

**FINAL REPORT
OF THE COMMISSION OF INQUIRY
INTO THE TRAGEDY OF “MV SEA HORSE”
AND CREW MEMBERS WHICH
OCCURRED OFF COETIVY ISLAND
ON 26TH AUGUST, 2018**

Part I – INTRODUCTION

Chapter 1 - Preliminary

1.1 Appointment

The President of the Republic of Seychelles, His Excellency Danny Faure, in exercise of his powers conferred by Section 2 of the Commissions of Inquiry Act, Cap. 39 issued commissions appointing the following persons as members of a Commission of Inquiry, namely:

Justice Bernardin Renaud as Chairperson, and Captain Robert Morgan, Mr. Marc Brutus, Mr. Idney Basset, and Mr. Joseph Athanasius, as members.

The Commissioners made and subscribed their Oath of Office in the presence of the President.

1.2 Gazette Publications

The appointment of the Commission was duly Gazetted on 18th August, 2020 as entry No. 641 of 2020. It sets out the terms of reference, the venue where it would be held, appointment of its Secretary, and also gave directions to the Commissioner of Police to assist the Commission when called upon to do so.

1.3 Terms of Reference

The terms of reference of the Commission are as follows:

- (i) To inquire into the boat tragedy known as Sea Horse Tragedy which occurred in the early morning on 26th August, 2018 off the coast of Coetivy Island
- (ii) Render a Report of the findings of the Commission and recommendations if any, not later than 18th February, 2021.

The President initially, directed that the venue, where the Inquiry would be held in public, shall be at the former National Assembly Hall at National House, Victoria, Mahe. That venue was thereafter changed and the Inquiry was held at the Supreme Court Annex Building, Ile du Port, Mahe.

In terms of Section 7(1) of the Commissions of Inquiry Act, the President also appointed Ms. Cecile Boniface to serve as Secretary to the Commission.

The President also directed the Commissioner of Police, in terms of Section 20 of the same Act, to make available Police Officers to attend and assist the Commission, to preserve order during proceedings of the Commission, to serve summonses on necessary parties or witnesses and to perform such other duties as the Commission may direct.

In view of the delay caused by various factors, including the COVID 19 pandemic, extension of time was sought and granted up to 31st October 2021.

1.4 Brief profile of Commissioners

Justice Bernardin Renaud is a retired Judge of the Supreme Court/Constitutional Court and Justice of Appeal of Seychelles. Previously served for 20 years in the Public Service and last position held the position was of Labour Commissioner. Admitted as a Barrister, Attorney-at-Law and Notary Public in 1989. Attended training in ADR (USA) and Arbitration (MRU). Held the position of Director of Elections; Chairman Constitutional Commission (3rd Republic); served 10 years as Ombudsman before serving in the Judiciary for 15 years. Have undertaken similar public inquiries on three previous occasions.

Captain Robert Raymond Morgan is a retired Master mariner trained at the Liverpool College of Technology, UK and Glasgow College of Nautical Studies. Served at sea for 12 years before holding the position of Pilot/Harbour Master in Seychelles for 14 years. Chairman of IMO's Facilitation Committee for 4 years. Managing Director of Naval Services (1994) Ltd for 24 years. Served on various other Boards of Directors, including Seychelles Breweries, Seychelles Commercial Bank, Central Common Cold Store, Seychelles Marine Accident Investigation Board and Ile du Port Handling Services. Is a Fellow of the Nautical Institute (FNI) and Associate Member of the International Institute of Marine Surveying (AIIMS).

Mr. Marc Augustin Brutus is now retired and runs his own Fire Consultancy Services. Has over 45 years of experience in Aviation Fire Fighting and Rescue Services, 25 years of which he held the position of Chief Fire Officer at the Seychelles International Airport. Had intensive firefighting training at the International Fire Training Centre Tees-Side, UK; Incident Command Control and Sea Rescue training with the Singapore Aviation Academy; Leadership and Management training with Bliss in South Africa and SIM in Seychelles.

Mr. Idney Norlis Basset, OND and HND (UK); BSc in Marine Technology (UK); MSc Maritime Safety Administration Engineering (Sweden); practical training Lloyds Register of Shipping (London), ILO Maritime Labor Convention, (Turin), Practical Survey Training (Sweden) (Norway) (Finland) (UK). I.M.O Consultant, (Kenya, Tanzania, Seychelles); Marine Engineer Officer, Houlder Bros & Co. Ltd (UK); Design Draftsman, Houlder

Offshore (UK), Marine Engineer with the Government of Seychelles, Managing Director Naval Services, Surveyor to Bureau Veritas; (Classification, damage and Statutory Surveys on various types and sizes of vessels both locally and internationally).

Mr. Joseph Frank Athanasius, holds LL.B (Honours) Degree from University of Warwick (UK) and LL.M (Honours), in International Maritime Law from the IMO, International Maritime Law Institute. Drafted various legislations including the 1995 Merchant Shipping Act and Regulations. International Legal Adviser to various Maritime Government Projects as well as representation at International bodies including the UN to secure Seychelles Extended Continental Shelf. Mr. Athanasius has been practicing law since 1984.

1.5 Public Notices

Notices were inserted in the ‘Nation Newspaper’ as well as on SBC Radio and Television.

