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<p>1 Friday, 1 March 2013 2 (10.00 am) 3 MR WONG WING-CHUEN, SAM (on former oath in Puntì) 4 (All answers via interpreter unless otherwise indicated) 5 Examination by MR MOK (continued) 6 THE CHAIRMAN: Mr Wong, good morning to you. 7 A. (In English) Good morning, Chairman. 8 THE CHAIRMAN: May I remind you that you continue to testify 9 according to your oath. 10 A. I understand. 11 THE CHAIRMAN: Mr Mok. 12 MR MOK: Thank you very much. 13 Mr Wong, before I ask you further questions, perhaps 14 I would ask you to clarify this. You were not 15 personally involved in the plan approval process or the 16 inspection of Lamma IV at the material times; correct? 17 A. That's right. I wasn't involved. 18 Q. You are here assisting the Commission in your capacity 19 as a senior surveyor of ships, based on your own 20 experience and based on your own understanding of the 21 practice at the Department; correct? 22 A. Correct. 23 THE CHAIRMAN: Before you move on, I'm just looking at your 24 curriculum vitae described in your first statement, you 25 didn't join the Marine Department until 2002; is that</p>	<p>1 join the Marine Department until 2002? 2 MR MOK: Mr Chairman, before the witness answers this 3 question, perhaps I could clarify this. Mr Wong is 4 called mainly on the basis of the letter from Lo & Lo 5 where the Marine Department was asked to provide 6 a witness statement to describe the present practice and 7 also ways in which it is suggested that matters could be 8 improved, having regards to -- 9 THE CHAIRMAN: Certainly he obviously can deal with that. 10 MR MOK: Yes. 11 THE CHAIRMAN: But I'm addressing the issue of the evidence 12 that you've led so far, which is what he says he 13 understood would be the practice in 1995. And I don't 14 see how he's in a position to do that. 15 MR MOK: Mr Chairman, perhaps I should have made this clear. 16 These questions that I'm directing Mr Wong to answer are 17 to look at the matter from the perspective of hindsight 18 and to see, you know, where a problem could have 19 occurred and based on what his understanding should be 20 the correct practice, and to assist the Commission with 21 matters which may assist the Commission in deciding how 22 the problem should be looked at and also what 23 recommendation to make in the future. That's the 24 perspective. 25 THE CHAIRMAN: You were asking him about drawings that are</p>
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<p>1 right? 2 A. That's correct. 3 THE CHAIRMAN: So on what basis are you describing the 4 practices that obtained in 1995? 5 A. Before I joined the government, I have been working for 6 shipyards and these shipyards, on many occasions they 7 need to liaise and communicate with the Marine 8 Department, and therefore I had experiences in ship 9 inspections and drawings approval. 10 THE CHAIRMAN: Yes, I understand that. But that would give 11 you the perspective from someone outside dealing with 12 the Marine Department, would it not? 13 A. Yes. Although I had only been working at the Marine 14 Department in the position of senior surveyor for only 15 one year, but before that, prior to that, I had worked 16 as a -- at Local Vessels Safety, as a ship surveyor, 17 also for a year. And therefore I had experience and 18 knowledge in this area. 19 THE CHAIRMAN: When was that? 20 A. I was transferred to the Local Vessels Safety Section in 21 2010. 22 THE CHAIRMAN: But what I'm asking you is on what basis do 23 you purport to tell us about the practices that obtained 24 inside the Marine Department, not their dealings outside 25 but inside the Marine Department, in 1995, if you didn't</p>	<p>1 mutually contradictory that were approved in 1995, and 2 you were inviting him to say how the drawings ought to 3 have been handled. 4 MR MOK: Yes. 5 THE CHAIRMAN: But he wasn't in the Marine Department until 6 seven years later. 7 MR MOK: No. That's quite correct. Basically I used the 8 example of the present case to draw his response by way 9 of assistance to the Commission, instead of simply 10 asking him questions in a more general way. Because the 11 Commission is concerned with a particular set of facts 12 and whether or not in the future similar accidents could 13 be avoided. 14 So the best way to deal with recommendation and what 15 matter could be done to improve the situation -- it may 16 be better to look specifically at an assumed state of 17 facts, which is assuming that there were these matters 18 recurring in the future, how the Department should deal 19 with it and based on his experience, whether or not 20 there are any measures which can be put in place to 21 improve the procedure in the future. That's the 22 perspective. 23 Because the statements which we have made were in 24 perfectly general terms, and I was afraid that maybe if 25 we simply go through the statement, it would not be</p>

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<p>1 focusing the mind of the Commission on the issues which 2 really matter. 3 THE CHAIRMAN: Thank you for your clarification. 4 Mr Shieh, do you have any submission to assist the 5 Commission on this point? 6 MR SHIEH: Certainly in respect of what was in the mind or 7 any general policy as of 1995, this witness would not be 8 able to do so. 9 MR MOK: No. 10 MR SHIEH: But I understand the purport of what this witness 11 was trying to say yesterday, and it may be 12 unobjectionable if it were to be confined in that 13 manner, was that he was actually suggesting theoretical 14 ways -- 15 MR MOK: That's right. 16 MR SHIEH: -- in which it might be done, for example asking 17 for clarification, matters of that sort, which obviously 18 was not done at the time. 19 MR MOK: Yes. 20 MR SHIEH: So if it is intended that this person be used as 21 a kind of official spokesman ex post facto in commenting 22 on perceived ways of improving, it may well be the 23 manner in which this particular witness can be permitted 24 to proceed. 25 THE CHAIRMAN: Yes.</p>	<p>1 the drawings might be doubtful or uncertain in certain 2 respects, it might be necessary to clarify the matter 3 either with the shipbuilder or the designer on the one 4 hand, or with the superior of the vetting inspector. Do 5 you remember that? 6 A. Yes, I remember. 7 Q. Can you assist the Commission with this. Why at that 8 stage -- that is, the plan approval stage -- was it 9 necessary to make these clarifications? What would the 10 clarification be for? 11 A. The clarifications would be in regard with drawings. 12 Certain drawings indicate that there is the mark "WT 13 bulkhead", whereas one of them does not show the "WT 14 bulkhead" and instead shows "access opening". That is 15 where clarifications are needed. 16 THE CHAIRMAN: Would not the better practice have been to 17 require the drawings to be amended with the resulting 18 clarification, so that either the access opening is 19 described as "watertight door", or the description 20 "watertight bulkhead" is removed from the other 21 drawings? 22 A. Had we gone ahead and would direct amendments of the 23 drawings, then before we could do that, we will have to 24 go to the original designer and to understand what his 25 or her intentions were.</p>
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<p>1 MR SHIEH: Strictly on that basis, but not speaking of 2 matters which he would infer to be the way that Mardep 3 would have dealt with in it 1995 from the perspective of 4 a user, because he was really a user way back in 1995, 5 people who make submissions to Mardep. 6 THE CHAIRMAN: Yes. Very well. 7 MR MOK: Mr Chairman, I perfectly accept what Mr Shieh said 8 should be the purport of the evidence. 9 THE CHAIRMAN: Very well. We'll accept it on that basis. 10 But frankly, the Commission is in as good a position to 11 look at those mutually contradictory drawings and say, 12 "Well, something ought to have been done about that. 13 Questions ought to have been asked. Perhaps the 14 drawings ought to have been changed." 15 MR MOK: Yes. And it is in relation to these matters that 16 I'm asking Mr Wong for his input, whether or not he is 17 of the same view as what, Mr Chairman, you may have in 18 mind, which might be of assistance to you. 19 THE CHAIRMAN: Very well. 20 MR MOK: Or he might suggest other things which -- 21 THE CHAIRMAN: Proceed on that basis. 22 MR MOK: Thank you. I'll confine it to that basis, 23 Mr Chairman. 24 Mr Wong, if I may just follow up on your answers 25 yesterday afternoon. You said that where the plans or</p>	<p>1 THE CHAIRMAN: That was one of the suggestions you said was 2 option one: clarify it with the designer. 3 A. In this particular case, on Lamma IV, we would seek 4 clarifications with Cheoy Lee Shipyard. 5 THE CHAIRMAN: You told us yesterday there were two options 6 in the first way of looking at it: shipyard or designer. 7 The designer is Naval-Consult, is it not? 8 A. We will target mainly the drawings submitted by the 9 shipyard, and not the designer. 10 THE CHAIRMAN: Look, if you asked either the shipyard or 11 Naval-Consult, you'd have got an answer, would you not? 12 The Marine Department would. "This is either 13 a watertight bulkhead or it's not." And then the 14 drawings could have been amended, could they not? 15 A. I agree. 16 THE CHAIRMAN: And I'm suggesting to you that that would be 17 the better practice, because that would lay down 18 a template for the reality, for people looking at it in 19 the future. Do you agree? 20 A. I agree with you, Mr Chairman. And I will draw up 21 a guideline for my colleagues to help them with the 22 drawing approval work. 23 THE CHAIRMAN: Are you talking now about what you will 24 recommend for the future? 25 A. That's right.</p>

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<p>1 THE CHAIRMAN: Thank you.</p> <p>2 MR MOK: Following on from Mr Chairman's comments, would the 3 amendment of the plans not also be important because it 4 is necessary for the Department to know in the future 5 whether or not the vessel as-built conforms or does not 6 conform to the plans? Do you agree with that?</p> <p>7 A. I agree.</p> <p>8 Q. And not having adopted the practice which the Chairman 9 suggested, it seems that in this particular case there 10 was this problem; that is, when the surveying inspector 11 inspected the hull of the vessel, would he be able to 12 regard the absence of a watertight door at the relevant 13 location to be a non-compliance with the drawing, or 14 whether or not it was compliant with the drawing? Would 15 he be in a position to do that without the amendment?</p> <p>16 A. I agree.</p> <p>17 THE CHAIRMAN: So far, Mr Wong, you've addressed the matter 18 from the perspective of the Marine Department. But you 19 tell us that you come from a long history of working 20 with shipyards. Would this not have been something that 21 the shipyard ought to have addressed itself, that it had 22 conflicting drawings? Should it not have done something 23 about that?</p> <p>24 A. Yes. A shipyard actually is or should be responsible to 25 submit the correct drawings so that the approving</p>	<p>1 watertight access door". That is what Cheoy Lee should 2 have done.</p> <p>3 THE CHAIRMAN: That would have resolved the position one way 4 or the other?</p> <p>5 A. Correct.</p> <p>6 THE CHAIRMAN: And from that template, Marine Department 7 surveyors would know what was in compliance or not in 8 compliance, and people doing calculations years down the 9 road would know what the position was?</p> <p>10 A. That's right. That's correct.</p> <p>11 MR MOK: Having regard to that, Mr Wong, do you accept that 12 it would be necessary for the Department to set out 13 a set of guidelines to the vetting officers as to what 14 they should be doing in relation to the plans, 15 particularly where there may be some conflicting 16 indications?</p> <p>17 A. I agree. I agree with that.</p> <p>18 THE CHAIRMAN: No doubt, Mr Mok, this is dealt with in one 19 of the statements. Could you give me the reference, the 20 actual recommendation?</p> <p>21 MR MOK: Mr Chairman, actually there isn't a specific 22 recommendation in relation to plan approval. There is 23 a recommendation on page 4170.</p> <p>24 THE CHAIRMAN: Which of the statements is that?</p> <p>25 MR MOK: This is the second --</p>
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<p>1 organisation -- that is, namely the Marine Department -- 2 can go about with their work of drawings approval.</p> <p>3 THE CHAIRMAN: So if Cheoy Lee --</p> <p>4 MR MOK: I'm sorry, Mr Chairman. I think the witness also 5 said that the shipyard also bears a lot of 6 responsibility in this.</p> <p>7 THE INTERPRETER: That's right. Thank you, counsel.</p> <p>8 THE CHAIRMAN: So, if Cheoy Lee had made enquiries of 9 Naval-Consult and been told that this is not intended to 10 be a watertight access opening, should they not have had 11 that reflected in the drawings that described the 12 bulkhead as watertight?</p> <p>13 A. If Cheoy Lee had known that this bulkhead was not 14 intended to be watertight, during the design stage, then 15 yes, Cheoy Lee should have indicated so in their Profile 16 and Deck drawings, and then they should have taken away 17 the word "watertight".</p> <p>18 THE CHAIRMAN: Thank you.</p> <p>19 MR MOK: Following on from that, if on the other hand Cheoy 20 Lee had intended the bulkhead to be watertight, then 21 what sort of amendment or measure should have been taken 22 on that scenario?</p> <p>23 A. In that case, Cheoy Lee would have, on the Sections and 24 Bulkheads drawing, added the words "access door, 25 watertight". "Watertight access door". "Bulkhead with</p>	<p>1 THE CHAIRMAN: Page 4170? Yes, I have that.</p> <p>2 MR MOK: It's the second supplemental.</p> <p>3 THE CHAIRMAN: Thank you.</p> <p>4 MR MOK: Mr Chairman, you will see under paragraph 34, 5 Mardep believe that the system will be improved by 6 a number of ways. First of all, they can appoint 7 a classification society to carry out a review of the 8 drawing approval and surveying process, and to make 9 recommendations. In other words, instead of simply 10 doing it themselves, it is suggested that they consult 11 one of those societies to see what they do, which they 12 may benefit from.</p> <p>13 THE CHAIRMAN: Yes. But item (2) is the result, is it not?</p> <p>14 MR MOK: That's right. Item (2) deals with what forms the 15 classification society do use for the purpose of 16 surveying the ship. And then he has given an example 17 from Lloyd's Register.</p> <p>18 THE CHAIRMAN: Yes.</p> <p>19 MR MOK: Mr Chairman, would you like to have a look at that 20 form?</p> <p>21 THE CHAIRMAN: Yes, certainly.</p> <p>22 MR MOK: That is in marine bundle 12 at page 4480. 23 On the hull aspect, perhaps Mr Wong could look at 24 page 4483 under the section "Hull Survey".</p> <p>25 THE CHAIRMAN: This is dealing with the inspection of the</p>

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<p>1 vessel.</p> <p>2 MR MOK: Correct.</p> <p>3 THE CHAIRMAN: What we're addressing now is --</p> <p>4 MR MOK: The approval, yes.</p> <p>5 THE CHAIRMAN: -- the earlier stage, where you have drawings</p> <p>6 that are mutually conflicting. Is this issue actually</p> <p>7 addressed, what to do about conflicting drawings?</p> <p>8 MR MOK: No. He hasn't been able to come up with a specific</p> <p>9 example from the classification society, but what he is</p> <p>10 saying there is he would consult them for assistance as</p> <p>11 to how to draw up those guidelines.</p> <p>12 THE CHAIRMAN: Yes. But, Mr Wong, the obvious</p> <p>13 recommendation to your Marine Department people who are</p> <p>14 approving plans is, is it not, that the plans themselves</p> <p>15 should speak clearly and where they conflict, they</p> <p>16 should be amended so that the truth is reflected in the</p> <p>17 plans. Is that not the guidelines to give your</p> <p>18 subordinates?</p> <p>19 A. Our usual practice is that even during -- in the process</p> <p>20 of the drawings approval, there would be many comments</p> <p>21 there given at this stage. So for this particular --</p> <p>22 right now, this current case, about drawing up the</p> <p>23 guidelines, these guidelines will target those</p> <p>24 contradictory situations or indications in addition to</p> <p>25 this usual practice.</p>	<p>1 asked by Mr Beresford, "Where does the buck stop", and</p> <p>2 then the inspector actually said, "I have no comment."</p> <p>3 So there may be a disconnect between the underlying</p> <p>4 factual evidence and the theoretical premise that is now</p> <p>5 being put forward.</p> <p>6 THE CHAIRMAN: Your point is well made. This whole</p> <p>7 discussion is predicated on the premise that the</p> <p>8 drawings are perceived to be mutually contradictory.</p> <p>9 MR SHIEH: Yes, but of course depending upon the</p> <p>10 Commission's actual finding as to what was in the mind</p> <p>11 of those on the ground, there may have to be alternative</p> <p>12 recommendations as to the real mindset of those who</p> <p>13 actually do it.</p> <p>14 THE CHAIRMAN: Yes. This witness is really dealing with</p> <p>15 recommendations for the future, how to deal with these</p> <p>16 matters. If factually this is thought to be mutually</p> <p>17 conflicting drawings, then they should be addressed in</p> <p>18 this way.</p> <p>19 MR MOK: That's right. Correct.</p> <p>20 May I now go to the question of damage stability,</p> <p>21 Mr Wong. You realise, I think, that in this particular</p> <p>22 case, the Damage Stability Booklet which was produced in</p> <p>23 1996 and what preceded it was carried out on the basis</p> <p>24 that the steering gear compartment and the tank room</p> <p>25 were separate watertight compartments, and the booklet</p>
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<p>1 THE CHAIRMAN: So the solution is simple, is it not: when</p> <p>2 you come across mutually conflicting drawings, the truth</p> <p>3 should be ascertained and then reflected in the amended</p> <p>4 drawings?</p> <p>5 A. Yes.</p> <p>6 MR SHIEH: Mr Chairman, this line of questioning, obviously</p> <p>7 coming from the current official spokesman, can be put</p> <p>8 in perspective because it was premised upon the</p> <p>9 unarticulated premise or the explicitly articulated</p> <p>10 premise that there was perceived to be ambiguity or</p> <p>11 conflicting instructions --</p> <p>12 THE CHAIRMAN: That is the premise, yes.</p> <p>13 MR SHIEH: -- of the Mardep people concerned. But obviously</p> <p>14 the Commission will recall the actual evidence given on</p> <p>15 the ground as to what in fact was in their minds, was</p> <p>16 that they actually perceived it to be watertight and in</p> <p>17 terms of certainly by the time of the inspection of the</p> <p>18 vessel as-built, the Commission will remember the line</p> <p>19 of question which showed, for example, the inspector who</p> <p>20 first inspected the vessel thought, "Well, there's</p> <p>21 a hole here but these things can be put in later."</p> <p>22 THE CHAIRMAN: Later, yes.</p> <p>23 MR SHIEH: And then later, the chap actually said, "Well,</p> <p>24 I thought if the previous chap had certified okay,</p> <p>25 I need not do anything else." And the famous question</p>	<p>1 was then passed, with the chop "seen".</p> <p>2 You realise that?</p> <p>3 A. Yes, I do.</p> <p>4 Q. And looking at the matter in hindsight --</p> <p>5 THE CHAIRMAN: Before we go any further. What on earth is</p> <p>6 the point in putting a chop "seen" on documents that</p> <p>7 pass Marine Department officers' desks? What's the</p> <p>8 point of that?</p> <p>9 A. This is based on the practice of the time, because</p> <p>10 stability calculations or matters in that area are</p> <p>11 according to the Blue Book, and the Blue Book was</p> <p>12 actually just a guideline. And it's not a statutory</p> <p>13 requirement. And based on this, what they did was just</p> <p>14 chop the word "seen" on it.</p> <p>15 THE CHAIRMAN: And what significance was to be attached to</p> <p>16 that designation?</p> <p>17 A. That means that the officer in concern had already</p> <p>18 checked the drawings.</p> <p>19 THE CHAIRMAN: We're dealing with the Damage Stability</p> <p>20 Booklet, are we not?</p> <p>21 A. That's right.</p> <p>22 THE CHAIRMAN: Does affixing "seen" mean that the</p> <p>23 calculations have been checked?</p> <p>24 A. That's right. In the practice of the time, that means</p> <p>25 that. "Seen" means that.</p>

