the first part of the 22 question you perhaps ought to concentrate on, 23 Mr Grossman. 24 MR GROSSMAN: Yes. 25 On that evening you said you were probably</p>

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<p>1 complacent and hadn't kept a proper look-out. 2 A. I did not do the proper look-out by means of radar, with 3 the help of radar. But I did do a look-out with my 4 naked eye. 5 Q. Tell me this. Why did you not say to one of the crew, 6 "Come and stand next to me and look at the radar, 7 because we have to be extra-vigilant this evening"? 8 A. Well, as to why, I was just doing what I would be doing 9 at any ordinary time. And I would be the one who will 10 concentrate extra for the look-out. 11 Q. But you were not concentrating extra. You could have 12 had another pair of eyes looking at the radar. And you 13 knew you had to be very vigilant. 14 A. It didn't occur to me. 15 Q. Did it occur to you to say to any of the three crewmen 16 in the wheelhouse, "Look, this evening, just help me by 17 keeping a particularly good look-out"? 18 A. No. 19 Q. Mr Lai, you're a very experienced seaman. We can see 20 that. Surely it must have occurred to you that you 21 needed just a little bit of extra help that evening to 22 ensure that there was no problem with other vessels, 23 small craft et cetera. 24 A. It didn't occur to me. It didn't enter my thought 25 because I thought that with my own experience, it would</p>	<p>1 THE CHAIRMAN: By that do you mean were the conditions such 2 that he would have expected to have seen the other 3 vessel's lights if it had lights? 4 MR GROSSMAN: You put it more elegantly than I, as always. 5 A. Normally speaking, I would have. 6 Q. At the distance that you were shown this morning, the 7 other vessel would have been dead ahead of you, would it 8 not? 9 A. Yes, according to this chart. 10 Q. Yes. Now, I have to suggest to you that in fact the 11 navigation lights were all on. 12 THE CHAIRMAN: On Lamma IV. 13 MR GROSSMAN: On Lamma IV. I beg your pardon. Yes, on 14 Lamma IV. 15 A. You see, what I saw -- that there were no navigation 16 lights. 17 Q. You see, we've had evidence not only from the crew of 18 the Lamma IV but from passengers on the Sea Smooth. 19 We've had evidence from policemen who saw the lights. 20 We've had evidence, scientific evidence, to indicate the 21 lights were on. I suggest to you that they certainly 22 were on. 23 MR SUSSEX: I hesitate to interrupt my learned friend, but 24 my recollection is that there's no evidence from Sea 25 Smooth passengers of navigation lights being on the</p>
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<p>1 be enough for me to do a look-out with my naked eye, and 2 therefore I didn't ask anybody else to help me. 3 Q. Was it any part of the duties of the other crew members 4 to keep a look-out when they were in the wheelhouse? 5 A. They would also carry out the look-out most of the time. 6 Q. How do you know? 7 A. Because sometimes they would remind me that, "Hey, there 8 is a vessel there at some bearing". Sometimes they 9 would do that. 10 Q. So you knew that their assistance might be valuable? 11 A. Yes, it should be. 12 Q. On this particular day, when there was need to be 13 extra-vigilant, you didn't even know if any of them were 14 keeping a look-out. 15 A. But then I wouldn't be turning my head backward to check 16 whether they are dozing off or they are doing the 17 look-out. 18 Q. Exactly. You just didn't know, and you didn't care? 19 A. Yes. 20 Q. I want to get to the situation that was shown on the 21 plotting, on the chart, this morning by Mr Shieh. I'm 22 not going to go through it again, but I want to ask you 23 this. When you say you started to turn to port, if the 24 other vessel had had lights, navigation lights, would 25 you have seen it?</p>	<p>1 Lamma IV. 2 MR SHIEH: I believe so too. 3 THE CHAIRMAN: Certainly no evidence as to sidelights. 4 MR SUSSEX: Yes, that's right. 5 MR SHIEH: A fireman saw the starboard lights, but not Sea 6 Smooth passengers. 7 THE CHAIRMAN: But in any event, this is an argumentative 8 way of putting the question. This witness can only say 9 what he saw. 10 MR GROSSMAN: He says what he said he saw. I am suggesting 11 to him -- 12 THE CHAIRMAN: Yes, by all means suggest that, but I don't 13 see how it helps by making the question argumentative. 14 MR GROSSMAN: If you don't think so, then I'm going to pass 15 on. 16 You've told us about this black shadow that suddenly 17 crossed your bow. 18 A. This should be Sea Smooth (indicates). This was the 19 approaching vessel. 20 MR GROSSMAN: He was coming across your bow, you say, as 21 I understood it? 22 A. Yes. 23 Q. But you recognised it as the Lamma IV as soon as you hit 24 it? 25 A. Yes.</p>

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<p>1 Q. I think you accept that if you had been looking at the 2 radar, or anyone else had been looking at it, you would 3 have seen this vessel a long time ago, navigation lights 4 or not? 5 A. Yes. 6 THE CHAIRMAN: And by "a long time ago", you would have seen 7 Lamma IV at 0.75 nautical miles range on your radar, at 8 about one minute and 10 seconds before the collision, 9 would you not? 10 A. Yes, if I had been looking at the radar. If I had 11 looked at the radar. 12 THE CHAIRMAN: And that was ample time in which to take 13 avoiding action, was it not? 14 A. Correct. 15 MR GROSSMAN: Thank you. 16 You told us that when you saw it suddenly and you 17 wanted to turn very suddenly, you used the joystick. 18 A. Yes. 19 Q. Why did you use the joystick rather than the wheel? 20 A. I always use joysticks instead of the steering wheel. 21 Q. Why is that? 22 A. Easy to manoeuvre and easy to turn directions. 23 Q. Thank you. When the vessels collided, there must have 24 been an enormous sound, enormous crash? 25 A. Yes.</p>	<p>1 that's right, isn't it? 2 A. I'm not clear about it. 3 Q. When you shouted out, presumably you were hoping they 4 would hear you on the other vessel? 5 A. Well, that didn't enter my thinking. All I was doing 6 then was just shouting out, "Anything the matter? Are 7 you okay? Are you okay?" That's what I did. 8 Q. And when there was no response, you went back inside, 9 did you? 10 A. Yes. I went back in and then I opened the sliding door 11 and then I shouted, asking if anybody had been hurt. 12 Q. When nobody responded to you from the Lamma IV, did you 13 assume that they were okay, they didn't need any help? 14 A. No. The situation on my vessel has already become very 15 chaotic and very noisy. And then I also had to talk to 16 my company and talk to the Marine Department. 17 Q. Yes, but when they didn't reply, you then went inside. 18 Did you not wait for some kind of shout or response? 19 A. Because it was very noisy and chaotic in my own 20 passenger cabin. 21 Q. The evidence has been that everybody -- not everybody, 22 dozens of people on the Lamma IV were screaming with 23 fear and with anger and with pain. How could you 24 possibly not hear anything? 25 A. I have gone inside. Of course I couldn't have heard it.</p>