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<p>1 THE CHAIRMAN: So the calculations in the Damage Stability 2 Book have been checked, and that's what the "seen" 3 chopped on it means? 4 A. That's right. 5 MR MOK: Mr Wong, I think one of the matters which is 6 proposed in your second supplemental statement, if I can 7 read this out, on page 4172, paragraph 37(2): 8 "Mardep proposes to cease using "Seen" as the 9 endorsement for stability calculations (or indeed any of 10 the drawings, plans or documents required to be 11 submitted to Mardep). Instead Mardep would endorse the 12 drawings, plans or documents with "Approved", "Not 13 Approved", and "For Record Purpose" depending on whether 14 approval ... is required ..." 15 A. That's right. 16 Q. Do you confirm this to be an internal recommendation 17 that Mardep will be making for itself? 18 A. That's right. 19 Q. Now, going back to the 1996 Damage Stability Booklet. 20 THE CHAIRMAN: Could you remind me what the reference is for 21 that? 22 MR MOK: Yes. It is marine bundle 2 at page 338. 23 Mr Wong, before asking the next question, may I draw 24 your attention to pages 339 to 344, where this booklet 25 shows that each of the six compartments was treated on</p>	<p>1 Q. Mr Wong, I think what you mean is that the two being the 2 same person, he should have had the opportunity of going 3 down to the vessel to check this matter when he was 4 conducting the inclining experiment. Is that what you 5 meant? 6 A. That's right. You are correct. 7 THE CHAIRMAN: By that, do you mean if that had been done, 8 he would have found that there was no watertight door on 9 the frame 1/2 bulkhead, and it couldn't be regarded as 10 a separate compartment in any event? 11 A. That's right. Having found out that there was no 12 watertight door there at the relevant frame 1/2 13 location, then in approving the Damage Stability 14 Calculation Booklet, so given the fact that there was no 15 watertight, then he would know that the basis should 16 have been that two compartments should be only one. 17 THE CHAIRMAN: And he'd have sent the booklet back to the 18 shipyard and said, "Do it again"? 19 A. That's right. 20 MR MOK: Now, you have identified these two problems. How 21 do you propose these two problems be addressed so that 22 they would not recur in the future? 23 A. For that, please can I draw attention to my second 24 supplemental witness statement, paragraph 37 on 25 page 4172. I propose that there be a stability</p>
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<p>1 the basis that they were separate watertight 2 subdivisions or compartments. Do you agree? 3 A. Yes, I can see it. 4 Q. And do you agree that it is incorrect that the vessel be 5 so treated? 6 A. Part of it is not correct. 7 Q. And looking at it in hindsight, what do you now detect 8 as being the problems here? 9 A. The problem is that, looking from hindsight, I can see 10 that the steering room compartment and then the tank 11 room compartment -- given the fact that the steering 12 room itself is less than 0.1L, so that these two 13 compartments should be combined and treated as one and 14 then with calculations done on that basis. 15 Q. And was there any other problem, other than this 0.1L 16 rule? 17 A. The other problem is that if the inspector himself or 18 herself, the person who would be doing the inclining 19 experiment and also he or she would also be the person 20 who would do the checking about the stability damage 21 calculations, they should be one and the same person, 22 I mean, he or she would be the same person. And he or 23 she should go down to the vessel itself to check the 24 relevant frame 1/2 location, whether there was or is 25 an access opening there.</p>	<p>1 declaration form marked "WWC-7". 2 MR MOK: Mr Chairman, this is in marine bundle 12, 3 page 4493. 4 First of all, Mr Wong, can you look at this form, 5 page 4493. 6 A. Yes, I'm looking at it. 7 Q. Can you tell the Commission what is the origin of this 8 form? What is this form? 9 A. This form with the Marine Department originally targeted 10 the ocean-going cargo or passenger vessels. And for 11 them to fill in for their stability calculations. 12 Q. Let's look at this in some detail. On the first part of 13 this form, there is set out the particulars of the 14 vessel. 15 A. That's right. 16 Q. Then in the middle section, there are a number of blanks 17 required to be filled in in relation to the inclining 18 test. 19 A. Yes. 20 Q. And then in the next section, it is headed "Stability 21 Information" and in the middle column there are a number 22 of statutory provisions set out. 23 A. Yes. 24 Q. Can you tell us what is the purpose of setting out those 25 particular provisions there?</p>

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<p>1 A. So that when doing the checking examination, the 2 stability calculations, the offices concerned would not 3 miss any statutory requirements. 4 Q. So, pausing there. Addressing specifically the two 5 problems. Let's start with the 0.1L rule. What do you 6 expect should be put in this section to ensure that the 7 vetting inspector would not have ignored this particular 8 rule? 9 A. So that apart from the 0.1L rule, that there should be 10 the watertight subdivision rule. 11 THE CHAIRMAN: The question was, how does this help the 12 officer ensure that he has addressed the 0.1L rule? How 13 does this form help him? 14 A. If we have put down the relevant concerns, statutory 15 requirements concerning 0.1L rule on this form, then the 16 vetting officer would not have any chance of missing the 17 concerned statutory requirements. 18 MR MOK: I see there are some blanks on the right-hand side 19 of this section. What do you expect the officer to fill 20 in there? Does he say he's seen it, or just initial it? 21 What is he supposed to do? 22 A. On this blank, on each column, he will have to tick it, 23 mark it with a tick, and then under it, under the last 24 column, "Examined by", there, he would have to put his 25 signature there.</p>	<p>1 you to schedules, is it, so that you then go to 2 an ordinance and then to another schedule and another 3 schedule? Is it going to be self-contained? 4 A. Actually the officer concerned would have already done 5 the checking with the stability booklet, and after it it 6 will come to this form, to fill it in. This form is 7 designed to remind him that he had not missed anything. 8 THE CHAIRMAN: Is it going to be a self-contained form? 9 A. Correct. 10 THE CHAIRMAN: Thank you. 11 MR MOK: Going back to the other problem, concerning whether 12 or not a particular subdivision was watertight, what 13 information can be put into this form to ensure that the 14 true position is not ignored or missed out? 15 A. On this form there will be a box or a row there to write 16 down specifically how many compartments this vessel 17 should have. And then on that basis, he will go back to 18 the General Arrangement plan. 19 THE CHAIRMAN: When you say "compartments", do you mean 20 watertight compartments? 21 A. (In English) Yes. 22 MR MOK: And even that is not good enough, is it? Because 23 the General Arrangement may not in fact reflect what was 24 on the ground, what existed in the vessel? How can you 25 ensure that the true position inside the vessel is</p>
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<p>1 THE CHAIRMAN: Which is the part of the form that addresses 2 the 0.1L requirement? 3 A. This form is only for reference. This form originally 4 was for the ocean-going vessels, and then the statues 5 Cap 369 there. So there are certain parts there which 6 do not really suit the 0.1 rule. So there needs to be 7 revisions and amendments of the form. 8 THE CHAIRMAN: So the short answer is, there's no box here 9 that addresses the 0.1L requirement? 10 A. We will put the box in the relevant places back on the 11 form, addressing specifically the 0.1 rule. 12 THE CHAIRMAN: And how do you propose posing that question 13 so that the officer doesn't make the mistake of 14 overlooking it? What's it going to say? 15 A. The best way to do it, we just put "0.1L rule", that 16 very name, on it. 17 THE CHAIRMAN: Thank you. 18 MR MOK: Mr Chairman, I think what he's saying here is that 19 this declaration would not presently be required for 20 local vessels. So what he's proposing is to adopt the 21 practice for ocean-going vessels and apply that also to 22 local vessels as well. 23 THE CHAIRMAN: Very well. 24 MR MOK: Now, the other problem -- 25 THE CHAIRMAN: But it's not going to be a form that refers</p>	<p>1 reflected here? 2 A. If that is the case, then -- see, already the word "0.1L 3 rule" is already put down there. So with that, the 4 officer should be in a position to know which are the 5 watertight compartments. 6 THE CHAIRMAN: Is there to be a box that the officer is to 7 tick to confirm that he's checked that the compartments 8 are in fact watertight? 9 A. I will do that. 10 THE CHAIRMAN: So there will be a box to that effect? 11 A. That's right. 12 THE CHAIRMAN: And the issue that we have in this case, 13 where the compartment was treated as being watertight 14 when in fact there was no watertight door on the access 15 opening of the frame 1/2, would not occur if you had 16 that method of checking? Is that the position? 17 A. That's right. 18 MR MOK: If I may now move on to the next situation, where 19 some works or alterations are being done to the vessel, 20 such as the adding of ballast. 21 A. Yes. 22 Q. And you realise I think in this case that after that had 23 been done, another Damage Stability Booklet was 24 prepared. We can refer to that at marine bundle 3, 25 page 473.</p>

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<p>1 THE CHAIRMAN: Thank you.</p> <p>2 MR MOK: Can I draw your attention, Mr Wong, to pages 474 to</p> <p>3 479.</p> <p>4 A. Yes.</p> <p>5 Q. Again, these pages reflect that the calculation on that</p> <p>6 occasion -- that is, after the adding of the ballast --</p> <p>7 was performed on the basis that there were six</p> <p>8 watertight compartments. Do you agree?</p> <p>9 A. Yes, I do.</p> <p>10 Q. And do you also agree that that is a mistake?</p> <p>11 A. That's right, it was a mistake.</p> <p>12 Q. And what should have been done is, as you've said</p> <p>13 before, that the steering gear compartment and the tank</p> <p>14 room should have been treated as one compartment?</p> <p>15 A. Yes.</p> <p>16 Q. And we now know that if that calculation had been done,</p> <p>17 then it would have been discovered that the margin line</p> <p>18 would be immersed?</p> <p>19 A. Yes.</p> <p>20 Q. Again, looking at it in hindsight, what do you detect</p> <p>21 now as being the problem at that time?</p> <p>22 A. The problem would have been in reapproving the stability</p> <p>23 calculations after the addition of the ballast, the</p> <p>24 officer concerned may have just followed the stability</p> <p>25 calculations done in 1996 and on that basis, he may not</p>	<p>1 that way, the problem can be avoided.</p> <p>2 Q. Moving on to another situation; that is, what happened</p> <p>3 in this case in 2005, when the ballast was raised. For</p> <p>4 that, may I invite you to look at the Damage Stability</p> <p>5 Booklet at marine bundle 4, page 668.</p> <p>6 THE CHAIRMAN: Thank you.</p> <p>7 MR MOK: In particular, Mr Wong, may I invite you to take</p> <p>8 a quick glance at pages 697 to 707. These are pages</p> <p>9 relating to damage stability calculations.</p> <p>10 A. Yes, I can see them.</p> <p>11 Q. Do you also agree that these calculations were then</p> <p>12 performed on the basis that there were six watertight</p> <p>13 subdivisions or compartments in the vessel?</p> <p>14 A. Yes, I agree.</p> <p>15 Q. And do you also agree that that is a mistake?</p> <p>16 A. Yes, that's right. It's a mistake.</p> <p>17 Q. Again, may I ask you, what do you think had happened</p> <p>18 which caused this mistake?</p> <p>19 A. Similar to what the colleague in 1998 had done. This</p> <p>20 officer doing this checking, he did not go in-depth</p> <p>21 there and then to check out, find out really that the</p> <p>22 watertight subdivisions -- what was at the relevant</p> <p>23 frame 1/2 location, what was the real situation. As</p> <p>24 a result of that, he treated them as separate,</p> <p>25 independent compartments.</p>
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<p>1 have checked whether actually the watertight</p> <p>2 subdivisions concerning the steering room and then the</p> <p>3 tank room may actually be only one compartment.</p> <p>4 THE CHAIRMAN: So the problem occurred because Cheoy Lee</p> <p>5 submitted wrongly calculated figures, and the Marine</p> <p>6 Department officer involved didn't calculate or check</p> <p>7 them properly? Is that the position?</p> <p>8 A. Based on the practice of the time, then after ballast</p> <p>9 had been added, then for the proving of the calculations</p> <p>10 after the addition of the ballast, the officer concerned</p> <p>11 would do just a general check. He would not go in-depth</p> <p>12 to find out whether it's watertight or not.</p> <p>13 THE CHAIRMAN: There were two problems here: Cheoy Lee got</p> <p>14 it wrong and so did the Marine Department officer.</p> <p>15 Isn't that the position?</p> <p>16 A. Yes.</p> <p>17 THE CHAIRMAN: Thank you.</p> <p>18 MR MOK: Again, looking to the future, to address this</p> <p>19 problem, what could be done to ensure that it would not</p> <p>20 recur in the future?</p> <p>21 A. As I said before, with this stability declaration form</p> <p>22 in place, then following any significant alteration or</p> <p>23 amendments, any significant alteration following the</p> <p>24 addition of the ballast, then the officer concerned</p> <p>25 would need to fill a new stability declaration form. In</p>	<p>1 Q. Is it the case that like before, what they did was to</p> <p>2 have based the checking on booklets which had been</p> <p>3 prepared previously?</p> <p>4 A. Yes.</p> <p>5 Q. And I think you would also agree that another problem,</p> <p>6 likewise, is that the 0.1L rule was ignored?</p> <p>7 A. That's right.</p> <p>8 Q. So again, what do you say should be done in the future?</p> <p>9 THE CHAIRMAN: Before we get to the future, what was the</p> <p>10 consequence of this mistake? In fact, what was the true</p> <p>11 position about the vessel if the lead was raised as it</p> <p>12 was?</p> <p>13 A. After the lead was raised, then the centre of gravity</p> <p>14 would be higher.</p> <p>15 THE CHAIRMAN: And the consequence for the vessel?</p> <p>16 A. The consequence is that there is the possibility that</p> <p>17 the margin line would be immersed.</p> <p>18 THE CHAIRMAN: Possibility, or that was the fact?</p> <p>19 A. Calculations after it, after the fact, yes, it's been</p> <p>20 immersed.</p> <p>21 THE CHAIRMAN: It would be immersed. And if that had been</p> <p>22 known, would the vessel have been allowed to sail?</p> <p>23 A. No.</p> <p>24 THE CHAIRMAN: Thank you.</p> <p>25 MR MOK: Again, what should be done in the future to ensure</p>

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<p>1 that this problem does not recur? 2 A. Like I said before, the officer concerned would have to 3 fill in a new stability declaration form. 4 THE CHAIRMAN: And that would ensure that these errors would 5 have been detected and the vessel would not have been 6 allowed to sail on as it did? 7 A. Correct. 8 MR MOK: Mr Chairman, I have now come to the point where 9 I need to refer to Mr Wong's fourth supplemental witness 10 statement and seek your direction on this, because my 11 learned friend Mr Shieh has some objection to this being 12 received. This is to be found in marine bundle 12 at 13 page 4927. 14 THE CHAIRMAN: Yes. What does this statement address? 15 MR MOK: This statement addresses several points arising 16 from Dr Armstrong's evidence, particularly arising from, 17 Mr Chairman, your last comment. May I refer you to 18 paragraph 8 where he says: 19 "... I refer to Dr Armstrong's comments regarding 20 various measures which could be taken to make Lamma IV 21 pass the margin line test after the ballast had been 22 added. These measures included reducing the ballast, 23 putting buoyancy boxes behind the transom or moving the 24 ballast longitudinally to other parts of the ship in 25 order to correct the position so that the margin line</p>	<p>1 position as is, and the issue of significance is that 2 this whole series of errors led to a vessel being 3 allowed to sail as it was constituted, when it was 4 unsafe. Because it shouldn't have been allowed to sail. 5 MR MOK: Yes. 6 THE CHAIRMAN: Obviously it could have been rendered safe by 7 doing a number of different things, but how does that 8 help? 9 MR MOK: No, it is simply in putting my case on behalf of 10 the Marine Department, I would also like to put before 11 the Commission that if one of those things had been done 12 to enable the margin line matter to be corrected, 13 then -- I mean, this is not a matter -- 14 THE CHAIRMAN: I don't see the controversy here. Obviously 15 the lead could have been lowered, it could have been put 16 somewhere else in the vessel. You could have added 17 buoyancy tanks. But, so what? It was susceptible of 18 being addressed. I don't think that's in issue. 19 MR MOK: Yes. What the Department is saying is had that 20 been done, so that the margin line was not immersed, 21 then this vessel could also have been approved on that 22 basis, for sail. 23 THE CHAIRMAN: Yes, but so what? The real issue is the 24 basis on which it was permitted to sail, and that was 25 a whole series of errors that led to that.</p>
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<p>1 would not be immersed ... Mardep agrees that such 2 measures could be taken and confirm that, if any of such 3 measures had been taken, so that the margin line would 4 not be immersed, the ballast arrangement would have been 5 approved in the case of the Lamma IV even though, had 6 calculation been carried out in the Damage Stability 7 Booklet on the basis that the steering gear compartment 8 and tank room were both flooded, the margin line would 9 be immersed in the absence of the said measures." 10 Mr Chairman, what I seek to do is to put before the 11 Commission a more complete picture. On the one hand, 12 Mr Chairman, you have already commented that the vessel 13 as it was, the margin line being immersed, had this 14 matter been discovered it would not have been allowed to 15 set sail. The flip side of this is that if it had been 16 discovered at that time, what could have been done, and 17 if that had been done, what might have been the 18 consequence, in my respectful submission, first of all, 19 the Department does wish to put before the Commission 20 this scenario but at the same time, this is to enable 21 the Commission also to have a full perspective on the 22 matter. 23 THE CHAIRMAN: Well, obviously lots of things could have 24 been done: less lead, different place, different height. 25 But how does this help us? Because we're looking at the</p>	<p>1 MR MOK: Yes. Mr Chairman, in addition to that, we would 2 also like to put in additional facts to address some of 3 the points raised by Dr Armstrong. For example, 4 Mr Chairman, in paragraph 6 -- Dr Armstrong dealt with 5 the question of the aft peak bulkhead. 6 THE CHAIRMAN: Yes. 7 MR MOK: He said that as a matter of practice, it should be 8 located at less than 0.1 length from the stern. 9 THE CHAIRMAN: Yes. 10 MR MOK: What the Department would like to put before the 11 Commission is that they knew of no such practice and 12 that in fact there are many examples of the aft peak 13 bulkhead being located more than 0.1L from the stern. 14 THE CHAIRMAN: Was Dr Armstrong cross-examined on this 15 material? 16 MR MOK: Not on this material per se because this arose 17 after Dr Armstrong had given this comment and -- 18 THE CHAIRMAN: So if this material is put in now, are we to 19 recall Dr Armstrong to deal with this? 20 MR MOK: In fairness, yes, that would be the consequence. 21 But -- 22 THE CHAIRMAN: Okay. Why wasn't it put to Dr Armstrong when 23 he was being questioned, as I recall over an entire 24 week? 25 MR MOK: I think we had about two and a half days.</p>