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<p>1 Q. Do I understand it that the first thing you did was to 2 rush out to the port wing on the bow? 3 A. Only after when I turned the gear to off, to neutral, 4 and then I stepped down, left my chair, and then 5 I walked out. 6 THE CHAIRMAN: So you put the engines in neutral; is that 7 what you're trying to say? 8 A. That's right. 9 MR GROSSMAN: So that would have been a few seconds after 10 the collision? 11 A. I don't remember how long, how many seconds after. 12 Q. I'm not asking you to be precise about that. But you 13 put the engine in neutral, then you rushed out onto the 14 port side; am I right? 15 A. Correct, yes. 16 Q. And you saw the Lamma IV. How far away from you was it, 17 can you estimate? 18 THE CHAIRMAN: He's told us already that it was two 19 boat-lengths from the port quarter. 20 A. As far away as the length of two ships. Two 21 ship-lengths. 22 MR GROSSMAN: Yes. And when you shouted out to them, were 23 you confident your voice would carry that far? 24 A. That didn't occur to me. 25 Q. Well, noises sound louder, carry further at night;</p>	<p>1 Q. When you went outside, there must have been lots of 2 screaming and shouting. You must have heard something 3 if you went outside. 4 A. I didn't hear it. 5 Q. I suggest to you that's simply a lie. You did hear 6 them. If you went outside, you must have heard them 7 screaming. 8 A. If you say I'm lying, okay, I'm lying. But all I -- 9 what I said is true. 10 Q. When you went outside, you saw that your vessel had been 11 very badly damaged? 12 A. I didn't look and I didn't know how much my vessel had 13 been damaged. 14 Q. It must have been damaged if there was water coming in 15 and everybody was screaming and shouting. 16 A. (Chinese spoken). 17 Q. Do you want to look at the photographs? 18 THE INTERPRETER: Yes, the witness wants to look at the 19 photographs. 20 MR GROSSMAN: Have a look, please, at page 67 of police 21 photo album I. 22 THE INTERPRETER: The witness was referring to the police 23 bundle, the photograph on page 66 and 69. 24 MR GROSSMAN: Have a look at -- 25 A. On page 66.</p>

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<p>1 THE INTERPRETER: The witness is pointing at the missing 2 parts. 3 A. It was down below, so I would be unable to see it. 4 MR GROSSMAN: What about the parts that were missing on the 5 bow? 6 A. Yes, I can see the missing part on the ship's bow. And 7 also -- 8 THE INTERPRETER: I'm translating what the witness had just 9 said, in answer to your question, counsel, that "Noises 10 and screaming were happening down below." 11 THE CHAIRMAN: Were you able to see that part of the 12 superstructure in the bow area had been lost in the 13 collision on the port side, when you looked out from the 14 port side wing bridge? 15 A. Yes. 16 THE CHAIRMAN: From the sound that emanated from the 17 collision, were you able to judge how serious this 18 collision was? 19 A. It was very chaotic then. I was unable to judge how 20 serious it was. 21 MR GROSSMAN: You may not have been able to judge the full 22 extent of it, but you knew there had been a very serious 23 collision indeed? 24 A. Because it all happened in a matter of moments. The 25 passengers -- it's very noisy among the passengers. It</p>	<p>1 dealing with whether or not he'd realised that it was 2 a serious collision. 3 MR GROSSMAN: At no time, Mr Lai, did it occur to you, as 4 I understand it, that you should at least see what had 5 happened to the other vessel. 6 A. All I saw was the two vessels collide, and then the 7 other vessel bounced off and then started drifting away. 8 Q. My question was, should you not at least have had a look 9 to see what happened to the other vessel? 10 A. I have shouted at them and then there was no response 11 from them. And it was already very chaotic in my vessel 12 then, and then I had to take care of my passengers. 13 Q. When you were in the wheelhouse on the telephone, did 14 you look through the windows to see if you could see the 15 other vessel? 16 A. I was fully occupied then with the radio and then with 17 the telephone. I could not -- there was no time for me 18 to look through the window, look out the window. 19 THE CHAIRMAN: So is the answer "no"? 20 A. That's right, I didn't look outside. 21 THE CHAIRMAN: Because you were too busy doing other things? 22 A. That's right. 23 MR GROSSMAN: Being on the radio and the telephone, why 24 couldn't you turn your head to look round, to see 25 whether you could see the other vessel?</p>
Page 78	Page 80
<p>1 is an occurrence of a matter of a moment. 2 Q. I know it must have been a great shock to you. I'm not 3 saying it wasn't. But you must have realised the vessel 4 of which you were in charge had had a very major and 5 serious collision at sea. 6 A. Yes. Yes, I realised it. 7 Q. And if your vessel was damaged, to whatever extent, 8 there was also a fine possibility, a good possibility 9 the other vessel was also, the Lamma IV? 10 A. At that split second, it didn't occur to me to think 11 about these things. 12 Q. How could it not occur to you what you'd driven into, 13 especially as you seem to indicate it wasn't your fault; 14 this other vessel had no navigation lights? 15 A. I didn't say that it was a fault of the other vessel. 16 All I said was that there was no navigation lights 17 there. 18 Q. Well, that was the reason you say you didn't see it. 19 MR SHIEH: "(Chinese spoken)". 20 A. And then I can't vouchsafe, I can't guarantee to say 21 which side is at fault. 22 MR GROSSMAN: It doesn't matter. You were saying that you 23 didn't see this vessel because it had no navigation 24 lights like it should have done. 25 THE CHAIRMAN: We've got that bit, Mr Grossman. You were</p>	<p>1 A. You see, if I had looked, it would have distracted my 2 attention, you know, talking to the radio and telephone. 3 Q. Why? 4 A. But I also was in a panic then. 5 Q. Why? Why would it distract -- 6 MR SHIEH: I think he also said "very confused", "(Chinese 7 spoken)". 8 A. Very nervous. And also I was very nervous then, and 9 confused. 10 THE CHAIRMAN: I think you've exhausted this topic, 11 Mr Grossman. 12 MR GROSSMAN: Yes, I think I have, indeed. 13 You said that you decided to sail away because you 14 had to look after your passengers? 15 A. That's right, because there was water coming into my 16 vessel, and I had on my hands over 100 passengers. And 17 therefore I requested to leave the scene and then go 18 back to Yung Shue Wan. 19 Q. You see, the engineer has told us that he told you you 20 had to move because you were drifting too close to the 21 reef. 22 A. I was -- to the Marine Department, then I did not hear 23 what he was shouting about. 24 THE CHAIRMAN: Was there a time when you were close to rocks 25 or a reef, without the engines turning, just in neutral?</p>