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<p>1 THE CHAIRMAN: But he was in the box over a week. Maybe the 2 questioning by the Marine Department was two and a half 3 days -- 4 MR MOK: Much less than that, Mr Chairman. 5 THE CHAIRMAN: -- but the issue is the same issue. Why 6 wasn't this put to Dr Armstrong? 7 MR MOK: Mr Chairman, realistically, this is an inquiry and 8 many things are being dealt with at the same time. 9 THE CHAIRMAN: I readily accept that. 10 MR MOK: It was considered that this was a point worth 11 following up on after his evidence was received so that 12 these materials were being dug out at that stage. 13 THE CHAIRMAN: Let me hear from Mr Shieh on this point. 14 MR MOK: Yes. 15 THE CHAIRMAN: Mr Beresford? 16 MR BERESFORD: Mr Chairman, there was some material put to 17 Dr Armstrong which is contained in marine bundle 12, but 18 curiously that material has not found its way into this 19 statement. Rather, some other material has been 20 produced. So it's a shifting of the goalposts. We're 21 perfectly happy for this to be put to Dr Armstrong, but 22 he should certainly have an opportunity to comment on 23 it. 24 THE CHAIRMAN: Is there anything else you want to say on 25 that issue, Mr Beresford?</p>	<p>1 done in relation to the 1995 -- 2 THE CHAIRMAN: As I recall, the issue was whether or not the 3 1996 rules applied. 4 MR MOK: 1995. 5 THE CHAIRMAN: 1995, which came in in January 1996. 6 MR MOK: Yes. 7 THE CHAIRMAN: There was one witness who applied the 1996 8 rules. That was dealing with engines, and a superior 9 told him that that was wrong. So somebody did apply 10 them. 11 MR MOK: Yes, but he incorrectly applied them. 12 THE CHAIRMAN: He was told that they were wrong, but the 13 controversy remains because the language of the 14 information -- 15 MR SHIEH: Capable of leading to the impression that it was 16 the 1996 rules -- 17 THE CHAIRMAN: Yes. There's no doubt about it; it was not 18 drafted properly. 19 MR MOK: It is not. 20 THE CHAIRMAN: But your point is that, generally anyhow, the 21 Marine Department applied it in the way that you've 22 described. 23 MR MOK: That's right. 24 THE CHAIRMAN: We accept that. 25 MR MOK: Yes. Thank you.</p>
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<p>1 MR BERESFORD: No, Mr Chairman. 2 THE CHAIRMAN: Does anybody else have any submission to 3 make? Any other counsel? 4 Mr Mok, we're not going to shut you out. If you 5 think that we ought to receive this, by all means, lead 6 it. 7 MR MOK: Yes. Thank you, Mr Chairman. 8 While on this statement, may I also refer you to the 9 other matters? 10 THE CHAIRMAN: Yes. 11 MR MOK: There is a matter relating to the application of 12 the 1995 Instructions and the Blue Book. This is in 13 paragraph 7. 14 THE CHAIRMAN: Yes. 15 MR MOK: You may recall that during Dr Armstrong's evidence, 16 he took the view that perhaps the 1995 Instructions 17 might also be applicable and what the Department would 18 like to put before the Commission is that in order to 19 avoid any doubt in this matter, after they had 20 ascertained the matter with the officers, there is 21 simply no information or evidence from any of those 22 officers to show that in fact the 1995 Instructions had 23 been applied to Lamma IV as a new vessel. So this is 24 a matter of fact. 25 Dr Armstrong did speculate on what might have been</p>	<p>1 There is another matter arising from this in 2 paragraph 4. Dr Armstrong did interpret the 0.1 rule in 3 a particular way. You may recall that he said that the 4 rule can be looked at from the different perspective, 5 say from the perspective of the tank room, which may be 6 different from the perspective of the steering gear 7 compartment. 8 I accept, Mr Chairman, that this to a large extent 9 is a matter of interpretation of the relevant rule, 10 although we do not have the particular rule that was 11 applied but we do have a rule in regulation 6 and also 12 part 2 of schedule 1 which sets out the minimum 13 distance, or minimum length of compartment, and what the 14 Department would like to put on record is that it does 15 not agree with Dr Armstrong's interpretation and that 16 the correct position is what I had put to Dr Armstrong. 17 This is simply a matter of putting on record the 18 case. 19 THE CHAIRMAN: Yes, very well. 20 MR MOK: That is my application in relation to this 21 particular document. 22 THE CHAIRMAN: As I said, we'll receive this material. 23 MR MOK: In that case, may I ask that Mr Wong be shown 24 WWC-25. I don't know what the page number is. 25 MR BERESFORD: 4932.</p>

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<p>1 MR MOK: Mr Wong, may I invite you to look at this exhibit 2 which you have included in your witness statement. Just 3 go through it maybe page by page. 4 THE CHAIRMAN: This deals with the location of the aft peak 5 bulkhead, does it? 6 MR MOK: Correct, yes. 7 THE CHAIRMAN: This one is 24 per cent forward of the stern; 8 is that it? 9 MR MOK: Yes. 10 You are familiar with this exhibit? 11 A. Yes. 12 Q. And the point of exhibiting this is to show examples 13 that there are many vessels where the aft peak bulkhead 14 was located at a distance more than 0.1L from the stern; 15 correct? 16 A. Yes. 17 Q. And your final point is that the Department does not 18 accept that there is a generally recognised rule or 19 practice that there should be a distance of less than 20 0.1L from the stern for the purposes of locating the aft 21 peak bulkhead? 22 A. Yes, that's right. We do not agree or we do not think 23 that that is a generally recognised rule, that the 24 length of the aft peak bulkhead -- no fixed dimension 25 for the aft peak bulkhead.</p>	<p>1 a 20-minute break. 2 MR MOK: Yes. Maybe he can look at the diagram in the 3 meantime. 4 THE CHAIRMAN: Mr Wong, we're going to take a 20-minute 5 break now. Perhaps if you're able to, answer the 6 question when we come back. 7 A. Thank you. 8 THE CHAIRMAN: 20 minutes. 9 (11.35 am) 10 (A short break) 11 (11.55 am) 12 THE CHAIRMAN: Mr Wong, you continue to testify according to 13 your oath. 14 Mr Mok. 15 MR MOK: Yes. Mr Wong, have you made the calculation which 16 the Chairman asked you to do about the ratio? 17 A. Yes, I've got it. Engine room aft bulkhead, up to the 18 stern, the ratio would be 22 per cent. 19 THE CHAIRMAN: Thank you. 20 MR MOK: Finally, Mr Wong, you have put the case on behalf 21 of the Marine Department in relation to the 22 interpretation of the 0.1L rule in paragraphs 4 and 5 of 23 your fourth supplemental witness statement, page 4927. 24 Correct? 25 A. Yes.</p>
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<p>1 Q. Yes. And the relevance of this point is in relation to 2 instruction 12 of the Blue Book. May I invite you to 3 have a look at that. This is at marine bundle 8, 4 page 1769. Rule 12(iv): 5 "In all double-ended launches and launches over 6 70 feet long, peak bulkheads will be required at both 7 ends." 8 Do you see that? 9 A. I can see it. 10 Q. Yes. And the point you wish to put on record is that so 11 far as the aft peak bulkhead is concerned, there is no 12 requirement under this rule or any known practice that 13 it should be located within 0.1L or less than 0.1L from 14 the stern? 15 A. That's right. 16 THE CHAIRMAN: What is the ratio of the bulkhead between the 17 tank room and the engine room, from the stern, Mr Wong? 18 A. There's no particular set ratios between them. It all 19 depends on when we are dealing with the watertight 20 subdivisions, determining the floodable length. 21 THE CHAIRMAN: I'm asking a factual question. What is it as 22 a matter of fact? If one treats the tank room-engine 23 room bulkhead as the aft peak bulkhead, what distance is 24 it from the stern? That's the question. 25 Perhaps we could leave that with you and we'll take</p>	<p>1 Q. And you said that the correct position is as I had put 2 to Dr Armstrong in the course of his testimony. Have 3 you got that? 4 THE INTERPRETER: Where is it? 5 MR MOK: Can you just translate that. 6 You say that the correct position is as I had put to 7 Dr Armstrong in the course of his testimony? 8 This is already on record. 9 A. Yes. 10 MR MOK: Mr Chairman, these are all my top-up questions. 11 THE CHAIRMAN: Thank you. 12 Mr McGowan, do you have any application? 13 MR MCGOWAN: I have, but not on matters which have been 14 dealt with in his evidence. But they're on life jackets 15 and also -- 16 THE CHAIRMAN: You mean his oral evidence? 17 MR MCGOWAN: His oral evidence, yes. 18 THE CHAIRMAN: Yes? Life jackets, and what else? 19 MR MCGOWAN: And the survey regime, please. 20 THE CHAIRMAN: Yes, very well. 21 MR MCGOWAN: Thank you. 22 Examination by MR MCGOWAN 23 MR MCGOWAN: Mr Wong, could you be shown the miscellaneous 24 bundle at pages 86 and 87, please. 25 THE CHAIRMAN: What are we looking at?</p>

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<p>1 MR McGOWAN: Photographs of life jackets. 2 A. Yes, I'm looking at them. 3 Q. If we go on to page 87, where those life jackets are now 4 opened up and can be seen more clearly -- these are the 5 life jackets which were retrieved from Lamma IV after 6 the collision? 7 A. Yes. 8 Q. These are life jackets which were perfectly acceptable 9 to the Marine Department and meet the Marine Department 10 requirements for life jackets; is that right? 11 A. Yes. 12 Q. And the use of lace-up life jackets or tie-up life 13 jackets like these is common in Hong Kong? 14 A. Tie-up jackets have always been part of our code of 15 practice, as per LSA "MSC-48(66)" fulfilling the IMO 16 requirement. 17 Q. Yes. My question is, are these sort of life jackets 18 commonly used amongst ferry operators and other vessels 19 licensed in Hong Kong? 20 A. Yes. 21 Q. So they're a standard pattern, essentially? 22 A. Yes. 23 Q. Thank you. While we have that bundle open in front of 24 us, could you please go to page 92. 25 That sets out in chronological order the initial</p>	<p>1 Q. Mr Wong, would you agree that someone like Hongkong 2 Electric would be entitled to rely on those many surveys 3 and certifications when they receive the ferry from the 4 builder, without having to carry out any further checks 5 themselves? 6 MR MOK: Mr Chairman, I frankly do not understand the 7 meaning of this question, when it is said that the 8 company can rely on it. For what purpose? I don't know 9 what purpose it is said it relied on it. 10 MR McGOWAN: Let me -- 11 THE CHAIRMAN: Mr McGowan, isn't this really a submission 12 that you're going to be making in due course, rather 13 than getting a witness to deal with this? 14 MR McGOWAN: If you're happy for it to be treated like 15 that -- 16 THE CHAIRMAN: I think that's the better way to deal with 17 it. 18 MR McGOWAN: Certainly, sir. I have no further questions. 19 THE CHAIRMAN: Thank you. 20 Mr Pao, do you have an application? 21 MR PAO: I have no application. 22 THE CHAIRMAN: Mr Yeung, I see you've rejoined us. Do you 23 have an application? 24 MR YEUNG: I have no application. 25 THE CHAIRMAN: Very well.</p>
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<p>1 surveys of Lamma IV, and also the various checks that 2 were made on the documentation from the initial 3 commissioning of the build right through to the entry 4 into service two years later. 5 I don't know whether you're familiar with this 6 document, Mr Wong. If you'd like a moment to look at it 7 before I ask you any questions, could you do so. 8 THE CHAIRMAN: On what basis do you propose questioning 9 a witness who wasn't even in the Marine Department at 10 the time of this chronology? 11 MR McGOWAN: I was going to ask him whether a recipient, 12 an owner of a vessel which had gone through all those 13 checks was entitled to accept it without carrying out 14 any further checks itself, which I believe is 15 a question -- 16 THE CHAIRMAN: By all means, put that question. 17 MR McGOWAN: Thank you. 18 Mr Wong, I hope you've had a chance to look at that 19 document now. Have you? 20 A. I did read this document before, but I'm not sure if 21 I can remember every line of it. 22 Q. Well, just have a look at it again very quickly. Sorry, 23 take as much time as you want before I ask you the 24 question. 25 A. (In English) Okay.</p>	<p>1 Mr Beresford? 2 MR BERESFORD: Mr Chairman, with your permission I have some 3 questions on the system of vessel survey; the thickness 4 of the side plating; and the new evidence on the aft 5 peak bulkhead. 6 THE CHAIRMAN: Yes. Please ask those questions. 7 MR BERESFORD: Thank you, Mr Chairman. 8 MR McGOWAN: Sir, I'm terribly sorry, there is one matter 9 that I'd also like to deal with, also dealing with life 10 jackets. Could I please do that now? 11 THE CHAIRMAN: Yes, please do that now. 12 MR McGOWAN: Thank you. I apologise. 13 Could the witness be shown marine bundle 12, 14 page 4190. 15 THE CHAIRMAN: What are we going to look at? 16 MR McGOWAN: This is a statement made by Mr Wong which deals 17 with the 2008 changes to the life jacket requirements, 18 and it's at paragraph 92 of that statement. 19 THE CHAIRMAN: Thank you. 20 A. Yes, I'm looking at it. 21 MR McGOWAN: There, Mr Wong, you were talking about life 22 jackets and the 2008 change to the regulations, which 23 produced a new requirement that the life jacket carriage 24 should be 100 per cent for passengers, plus 5 per cent 25 children's life jackets.</p>