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<p>1 A. I didn't look out. 2 THE CHAIRMAN: You didn't look out of your wheelhouse to see 3 where you were? 4 A. No. 5 MR GROSSMAN: Did it occur to you to perhaps throw lifebuoys 6 overboard just in case somebody from the other vessel 7 might need them? 8 A. I didn't see the vessel. I didn't see where the vessel 9 was. How could I have thrown out lifebuoys to them? 10 THE CHAIRMAN: Did you have a look at radar to see where the 11 other vessel was? 12 A. No. 13 THE CHAIRMAN: Why not? 14 A. Because it was very chaotic then and I was very nervous 15 myself. So it didn't occur to me that -- I can't just 16 think of too many things. 17 MR GROSSMAN: Would it be true to say now, looking back, 18 Mr Lai, that you simply panicked and that's why you 19 steamed off? 20 A. No. Because the passengers were screaming then, "We are 21 so near the pier. Why don't we return to it?" And also 22 the vessel, there's water coming into the vessel. 23 Q. Mr Lai, isn't the true position that as soon as you hit 24 this other vessel, you knew that you'd made a dreadful 25 mistake, and you panicked?</p>	<p>1 asked me for my licences. And then I didn't feel well, 2 so, accompanied by the police and the Marine Department, 3 I went to a Yung Shue Wan clinic. And afterwards, I was 4 taken by the Marine Police to another place. 5 I disembarked, and then I was hospitalised. 6 Q. Did you ever make a formal report as to what had 7 happened, to the Marine Department? 8 A. No. But I did write a marine incident report to the 9 company and submitted it to the company. 10 MR GROSSMAN: I mention in passing that we haven't seen it, 11 but we would like to see it, Mr Chairman. I don't think 12 it's in the bundles. 13 THE CHAIRMAN: Is that right, Mr Shieh? 14 MR SHIEH: I don't believe so, but if there has been such 15 a report, then it should -- this witness is 16 unrepresented, but it would be in Mardep. 17 THE CHAIRMAN: Yes, but also if he'd made a report to the 18 company it would be in Hong Kong &amp; Kowloon Ferry's 19 possession. 20 MR SHIEH: In Mr Sussex's possession. Mr Sussex and/or 21 Mr Mok. 22 THE CHAIRMAN: I think Mr Sussex is perhaps taking 23 instructions. 24 Mr Sussex, is there such a document? 25 MR SUSSEX: I'm still trying to take instructions. There</p>
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<p>1 A. No. 2 Q. And you were rushing that night because there were so 3 many trips to fill? 4 A. No, because that was the usual speed that I was at. And 5 then for the ferry trips, that is just the usual amount 6 of ferry trips at any other ordinary time. 7 THE CHAIRMAN: But when you reached Yung Shue Wan, you were 8 going to stay there, were you not, until the fireworks 9 ended? There was no hurry, was there? 10 A. Yes. 11 MR GROSSMAN: What happened to the passengers? Were any of 12 them taken to hospital? 13 A. After I had berthed and then all the passengers 14 disembarked, and they all left. And then I asked the 15 pier officer that there were two passengers that had 16 been hurt, but by that time, police officer approached 17 me and asked me for my personal details. 18 THE CHAIRMAN: So is the answer you don't know what happened 19 to passengers being taken to hospital from Sea Smooth? 20 A. Yes. 21 MR GROSSMAN: We've seen that you were interviewed by the 22 police. Did you make a statement to Mardep, to the 23 Marine Department? 24 A. At the initial interview that they asked me for my 25 licences, and then -- I mean, the Marine Department</p>	<p>1 was a draft Marine Department report, which has been 2 disclosed as I understand it, but -- 3 THE CHAIRMAN: This appears to be an incident report. 4 MR SHIEH: That's a report by the company to Mardep, yes, it 5 is. 6 MR SUSSEX: Yes. 7 THE CHAIRMAN: But I think what the witness is describing is 8 a report to his own company. 9 MR SUSSEX: Yes. 10 THE CHAIRMAN: Let's clarify that with Mr Lai. 11 Mr Lai, can you help us as to the nature of the 12 document that you say was the incident report to the 13 company? 14 A. I signed on it. I gave it to my company. 15 THE CHAIRMAN: Who? 16 A. I don't know who that person was. All that happened to 17 me was the company said that I had to draft an incident 18 report and then I signed on it and then I gave it to 19 them. 20 THE CHAIRMAN: When did you do that? 21 A. I don't remember. 22 THE CHAIRMAN: Well, how soon after the collision? 23 A. I don't remember. 24 THE CHAIRMAN: Days or weeks? 25 A. I can't really recall.</p>

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<p>1 THE CHAIRMAN: And you can't recall who you gave it to 2 either? 3 A. No, I don't remember which particular person that 4 I gave -- I just gave it to the company, anyway. 5 THE CHAIRMAN: Did you write out this report in your own 6 hand? 7 A. No. They had it -- the company had it written out. All 8 I did was signed on it. 9 THE CHAIRMAN: Well, had you given the account which was in 10 the writing? 11 A. Yes. 12 THE CHAIRMAN: When did you do that, in relation to signing 13 the written version? 14 A. I can't remember. 15 THE CHAIRMAN: Was it the same day? 16 A. No. No. 17 THE CHAIRMAN: Very well. 18 Perhaps you'll pursue that, Mr Sussex. 19 MR SUSSEX: Mr Chairman, we will, yes. 20 THE CHAIRMAN: Thank you. 21 MR GROSSMAN: Finally, I just want to ask you two questions 22 about the rice cooker that was seen on the console in 23 front of you. Why was it kept in the wheelhouse? 24 A. I don't really know why this steam cooker is in that 25 position in this photograph. But if you ask me that</p>	<p>1 warned you after the collision that there were reefs on 2 the port side of the vessel and you should sail away 3 from them. That's what the engineer has told us. 4 A. (Chinese spoken). 5 THE CHAIRMAN: Mr Shieh, before you go any further, I've 6 been helpfully reminded that Mr Yeung has returned to 7 the hearing room and I haven't asked him if he has any 8 application to make. 9 Mr Yeung, do you have any application? 10 MR YEUNG: I do not have any application. 11 THE CHAIRMAN: Thank you. 12 I'm sorry, Mr Shieh. 13 MR SHIEH: You have told us just now that in that state of 14 chaos and when you were speaking with Mardep and dealing 15 with different things, you did not hear the engineer say 16 this; is that what you're saying? 17 A. Yes. 18 Q. So you say that you didn't hear the engineer warn you 19 about the reefs on the port side of the Sea Smooth? 20 A. That's right. 21 Q. But this morning when you were giving evidence -- 22 Mr Chairman, the [draft] transcript reference is 23 page 11, lines 15 and 16 -- you told us that when the 24 collision occurred, "the ship, the vessel edged towards 25 the reefs."</p>
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<p>1 this steamer is on the floor, then I know why. 2 Q. All right. Why is it kept in the wheelhouse at all? 3 A. Easy for me to cook rice with, to cook noodles with. 4 Q. All right. When did you have your dinner that night? 5 A. On that particular night, from afternoon all the way 6 down when the incident happened, and all the way when 7 I was in hospital, I never had my dinner. 8 MR GROSSMAN: I have no further questions. Thank you. 9 THE CHAIRMAN: Thank you. 10 Mr Sussex? 11 MR SUSSEX: Mr Chairman, I make no application. 12 THE CHAIRMAN: Thank you. 13 Mr Mok? 14 MR MOK: I have no questions. 15 THE CHAIRMAN: Mr Shieh? 16 MR SHIEH: Mr Chairman, I have a few follow-up questions. 17 Further examination by MR SHIEH 18 MR SHIEH: Mr Lai, can I just first ask you about the reefs 19 on the port side of the vessel. 20 THE CHAIRMAN: That is, as one is sailing towards Yung Shue 21 Wan? 22 MR SHIEH: That's right. 23 THE CHAIRMAN: Yes. 24 MR SHIEH: Mr Lai, just now Mr Grossman on my left told you 25 that the engineer, Mr Lo, had given evidence that he</p>	<p>1 THE INTERPRETER: The witness wants to have the transcript 2 shown to him. 3 MR SHIEH: The transcript will be in English. But if you 4 wish to be assisted by the actual wording then maybe 5 the -- can the transcript be projected? No. 6 THE CHAIRMAN: Well, we have a computer with it on, do we 7 not? 8 (Interpreter translates portion of transcript). 9 MR SHIEH: You said that this morning. 10 A. Yes. 11 Q. So, leaving aside who told you this, after the collision 12 you knew that the vessel was drifting or edging towards 13 the reefs on the port side, right, near Shek Kok Tsui? 14 A. Because, you see, before I asked permission to leave the 15 scene, the vessel had already been edging towards O Tsai 16 Pai. And then all sorts of lights -- my vessel was 17 edging towards them. 18 Q. Your vessel was edging towards the island, right? The 19 island? 20 A. That's correct. 21 Q. Yes, and near the island there were reefs? 22 A. There should have. 23 Q. Right. So as I said, leaving aside whether anyone has 24 warned you about it, by your observation as to the 25 circumstances outside the vessel, you were aware that</p>