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<p>1 A. Yes.</p> <p>2 Q. And that should have come into force in January 2008?</p> <p>3 A. Yes.</p> <p>4 Q. And you go on to say in that paragraph that despite</p> <p>5 that --</p> <p>6 THE CHAIRMAN: You say it should have come into force. Did</p> <p>7 it come into force or not?</p> <p>8 MR McGOWAN: Sorry. I believe the effective --</p> <p>9 MR SHIEH: According to the evidence that it came into</p> <p>10 force, but in terms of enforcement --</p> <p>11 MR McGOWAN: Yes.</p> <p>12 THE CHAIRMAN: That's a separate issue. We have laws about</p> <p>13 red traffic lights. Whether or not they're enforced is</p> <p>14 another matter.</p> <p>15 MR McGOWAN: And speed limits too.</p> <p>16 THE CHAIRMAN: It came into force --</p> <p>17 MR McGOWAN: It came into force in January 2008?</p> <p>18 A. Yes.</p> <p>19 Q. But the position as you've set out in this paragraph,</p> <p>20 Mr Wong, is that Mardep did not strictly enforce that</p> <p>21 requirement in the case of class I vessels?</p> <p>22 A. Yes.</p> <p>23 THE CHAIRMAN: Which aspect of that law did Mardep choose</p> <p>24 not to enforce?</p> <p>25 A. In the aspect of 100 per cent for adult passengers and</p>	<p>1 encouraging the industry to conform to these new</p> <p>2 regulations concerning the life jackets.</p> <p>3 THE CHAIRMAN: And by 2009, was the Marine Department</p> <p>4 actually enforcing the law in this respect? Adult life</p> <p>5 jackets 100 per cent, children's life jackets</p> <p>6 5 per cent?</p> <p>7 A. Yes, we had continued to enforce it, to enforce part of</p> <p>8 it.</p> <p>9 THE CHAIRMAN: I'm sorry?</p> <p>10 THE INTERPRETER: "We had continued to enforce part of it."</p> <p>11 THE CHAIRMAN: Which part did you choose to enforce?</p> <p>12 A. Some vessels already updated their rules concerning the</p> <p>13 life jackets. For those vessels, they had enforced this</p> <p>14 rule.</p> <p>15 THE CHAIRMAN: I'm asking you about the Marine Department.</p> <p>16 You said you enforced part of the rules. Which part did</p> <p>17 you enforce in 2009?</p> <p>18 A. In the aspect of 100 per cent for adult passengers and</p> <p>19 5 per cent for child passengers.</p> <p>20 THE CHAIRMAN: So in 2009, the Marine Department started to</p> <p>21 enforce the law as it was?</p> <p>22 A. Let me put it this way. I'll explain it this way.</p> <p>23 THE CHAIRMAN: No, Mr Wong. You must be able to answer that</p> <p>24 "yes" or "no". Was it enforced or not in 2009? By all</p> <p>25 means give an explanation after you've answered, but</p>
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<p>1 5 per cent for child passengers.</p> <p>2 THE CHAIRMAN: Both aspects?</p> <p>3 A. Yes.</p> <p>4 THE CHAIRMAN: And who in the Marine Department determined</p> <p>5 not to enforce the law?</p> <p>6 A. The management.</p> <p>7 THE CHAIRMAN: Who is "the management"?</p> <p>8 A. The general manager at the time.</p> <p>9 THE CHAIRMAN: Who was he?</p> <p>10 A. Mr So.</p> <p>11 THE CHAIRMAN: Was the Director of Marine informed that the</p> <p>12 Department was choosing not to enforce the law?</p> <p>13 A. It was the policy of the time. Whether he was informed</p> <p>14 or not, I'm not sure.</p> <p>15 THE CHAIRMAN: Was this a written policy?</p> <p>16 A. According to my knowledge, no.</p> <p>17 THE CHAIRMAN: And nothing in writing that evidenced this</p> <p>18 policy?</p> <p>19 A. I feel that at that time, this was not a policy but only</p> <p>20 a short-term measure.</p> <p>21 THE CHAIRMAN: "Short-term" being what length of time?</p> <p>22 A. It should be around -- within one year.</p> <p>23 THE CHAIRMAN: So by 2009, was the law being enforced by the</p> <p>24 Marine Department?</p> <p>25 A. Actually by 2008, the Marine Department had already been</p>	<p>1 that surely is susceptible to being answered "yes" or</p> <p>2 "no".</p> <p>3 A. No, we didn't enforce it.</p> <p>4 THE CHAIRMAN: Now, you wanted to explain something. What</p> <p>5 do you want to say?</p> <p>6 A. At that time, most of the shipyards were of the type of</p> <p>7 one-man, two-man company, meaning --</p> <p>8 A. (In English) "Ship operator".</p> <p>9 THE INTERPRETER: "Ship operator", thank you.</p> <p>10 A. Most of the ship operators are the kind of company that</p> <p>11 numbered one to two persons. So concerning this 548G</p> <p>12 rule, concerning the enforcement, it was enacted and</p> <p>13 alongside with other rules such as those concerning the</p> <p>14 air pollution. As a result of that, these ship</p> <p>15 operators came under very heavy financial burdens.</p> <p>16 Also, in order to conform to these new rules, we</p> <p>17 have to make reference to the old rules by which there</p> <p>18 is this 60 per cent LSA, life-saving appliance, and</p> <p>19 40 per cent life jackets.</p> <p>20 A. (In English) Yes.</p> <p>21 THE CHAIRMAN: So in 2010, did the Marine Department enforce</p> <p>22 the law as it was, or not?</p> <p>23 A. Yes. All the licensed vessels under the Transport</p> <p>24 Department licence, they had enforced the rules.</p> <p>25 THE CHAIRMAN: Was Lamma IV licensed by the Transport</p>

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<p>1 Department?</p> <p>2 A. No, no. It was licensed by the Marine Department.</p> <p>3 A. (In English) It's licensed by Marine Department.</p> <p>4 THE CHAIRMAN: So in 2011, did the Marine Department enforce</p> <p>5 this law, as it was and had been for several years now?</p> <p>6 A. Yes.</p> <p>7 MR MOK: I think the translation should be "In the year</p> <p>8 2011, did the Marine Department enforce this law?"</p> <p>9 Perhaps the translation could be put again. "In 2011,</p> <p>10 did the Marine Department enforce this law?"</p> <p>11 (Question retranslated)</p> <p>12 A. No, not yet. It still not was enforcing it.</p> <p>13 THE CHAIRMAN: 2012?</p> <p>14 A. 2012, the TD licence, they had been enforced.</p> <p>15 THE CHAIRMAN: Did you enforce the law as it was? Because</p> <p>16 the law didn't distinguish between different vessels,</p> <p>17 did it?</p> <p>18 A. Yes.</p> <p>19 THE CHAIRMAN: So did the Marine Department enforce the law</p> <p>20 in 2012?</p> <p>21 A. Not yet.</p> <p>22 THE CHAIRMAN: Now, today, is it being enforced?</p> <p>23 A. Yes, it's being enforced.</p> <p>24 THE CHAIRMAN: And did that start after 1 October 2012?</p> <p>25 A. Yes.</p>	<p>1 the consideration, we have to give the consideration</p> <p>2 that it would still have other life-saving appliances in</p> <p>3 place.</p> <p>4 THE CHAIRMAN: The instructions that management gave to</p> <p>5 inspectors to enforce the law for new vessels, but only</p> <p>6 to encourage old vessels to comply, was that given in</p> <p>7 writing?</p> <p>8 A. No.</p> <p>9 THE CHAIRMAN: How was it disseminated, this information?</p> <p>10 A. That would have to take place at the daily briefing in</p> <p>11 which the policies would be discussed, and then about</p> <p>12 what kind of measures to be applied to which vessels.</p> <p>13 It would be on that occasion.</p> <p>14 THE CHAIRMAN: Does the Marine Department ever receive</p> <p>15 advice from the ICAC about risk of corruption in its</p> <p>16 practices?</p> <p>17 MR MOK: The question is not whether or not they were</p> <p>18 informed that there was some risk of corruption. The</p> <p>19 question was simply whether or not they had ever</p> <p>20 received any advice from the ICAC regarding this topic.</p> <p>21 THE INTERPRETER: Yes, that's what I translated.</p> <p>22 THE CHAIRMAN: The question was, has the Marine Department</p> <p>23 ever received advice from the ICAC about the risk of</p> <p>24 corruption in its various practices?</p> <p>25 THE INTERPRETER: Do you want me to translate the question</p>
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<p>1 THE CHAIRMAN: When?</p> <p>2 A. After mid-October.</p> <p>3 THE CHAIRMAN: And none of this what you called policy at</p> <p>4 first, but then it became "short-term measure", is</p> <p>5 documented in writing?</p> <p>6 A. No. According to my knowledge, no.</p> <p>7 THE CHAIRMAN: Yes, Mr McGowan.</p> <p>8 MR MCGOWAN: So to not implement the change to the law, you</p> <p>9 would have to tell people who carried out surveys and</p> <p>10 ship inspections that they were not to enforce this</p> <p>11 particular change? When I say "you", I mean the Marine</p> <p>12 Department management, Mr Wong, not you personally.</p> <p>13 A. It's not that the management -- that we did not enforce</p> <p>14 it. It's that if the management instructed the</p> <p>15 inspectors to this effect, if it concerned new vessels,</p> <p>16 then new rules will be applied, will be enforced. But</p> <p>17 if it's old vessels, we would encourage them to update</p> <p>18 and change the life jackets in order to conform to the</p> <p>19 new rule.</p> <p>20 Q. But if an old vessel came up for survey in 2008 and</p> <p>21 thereafter, and it didn't have 100 per cent life jackets</p> <p>22 or 5 per cent child life jackets, it would be passed as</p> <p>23 being fit for use for the continuing year? That's the</p> <p>24 position, isn't it?</p> <p>25 A. That's right. That would be the case. Because given</p>	<p>1 again?</p> <p>2 THE CHAIRMAN: Just try doing it from what I say now. Has</p> <p>3 the Marine Department received advice from the ICAC</p> <p>4 about the risk of corruption in its various practices?</p> <p>5 MR MOK: Advice. Notice. "Yi-gin".</p> <p>6 THE INTERPRETER: Thank you.</p> <p>7 (Question retranslated)</p> <p>8 A. There was not any advice in particular to be given by</p> <p>9 the ICAC, but ICAC did have regular instructions given</p> <p>10 to the staff of Marine Department.</p> <p>11 THE CHAIRMAN: Yes, Mr McGowan.</p> <p>12 MR MCGOWAN: So if Lamma IV in 2010 was presented for survey</p> <p>13 with no children's life jackets on board, it would be</p> <p>14 passed?</p> <p>15 THE CHAIRMAN: I think all the witness can say is it would</p> <p>16 be consistent with the policy --</p> <p>17 MR MCGOWAN: Yes.</p> <p>18 THE CHAIRMAN: -- the short-term measure, to pass the</p> <p>19 vessel.</p> <p>20 MR MCGOWAN: That's a much fairer way of putting it. Thank</p> <p>21 you.</p> <p>22 Would you like me to rephrase the question?</p> <p>23 THE INTERPRETER: Yes, sure.</p> <p>24 MR MCGOWAN: If Lamma IV had been presented for survey in</p> <p>25 2010 with no children's life jackets on board and</p>

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<p>1 received a licence, passed the survey, that would be 2 consistent with what you describe as a policy or 3 a short-term measure of the Marine Department, wouldn't 4 it? 5 A. In the case of Lamma, yes, it would have been passed. 6 But also we have to give consideration to the fact that 7 the existing old-model jackets on board the vessels, 8 they are suitable for both adults and children. 9 Q. Yes. They just don't fit children as well as adults, do 10 they, Mr Wong? 11 A. No. Because, you see, the life jackets of the old model 12 are different from those on board the Lamma IV. Because 13 this model, they have sleeves which make sure that 14 children have to go through the sleeve to put on 15 a jacket, and then to make sure the jacket would not 16 come off. 17 THE CHAIRMAN: But no doubt because there is a difference 18 between a child and an adult, that explains why 19 manufacturers make children's life jackets, does it not? 20 A. I agree. 21 THE CHAIRMAN: Do you know that one of the deceased from 22 Lamma IV was a 3-year-old child? 23 A. Yes, I know. 24 THE CHAIRMAN: You're not suggesting that an adult life 25 jacket of the kind carried on Lamma IV was suitable for</p>	<p>1 Was that part of the same "short-term measures"? 2 A. No, no. 3 COMMISSIONER TANG: I want to clarify one point, Mr Wong. 4 In your record of survey, would you distinguish between 5 whether the actual vessel has complied with your 6 regulations or not? That is -- I'll explain. In a case 7 where the actual requirements of life jacket number were 8 met, then you put a tick there. For those you let go 9 without the requirements, you will not have made any 10 remarks on the form. How would subsequent surveys 11 follow that up? 12 A. In the actual certificate of survey, the number of 13 jackets would be actually put on the certificate itself. 14 COMMISSIONER TANG: So in other words, you are issuing 15 licences to vessels which have not complied with the 16 requirements? 17 A. Regarding the life jacket issue, yes. 18 COMMISSIONER TANG: Thank you. 19 MR McGOWAN: Mr Wong, while we're dealing with this 20 particular subject, when Lamma IV was surveyed in 2012, 21 Marine Department was still maintaining this same 22 "policy"; is that correct? 23 A. This is not a policy. It was just a short-term measure. 24 You see, in reality, it is like this. If the vessel had 25 not made the amendment to conform, then we encouraged</p>
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<p>1 that age child, are you? 2 A. No. All I was talking about was cases in general. 3 I was not referring particularly to the case of 4 Lamma IV. 5 MR McGOWAN: While we're on the subject of the life jackets 6 on Lamma IV, the adult life jackets were adjustable, 7 weren't they? You could use the tapes to adjust -- to 8 tighten the life jacket around the body? 9 A. Yes. 10 Q. Thank you. I've asked you about the 2010 survey of 11 Lamma IV. I'd now like to ask you about 2011. The 12 position in 2011 was the same, wasn't it? Lamma IV, 13 even if she had no children's life jackets on board, 14 would still have been surveyed and have a licence issued 15 for the forthcoming year? 16 A. That's right. Whether they had or not, it would have 17 been passed. 18 THE CHAIRMAN: Was it part of the Marine Department's policy 19 to tick the boxes that life jackets for children were on 20 board, even if they weren't on board? 21 THE INTERPRETER: To tick the boxes on the form, right? On 22 the survey form? Mr Chairman? 23 THE CHAIRMAN: Was it part of the policy to tick the 24 appropriate box on the basis that children's life 25 jackets were on board, even if they weren't on board?</p>	<p>1 them to do so. But if the vessels had already changed 2 and conformed to the new rule, then the surveying 3 inspector or officer would have checked the number and 4 the quality of the jackets and put down it into record, 5 according to what he checked. 6 MR MOK: "One person". 7 A. (In English) One person for each life jacket. 8 A. Yes, and then conforming with the requirement of one 9 jacket for each passenger. 10 THE CHAIRMAN: How is it that this so-called short-term 11 measure carried on for four years? 12 A. I think this would be a breakdown of the communication 13 between the management and front-line staff. 14 THE CHAIRMAN: You mean nobody changed the policy, or the 15 short-term measure, as you prefer to call it? 16 A. According to my knowledge, yes. 17 MR McGOWAN: Could you have a look, please, at marine 18 bundle 4, page 862. 19 This is the check-off list for Lamma IV's 2011 20 survey. 21 A. Yes. 22 Q. Item 11 is "Life-saving appliances". It's a single 23 entry which covers all sorts of life-saving appliances, 24 isn't it? 25 A. Yes.</p>

<p style="text-align: right;">Page 57</p> <p>1 Q. It's not broken down or itemised in any way to assist 2 the surveyor or the shipyard or the shipowner as to what 3 is going to be checked and how many of each should be 4 present on board and indeed were on board? 5 A. This record, this form, inspection record, was meant to 6 be used by the Marine Department personnel when they 7 conduct the ship survey. And for Marine Department 8 personnel, because they would be very familiar with the 9 relevant laws and regulations, so this form doesn't need 10 to break down this concerned heading into different 11 items. 12 THE CHAIRMAN: To answer the question, the answer is "yes", 13 is it not; it's not broken down into different 14 categories? 15 A. No. 16 MR McGOWAN: So it wasn't changed to reflect the 2008 17 legislation change? 18 A. Yes. 19 MR McGOWAN: Sir, I think there are other matters that 20 perhaps other people might have some questions on on 21 this. 22 So I'll just ask one last question on this subject, 23 Mr Wong. You say you encouraged people who hadn't 24 complied with the 2008 change to do so. 25 A. Yes.</p>	<p style="text-align: right;">Page 59</p> <p>1 with the changes in the law? 2 A. No. 3 COMMISSIONER TANG: But, Mr Wong, you earlier said that this 4 would be reflected in the certificate. Am I correct? 5 A. I don't really understand the question. 6 COMMISSIONER TANG: Let me ask it again. Actually, when 7 I asked you earlier, you said for those vessels which 8 were not able to meet the number of required life 9 jackets, it would be reflected in the certificate. 10 A. What would have been put down in the licence is that 11 these vessels are relying on the old rules concerning 12 the number of life jackets. 13 COMMISSIONER TANG: So, if you can help me. Look at 14 page 805, which is Lamma IV's certificate. We heard 15 evidence from the surveyor concerned that actually it 16 has met the number in terms of child and adult life 17 jackets. 18 A. Because, you see, there is an asterisk there saying that 19 one life jacket for each person on board, because it 20 complied with it, and that's why. 21 COMMISSIONER TANG: Thank you. 22 THE CHAIRMAN: What about the other asterisk which says 23 "child life jacket(s)"? Just beneath "adult life 24 jacket(s)". 25 A. That's right. It said that every child should have one</p>
<p style="text-align: right;">Page 58</p> <p>1 Q. It's quite clear, I think, from the evidence we've heard 2 that Lamma IV had life jackets for every single seat -- 3 sorry, for the total number of people it was licensed to 4 carry. And that had been the position from the 1990s 5 onwards. So she had always been compliant with the 6 adult life jacket 100 per cent requirement since the 7 1990s. 8 THE CHAIRMAN: That's not a question he can answer. 9 MR McGOWAN: Perhaps not. 10 THE CHAIRMAN: Why don't you ask him one that he can? 11 MR McGOWAN: Did your Department have a policy or 12 a short-term measure -- call it what you will -- of 13 writing to shipowners who hadn't yet complied with the 14 2008 change, after survey, to inform them of this? 15 A. During the 2008 and 2009 period, the Marine Department 16 had had many, many meetings with the industry concerning 17 the new rule, not only in regard to the life jackets or 18 life-saving appliances alone but many other matters too. 19 And then both sides would have discussions, between both 20 sides, and then -- to understand the conditions in which 21 the industry finds itself, and to ascertain the 22 compliance or the conditions for complying with the new 23 rule. 24 THE CHAIRMAN: Now would you answer the question. Did the 25 Marine Department write to those that had not complied</p>	<p style="text-align: right;">Page 60</p> <p>1 life jacket. 2 THE CHAIRMAN: Yes, but if the position was that there were 3 no children's life jackets on board Lamma IV when she 4 was inspected, how was the licence marked in this way, 5 this false way? 6 A. No, it's not that. At the time of inspection, when 7 officers were doing the checking, there were life 8 jackets for children. But of course the form needs to 9 be improved. Improvement must be made to the form. 10 THE CHAIRMAN: So what the form states is the fact, as far 11 as you're concerned, that there would have been 12 children's life jackets on board at the time of the 13 survey, otherwise this would not have been marked in 14 this way? 15 A. Yes, it should have been like that. 16 THE CHAIRMAN: The short-term measure that you've described 17 didn't permit a false statement to be made; is that 18 right? 19 A. I have nothing to supplement my answer. 20 THE CHAIRMAN: No, I'm asking you to address that question. 21 This short-term measure or policy that you've described 22 did not go so far as to permit a false statement to be 23 made on the licence or the certificate of survey? 24 A. I agree. 25 THE CHAIRMAN: Thank you.</p>