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<p>1 the vessel was drifting towards the island and there 2 were reefs near the island? 3 A. Yes. 4 Q. So was that one of the reasons why you sailed away? 5 A. No. 6 Q. Right. So you sailed away not because you wanted to 7 stay away from the reefs, but because you wanted to take 8 care of your passengers; that's what you said? 9 A. Yes. 10 Q. Because if you had wanted to stay away from the reefs, 11 you could simply sail away from the reefs without going 12 back to Yung Shue Wan; correct? 13 A. Yes. 14 Q. Mr Grossman on my left showed you some documents issued 15 by your company about the responsibility of the 16 coxswain, and asked you whether you had seen it, and you 17 said even if you had seen it, you might have forgotten 18 about it, or something to that effect. 19 A. Yes. 20 Q. As part of your working routine and because of your 21 education background, would it be fair to say that you 22 are not the sort of person who would get bogged down in 23 reading files and documents which people print out and 24 put in a file for you? 25 A. If I am given any of those documents, I would take</p>	<p>1 Q. Although you actually tell us that in fact you have 2 received two years of primary education? 3 A. You see, come winter time, when the sea was rough and 4 then the vessel could not go out to sea, could not be 5 put out to sea, during that time I would go to school 6 and study every night for two hours, and study for one 7 or two months. I would go to night school and then 8 study there for two hours every night, like this, for 9 one or two months. And then I would stop. So, have 10 I been educated in this way? 11 Q. So in a way what you're really trying to say is perhaps 12 the colloquial Cantonese way of saying -- almost when 13 people say they have no money, when in fact they mean 14 they have a little? 15 Not quite that sense. It's really a matter of the 16 Cantonese manner of speech. When people say, "I don't 17 have a lot", they sometimes actually tend to say, 18 "I have none"? 19 A. Yes. 20 Q. In the same way as people actually who are very poor 21 would say, "I have no money", when in fact they might 22 have just a little bit? 23 A. Yes. 24 Q. Coming back to the last point about the seeing of 25 lights. Mr Grossman on my left discussed the question</p>
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<p>1 a look at it and I would put them away. I wouldn't 2 retrieve them and then read them again. 3 Q. By the time of the accident on 1 October, just now it 4 was asked of you that you had already taken many trips, 5 right, ever since 7.30 that morning? 6 A. Yes. 7 Q. Did you feel tired? 8 A. No, I wasn't tired because I was used to it. I've been 9 in this trade for over 30 years. 10 Q. Even though there was no deadline for you to get to Yung 11 Shue Wan in order to start the next journey, was there 12 an eagerness on your part to get to Yung Shue Wan as 13 soon as possible so you could take a good rest while the 14 fireworks went on? 15 A. No, no, no. I was just doing my usual speed, you know, 16 whether it's going to Peng Chau, whether it's going to 17 Yung Shue Wan. 18 Q. There was that question about your answer given to the 19 police when you were asked about your education 20 standard. Do you remember we looked at the video 21 recording? 22 A. Yes. 23 Q. From the video, we could see that you actually said you 24 had not received any education. 25 A. Yes.</p>	<p>1 of whether you have seen lights. I want to ask you this 2 question. When you said you have not seen any lights on 3 the other vessel, do you mean that you have actually not 4 paid attention to whether there was any vessel 5 approaching you, therefore you didn't see any lights? 6 Or are you saying that you saw that vessel and you 7 positively recall that that vessel had no sidelights? 8 A. I saw that it had no light on it. 9 THE CHAIRMAN: By that you mean navigation lights? 10 A. Yes. 11 MR SHIEH: And that was when it was 2-3 ship-lengths away. 12 You knew it was a vessel, and yet you saw no sidelights? 13 A. No navigation lights. 14 Q. You must have been saying to yourself, "This is 15 ridiculous"? 16 A. No, there's no time for me. The first reaction that 17 I did was that I have to turn starboard and I have to 18 reverse the engine. 19 Q. Right, but you have at no time made any complaints or 20 vented your grievance, let's say, to your crew members 21 by way of immediate reaction, you know, saying, "That 22 vessel is ridiculous, it's got no sidelights, rammed 23 into me or made it ram into it"? 24 A. No. 25 Q. How often do you see vessels, ferries like that,</p>

Page 93	1 carrying no sidelights? 2 A. Very rare. 3 Q. You mean you have encountered ferries like that before 4 at night, without sidelights? 5 THE CHAIRMAN: You mean a passenger launch? 6 MR SHIEH: A passenger launch. 7 A. No, not with passenger launch, but many times with 8 fishing boats. Rare. It's rare with passenger 9 launches, but many times with fishing boats. 10 Q. So you were aware that there could be small boats 11 without navigation lights? 12 A. Very infrequently. It's not like it happened all the 13 time -- very often. It's not like it happened very 14 often. 15 Q. I know, but in terms of navigation, how do you make sure 16 that you don't ram into a small boat without navigation 17 lights? 18 A. I would steer as far away from them as possible. 19 Q. But you would have been able to see them in the first 20 place, before you could steer away from them? 21 A. With my naked eyes, I may see a black shadow. 22 Q. On this occasion, for this vessel, you only saw the 23 black shadow 2-3 ship-lengths away. 24 A. Yes. 25 Q. Have you ever had close encounters like this before,	Page 95	1 MR SHIEH: He was asked? 2 THE INTERPRETER: No, he asked. He said, "ngor yiu kau". 3 That's what he said. That's what I remember. 4 THE CHAIRMAN: That's the import of what the witness's 5 evidence has been. 6 MR SHIEH: Perhaps one neutral way of putting the matter 7 would be "before I requested to leave", because I think 8 Mr Mok was probably concerned with the implication that 9 it was Mardep who actually gave them permission to 10 actually -- 11 THE CHAIRMAN: No doubt in one of the many box files, 12 someone will refute that. Add another box file, Mr Mok. 13 MR MOK: I don't think so. 14 MR SHIEH: But, Mr Chairman, in fairness, I think looking at 15 the Mardep transcript, which is reasonably accurate, the 16 witness actually did say to the Mardep people he is 17 leaving. Whether that is to be interpreted as asking 18 for permission could simply be a matter of 19 interpretation. 20 THE CHAIRMAN: Yes, we take that. 21 MR SHIEH: He did say to the Mardep people that he is going 22 to leave. Whether it's a formal request for 23 permission -- 24 THE CHAIRMAN: Could you give me that reference? 25 MR SHIEH: It's marine bundle 1. The Chinese version is