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<p>1 MR McGOWAN: But granting a licence to a vessel which didn't 2 have children's life jackets on board was part of the 3 short-term plan or short-term policy; correct? 4 A. Yes. 5 Q. Right. And the survey check forms like the one we 6 looked at a few moments ago were never notated to show 7 that there were no children's life jackets on board or 8 there were not 100 per cent life jackets on board, by 9 the surveyors? 10 THE CHAIRMAN: That's the inspection record. 11 MR McGOWAN: The inspection record, yes. The check-off 12 list. 13 A. Yes. 14 Q. Right. So you didn't write to anyone who wasn't 15 complying to's remind them that this was a relaxation 16 that was only short-term, and the survey forms were 17 never marked to indicate that a problem had been 18 identified and required consideration and rectification 19 on the next survey; correct? 20 A. Correct. 21 Q. I'm sorry, I've gone rather longer on this topic than 22 I meant to. 23 The industry meetings that you talked about to 24 discuss the 2008 changes didn't include people like 25 Hongkong Electric who operated essentially a private</p>	<p>1 over 48,000 sets (30 sets per vessel) of drawings and 2 calculations to the LCS for consideration, vetting and 3 approval. As explained above, at that time there were 4 altogether 21 SSIs/SIs and also 2 surveyors of ships in 5 the LCS, and the drawing approval as well as initial 6 survey work had to be shared among them, meaning on 7 average, each ship inspector had to check around 2,285 8 sets of drawings and calculations, in addition to the 9 ship inspection duties they had to undertake (both in 10 relation to initial and annual survey)." 11 I just want to make sure that we understand the 12 relevance of this, Mr Wong. 13 THE INTERPRETER: Do you need it translated? 14 MR BERESFORD: Yes, please. 15 A. I understand. 16 Q. So as I was saying, I just want to make sure that we 17 understand the relevance of this, Mr Wong. Is it 18 suggested on behalf of the Director of Marine that 19 Mardep was understaffed and unable to cope with its 20 duties? 21 A. According to my knowledge, during the 1994-1996 period, 22 because of the vast amount of ships newly built, arising 23 from the new airport, staff were being overloaded. But 24 this overload was only a temporary phenomenon. 25 THE CHAIRMAN: But in that period, 1994-1996, were they</p>
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<p>1 launch service, did they? 2 A. Correct. 3 MR McGOWAN: Thank you very much, Mr Wong. 4 And thank you for allowing me to ask supplementary 5 questions. 6 THE CHAIRMAN: Mr Beresford? 7 Examination by MR BERESFORD 8 MR BERESFORD: Mr Wong, good afternoon. 9 A. Good afternoon. 10 Q. I have some questions to ask you on behalf of the 11 Commission, firstly in relation to the general systems 12 of vessel survey. 13 A. I understand. 14 Q. In your first statement, you have kindly and helpfully, 15 with the Department of Justice, deleted a large number 16 of paragraphs as no longer being necessary. But the one 17 that you've left in is paragraph 35. This may be found 18 in marine bundle 11 at page 3937. 19 This reads: 20 "I should point out that 1994 to 1996 was a period 21 of substantial boom in the shipping industry in 22 Hong Kong, and Mardep's records show that there were 23 over 1,600 vessels newly constructed during that period 24 (compared to an average of 30 per year now). These 25 1,600 newly built vessels entailed the submission of</p>	<p>1 overloaded so that they were unable to discharge their 2 duties? 3 A. Not really. 4 MR BERESFORD: Well, you weren't actually there, were you, 5 Mr Wong? 6 A. No, I wasn't there. 7 Q. So what is the point of including this in your 8 statement, please? 9 A. The point is to show that at that point of time, how 10 much work was being done. The amount of work, to show 11 the amount of work in that period of time. 12 THE CHAIRMAN: It's 1 o'clock, so we'll take the lunch 13 adjournment now. 14 Mr Wong, would you be kind enough to be back here to 15 resume your testimony at 2.30 this afternoon. 16 A. (In English) I understand. 17 THE CHAIRMAN: Mr Mok, might I ask that those instructing 18 you provide us with a redacted version of the statements 19 reflecting the revisions. 20 MR MOK: Yes. I will do that. 21 THE CHAIRMAN: Thank you. 22 (1.02 pm) 23 (The luncheon adjournment) 24 (2.30 pm) 25 THE CHAIRMAN: Mr Wong, may I remind you that you continue</p>

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<p>1 to testify according to your oath. 2 A. I understand. 3 THE CHAIRMAN: Mr Beresford. 4 MR BERESFORD: Mr Wong, before lunch I was asking you about 5 paragraph 35 of your first witness statement, in which 6 you were explaining how busy Mardep was in the years 7 1994-1996. In answer to my question, you said that 8 Mardep was overloaded at that time, although it was 9 temporary. And in answer to Mr Chairman's question, you 10 said it was not overloaded. So, now that you've had 11 an opportunity to reflect upon it over lunch, which is 12 the right answer, please? 13 A. Yes, it was overloaded. 14 Q. Thank you. 15 THE CHAIRMAN: When you give that answer, are you saying 16 that from your experience outside the Marine Department, 17 working with shipyards dealing with the Marine 18 Department? 19 A. That's right. 20 MR BERESFORD: But you are also saying this, are you not, 21 under the authority of the Director of Marine? 22 A. Yes. 23 MR BERESFORD: Mr Chairman, I'm going to move on to the 24 question of the system of vessel survey generally. 25 Mr Wong, you have dealt with that in your second</p>	<p>1 Q. And the present system, which is the system under 2 Cap 548, is set out in this witness statement, this 3 second supplemental witness statement, and section 4 (B.1), and indeed (B.2). 5 A. Yes. 6 Q. And then you come on to deal with improvements that you 7 or the Department feel could be made. 8 A. Yes. 9 THE CHAIRMAN: Where is that dealt with? 10 MR BERESFORD: It's dealt with at various places, 11 Mr Chairman, which I'm going to be coming to piece by 12 piece. 13 THE CHAIRMAN: Very well. 14 MR BERESFORD: Before we come to the improvements, there's 15 just one point that I would like to pick up in the 16 present system, which is at page 4168; paragraph 28(4). 17 A. Yes. 18 Q. You say there: 19 "The [ship inspector] would carry out survey 20 according to the drawings approved by Mardep." 21 A. Yes. 22 Q. That's always been the case, hasn't it? 23 A. Yes. 24 Q. So if the drawings showed a watertight bulkhead, the 25 ship inspector could not properly approve a bulkhead</p>
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<p>1 supplemental witness statement. 2 A. Yes. 3 Q. And you have filed this to explain the existing regime 4 of maritime safety concerning local passenger vessels in 5 respect of the construction and survey of local 6 passenger vessels? 7 A. Yes. 8 Q. And the other matters set out at paragraph 3 of your 9 witness statement? 10 A. Yes. 11 Q. In section (B.1) -- that's paragraphs 12 to 25 -- you 12 have set out the current plan approval procedures? 13 As I understand it, we're dealing with three 14 periods, really, which we might call past, present and 15 future. The past system, which was the system 16 prevailing at the time of Lamma IV, is set out in 17 section (B.2) of your first witness statement. 18 MR MOK: Sorry, the question was a reference to (B.2), not 19 (B.1). 20 MR BERESFORD: (B.2) of your first witness statement at 21 page 3934 of marine bundle 11, at paragraphs 22-25. 22 You've crossed that out as being unnecessary for us to 23 go into, and I respectfully agree. Is that right, 24 Mr Wong? 25 A. Yes.</p>	<p>1 that was not watertight? 2 A. If you look at the Sections and Bulkheads drawing, that 3 map, and if the ship inspector sees only that there is 4 an opening there, and if the ship inspector did not 5 refer to other drawings or did not see that there is 6 a watertight in other drawings and did not take 7 everything into consideration, take an overall 8 consideration, then possibly he would have approved it; 9 yes. 10 Q. Let me give you the opportunity of answering the 11 question again, Mr Wong. 12 If the approved drawing showed a bulkhead that was 13 not watertight, a ship inspector could not properly 14 approve it, could he? 15 THE CHAIRMAN: I don't think that is the way you formulated 16 the first question. Your point is this, is it not: if 17 the drawing said it was watertight -- 18 MR BERESFORD: No, not watertight. 19 THE CHAIRMAN: Not watertight? 20 MR BERESFORD: Not watertight. 21 THE CHAIRMAN: Well, rephrase it again. 22 MR BERESFORD: Perhaps I'll let you rephrase it, 23 Mr Chairman. 24 THE CHAIRMAN: I think what you're saying is this. If the 25 drawing says that the bulkhead is watertight, the ship</p>

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<p>1 inspector can't approve the vessel if it has 2 a non-watertight bulkhead. 3 MR BERESFORD: Yes. Thank you, Mr Chairman. 4 Can you put that question, please. 5 A. Yes, that's right. And then he would have the doubts 6 about it, and then he can raise it with the shipyard. 7 MR SHIEH: "(Chinese spoken)". "He might have". 8 THE INTERPRETER: Thank you. 9 A. He may have doubts about it, and he may then raise it 10 with the shipyard. 11 MR BERESFORD: Just bear with me for a moment, Mr Wong, if 12 you will. Assume for the moment a drawing that states 13 quite clearly "watertight bulkhead". No doubt about it. 14 And assume that that's a drawing that's been approved by 15 the Marine Department. If the ship inspector goes armed 16 with that drawing to inspect the vessel, and finds that 17 the bulkhead is not watertight, he can't approve it, can 18 he? 19 A. Correct. 20 Q. He doesn't have a discretion, even if it's less than 0.1 21 length; or does he? 22 A. Actually when he was doing the inspection about the 23 bulkhead, he may not have been aware of the 0.1 length 24 rule. And then what he approved will be based on what 25 he inspected on the scene.</p>	<p>1 from what they thought and what they look at it at that 2 point of time. 3 Q. Well, I'm not quite sure what you mean by that, Mr Wong. 4 Are you saying that you would have dealt with it 5 differently if you had been the ship inspector? 6 A. Yes. 7 Q. Yes. But you weren't the ship inspector, Mr Wong, so 8 I'm not asking you about that. They were all clear that 9 it was watertight. 10 A. Then that is their answer. 11 Q. Yes. So it is clear, isn't it? 12 A. They thought that they are clear about it. 13 Q. Yes. Then you go on to say in paragraph 32: 14 "Secondly, it appears that the information or 15 guidance provided to the [ship inspectors] did not 16 contain sufficient details to draw to their attention 17 particular items (for example watertight bulkheads) 18 which they should focus on in the course of their 19 inspection." 20 Well, firstly, as we've just established, they were 21 all perfectly clear, it seems, that this bulkhead was 22 supposed to be watertight. 23 And secondly, they had guidance contained in the 24 Blue Book, which you may wish to look at. Marine 25 bundle 8, page 1769. Paragraph 12(v).</p>
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<p>1 A. (In English) Based on approved drawing. 2 THE INTERPRETER: "Based on approved drawing". 3 MR BERESFORD: Yes, but I'm asking you if he was aware of 4 the 0.1 length rule, it still wouldn't entitle him to 5 approve a non-compliant bulkhead, would it? 6 I should make it clear that by "non-compliant", 7 I mean non-compliant with the drawings. 8 A. If he had been aware of the 0.1L rule, and then he views 9 that the bulkhead with the access opening there, and 10 then without the door, view that that is the case, in 11 that case he will have to seek advice or instruction 12 with his superior. He cannot give approval or 13 non-approval on the spot. 14 Q. So the answer is he can't give approval, can he? 15 A. Yes. 16 Q. Thank you. Now, at paragraph 31 of your witness 17 statement, under the heading of "Review of and 18 improvements to the system", you say that in relation to 19 the frame 1/2 bulkhead, it was not clear that the ship 20 inspectors involved in the hull inspection had queried 21 or ascertained whether it would be watertight or not. 22 Mr Wong, with respect, it's perfectly clear, isn't 23 it -- they've all told us they thought it was 24 watertight. 25 A. My view on this, after the fact, should be different</p>	<p>1 A. In this (v), it says that if the access opening is 2 fitted in a watertight bulkhead, then it is to have 3 an efficient closing appliance. 4 Q. Yes. Well, that's clear guidance, isn't it? 5 A. Yes. 6 Q. In what way would you say that that was insufficient? 7 A. Insufficient with the guideline being it should have 8 drawn their attention that at the location of 0.1L, the 9 bulkhead should be watertight. 10 A. (In English) Should be or should be not. 11 A. They should have checked whether the bulkhead at that 12 location should be watertight or not watertight. 13 Q. But they're required, I thought we had just established, 14 to carry out the survey according to the drawings 15 approved by Mardep. 16 A. There are certain places on the maps that are unclear. 17 A. (In English) On the drawings. 18 THE INTERPRETER: The drawings, sorry. "On the drawings 19 that are unclear". 20 MR BERESFORD: But that's your interpretation, Mr Wong. But 21 they were all clear that this bulkhead was supposed to 22 be watertight. So what are they supposed to do? It's 23 not their job to redraw the boat, is it? 24 A. Yes. 25 Q. Are you suggesting that if you found a watertight</p>

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<p>1 bulkhead at frame 1/2, you would tell the builders to 2 take the door off, to make it not watertight, just 3 because it wasn't required in order to satisfy the 0.1L 4 rule? 5 A. If they found the watertight there, it's not necessary 6 for them to take it away because -- 7 Q. No. 8 A. -- whether there is a door or not door, it does not 9 affect the flooding calculation. 10 Q. The 0.1L rule simply says you disregard a bulkhead. You 11 don't have to make it non-watertight. 12 A. According to the 0.1L rule, whether this is a bulkhead 13 or not, it doesn't have much effect. 14 A. (In English) This bulkhead is a non-existent bulkhead at 15 frame 1/2. 16 Q. You disregard it for the purpose of the 0.1L rule? Yes, 17 I understand that, Mr Wong. But it doesn't mean to say 18 that you disregard it for the purpose of a survey to see 19 whether a boat is constructed in accordance with its 20 drawings? 21 A. Correct. 22 Q. So would you agree, Mr Wong, that the problem seems to 23 have arisen because the first surveyor inspected the 24 hull at an early stage when there was no watertight 25 closing appliance. And he made no annotation to that</p>	<p>1 If you look at item 6, and I'm sure you've seen it 2 already, the shell and the bulkheads are stated to be 3 the Marine Department's responsibility, are they not? 4 A. There's a contradiction here. Let's refer to page 266. 5 Paragraph 6. 6 A. (In English) "The hull and main deck construction and 7 their dimensions have been inspected and found 8 compliance with request of the drawing." 9 A. Then our usual practice, by "hull", it would include 10 bulkhead, shell and all other structures. 11 Q. Well, that's not consistent with the list at page 265, 12 is it, Mr Wong? Because the hull construction survey is 13 a separate item; item 8. 14 A. Actually items 5 to 7, should include hull inspection. 15 This is where the classification lies, and this is also 16 where we have problem with communication with the China 17 Classification Society. 18 MR MOK: Sorry, I think the witness said that items 6, 7 and 19 8 are included in the hull construction. 20 A. 5, 6, 7 and 8. 21 THE INTERPRETER: The witness just said, "5, 6, 7 and 8". 22 MR MOK: No, no. "6, 7 and 8 are included in the hull 23 construction and that's where the contradiction lies". 24 A. Yes. 25 MR BERESFORD: So let's just imagine for a moment what</p>
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<p>1 effect. And the last surveyor looked only at the 2 annotations and so didn't check to see if the hull 3 complied with the drawings. 4 A. Yes. 5 Q. So it slipped between the cracks, didn't it? 6 A. This is one of the problems. The other one was that the 7 hull was built in mainland China and also inspected by 8 the China Classification Society. 9 Q. Well, we can have a look at that if you like, Mr Wong. 10 That's at page 265 in marine bundle 2. And you see here 11 the survey items list. The name of the vessel is "Cheoy 12 Lee Yard No. 4625". We know that that refers to 13 Lamma IV. 14 A. Yes. 15 Q. And you will see that on this page and in the next two 16 pages, the China Classification Society have signed off 17 on certain aspects of the construction. 18 A. Yes. 19 Q. And in the "Remarks" column, you can see that there's 20 sometimes an asterisk and sometimes the letters "HKMD", 21 amongst other things. There's a key at the bottom of 22 the first page, page 265, and the key shows that "HKMD" 23 refers to "Hong Kong Marine Department". And the 24 asterisk refers to China Classification Society, amongst 25 others.</p>	<p>1 happens, Mr Wong. The shipyard in China constructs 2 a bare hull. 3 A. Yes. 4 Q. And that comes to Hong Kong to be fitted out? 5 A. It should be like that. 6 Q. Yes. So if the China shipyard constructs a hull which 7 includes a bulkhead with an access opening, would that 8 not be one of the first things you would look at to note 9 that a door was required? 10 A. It is only when the hull has been completed and then 11 constructed and then delivered to Hong Kong, it was only 12 then that we start our inspection. 13 Q. Yes, indeed. But you can't finally judge watertight 14 integrity until the whole vessel is finished, can you? 15 A. We should have noticed this when we were examining and 16 approving the drawings. 17 Q. Yes. Thank you. And I suggest you should have noticed 18 it when examining and approving the vessel. 19 A. Yes. 20 Q. Thank you. You then go on to say in paragraph 34 of 21 your statement that the current system may benefit from 22 certain suggested changes. 23 THE CHAIRMAN: Which page? 24 MR BERESFORD: Pages 4169 to 4170, Mr Chairman. 25 THE CHAIRMAN: Paragraph 34?</p>