Page 94	1 where you only saw an unlit vessel 2-3 ship-lengths 2 away? 3 A. No. 4 Q. Because even for small fishing boats, in good 5 visibility, even if it's unlit, you would have been able 6 to see them at a distance further away than the distance 7 that you first saw Lamma IV this time; correct? 8 A. I would have -- had there not been this bright light 9 affecting me, then with my naked eyes, I would have seen 10 them coming even from a further distance away. 11 MR SHIEH: I have no further questions, Mr Chairman. 12 THE CHAIRMAN: Thank you. 13 MR MOK: Mr Chairman, if I may correct one matter of record. 14 On the [draft] transcript, page 89, line 17, there's 15 a reference to the words "before I asked permission to 16 leave the scene". I believe the witness did not 17 actually say those words. I wonder if Mr Shieh can 18 confirm this with the witness. 19 THE CHAIRMAN: This is an issue that's come up several 20 times, that is to say, requesting permission to leave 21 the scene, not just that one occasion. 22 MR MOK: This is a matter of translation this time. 23 THE INTERPRETER: Counsel, I remember, if my memory didn't 24 fail me, the witness did say "yiu kau", "asked". That's 25 what I remember. I may be wrong.	Page 96	1 question 40. It's at page 170-6. In fact a number of 2 questions and answers. I can refer to the question and 3 answer number. 4 THE CHAIRMAN: Yes. 5 MR SHIEH: Mr Chairman, the English translation is 6 page 170-11. Question 34, for example. The coxswain is 7 recorded as saying: 8 "My (vessel) is now flooding. I have to steer (it) 9 to Yung Shue Wan pier." 10 Question 36: 11 "My vessel is now flooding. I have to steer (it) to 12 ... Yung Shue Wan pier." 13 And question 40: 14 "I am now taking the passengers to ... 15 (indistinct)". 16 So in a number of places he did tell the operator at 17 Mardep that he is doing that. So whether one calls it 18 requesting or asking for permission or informing may 19 simply be a matter of perception. 20 THE CHAIRMAN: Yes. 21 MR SHIEH: But as a matter of objective fact, that's what he 22 said. 23 THE CHAIRMAN: Was there any response saying, "Yes, Sea 24 Smooth, you may do that?" I take it there isn't. 25 MR SHIEH: There isn't. There was a request for his mobile



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<p>1 phone number.</p> <p>2 THE CHAIRMAN: That might put Mr Mok's heart at ease.</p> <p>3 MR SHIEH: In the sense that there was no formal response</p> <p>4 from anyone at Mardep saying, "Yes, I give you my formal</p> <p>5 blessing, that you can now go back to Yung Shue Wan."</p> <p>6 Questions by THE COMMISSION</p> <p>7 THE CHAIRMAN: Mr Lai, was there an internal loudspeaker</p> <p>8 system on the Sea Smooth so that through loudspeakers</p> <p>9 someone from the wheelhouse could communicate with the</p> <p>10 rest of the vessel?</p> <p>11 A. Yes.</p> <p>12 THE CHAIRMAN: Was there a control in the wheelhouse so that</p> <p>13 if you wished, you could speak to the main deck, the</p> <p>14 upper deck, the vessel?</p> <p>15 A. Yes.</p> <p>16 THE CHAIRMAN: Would you have a look at the photograph that</p> <p>17 sets out the console side of the wheelhouse. Page 1983</p> <p>18 in the marine bundle. Can you tell us where the public</p> <p>19 address system is? From the legend in English, it seems</p> <p>20 to be at item 20, if you have a look at that.</p> <p>21 A. That's right. That is the loudspeaker system there.</p> <p>22 THE CHAIRMAN: And when you speak into a microphone then</p> <p>23 your voice is amplified on speakers throughout the</p> <p>24 vessel?</p> <p>25 A. Yes.</p>	<p>1 control lever and then my left hand, I stretched out my</p> <p>2 left hand and then pushed it aside to support me</p> <p>3 against -- to prevent myself from falling forward.</p> <p>4 THE CHAIRMAN: So you didn't come into contact with the</p> <p>5 microphone?</p> <p>6 A. No.</p> <p>7 THE CHAIRMAN: So you've no idea what happened to it?</p> <p>8 A. Yes.</p> <p>9 THE CHAIRMAN: Mr Shieh, perhaps you could look if there are</p> <p>10 any other better photographs than this one that might</p> <p>11 address this issue.</p> <p>12 MR SHIEH: My attention has been drawn to the possible</p> <p>13 photograph of the public address system in marine</p> <p>14 bundle 8, page 1993.</p> <p>15 COMMISSIONER TANG: Does this PA system allow you to</p> <p>16 broadcast outside of the ferry?</p> <p>17 A. No.</p> <p>18 THE CHAIRMAN: Yes, that seems to help, Mr Shieh.</p> <p>19 Can you see from this photograph -- I'm going from</p> <p>20 the legend -- that the public address system appears to</p> <p>21 have been dislodged? Do you see that?</p> <p>22 A. Yes, I can see it.</p> <p>23 THE INTERPRETER: The witness was pointing at the photograph</p> <p>24 on the right.</p> <p>25 THE CHAIRMAN: Is that what you discovered when you went</p>
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<p>1 THE CHAIRMAN: Did you ever use that after the vessel had</p> <p>2 collided?</p> <p>3 A. No.</p> <p>4 THE CHAIRMAN: Why not use that, rather than opening up the</p> <p>5 door and shouting?</p> <p>6 A. Because the device was pushed inside. I couldn't find</p> <p>7 where the mic was. And that's why I have to open my</p> <p>8 door.</p> <p>9 THE CHAIRMAN: Are you saying you looked for it?</p> <p>10 A. Yes. I went back in and then I looked and then I found</p> <p>11 the mic was missing.</p> <p>12 THE CHAIRMAN: When had you last used it?</p> <p>13 A. When the ship was about to leave the pier and then</p> <p>14 I would use it to order, instruct the sailors to</p> <p>15 unberth.</p> <p>16 THE CHAIRMAN: So you'd last used it at 8 o'clock on</p> <p>17 1 October or thereabouts; is that right?</p> <p>18 A. Yes.</p> <p>19 THE CHAIRMAN: Do you know what had happened to this</p> <p>20 microphone?</p> <p>21 A. No.</p> <p>22 THE CHAIRMAN: When the collision occurred, had you been</p> <p>23 thrown in the direction of where this microphone was, or</p> <p>24 not?</p> <p>25 A. When the collision occurred, my right hand was on the</p>	<p>1 looking for it, that it had been dislodged?</p> <p>2 A. Yes.</p> <p>3 THE CHAIRMAN: Staying with the wheelhouse and the console,</p> <p>4 is there a system of warning lights that gives warning</p> <p>5 of water entering into the compartments of the hull;</p> <p>6 that is, in the waterline part of the boat?</p> <p>7 A. Yes.</p> <p>8 THE CHAIRMAN: And do you see that displayed in the console?</p> <p>9 THE INTERPRETER: The witness said, "That row of red lights,</p> <p>10 yes, that's right."</p> <p>11 THE CHAIRMAN: The row of red lights that has the arrow</p> <p>12 pointing at it from the number 14?</p> <p>13 A. That's right, yes. Pointed by from number 14.</p> <p>14 THE CHAIRMAN: Does that work by illuminating when there is</p> <p>15 a problem? Is that it?</p> <p>16 A. That's right.</p> <p>17 THE CHAIRMAN: Is there one for each compartment?</p> <p>18 A. That I don't know, which light for which particular</p> <p>19 compartment. That I don't know. What I know is that</p> <p>20 when it is flooded in the compartment, this light will</p> <p>21 turn on.</p> <p>22 THE CHAIRMAN: But it tells you that one compartment is</p> <p>23 flooded?</p> <p>24 A. That's right. If one light turns on, that means one</p> <p>25 compartment is flooded, and then one by one.</p>

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<p>1 THE CHAIRMAN: And does it tell you the compartments on the 2 port side and then the compartments on the starboard 3 side? 4 A. Yes. 5 THE CHAIRMAN: Are there six compartments in each hull? 6 A. I don't really remember it. 7 THE CHAIRMAN: Is it of that order? 8 A. Yes, it should be. 9 THE CHAIRMAN: So, 12 compartments altogether? Two hulls? 10 A. Yes, it should be. 11 THE CHAIRMAN: Did you see those lights illuminate after the 12 collision at any stage? 13 A. I didn't pay attention. I didn't notice it. But I did 14 hear that the alarms sounded. 15 THE CHAIRMAN: So there's an audio alarm that goes with the 16 light? 17 A. That's right. 18 THE CHAIRMAN: Did you see the engineer looking at the 19 instruments, these warning lights? 20 A. No, I didn't notice him doing that. I was busy talking 21 to the Marine Department, to the company and the radio. 22 I had my hands full. 23 THE CHAIRMAN: An important issue for you to establish was 24 how damaged the vessel was, was it not? 25 A. I should have, yes, but then it was very noisy then,</p>	<p>1 meant -- let me just check the evidence of the engineer. 2 Can I just have one minute. 3 THE CHAIRMAN: Yes. Page 77? 4 MR SHIEH: Yes. Day 40, page 77 of the transcript. Perhaps 5 I should actually look at Day 40, page 73. 6 THE CHAIRMAN: Yes. 7 MR SHIEH: Were you aware that the alarms related to 8 flooding of the compartments in the hull? 9 THE INTERPRETER: That was the question, right? 10 MR SHIEH: Yes. Were you aware that the alarms related to 11 flooding of the compartments in the hull? 12 A. Yes. 13 Q. Because the engineer said he heard the sound of the 14 alarm, and you ordered him to check the damage. Do you 15 remember doing that? 16 A. After the collision, I heard from the engineer that two 17 persons had been hurt. After the collision, I shouted 18 out, asking if anybody had been hurt, and found that 19 nobody had been hurt, and then I started checking about 20 the damage. 21 Q. The engineer recalls that after checking the extent of 22 the damage, he went back to the wheelhouse and he 23 actually told you that the port hull was damaged and 24 there was water ingress. Do you remember him reporting 25 this to you?</p>
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<p>1 water was coming in, and then I have to take care about 2 the life jackets with the passengers and then I was 3 asking the Marine Department to leave. 4 THE CHAIRMAN: Just thinking back, did the engineer tell you 5 or did you notice from the console that only two of 6 these compartments had water ingress in the hull? 7 A. No. The engineer did not tell me that, and I myself did 8 not notice that. 9 THE CHAIRMAN: So when you set sail to Yung Shue Wan, 10 although you knew water was coming in, are you saying 11 you had no idea how serious the water ingress was? 12 A. Correct. 13 THE CHAIRMAN: Thank you, Mr Lai. 14 MR SHIEH: There is one point I wish to follow up on, on 15 that line of questions. 16 THE CHAIRMAN: Yes, please do. 17 Further examination by MR SHIEH 18 MR SHIEH: Do you remember hearing any alarms go off in the 19 wheelhouse, after the collision? 20 THE CHAIRMAN: He answered my question by saying that he 21 did. 22 MR SHIEH: Yes, but did you have any conversation with the 23 engineer about the significance of that alarm? 24 A. No. 25 Q. Have you been told by the engineer that the alarm</p>	<p>1 A. I don't remember whether he told me that. All 2 I remember was somebody told me that water was coming 3 in, and then there is a big hole there. 4 Q. So you did hear somebody saying water was coming in and 5 there was a big hole, but you can't recall whether it 6 was the engineer who reported this to you? 7 A. Yes. 8 Q. And you remember hearing the alarms? 9 A. Yes. 10 MR SHIEH: Thank you. 11 THE CHAIRMAN: Thank you, Mr Lai. Your evidence is complete 12 and you may return to the public gallery if you wish, or 13 you may leave. That's a matter for you. Since you are 14 now representing yourself, of course, if you wish to ask 15 any questions of witnesses, then you'll have to remain 16 in the hearing. Do you understand that? 17 A. Yes. 18 THE CHAIRMAN: Thank you. 19 (The witness withdrew) 20 THE CHAIRMAN: Yes, Mr Shieh. Where are we now? 21 MR SHIEH: Mr Chairman, the next witness or witnesses to 22 testify would be the Mardep witnesses. The Department 23 of Justice have helpfully compiled several pages as to 24 how the various statements are going to be "redacted", 25 not in the sense of physical redaction but simply by</p>

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<p>1 informing the Commission as to the paragraphs that will 2 have to be led and those which have been "spent". 3 If we are going to take the mid-afternoon 4 adjournment, I suppose one useful way of going about it 5 would be for the first witness, Mr Wong Wing-chuen, who 6 has a number of statements, we would try to print out 7 the relevant table and distribute it to everybody so 8 that everybody knows the state of the redaction that has 9 been agreed, so as to facilitate easy following. 10 THE CHAIRMAN: Yes, very well. 11 Mr Mok? 12 MR MOK: Mr Chairman, actually as a result of your 13 indication this morning, I have reconsidered the 14 approach. 15 THE CHAIRMAN: Yes? 16 MR MOK: What I would propose to, do subject to the 17 Commission's direction, is this. First of all, if 18 I would just ask Mr Wong to confirm the accuracy of the 19 various statements, and then ask the Commission to 20 direct that some or all of these statements be made key 21 documents which can then be put on the website. Then 22 instead of me reading out or going through the details 23 of each of the individual witness statements with the 24 witness, I would simply ask that to be placed on record. 25 Then in my questioning, I would focus on the areas</p>	<p>1 altogether. 2 THE CHAIRMAN: We'll take 5 minutes then so that can be 3 dealt with. Is that long enough, Mr Shieh, for this to 4 be copied? 5 MR SHIEH: Perhaps we could make it 10 minutes? 6 THE CHAIRMAN: 10 minutes, then. 7 (4.50 pm) 8 (A short break) 9 (5.00 pm) 10 THE CHAIRMAN: Yes, Mr Mok. 11 MR MOK: Thank you, Mr Chairman. 12 Mr Wong Wing-chuen, Sam, is already in the witness 13 box. 14 THE CHAIRMAN: Good afternoon, Mr Wong. 15 THE WITNESS: Good afternoon, sir. 16 MR WONG WING-CHUEN, SAM (sworn in Punti) 17 (All answers via interpreter unless otherwise indicated) 18 Examination by MR MOK 19 MR MOK: Mr Wong, you have made a number of witness 20 statements for the purposes of this Inquiry. What 21 I will first do is to ask you to confirm the correctness 22 of each of these witness statements, and then ask you 23 some top-up questions. 24 A. Yes, I understand. 25 Q. Thank you. The first one is found in marine bundle 11,</p>