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<p>1 MR BERESFORD: Paragraph 34, and it's subdivided into three 2 at page 4170. Three proposals. 3 THE CHAIRMAN: Yes. 4 MR BERESFORD: The first proposal is to appoint 5 a classification society to carry out a review of your 6 procedures. 7 A. Yes. 8 Q. Do you have any idea which classification society it is 9 proposed to approach? 10 A. (In English) Lloyd's Register of Shipping. 11 Q. And secondly, you propose to provide clearer guidance to 12 the ship inspectors? 13 A. Yes. 14 Q. And you suggest providing a more detailed survey form 15 than is currently used. 16 A. Yes. 17 Q. And thirdly, you propose introducing an internal audit 18 by the head of a different section other than the Local 19 Vessels Section. 20 A. Yes. 21 Q. But it's right, is it not, that none of these proposals 22 effect any enhancement of the process of supervision? 23 A. No, these proposals should have such an effect. 24 Q. Well, I haven't quite followed how that could be, 25 Mr Wong. Could you explain it, please?</p>	<p>1 would be the one doing the double-check. 2 Q. Is this reflected in written policies and procedures? 3 A. We are prepared to put it in. 4 MR MOK: I'm sorry, Mr Chairman. I'm just wondering whether 5 or not the effect of page 79, lines 1-4 [of the draft 6 transcript], that answer is correct. 7 THE CHAIRMAN: This is in the transcript? 8 MR MOK: In the transcript, yes. Because I'm just wondering 9 whether or not the witness said, "When we finish with 10 the survey, then we will do a double-check before the 11 certificate would be issued". Maybe the witness can 12 clarify that. 13 THE CHAIRMAN: Well, that's my note. "After the certificate 14 of survey is done, we will double-check". 15 MR MOK: Yes, but I think it's not the certificate of survey 16 that was done. It was a survey that was done, and 17 then -- 18 THE CHAIRMAN: Very well. 19 Perhaps you can help us: the double-check system, at 20 what point is it going to come into play? 21 A. Before we issue the certificate. 22 THE CHAIRMAN: So after a survey has been done, for example 23 by an inspector, then a senior inspector will 24 double-check that the work has been done properly? 25 A. Yes. According to the law.</p>
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<p>1 A. Point (2). 2 Q. Yes? 3 A. Here in the inspection of the hull, the form as it 4 exists now is more general. But then we will break it 5 down and then itemise it. 6 Q. That's just giving the ship inspector a checklist, isn't 7 it, Mr Wong? 8 A. (In English) A more detailed checklist. 9 Q. Yes. That's just giving the ship inspector a more 10 detailed checklist? 11 A. And then also -- please move down to point (3). 12 Q. But point (3) is an audit by a head of a different 13 section, which is no doubt very worthy and I'm not 14 criticising that. But I'm asking you about everyday 15 supervision. 16 A. In terms of daily supervision, after we've finished with 17 the certificate of survey, we will do a double-check to 18 make sure that nothing is missed. And only after it's 19 assured, will we issue a licence. 20 Q. So who will double-check? 21 A. If the one doing the inspection is an inspector, then 22 his superior should be a senior inspector. And the 23 senior inspector should be doing the double-check. If 24 the one doing the inspection is senior inspector, then 25 his superior should be the surveyor. Then the surveyor</p>	<p>1 THE CHAIRMAN: And only then will the certificate be issued; 2 is that what you're saying? 3 A. That's right. 4 THE CHAIRMAN: So the work will be done twice? 5 A. Yes. 6 THE CHAIRMAN: For every certificate that's issued? 7 A. That's right. 8 THE CHAIRMAN: Sequentially? 9 A. Yes. 10 MR BERESFORD: Do you mean the senior ship inspector, or the 11 senior of the two, whichever it is, will actually do 12 a physical inspection himself, or will he just look at 13 the form to see if everything is ticked off? 14 A. He would not carry out a physical inspection himself. 15 He would do -- what he'd do would be he'd look at the 16 form and see if there's anything missing there, 17 according to his experience. 18 Q. Will he ever get out of his chair and make a random 19 inspection? 20 A. No, he won't. 21 Q. Do you think that might not be a problem, Mr Wong? 22 A. I think that doing a recheck of the item list should be 23 normal. It should not be a problem. 24 Q. That means that if you have a ship inspector who is not 25 doing his job properly, he could just tick off the</p>

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<p>1 boxes, quite comfortable in knowing that that old 2 surveyor in the chair in the office is never going to 3 get up and have a look. That's a system ripe for abuse, 4 isn't it, Mr Wong? 5 A. Not really, because right now there is still 6 a spot-check system. 7 Q. I just asked you if you'd conduct a random check, and 8 you said no. 9 A. Random check is different from our spot check. 10 MR BERESFORD: I hope the Commission will forgive me if 11 I don't pursue that. 12 THE CHAIRMAN: I think not every rabbit has to be chased 13 down every rabbit hole, Mr Beresford. 14 MR BERESFORD: Mr Wong, do you have any risk assessment 15 procedures whatsoever established in your department? 16 A. For the moment, no. 17 Q. Is it proposed to introduce any? 18 A. Then we have to refer to point (1) there, where we would 19 ask Lloyd's classification society to do a review of our 20 planning approval work and also our ship/vessel 21 inspection work. And this is part of the risk 22 assessment system. 23 Q. What if anything have you done to identify your 24 passenger safety objectives? 25 A. Based on the Lamma IV incident, and concerning the</p>	<p>1 has it been identified as a specific objective? 2 A. For the moment, right now, concerning the passenger 3 safety, what I have been able to identify is the issue 4 of life jackets and also the strength of the passenger 5 chairs. 6 THE CHAIRMAN: I think Mr Beresford is dealing with 7 a conceptual item. As you approach your objectives in 8 the Marine Department, have you identified one of your 9 objectives as being avoiding the loss of passenger 10 lives? That, I think, is the question. 11 A. Yes, this is one of our objectives. 12 THE CHAIRMAN: Now, flowing from that, what other matters 13 have you identified as being related to it, avoiding the 14 loss of passenger lives? 15 A. For matters leading from that concept, then drawing 16 approval, and also ship inspection. In these two 17 aspects, we should need to do a better job. Especially 18 with the ship inspection. 19 MR BERESFORD: What I am trying to get at, Mr Wong, and I'm 20 sure it's my fault if I'm not expressing it clearly, is 21 what, if anything, have you done to identify this as 22 your objective? Is it recorded in writing anywhere? 23 MR MOK: Mr Chairman, I don't know if this would help. What 24 Mr Wong is saying is that the Department would consult 25 Lloyd's for recommendation.</p>
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<p>1 passenger safety, then child life jackets, the placing 2 of child life jackets and also the -- 3 A. (In English) Adult and children. 4 A. -- adult and children life jackets, the placing of these 5 two, and also the fastening of the passenger seats, 6 these two areas need to be reviewed. 7 Q. So you wouldn't include the avoidance of the loss of 8 life in your safety objectives? 9 THE CHAIRMAN: Obviously, Mr Beresford, that falls within 10 the compass, at least in part, of the first item, of 11 life jackets for adults and children. 12 MR BERESFORD: It's specific, and what I'm getting at is 13 what is done to set the tone within the organisation. 14 THE CHAIRMAN: Addressing the question of avoiding the loss 15 of life? 16 MR BERESFORD: Addressing the question of passenger safety 17 generally. 18 THE CHAIRMAN: Well, avoiding the issue of loss of life of 19 passengers? 20 MR BERESFORD: Yes. 21 THE CHAIRMAN: Very well. 22 That's the question, Mr Wong: what, if anything, 23 have you done to address the issue of avoiding the loss 24 of passenger lives? 25 MR BERESFORD: With respect, Mr Chairman, my question was,</p>	<p>1 THE CHAIRMAN: Yes. 2 MR MOK: I don't understand that these recommendations have 3 already been made. They have not been made yet, as 4 I understand it. 5 THE CHAIRMAN: No, I follow that. But consulting Lloyd's 6 Register of Shipping is not the only thing that the 7 Marine Department have been doing. I think Mr Beresford 8 is pursuing what the other matters are. 9 MR MOK: Yes. 10 MR BERESFORD: And, Mr Chairman, it may well be something 11 that they wish to take up with Lloyd's Register of 12 Shipping. 13 THE CHAIRMAN: The question is, has this been written down, 14 what you're describing to us now? 15 A. Not in my witness statements. 16 THE CHAIRMAN: Is it written somewhere else? 17 MR BERESFORD: Is there any written administrative 18 procedure, any bulletin, any employee handbook? 19 A. Not for the moment. 20 Q. So how do you communicate it? 21 A. At our daily morning briefing. 22 Q. You see, it's difficult to avoid the impression -- I'm 23 sure you'll correct me if I'm wrong, Mr Wong -- that 24 your response to this is just to produce another longer 25 form. It's just more boxes for a ship inspector to</p>

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<p>1 tick. Where is the emphasis on the purpose of what he's 2 doing? Where is the emphasis on the importance of what 3 he's doing? It's just another form. Do you agree? 4 THE CHAIRMAN: That's two questions, Mr Beresford. 5 Your chance, Mr Wong. 6 A. Can you explain it again? 7 THE CHAIRMAN: Yes. Where is the emphasis on the purpose of 8 what the ship inspector is doing -- approving drawings, 9 approving the vessel -- and its importance? 10 A. We'll have to wait for Lloyd's Register to do a review 11 of our drawing approval and our ship inspections, and 12 after that, based on their review, we'll draft up a more 13 detailed code of practice to be conformed with by our 14 ship inspectors. 15 THE CHAIRMAN: When you say that you propose or you 16 recommend consulting the Lloyd's Register of Shipping, 17 will that be its office in Hong Kong or will that 18 London? Or both? 19 A. It's the sub-branch in Hong Kong. 20 THE CHAIRMAN: That's who you propose approaching? 21 A. We have signed a contract with them. They will start 22 doing their work this month. 23 THE CHAIRMAN: Do you have a copy of that, at least as far 24 as what it is that you've asked them to do? 25 A. It's at my office. I don't have it with me.</p>	<p>1 THE CHAIRMAN: Well, just tell us who you want him to 2 contact. Speak to me, and therefore he will hear what 3 you're saying. Who do you want contacting? 4 A. Mr Tang. 5 THE CHAIRMAN: What's his rank? 6 A. (In English) Surveyor of ship. 7 THE CHAIRMAN: He is the surveyor of ships, is he? 8 A. (In English) He is surveyor of ships in LVS, Local 9 Vessels Safety Section. 10 THE CHAIRMAN: Right, Mr Tang. And you'd like him to be 11 informed that the Commission would like to see the 12 contract that's been signed with Lloyd's Register of 13 Shipping. 14 A. Yes. 15 THE CHAIRMAN: Very well. Thank you. 16 I am addressing the unidentified gentleman at the 17 back of the court wearing the sports jacket and the tie. 18 If you'd be kind enough to make those arrangements, and 19 I'd ask someone from Lo & Lo to liaise with you so that 20 we can tell you how to get them here. Thank you very 21 much. 22 MR BERESFORD: Thank you, Mr Wong. 23 Moving on in your statement. You then go on to deal 24 with stability calculations. You've been referred by my 25 learned friend Mr Mok to the stability calculations in</p>
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<p>1 THE CHAIRMAN: Why isn't it referred to your statements? 2 A. Because we hadn't signed the contract then. 3 THE CHAIRMAN: You've been making statements up until 4 25 February. 5 A. They only signed and confirmed that they will accept 6 this commission, this work, the day before yesterday. 7 THE CHAIRMAN: So it was signed after your last statement? 8 A. Yes. 9 THE CHAIRMAN: And this contract sets out what it is you 10 want them to, does it? 11 A. Yes. 12 THE CHAIRMAN: And you can make arrangements for this to be 13 sent to us now, can you? 14 A. I have to notify my colleague. 15 THE CHAIRMAN: Yes. 16 Mr Mok, can steps be taken so that we can obtain 17 this information? It seems to bring things up-to-date. 18 Rather than making it aspirational, it's now apparently 19 the fact. 20 MR MOK: Yes, I think we can make arrangements to do that. 21 THE CHAIRMAN: Do you need to give someone a telephone 22 number or the name of a colleague? Perhaps you can say 23 who it is you want contacting. 24 A. I've got a colleague here, right inside this hall. So 25 I can contact him, can I?</p>	<p>1 the present case. You say that you and your colleagues 2 have concluded that the Lamma IV incident revealed 3 short-comings in the system for checking stability 4 calculations. At paragraph 36, you identify three. 5 A. Yes. 6 Q. And you say: 7 "There should be more effective double-checking of 8 the data obtained from the inclining experiment, and the 9 calculations for intact and damage stability ..." 10 A. Yes. 11 Q. You note: 12 "There is little documentation or record evidencing 13 what have in fact been checked by Mardep officers ..." 14 A. Yes. 15 Q. And you say: 16 "The current system of endorsing the stability 17 calculations with 'Seen' may give rise to uncertainties 18 as to the status of such documents and the role Mardep 19 has in respect of them." 20 A. Yes. 21 Q. Then you go on to suggest certain changes, which my 22 learned friend Mr Mok discussed with you this morning, 23 at paragraph 37. 24 A. Yes. 25 Q. The first change that you suggest is to:</p>

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<p>1 "Adopt the 'stability declaration' (for intact 2 stability) applicable in respect of Hong Kong registered 3 passenger ships ..." 4 A. Yes. 5 Q. "... which is derived from the [International Maritime 6 Organisation] Resolution A.749 (18) ..." 7 A. Yes. 8 Q. We looked at the form this morning with my learned 9 friend Mr Mok, but I don't believe we looked at the 10 resolution, which is at page 4495 of marine bundle 12. 11 As far as I could see, Mr Wong, this refers only to 12 intact stability and not damage stability? 13 A. Yes, that's right. A.749 concerns only intact 14 stability. 15 Q. And the forms that we see on the preceding pages at 4494 16 and 4493 are similarly concerned with intact stability, 17 aren't they? 18 A. The stability here should also include the intact 19 stability and damage stability. The two are together as 20 one. 21 Q. But damage stability is something quite different, isn't 22 it? 23 A. As far as a naval architect is concerned, intact and 24 damage stability, they are one and the same thing. If 25 one goes wrong, the other would go wrong too.</p>	<p>1 Q. Yes. But intact stability is mainly concerned with 2 transverse stability, is it not? 3 A. Yes. 4 Q. Whereas the damage stability, which starts at page 695, 5 assumes a hole in the hull? 6 A. It assumes that if there is a hole in any one of 7 a single -- in only one single compartment, then what 8 will happen to its longitudinal stability and also 9 transverse stability. 10 Q. Yes. It's a very different question, isn't it? 11 A. No. For naval architects, they are the same question. 12 Because if the inclining experiment data is not 13 accurate, it will affect both the intact stability and 14 damage stability. 15 Q. No doubt that's right, Mr Wong. But there's no 16 assumption of a hole in the hull in the intact stability 17 section of the report, is there? 18 A. That's right. It's called "intact". That's implied in 19 the name. 20 Q. Indeed. And the point is that the 0.1L rule, which 21 tells us what happens when there's a hole in the hull in 22 a compartment of less than one-tenth of the length of 23 the boat, has no relevance to intact stability, does it? 24 A. It will not be directly relevant, but it will be 25 indirectly relevant.</p>
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<p>1 Q. Well, let's have a look at the 2005 report which begins 2 at page 667 and which deals with both subjects. 3 THE CHAIRMAN: This is whose report? 4 MR BERESFORD: This is the Damage Stability Booklet, Cheoy 5 Lee's report, under cover of their letter at page 667 6 dated 21 September 2005. 7 THE CHAIRMAN: Yes. 8 MR BERESFORD: The booklet starts at page 668. We can see 9 from the list of contents that it deals firstly with 10 matters of general arrangement, general particulars, 11 details about the booklet and metric conversions, and 12 then it deals with the inclining experiment. And then 13 we have a section on intact stability, followed by 14 a section on stability after damage. That's right, 15 isn't it, Mr Wong? 16 A. Yes. 17 Q. And the word "intact" means "no damage", doesn't it? 18 A. Yes. 19 Q. Whereas "damage stability" assumes that one or more 20 compartments have been flooded. 21 A. Yes. 22 Q. And in fact we heard all about the intact stability 23 experiments, which involved transferring a weight from 24 one side of the vessel to the other? 25 A. That should go under "inclining experiment".</p>	<p>1 Q. Can you explain this. Can you tell us, please, how it's 2 going to help to introduce a standard form intact 3 stability, with an added box requiring compliance of the 4 0.1L rule? 5 A. This form here provides stability information, and by 6 that, it includes information on both intact stability 7 and damage stability. And on the items on the rows 8 under the stability information, we include information 9 both of intact stability and damage stability. 10 THE CHAIRMAN: But this form is yet to be drafted, so we 11 can't follow this. Is that the position? 12 A. Actually in this stability declaration which was 13 originally intended for ocean-going vessels, they will 14 put both intact stability and damage stability 15 requirements, both of them, on the form. And one more 16 point. Stability information doesn't look at intact 17 stability only; it will also have to look at the damage 18 stability and look at it overall. 19 THE CHAIRMAN: The form that we're looking at at page 4493, 20 page 4494, that's not the final product of what the form 21 is going to look like, is it? 22 A. That's right. 23 THE CHAIRMAN: So we can't tell whether or not your form 24 will address all matters. 25 A. Yes.</p>