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<p>1 that, Mr Chairman, you indicated it might be more 2 helpful if the witness were to focus his mind on. 3 THE CHAIRMAN: That seems to be a very sensible approach. 4 I'm not suggesting that you should be shut out from 5 focusing on other areas that you may think are 6 important. 7 MR MOK: Yes. 8 THE CHAIRMAN: But if they've been dealt with in 9 a compendious witness statement, there's no need for it 10 to be gone over twice. 11 MR MOK: They have been, yes. 12 THE CHAIRMAN: But that area I indicated to you is one that 13 we would benefit from further help with. 14 MR MOK: I will certainly ask top-up questions on those. 15 THE CHAIRMAN: Yes. 16 MR MOK: Then if there are any matters which my learned 17 friend thinks I have not covered, maybe my learned 18 friend can cover it in his questioning. 19 THE CHAIRMAN: Yes. But it seems sensible that we take 20 a 5-minute break now so that this indication of what 21 remains of the statements that are being advanced should 22 be distributed to everyone. 23 MR MOK: Yes. I think the tables are still helpful in the 24 sense of focusing attention on the more relevant parts, 25 whereas there are some parts which can be dispensed with</p>	<p>1 tab 40, page 3927. 2 A. I can see it. 3 Q. Can you first turn to the page where you find your 4 signature, which is page 3944. 5 A. Yes, I confirm that is my signature. 6 Q. And in paragraph 53, you say: 7 "I confirm the contents of this witness statement to 8 be true to the best of my knowledge, information and 9 belief." 10 Do you so confirm here? 11 A. Yes, I do confirm. 12 Q. The second one is your supplemental witness statement, 13 and this is found in marine bundle 11, tab 40B, 14 page 3953-5. 15 A. Yes, I can see it. 16 Q. Again, can you turn to page 3953-11 and confirm the 17 signature there to be yours? 18 A. Yes, I confirm it. 19 Q. And again, do you confirm the contents of this 20 supplemental witness statement to be true to the best of 21 your knowledge, information and belief? 22 A. Yes, I do confirm. 23 Q. Your second supplemental witness statement is found in 24 marine bundle 12, tab 71A, page 4162. 25 A. Yes, I can see it.</p>

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<p>1 Q. And your signature is found on page 4195? 2 A. Yes, I confirm that is my signature. 3 Q. Do you also confirm the contents of this witness 4 statement to be true to the best of your knowledge, 5 information and belief? 6 A. Yes, it's true. 7 Q. Now, the next one is in marine bundle 12, tab 74A, 8 page 4638. 9 A. Yes, I can see it. 10 Q. Can you turn to page 4646 to confirm that to be your 11 signature? 12 A. Yes, I confirm that is my signature. 13 Q. And do you also confirm that the contents of this 14 witness statement are true to the best of your 15 knowledge, information and belief? 16 A. I confirm that it's true. 17 Q. Finally, if you could turn to marine bundle 12, 18 page 4927. 19 A. Yes, I can see it. 20 Q. Can you please turn to page 4930. Do you confirm the 21 signature there to be yours? 22 A. Yes, that's right. It's my signature. 23 Q. Do you also confirm the contents of this witness 24 statement to be true to the best of your knowledge, 25 information and belief?</p>	<p>1 Standard". You wish to change it to "IMO Standard"? 2 THE INTERPRETER: You mean change it to "IMO Standard". 3 counsel? 4 MR MOK: Is that correct? 5 A. Correct. But in the Chinese version, there is 6 a reference to the definition of "adults" and "infants". 7 The word "infants" should be changed to "children". 8 Q. And also, in the next sentence after the reference to 9 "IMO Standard", there is a reference to "15 kg", and 10 that should be "43 kg"; is that correct? 11 A. That's right. 12 THE CHAIRMAN: Would you be kind enough to read it out as 13 amended? 14 MR MOK: Yes. If I may read the whole sentence. 15 THE CHAIRMAN: In English. 16 MR MOK: The whole sentence should read: 17 "The Chairman replied that under the IMO Standard 18 anyone who was less than ... 43 kg in weight or [155 cm] 19 in height was regarded as a child." 20 THE CHAIRMAN: Yes, I have it now. 21 MR MOK: Do you have that? 22 A. Yes, correct. 23 Q. Mr Wong, I now wish to ask you a number of questions. 24 The focus of these questions mainly concerns the 25 problems which have been identified in the course of</p>
<p>Page 110</p> <p>1 A. That's right. Yes, it's true. 2 Q. Mr Wong, I understand that you wish to make a few minor 3 corrections in one of the witness statements; that is, 4 the second supplemental on page 4162, marine bundle 12. 5 A. Yes. 6 Q. Now, the first correction is on page 4176, paragraph 46. 7 In the second line, there is a reference to 8 paragraph 41(2)-(3). You wish to correct it to read 9 "paragraph 41(4)"? 10 A. That's right. 11 Q. The second correction is on page 4181, paragraph 64. In 12 the second line, you want to change the reference to 13 "2-week familiarisation training" to "4-week"? 14 A. Yes, correct. 15 Q. And finally, you wish to make a correction in one of the 16 minutes of meeting. This is found on page 4609-3 of 17 marine bundle 12. 18 A. That's right. 19 Q. The Chinese original of this minute is -- the relevant 20 page is 4597. 21 Mr Chairman, the English translation is on 22 page 4609-3. 23 THE CHAIRMAN: Yes. 24 MR MOK: I understand that in paragraph 2.4.2, in the third 25 line, there's a reference to "Yingwok biu-jun", "British</p>	<p>Page 112</p> <p>1 this Inquiry, and to ask you for your input on these 2 questions. 3 Do you understand? 4 A. I understand. 5 Q. The first one relates to the access opening. Can we 6 have the Sections and Bulkheads drawings. This is at 7 W&amp;G bundle, page 46. Can we focus on the drawing on the 8 left bottom corner. 9 One of the key issues in this case is whether or not 10 there should be a watertight bulkhead at the place where 11 we find frame 1/2. 12 My question is this. At the plan approval stage, 13 would the Marine Department require that this access 14 opening be indicated to be watertight, otherwise the 15 drawings would not be approved? Would there be such 16 a requirement on the part of the Marine Department? 17 A. (Chinese spoken). 18 Q. Sorry. Pausing, there the General Arrangement -- 19 THE CHAIRMAN: Just interpret that first, please. 20 MR MOK: I'm sorry. 21 A. If there is approval of the drawings concerning the 22 watertight aspect, then first of all we will have to 23 look up the General Arrangement drawings. 24 MR MOK: This is at page 43 of the same bundle. 25 THE CHAIRMAN: Thank you.</p>

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<p>1 MR MOK: Which drawing do you wish to refer to on this page?</p> <p>2 A. We'll have to look at the profile drawing that is on the</p> <p>3 upper part of it. And there you can see that there are</p> <p>4 some dotted lines there. They stand for the location of</p> <p>5 the bulkhead. Then from this location, the bulkheads --</p> <p>6 will have to check whether the distance is smaller than</p> <p>7 0.1L.</p> <p>8 Obviously from looking at this diagram, we can see</p> <p>9 that the length of the steering gear compartment, its</p> <p>10 length is smaller than 0.1L. And therefore, whether the</p> <p>11 bulkhead at the frame 1/2 location is watertight or not</p> <p>12 is not relevant, would not have any adverse effect.</p> <p>13 Plus this bulkhead -- it is not necessary for this</p> <p>14 bulkhead to be watertight.</p> <p>15 THE CHAIRMAN: So the fact that a drawing describes it --</p> <p>16 I think one of the other ones -- as being watertight,</p> <p>17 and then another drawing has an access opening with no</p> <p>18 door drawn in it, is irrelevant; is that it?</p> <p>19 A. This is what the drawings have not been able to show</p> <p>20 clearly. This is where the problem is.</p> <p>21 THE CHAIRMAN: Can I ask that you have a look at the shell</p> <p>22 expansion drawing. There's nothing that's unclear about</p> <p>23 this bulkhead being described as "watertight bulkhead"</p> <p>24 in that drawing, is there, at frame 1/2? That's what</p> <p>25 "WT BHD" means, does it not?</p>	<p>1 THE CHAIRMAN: An opening.</p> <p>2 A. That's right. That stands for "opening".</p> <p>3 THE CHAIRMAN: We've been through all this, yes.</p> <p>4 A. If it is a door, there would be a mark indicating that</p> <p>5 there is a door.</p> <p>6 THE CHAIRMAN: So all those two triangles mean is that it's</p> <p>7 an opening, not a door?</p> <p>8 A. That's right.</p> <p>9 THE CHAIRMAN: Just give me a moment, please.</p> <p>10 If there was intended to be a watertight door there,</p> <p>11 what would the markings be?</p> <p>12 A. We will look up at the main deck plan now. That marking</p> <p>13 that will look like that, like a swing -- that would</p> <p>14 stand for a door. That's right.</p> <p>15 THE CHAIRMAN: Thank you.</p> <p>16 MR MOK: If I may just follow up from that, Mr Wong. You</p> <p>17 have seen from the drawings that there are various</p> <p>18 indications that the bulkhead at that position is</p> <p>19 watertight. You have seen those; right?</p> <p>20 A. Yes.</p> <p>21 Q. However, you say that there is some uncertainty because</p> <p>22 of the appearance of the access opening in the Sections</p> <p>23 and Bulkheads plan. Can I ask you this. As a matter of</p> <p>24 procedure, should the question whether that bulkhead</p> <p>25 should be watertight or not be clarified before the</p>
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<p>1 A. That's right. "WT BHD" does indicate that that is</p> <p>2 a watertight bulkhead, but in the Sections drawing, when</p> <p>3 there is an access opening there, that's where it is</p> <p>4 unclear.</p> <p>5 THE CHAIRMAN: But the drawings are allowed to go forward in</p> <p>6 that form because a calculation is made that the</p> <p>7 steering gear compartment is less than 0.1 of the length</p> <p>8 of the vessel, so it's not relevant? Is that what your</p> <p>9 evidence is?</p> <p>10 A. No, that's not what I meant.</p> <p>11 THE CHAIRMAN: Well, try again, then -- at least for me.</p> <p>12 A. At the very earliest stage during the General</p> <p>13 Arrangement approval, we can already see that at the</p> <p>14 frame 1/2 location, we can already know whether it is --</p> <p>15 the bulkhead, whether it is watertight or not.</p> <p>16 THE CHAIRMAN: And is it or not? Is it watertight or not,</p> <p>17 on the General Arrangement plan?</p> <p>18 A. Let's look back at the drawing itself. The underdeck</p> <p>19 plan.</p> <p>20 On the right-hand side of it, on the drawing -- can</p> <p>21 you put the cursor? Yes, that's right. You can see</p> <p>22 a little butterfly there?</p> <p>23 THE CHAIRMAN: The two triangles pointing at each other,</p> <p>24 that's a door, isn't it?</p> <p>25 A. That's right.</p>	<p>1 drawings were approved?</p> <p>2 A. There are two ways of doing it. The first one is that</p> <p>3 we will first seek clarifications with the shipyard or</p> <p>4 with the designer. And the second way, we will just</p> <p>5 seek clarification with their supervisor to ascertain</p> <p>6 whether there should be a door there.</p> <p>7 THE CHAIRMAN: Whose supervisor?</p> <p>8 A. The one that approved these drawings, his supervisor</p> <p>9 would be the surveyor.</p> <p>10 THE CHAIRMAN: I'm sorry, I don't understand what</p> <p>11 alternative two is. The first alternative is you seek</p> <p>12 clarification from the shipyard, that's Cheoy Lee; or</p> <p>13 the designer, that's Naval-Consult. What's the other</p> <p>14 alternative?</p> <p>15 A. That is, if the inspector would choose not to seek</p> <p>16 clarifications with the designer or the shipyard, then</p> <p>17 he may need to ask his supervisor or he may start, and</p> <p>18 then overall considerations about the drawings -- to see</p> <p>19 what this contradiction means.</p> <p>20 THE CHAIRMAN: So what you're saying is internally within</p> <p>21 the Marine Department, reference could be made upwards</p> <p>22 for help as to what to do; is that it?</p> <p>23 A. That's right.</p> <p>24 THE CHAIRMAN: Very well. If that's not inconvenient,</p> <p>25 Mr Mok, we'll leave it there until tomorrow.</p>

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<p>1 MR MOK: Thank you.                  2 THE CHAIRMAN: Mr Wong, we're going to adjourn proceedings                  3 now and we'll resume tomorrow at 10 o'clock. May I ask                  4 you to be kind enough to be here so that we can do that                  5 at 10 o'clock.                  6 A. I understand.                  7 THE CHAIRMAN: 10 o'clock tomorrow.                  8 Yes, Mr Zimmern?                  9 MR ZIMMERN: I'm sorry, Mr Chairman. Just to inform the                  10 Commission that the accident report referred to by                  11 Coxswain Lai has been located and sent to Lo &amp; Lo.                  12 THE CHAIRMAN: Right. Was it not in our papers?                  13 MR ZIMMERN: It was not, no.                  14 THE CHAIRMAN: Very well. Perhaps you can make some                  15 enquiries as to why it wasn't revealed.                  16 MR ZIMMERN: My understanding was it had to do with                  17 privilege against self-incrimination, Mr Chairman.                  18 Because the report had to do with his version of the                  19 events on the evening in question.                  20 THE CHAIRMAN: Perhaps you can deal with that tomorrow. I'm                  21 not quite sure on what basis you say it was not                  22 supplied, but perhaps you'd discuss it with counsel for                  23 the Commission.                  24 MR ZIMMERN: I will, certainly.                  25 THE CHAIRMAN: 10 o'clock.</p>	<p style="text-align: center;">I N D E X</p> <p>2 MR LAI SAI-MING (on former affirmation .....4                  in Punti)                  3 Examination by MR SHIEH (continued) .....4                  4 Examination by MR GROSSMAN .....58                  5 Further examination by MR SHIEH .....86                  6 Questions by THE COMMISSION .....97                  7 Further examination by MR SHIEH .....102                  8 (The witness withdrew) .....104                  9 MR WONG WING-CHUEN, SAM (sworn in Punti) .....107                  10 Examination by MR MOK .....107                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p>
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<p>1 (5.31 pm)                  2 (The hearing adjourned until 10 am on the following day)                  3                  4                  5                  6                  7                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p>	