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<p>1 MR BERESFORD: Would this be something you might take up 2 with Lloyd's Register? 3 A. Yes, I would. 4 Q. In that case, I move on to subparagraph (2), where you 5 discuss using the "seen" stamp. 6 You say that Mardep proposes to cease using the 7 "seen" stamp as an endorsement for stability 8 calculations or anything else, and instead you would 9 endorse the drawings, plans or documents with 10 "approved", "not approved" and "for record purpose". 11 A. Yes. 12 Q. "Approved" we can all understand, and "not approved" we 13 can all understand. But I hope you can explain to me 14 how "for record purpose" differs from the "seen" stamp. 15 A. Because some drawings submitted by the shipyard, those 16 drawings actually are not required by the Marine 17 Department for its approval, and therefore it's not in 18 our approval list. And therefore for this, we will 19 stamp "for record purpose". 20 THE CHAIRMAN: But that's the same use by which the "seen" 21 chop was used, is it not? Just a different formula of 22 words? 23 A. What we do now with "approved", "not approved" and "for 24 record purpose", this practice will be based on the code 25 of practice, approval drawing list, based on regulation</p>	<p>1 Q. So why keep it? 2 A. It takes only the time. 3 Q. Why keep it, let alone stamp it? You must be paying 4 rent for all those drawings you don't need to keep. 5 A. We will digitise all of them. 6 Q. Oh. So you'll keep a record of everything, will you, 7 Mr Wong? 8 A. Just in case, for any contingency. 9 THE CHAIRMAN: Well, you do get criticised when you don't 10 have documents. 11 MR MOK: Mr Chairman, it may help that in this case, some of 12 the drawings in relation to the Eastern District do have 13 that chop. For example, on page 198 -- 14 THE CHAIRMAN: "Seen"? 15 MR MOK: No, "for record purpose". So that's perhaps one of 16 the plans which turned out to be a little helpful. 17 Page 198 of marine bundle 2. 18 MR BERESFORD: So the purpose at the end of the day is "just 19 in case"; is that right, Mr Wong? 20 A. Life-saving appliances are also for "just in case", you 21 know. 22 Q. Now, I want to turn to another matter. That is in 23 relation to your fourth supplemental witness statement 24 which is in marine bundle 13, commencing at page 4927. 25 In this connection you were asked this morning some</p>
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<p>1 Cap 548. And this practice would be much more detailed 2 than required by the Blue Book, and therefore "for 3 record purpose", such a chop will be seldom used. 4 MR BERESFORD: So when you've checked stability 5 calculations, which chop would you use? 6 A. Mardep will use the "approved" or "not approved" chop. 7 Q. Is there any purpose in stamping a document "for record 8 purpose"? 9 A. Because some documents, such as those concerning the 10 propellers, they don't need to be approved and for these 11 drawings, we will stamp "for record purpose". 12 Q. Yes, but my question is, why stamp it at all? What's 13 the purpose of the stamp? 14 A. Because they will come along when they submit the 15 drawings in three copies, and then we have to return the 16 drawings to them. 17 Q. So why don't you just return them unstamped, if you're 18 not required to approve them? 19 A. If we can file it away for our own record, then it will 20 be useful to -- 21 A. (In English) It's no harm. 22 A. There's no harm doing it. 23 Q. Of course there is. It's a complete waste of time and 24 costs. 25 A. We don't need to look at the drawings themselves.</p>	<p>1 questions about the aft peak bulkhead and its location. 2 A. Yes. 3 Q. I think you calculated over the morning break that the 4 aft engine room bulkhead was 22 per cent of the length 5 from the stern of the vessel; is that right? 6 A. Yes. 7 Q. I just wonder how you calculated the term "length", and 8 I appreciate that it's not completely simple. So what 9 I suggest I do is put what Dr Armstrong has told me, to 10 you, and see if you agree. 11 A. Okay. 12 Q. He says that length is usually 96 per cent of the 13 distance from the forward perpendicular to the aft 14 perpendicular on a theoretical waterline -- 15 A. This is one of the interpretations for "length". 16 Q. Let me just finish what he says, if I may. 17 He says the theoretical waterline is 85 per cent of 18 the depth to the main deck of the vessel. 19 THE CHAIRMAN: I'm sorry, depth from where? I understand 20 the main deck, but where are we going from? 21 MR BERESFORD: I would be guessing, Mr Chairman. It's 22 a definition taken from SOLAS, so I would have to look 23 further to see how "depth" is defined. 24 THE CHAIRMAN: Perhaps the witness knows what you're talking 25 about.</p>

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<p>1 MR BERESFORD: Perhaps I can ask him in a moment. But if 2 I can just finish getting the elements of the definition 3 on the transcript? 4 THE CHAIRMAN: Yes. 5 MR BERESFORD: The forward perpendicular is at the 6 intersection of this theoretical waterline and the stem 7 of the vessel. 8 A. Yes, I understand. 9 Q. And the after perpendicular is at the centreline of the 10 rudder stock? 11 A. This is a conventional term. 12 A. (In English) Conventional type of vessel. 13 A. This would apply to a conventional type of vessel. 14 Q. Yes. Before we move on, can you just explain to the 15 Chairman or the Commission what is meant by "depth" in 16 this context? 17 A. By "depth", it will be the distance starting from the 18 surface of the inner plate of -- bottom of the vessel, 19 all the way up to the top of the main deck. That will 20 be called "depth". 21 Q. When you estimated 22 per cent this morning, were you 22 thinking along these lines? Were you estimating in 23 terms of this definition? I appreciate you may not have 24 had all the information to be precise. Is that what you 25 were estimating, or were you using a different basis?</p>	<p>1 A. (In English) For this vessel, it never been happened 2 that the draft, the full-load draft would be at 3 80 per cent depth. Is that clear? 4 THE CHAIRMAN: What did you take as the length of Lamma IV, 5 in order to do the calculation to answer my question? 6 A. (In English) I take it from the extreme stem and below 7 the waterline, there's a difference. I take an average 8 of that point. 9 THE CHAIRMAN: Just give me the figure. What did you take? 10 A. (In English) It's about 22 per cent. I gave you before. 11 MR BERESFORD: Yes, but what was the length that you assumed 12 for that purpose, Mr Wong? 13 A. (In English) I've got to check again. 14 THE CHAIRMAN: Yes. 15 A. (In English) I just roughly check the percentage, but 16 I forget it. 17 THE CHAIRMAN: Take your time. 18 A. (In English) 6.2 metres, about. This is the length from 19 the stem -- from the stern, to the engine room aft 20 bulkhead. To the -- 21 THE CHAIRMAN: What length have you taken for Lamma IV, in 22 order to come up with 22 per cent? 23 A. (In English) I'm sorry, I gave you the wrong figure. 24 Yes, it is 6.2 metres from the stern to the engine room 25 aft bulkhead.</p>
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<p>1 A. I just did a very rough estimation on -- 2 Q. I appreciate it was a very rough estimation, but was 3 your estimation consistent with this, or was it on 4 a different basis altogether? 5 THE INTERPRETER: The witness asked to be given the 6 drawings, one of the drawings. 7 MR BERESFORD: Yes. 8 A. (In English) The General Arrangement. 9 Q. Okay, if you'd like to see a drawing. Which drawing 10 would you like to see? 11 A. (In English) General Arrangement. 12 A. My rough estimation, if based on Dr Armstrong's 13 definition, then it will come up with a difference of 14 two metres. 15 Q. So using that definition, then, what is your estimation 16 of the length? 17 A. I would like to supplement my answer on the previous -- 18 Q. Yes, please do. 19 A. Dr Armstrong's definition applies only to conventional 20 vessels, and for conventional vessels -- 21 A. (In English) For this vessel. 22 A. For this vessel, conventional vessel -- 23 A. (In English) For this type of vessel. 24 MR MOK: No, "this vessel". 25 A. For this vessel --</p>	<p>1 THE CHAIRMAN: Yes. 2 A. (In English) That's the aft peak bulkhead there. 3 THE CHAIRMAN: I follow that, but what length have you taken 4 for Lamma IV overall, in order to tell me 6.2 metres is 5 22 per cent? What length have you taken? 6 MR BERESFORD: Mr Wong, if it helps, on the stability 7 booklets we're told that the length overall is 28 metres 8 and the length waterline is 24.89 metres. Did you take 9 one of those figures, or a different figure? 10 A. (In English) It's about 22 metres. 11 Q. 22. And what, in your estimation, would be the 12 equivalent figure for the bulkhead at frame 1/2? 13 A. (In English) Measured from where? 14 Q. Estimated on the same basis. 15 A. (In English) About 6 per cent. 16 Q. During the course of his testimony, examples were put to 17 Dr Armstrong of vessels where it was said that the aft 18 peak bulkhead was located more than 0.1L from the stern. 19 The reference is Day 28. The date was 1 February 2013. 20 It's page 62, line 17, which refers to marine bundle 11 21 at page 4057. 22 We see an example there of an Austal Inshore Patrol 23 21, and then there's another one at page 4059, 24 an Austal 35 Liveaboard, which was put to Dr Armstrong 25 at page 67, line 11.</p>

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<p>1 These were put to Dr Armstrong on your instructions, 2 were they, Mr Wong? 3 A. Given by one of my colleagues. 4 Q. But they're not amongst the examples that you've 5 produced at WWC-25. 6 A. No, they are not included. They are not among them. 7 Q. The examples at WWC-25 can be found in bundle 13, 8 commencing at page 4932. 9 We see that the first one is a multihull. Do you 10 agree? 11 A. Yes. 12 Q. And that appears to be the same vessel at page 4933. 13 A. Yes. 14 Q. At page 4934 there's another multihull. 15 A. Yes. 16 Q. And that vessel continues on to page 4935. Multihulls 17 have rather good stability characteristics, do they not, 18 Mr Wong? 19 A. Because they have different stability requirements, it's 20 hard to compare among them. 21 Q. Indeed. So why are we comparing them? 22 A. But structurally, they're the same. 23 Q. With respect, not really, Mr Wong. I mean, you only 24 have to look at Sea Smooth, which lost the forward part 25 of one of its hulls and managed to sail intact to Yung</p>	<p>1 there are monohulls. It's only you who singled out this 2 one for discussion. 3 Q. Well, I'm taking one at a time, Mr Wong. We're dealing 4 with multihulls now, so let's stick to the multihulls 5 for the moment, shall we? You've given us quite a few 6 multihulls to look at. Can we simply agree that they're 7 not comparable? 8 A. No. Structurally, they can be compared. 9 Q. I'm sorry, Mr Wong, I understood you just to say that 10 they can't be compared. 11 A. Stability concerns. For that, they can't be compared. 12 THE CHAIRMAN: May I invite you to move on to what is the 13 direct comparison, a single-hulled vessel. Let's see 14 how we get on there. 15 MR BERESFORD: The first single-hull that we come across is 16 at page 4936. But that's not a passenger vessel, is it, 17 Mr Wong? 18 A. No, it's not a passenger vessel. 19 Q. And that vessel is also on page 4937. The next vessel 20 is page 4938. And that's not a passenger vessel either, 21 is it? 22 A. Yes, it's not a passenger vessel. 23 Q. And the next vessel is at page 4940. That appears to be 24 a double-ended ferry. 25 A. Yes, that's right.</p>
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<p>1 Shue Wan. 2 A. This is one of the characteristics of catamarans. 3 Q. Yes, and on a catamaran, you have two aft peak spaces, 4 do you not? 5 A. Yes. 6 Q. And each one is considerably smaller than the equivalent 7 monohull? 8 A. That's right, they are considerably smaller but you 9 can't compare it that way. 10 Q. But you would expect the aft peak bulkhead to be further 11 forward on a catamaran than on a monohull, wouldn't you? 12 A. There's no such requirement stipulating where exactly 13 the aft peak bulkhead would be. 14 Q. No. I asked you if you would not expect the aft peak 15 bulkhead in a catamaran to be further forward than in 16 a monohull. 17 A. Let's refer to page 4937, when they have -- 18 Q. I'm talking generally. I'm asking you generally, 19 Mr Wong. 20 A. Generally, it's hard to compare between catamaran and 21 monohull. 22 Q. Yes, indeed. So I ask you again, why are we being asked 23 to compare them? 24 A. You see, this is only one of the examples provided by 25 me. Further down, I will have other examples where</p>	<p>1 Q. So in fact that doesn't have an aft peak bulkhead; it's 2 got two forward collision bulkheads? 3 A. If the ship sails ahead, sails forward, then of course 4 the one in front is the aft peak bulkhead and then the 5 one behind -- 6 A. (In English) At the aft. 7 A. -- the one at the aft is aft peak bulkhead. 8 Q. But, Mr Wong, are you seriously trying to help this 9 Commission? We all know that these ferries go in both 10 directions. 11 A. Yes. 12 Q. So of course one end is aft one way, and the other end 13 is aft the other way. But it goes both ways, so it has 14 to have a forward collision bulkhead at both ends, 15 doesn't it? 16 A. Correct. 17 Q. Then the next vessel, at page 4941, is another 18 multihull; do you agree? 19 A. That's right. 20 Q. And the next vessel at page 4942 is also not a passenger 21 vessel; it's another work boat. 22 A. Yes. 23 Q. The next vessel, at page 4943, is both a work boat and 24 a catamaran. 25 A. Yes.</p>

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<p>1 Q. The next vessel, at page 4945, is another double-ended 2 ferry. 3 A. Yes. 4 Q. The next vessel, at page 4947, is another work boat, not 5 a passenger boat. 6 A. No, it's not a passenger boat. That's right. 7 Q. The next vessel, at page 4949, the Runo, is another 8 multihull? 9 A. Yes. 10 Q. The next vessel appears to be a passenger vessel and 11 a monohull? 12 A. Yes. 13 THE CHAIRMAN: Which page are we on now? 14 MR BERESFORD: So this one is page 4951, the Sakorn Wisai, 15 the training vessel from Thailand. 16 Dr Armstrong will say that this has a distance from 17 the centre of the rudder stock to the aft peak bulkhead 18 of about 7.8 metres. Would you agree with that? 19 A. You mean measuring from the centre of the rudder stock, 20 right? 21 Q. Yes. To the aft peak bulkhead. 22 MR MOK: "From the centre of the rudder stock to the stern". 23 That's the question. 24 MR BERESFORD: No. From the centre of the rudder stock to 25 the aft peak bulkhead.</p>	<p>1 that I've just done, the distance should be 3.4 metres. 2 Q. 3.4 metres? 3 A. That's right, 3.4 metres. 4 Q. What percentage of the length is that, in your 5 estimation? 6 A. Probably less than 5 per cent. 7 Q. So if Dr Armstrong is consistent in his use of the SOLAS 8 definition, which you agreed was the conventional 9 definition, this doesn't undermine his proposition that, 10 generally speaking, the aft peak bulkhead is around 11 10 per cent or less? 12 A. I don't agree. 13 Q. Can you explain why? 14 A. Because there is no such requirement stipulating that 15 the aft peak bulkhead has to be 10 per cent. 16 Q. No. Nobody has suggested there is a requirement, 17 Mr Wong. Can you answer the question I put to you, 18 please. 19 MR MOK: Mr Chairman, my learned friend refers to the SOLAS 20 definition. 21 THE CHAIRMAN: Yes. 22 MR MOK: I'm not sure that the SOLAS definition actually 23 features here as a definition of the aft peak bulkhead. 24 I don't know where it is. 25 THE CHAIRMAN: To what were you referring when you said</p>
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<p>1 A. Was he talking Lamma IV? 2 THE CHAIRMAN: No. I think you're being told that that's 3 what this vessel, Sakorn Wisi, measures. 4 MR BERESFORD: Page 4952, Mr Wong. 5 THE CHAIRMAN: I think what we might do is leave you to 6 ponder on that and we'll take a 10-minute break. 7 (4.30 pm) 8 (A short break) 9 (4.42 pm) 10 THE CHAIRMAN: Yes, Mr Beresford. 11 MR BERESFORD: Thank you, Mr Chairman. 12 Mr Wong, we were looking at the case of the training 13 vessel from Thailand, the Sakorn Wisi, and I was putting 14 to you that Dr Armstrong considered that the distance 15 from the centre of the rudder stock to the aft peak 16 bulkhead was about 7.8 metres. And I was asking if you 17 agreed with that. I appreciate that your measurement 18 may be from the stern, from the transom, but from the 19 centre of the rudder stock to the aft peak bulkhead, 20 would you agree that that's about 7.8 metres? 21 THE INTERPRETER: The witness had just answered, "I don't 22 agree." 23 A. I don't agree. 24 MR BERESFORD: What do you say it is then, Mr Wong? 25 A. According to the measurement and the ratio of the vessel</p>	<p>1 "Dr Armstrong's use of the SOLAS definition"? 2 MR BERESFORD: The definition of "length" earlier. 3 THE CHAIRMAN: Length. That's what I thought. 4 MR BERESFORD: I mentioned that the definition was sourced 5 from SOLAS. 6 THE CHAIRMAN: Yes, I understand that so it deals with 7 length. 8 MR MOK: But there isn't such a definition that deals with 9 length, in SOLAS. 10 THE CHAIRMAN: Very well. Do you want to take the witness 11 to what you say is the definition. 12 MR BERESFORD: I just wonder if we're at cross-purposes. My 13 learned friend was talking about a definition of where 14 the aft peak bulkhead goes. 15 THE CHAIRMAN: He was, but when you pointed out you were 16 talking about SOLAS definition of "length", he 17 challenged that as well. Can you take us to a SOLAS 18 definition of "length"? 19 MR BERESFORD: Not now, Mr Chairman. I have to call 20 Dr Armstrong for that. But in my respectful submission, 21 my learned friend's challenge doesn't go to the SOLAS 22 definition of "length", it goes to whether there's a 23 definition of where an aft peak bulkhead should go. 24 THE CHAIRMAN: Well, at some stage deal with what you say is 25 the SOLAS definition of "length", please.</p>

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<p>1 MR BERESFORD: Certainly, Mr Chairman. But my question to 2 the witness is not predicated upon there being any 3 definition or any regulation requiring an aft peak 4 bulkhead to be placed at any particular place, certainly 5 not 10 per cent. 6 THE CHAIRMAN: We have that. I think we've got your point 7 as well. He doesn't agree with you, but your point is 8 nevertheless your point. 9 MR BERESFORD: Very well. I'll move on, Mr Chairman. 10 THE CHAIRMAN: Your point is this doesn't in any way 11 contradict Dr Armstrong, and for some reason he doesn't 12 agree. "There's no such requirement" was his causal 13 explanation, which is a non-sequitur, is it not? 14 MR BERESFORD: It is, Mr Chairman. 15 THE CHAIRMAN: Thank you. We have that. 16 MR BERESFORD: Moving on to the next vessel, Mr Wong, to 17 pages 4953 and 4954, the boat from Taiwan. 18 A. Yes. 19 Q. The LSM Servewell. This is described as a crew boat. 20 A. Yes. 21 Q. Would you include that as a passenger vessel? 22 A. According to the definition in our code of practice, any 23 vessels carrying more than 12 persons can be regarded as 24 a passenger vessel. 25 Q. Okay. Thank you, Mr Wong.</p>	<p>1 A. Yes. 2 Q. And that reason also applies to the next vessel, 3 pages 4955 and 4956. 4 You can see from page 4956 that the engine room is 5 aft. Do you agree, Mr Wong? 6 A. Yes. 7 Q. And this also happens to be a catamaran, another 8 multihull? 9 A. Yes. 10 Q. Then the last vessel at page 4957 to 4958 is not 11 a passenger vessel, is it, Mr Wong? 12 A. That is not a passenger vessel. 13 Q. The "engine room aft" point we've noticed in relation to 14 the vessel at page 4953, this also applies at page 4949, 15 does it not? 16 A. Yes. 17 Q. And we can see from page 4950 that this too is a vessel 18 of less than 24 metres. 19 A. Yes. 20 Q. And similar considerations apply at page 4947 to the 21 Bremen, which we had noted was not a passenger vessel. 22 But also the engine room is aft, is it not? 23 A. Yes. 24 Q. And we can see from page 4948 that the length overall is 25 23.9 metres.</p>
<p>Page 110</p> <p>1 Can we then turn to the code of practice, which is 2 in the marine bundle starting at page 3461. 3 At page 3461, chapter IIIA, part 2, "Hull 4 Construction". Section 2, "Bulkheads". 2.1: 5 "Every launch or ferry vessel should be fitted with 6 the following watertight bulkheads: 7 ... 8 (d) if the vessel exceeds 24 metres in length, 9 an aft peak bulkhead unless the engine room is situated 10 at aft end of the vessel." 11 A. Correct. 12 Q. So we see that this boat from Taiwan -- first of all, 13 the length waterline is 19 metres. So it wouldn't fall 14 within the measurement of section 2.1(d) in any event. 15 You can see the length at page 4953, under the heading 16 "Specifications". "Length overall: 21.5 metres. Length 17 waterline: 19.0 metres." 18 A. Yes. 19 Q. So the code of practice wouldn't require an aft peak 20 bulkhead on that basis alone, would it, Mr Wong? 21 A. Yes. 22 Q. Then we can see from page 4954 that the engine room is 23 situated at the aft end of the vessel. So that's 24 another reason why this vessel wouldn't fall within the 25 requirement in 2.1(d) of the code of practice?</p>	<p>Page 112</p> <p>1 A. 23.9? Yes. 2 Q. Less than 24 metres? 3 A. Yes. 4 Q. Then we've already noted that page 4945, the ferry for 5 Panama, is double-ended. But perhaps we could just note 6 the specific requirement at 2.2 of the code of practice, 7 page 3461: 8 "In double-ended vessels, collision bulkheads should 9 be fitted at both ends." 10 A. Yes. 11 Q. And then at page 4943, we've already noted that this is 12 not a passenger vessel, it's a catamaran, and can we 13 please note in addition that the engines are aft. We 14 can see this on the plan at page 4943 as well as the 15 plan we've just seen at page 4944. They both show that. 16 Do you agree, Mr Wong? 17 A. Yes. 18 Q. And we can see that the length of the vessel is less 19 than 24 metres from the specifications listed on 20 page 4943? 21 A. Yes. 22 Q. At page 4942, we've already noted that this vessel is 23 not a passenger vessel. But we can see from the 24 specifications also that it's less than 24 metres. 25 A. No, it should be more than 24 metres.</p>

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<p>1 THE CHAIRMAN: 24.5 metres. 2 MR BERESFORD: That's the length overall. 3 A. All the lengths, the metres that you just said, they all 4 denote length overall. 5 Q. Well, we can go back over them. I think page 4943, the 6 length overall and the length of the hull and the length 7 waterline are all less than 24 metres. Page 4948, the 8 length overall -- 9 THE CHAIRMAN: I don't think it's necessary to do that. 10 So you take issue with "length overall", and you 11 say, Mr Wong, that's more than 24 metres? Is that your 12 point? 13 Is that the right measurement of length to take for 14 this purpose or not? 15 A. No. 16 THE CHAIRMAN: So are you satisfied that for our purposes, 17 it is less than 24 metres? 18 A. Agree. 19 MR BERESFORD: What's the relevant length for the purpose of 20 section 2.2 in the code of practice? Sorry, 21 section 2.1. 22 THE CHAIRMAN: Since the witness has agreed, we don't need 23 to go any further, do we? He's agreed that this is to 24 be considered as less than 24 metres. 25 MR BERESFORD: I misheard, Mr Chairman, I'm sorry. If</p>	<p>1 an understanding of the meaning of the term "peak 2 bulkhead" for the purposes of this instruction. 3 A. Correct. 4 Q. And in applying this instruction, would the meaning of 5 "peak bulkhead" be the same for all kinds of vessels, or 6 would the meaning be different for different kinds of 7 vessels? 8 A. It applies to all kinds of vessels. 9 Q. So it follows that the meaning of "peak bulkhead" should 10 be the same whether or not the vessel is a catamaran or 11 a passenger boat or a tug boat or other vessel? 12 A. Yes. 13 MR MOK: Thank you. I have no further questions. 14 THE CHAIRMAN: We have now received -- I'm just looking at 15 it now -- "Proposal for Consultancy Services" which 16 appears to be Mr Wong's colleague's efforts to provide 17 us with the contract. 18 Have counsel seen this yet? 19 MR MOK: It hadn't been circulated yet, but I understand 20 that there is a redacted version and some parts are 21 being looked at. 22 THE CHAIRMAN: Yes. Certainly redacting money, if that's 23 what's been redacted, is not a difficulty. It's the 24 ambit of the work that we're interested in. 25 MR MOK: Yes.</p>
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<p>1 that's the case, then of course there's no need. 2 So of all these examples, only one of them is at all 3 comparable. And in that case, the relevant length is 4 very much less than 10 per cent. 5 A. I have said previously, whatever the type of the vessel, 6 that alone would have no bearing on -- would not affect 7 the structural arrangement. 8 MR BERESFORD: I don't want to go over old ground, Mr Wong. 9 Would you forgive me for a moment, Mr Chairman? 10 THE CHAIRMAN: Yes. 11 MR BERESFORD: Thank you, Mr Chairman. I have no further 12 questions. 13 THE CHAIRMAN: Mr Mok? 14 MR MOK: I have one question arising from Mr Beresford's 15 questions. 16 Further examination by MR MOK 17 MR MOK: Mr Wong, can I direct you back to the Blue Book in 18 relation to the rule concerning aft peak bulkhead at 19 page 1769 of marine bundle 8. Can you look at 20 instruction 12(iv) again, which says: 21 "In all double-ended launches and launches over 22 70 feet long, peak bulkheads will be required at both 23 ends." 24 A. Correct. 25 Q. In applying this instruction, one has to have</p>	<p>1 (Handed). 2 THE CHAIRMAN: Is this the document you had in mind, 3 Mr Wong? 4 A. Yes. 5 THE CHAIRMAN: Do you have a hard copy? 6 A. Yes. 7 THE CHAIRMAN: This is a proposal, is it not, rather than 8 the contract? Or has it been signed off as accepted? 9 Perhaps that's what page 4966, 26 February, means. At 10 the bottom. 11 A. Yes, that is it. 12 THE CHAIRMAN: The only reason we're interested in this at 13 all is to find out what it is that you were asking 14 Lloyd's Register of Shipping to do to help the Marine 15 Department. Can you direct our attention to where we 16 find that question answered? 17 A. Page 4963, at 2.1. 18 THE CHAIRMAN: This is under the title "Scope of work": 19 "To reassure the public that the local licensed 20 vessels operated in Hong Kong are safe, the Department 21 is now taking the initiative to review its controls and 22 practices on the safety construction of local vessels. 23 It has requested LR [presumably Lloyd's Register] to 24 provide services in this respect as follows: 25 1. Independent audit, (including audit on plan</p>

<p style="text-align: right;">Page 117</p> <p>1 approval and survey works), on an ongoing annual basis, 2 of Mardep LVSB -- 3 Local Vessels, and what is "SB", Mr Wong? 4 A. (In English) "Branch". 5 THE CHAIRMAN: " -- operational practices against the 6 requirements of ISO 9001:2008. 7 2.2 Deliverables. 8 3. Certification to ISO 9001:2008 is not required, 9 but a full audit report will be produced after each 10 visit, and any non-conformities raised will be followed 11 up as required, and proposed corrective actions will be 12 reviewed. Audits will continue on an annual basis 13 unless the arrangement is terminated by either party." 14 Is there anything else that helps us as to detail? 15 Because this is skeletal, is it not? 16 A. On page 4964, annex 1. 17 THE CHAIRMAN: Yes. Would you read out what you say helps 18 us there? 19 A. "Vertical Technical Audit". 20 THE CHAIRMAN: Yes. So: 21 "Witness set of annual or renewal surveys on at 22 least 2 local vessels -- from initial planning through 23 to final report (and certificate issue if appropriate). 24 The number of VTAs [that's vertical technical audits] 25 may be increased based on the findings of the first 2."</p>	<p style="text-align: right;">Page 119</p> <p>1 contract no doubt you do. 2 A. It's been attached to our witness statement. 3 A. (In English) Second supplemental statement. 4 THE CHAIRMAN: Thank you. And can you help us as to which 5 of the appendices it is? 6 A. (In English) WWC-5, page 4197. 7 THE CHAIRMAN: Thank you very much. What we're looking for 8 is ISO 9001:2008. Where do we find that in these 9 documents? 10 MR MOK: There's a reference at page 4217. 11 THE CHAIRMAN: Thank you. Ah, yes. 12 MR BERESFORD: Mr Chairman, this does not appear to be the 13 ISO publication. The ISO publication provides generic 14 requirements, and this appears to be an adoption of the 15 ISO standard for the purposes of the Local Vessels 16 Safety Branch, which may or may not be adequate. 17 THE CHAIRMAN: Yes. Let me try Mr Wong again. 18 Do you have the ISO document; that is, 9001:2008? 19 A. No. 20 THE CHAIRMAN: And yet it's part of a contract? 21 A. Can I -- 22 MR MOK: I'm sorry, when you asked whether or not he has it, 23 I think the translation is "whether or not you have it 24 here". 25 THE CHAIRMAN: Very well.</p>
<p style="text-align: right;">Page 118</p> <p>1 So, just help us if you would. How many annual or 2 renewal services does the Local Vessel Branch deal with 3 every year? 4 A. Around 3,000. 5 THE CHAIRMAN: So it's to take two out of 3,000; is that it? 6 A. Yes. 7 THE CHAIRMAN: Although that number may be increased, 8 depending on the findings of those first two? 9 A. Correct. 10 THE CHAIRMAN: Then the initial audit of Local Vessel Branch 11 office activities is to be "Full QMS". What is "Full 12 QMS"? 13 A. Quality Management System. 14 THE CHAIRMAN: Thank you. 15 "Full QMS audit of LVSB, including interviews with 16 all key members of staff." 17 MR BERESFORD: Mr Chairman, I wonder if I could ask for us 18 to be provided with a copy of the ISO 9001:2008, because 19 that is the document I think that will provide the 20 detail that you need. 21 THE CHAIRMAN: Yes. 22 MR BERESFORD: I'm looking at a summary on the internet, but 23 the document itself is not available because it has to 24 be purchased. 25 THE CHAIRMAN: Do you have a copy, Mr Wong? As it's in your</p>	<p style="text-align: right;">Page 120</p> <p>1 Does the Marine Department have this ISO 9001:2008? 2 A. It should have. 3 THE CHAIRMAN: I'm sure it should have. It's part of 4 a contract that you've signed, so that at least you know 5 what you've agreed to. Can you give us a copy of it so 6 that we can follow what it is that you're asking Lloyd's 7 Register of Shipping to do? 8 A. It should be based on the spirit of ISO 9001:2008. 9 THE CHAIRMAN: Well, if you provide us with a copy, we'll be 10 in a better position to understand it, won't we. So 11 will you provide us with a copy, please. 12 A. Yes. 13 THE CHAIRMAN: Thank you very much. 14 COMMISSIONER TANG: Mr Wong, can you enlighten us in terms 15 of the date range for this contract. Apparently the 16 contract was signed, as you said, on the 26th of this 17 month, and the date range here, it says "mid-February 18 2013". This is page 4964. So actually, has the work 19 started or it's been delayed or is it going to start in 20 March? I'm referring to annex 1. Thank you. 21 A. This one was signed on 26 February, and afterwards it 22 goes into effect. And today is 1 March. That's what 23 I said. This one will take effect in March. 24 COMMISSIONER TANG: Thank you. 25 THE CHAIRMAN: Now, dealing with a separate matter. Can</p>

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<p>1 I ask you to go to page 4640, which is in your third 2 supplementary statement. At paragraph 10, you deal with 3 one of the matters that we were grappling with earlier, 4 and thank you for helping us on this. You say there 5 that Sea Smooth would have been an HSC. That's 6 a high-speed craft, is it not, if we look back at 7 page 4639, paragraph 5? 8 A. Yes. 9 THE CHAIRMAN: Then you help us with a second issue. That's 10 the yellow flashing light. Page 4641, paragraph 11, 11 towards the bottom: 12 "For the Commission's information, there is no 13 requirement that a yellow flashing light be installed on 14 a non-DSC, a HSC or a non-HSC." 15 So Sea Smooth being an HSC, there's no such 16 requirement. You go on to say: 17 "Mardep's policy is to require such a light to be 18 installed on DSCs only. Since Sea Smooth is not a DSC, 19 it is not required to be installed with a yellow 20 flashing light." 21 A. Yes. 22 THE CHAIRMAN: Thank you for helping us answer that 23 conundrum. Just to conclude that, "DSC" is again 24 defined in that paragraph 5 as being "dynamically 25 supported craft". Would we understand that to be</p>	<p>1 MR MOK: Yes. Raymond. And the other one is Mr Leung 2 Wing-fai. 3 THE CHAIRMAN: Yes. 4 MR MOK: They have respectively filed a witness statement, 5 and what I propose to do is simply to ask them to adopt 6 it in their evidence-in-chief, and to ask the 7 Commission's leave for these to be filed as one of the 8 key documents. 9 THE CHAIRMAN: Yes. As far as Mr Chung is concerned, he 10 addresses the number of deaths on ocean-going passenger 11 vessels and river-trade vessels. I'd ask that he 12 provide us with information on the number of deaths on 13 vessels that were underway, if he's in a position to do 14 that. All kinds of vessels. 15 MR MOK: We'll follow up on that. 16 THE CHAIRMAN: When I say "underway", that would therefore 17 exclude, for example, accidents that happen when people 18 fall into the cargo holds or -- 19 MR MOK: Right. In motion? 20 THE CHAIRMAN: In motion, yes. 21 MR MOK: Thank you. 22 THE CHAIRMAN: There is another matter I want to deal with, 23 and it is to put on the record, so the public know of 24 this development -- for that matter, it may be news to 25 counsel. We have received a letter from Reed Smith</p>
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<p>1 a hovercraft? Or is it something else? 2 A. That's right. Dynamically supported vessel. That's 3 what its name implies, hovercraft being one of them. 4 THE CHAIRMAN: Thank you. Given that you are yet to provide 5 us with that ISO 9001:2008, I think it appropriate that 6 I ask you to come back on Monday in case some matters 7 arise out of the information that you provide. So 8 please do that. Monday at 10 o'clock, please. 9 A. (In English) Okay. 10 THE CHAIRMAN: Thank you. For current purposes, though, you 11 may leave the witness box. 12 Mr Mok, do you have another witness that you propose 13 calling? 14 MR MOK: Yes. The next witness is Mr Chung. 15 THE CHAIRMAN: I think given the time, though, we won't ask 16 you to call him now. 17 MR MOK: Right. 18 THE CHAIRMAN: I'll deal with some ancillary matters. 19 MR MOK: Yes. But, Mr Chairman, may I say what I propose to 20 do with the next two witnesses, who are already listed 21 in the list of witnesses. 22 THE CHAIRMAN: Yes, please. 23 MR MOK: One of them is Mr Chung. I will give Mr Chairman 24 the name of the witness. 25 THE CHAIRMAN: Chung Siu-man?</p>	<p>1 Richards Butler in which they say the following: 2 "We refer to our counsel's 'anticipatory' 3 application on Day 34 (18 February 2013) of the Inquiry 4 to serve an Expert Report dealing with the 'Navigation' 5 and 'Ship-handling' aspects of both vessels, including 6 comments on Captain Browne's report. 7 Upon further consideration, and having considered 8 all the evidence of Sea Smooth's crew we do not think 9 that this further Expert Report will add anything 10 substantial to the evidence and Expert materials already 11 before the Commission. 12 Our clients have therefore decided not to seek leave 13 to serve the Report and/or call its maker, and therefore 14 withdraw their application." 15 Do you confirm that to be the case, Mr McGowan? 16 MR MCGOWAN: I do indeed. You'll recollect it was a "just 17 in case" application in any event. 18 THE CHAIRMAN: Yes. As far as I'm aware, the report has 19 never been served on the Commission. 20 MR MCGOWAN: No, it hasn't. We were trying to update it as 21 the evidence went along, and that's why it wasn't served 22 earlier. If it had gone in, we wanted to give you as 23 up-to-date a report as possible. 24 THE CHAIRMAN: Thank you. I see neither Mr Sussex nor 25 Mr Zimmern is here, but is any representative of Holman</p>

<p style="text-align: right;">Page 125</p> <p>1 Fenwick Willan here? 2 MR CHAN: Yes, Mr Chairman. 3 THE CHAIRMAN: Yes. Can you not necessarily answer me now, 4 but the Commission would be assisted to know what your 5 position is as far as Captain Browne is concerned. 6 MR CHAN: Yes, Mr Chairman. 7 THE CHAIRMAN: Given the evidence that we've received from 8 the crews. 9 MR CHAN: We will be taking instructions today, Mr Chairman, 10 and we will report first thing on Monday morning. 11 THE CHAIRMAN: Thank you very much. 12 Now, as far as Monday is concerned, my 13 co-Commissioner has another commitment which will 14 preclude us from sitting beyond 11 o'clock in the 15 morning. What we propose to do, subject to any great 16 difficulty that this might cause, is to sit in the 17 afternoon from 2 o'clock until 6 o'clock. That will 18 give us a decent long session. We'll take a break in 19 the middle of that period. Does that cause anybody 20 insurmountable difficulties? 21 Very well. In which case, thank you for 22 accommodating us in that way, and we'll adjourn now 23 until 10 o'clock on Monday. 24 (5.30 pm) 25 (The hearing adjourned until 10 am on Monday, 4 March 2013)</p>	<p style="text-align: right;">Page 126</p> <p>1 I N D E X 2 MR WONG WING-CHUEN, SAM (on former1 oath in Puntì) 3 4 Examination by MR MOK (continued)1 5 6 Examination by MR McGOWAN40 7 8 Examination by MR BERESFORD62 9 10 Further examination by MR MOK114 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
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