1.6 The Law – Cap. 39

The Commissions of Inquiry Act, Cap. 39, (“the Act”) empowers the President to commission such Inquiry. The following extracts are the pertinent and relevant provisions:

Section 2(1):

“The President may, whenever he shall deem it advisable, issue a Commission appointing one or more Commissioners to inquire into –

- (a) the conduct of any officer in the public service; or*
- (b) the conduct or management of any department of the public service, or any public or local institution; or*
- (c) any matter relating to the public service; or*
- (d) any matter of public interest or concern; or*
- (e) any matter in which an inquiry would be for the public welfare.”*

The Gazette notification indicates that this Inquiry is more specifically in terms of Section 2(1)(d) and (e).

Section 5

“No commission issued under this Act shall lapse by reason of, or otherwise be affected by, the death, absence or removal of the President who issued the Commission.”

Section 7(1):

“The President may appoint a secretary to attend the sittings of the Commission, to record their proceedings, to keep their papers, summon and minute the testimony of witnesses and generally to perform such duties connected with such inquiry as the Commissioners shall require.”

Section 8:

“The Commissioners shall, after taking the oath or making the affirmation prescribed in section 6, make full, faithful and impartial inquiry into the matter specified in the Commission, and shall conduct such inquiry in accordance with the directions (if any) in the Commission; and, in due course, shall report to the President in writing the result of such inquiry; and also, when required, shall furnish to the President a full statement of the proceedings of the Commission, and of the reasons leading to any conclusion arrived at or reported.”

Section 12(1)

“Commissioners acting under this Act shall have power to summon witnesses, and to call for the production of books, plans and documents, and to examine witnesses and parties concerned on oath.”

Section 13:

“All persons summoned to attend and give evidence, or to produce books, plans, or documents at any sittings of the Commission shall be bound to obey the summons served upon them as fully in all respects as witnesses are bound to obey a summons issued from the Supreme Court, and the Commissioners shall have the powers of the Courts to compel the attendance of any witness failing to obey such summons.”

Section 20:

“The President may direct the Commissioner of Police to detail police officers to attend upon the Commissioners, to preserve order during the proceedings of the Commission, and to serve summonses on witnesses, and to perform such ministerial duties as the Commissioners shall direct.”

1.7 Methodology

Public Notices were published in the local newspapers, broadcasted and telecasted on SBC Radio and Television, inviting all persons who had relevant information relating to the incident, to contact the Commission.

The Commission reviewed various previous Reports including the Report of the Marine Accident Investigation Board; the Report of the Learned Magistrate who conducted an Inquest relating to the crew members; Court proceedings relating to the incident, as well as many other documents.

All documents that were presented to Commission and were reviewed, are contained in the List of Exhibits annexed to this Report.

The Commission also held a series of public hearings where members of the public and officials of various institutions were either invited or summoned to give evidence.

The dates of the sittings and the names of those persons who adduced evidence, oral and/or documentary, are set out hereunder.

The Commission has made a synopsis of each deposition which can be found at paragraph 11 of this Report.

No locus in quo was held on Coetivy island as the Commission concluded that not much additional facts would be revealed in view of the lapse of time. The Commission also took

into account that there was a previous site visit made by members of the MAIB soon after the incident.

The Commission also carried out its own research by referring to published articles by prominent and reputable institutions.

1.8 Interim Report

On 23rd July, 2021, the Commission submitted an Interim Report of its activities, outlining the causes of the delay in the progress of the work of the Commission and also sought an extension of time to conclude its mandate.

Part II – TESTIMONIES, EXHIBITS AND RESEARCHES

Chapter 2 – Evidence

2.1 Witnesses Testifying

The following persons testified before the Commission. A synopsis of their full testimony can be found at the page(s) of this Report as indicated in brackets.

- W1. - Mr. Francis Savy, - Sea Horse Logistic (Pty) Ltd. (page 12).
- W2. - Mrs. Juliana Esticot - Registrar of the Supreme Court – who tendered the case file 468/19 - Inquest before the Magistrate; and the Supreme Court file MC 19/2019. (page 13).
- W3. - Ms. Emily Gonthier – Who produced the MAIB Report. (page 14).
- W4. - Mr. Davis Simeon – Police Officer who produced the police investigation file that he presented at the Inquest (page 15).
- W5. - Capt. Allain Andre Khan – a member of MAIB (page 16).
- W6. Mrs. Sarah Dugasse – Sister of deceased - Nigel Fanchette (page 18).
- W7. - Mr. Glenny Savy – CEO IDC (page 23).
- W8. - Mr. Raymond St. Ange – Superintendent of Prisons (page 39).
- W9. - Mr. Jude Fanchette – Brother of deceased Nigel Fanchette (page 42).
- W10. - Captain Joachim Valmont – CEO SMSA (page 47).

- W11. - Mr. Conrad Benoiton – CEO SEYPEC (page 53).
- W12. - Mr. Glenn Gappy - sole survivor (page 62)
- W13. - Col. Michael Rosette – Chief of Staff SPDF (page 72).
- W14. - Mr. Ronny Brutus – CEO SPA (page 74).
- W15. - Lt. Col. Leslie Benoiton – SCG (page 75).
- W16. - Lt. Lyndon Lablache –SCG (page 91).
- W17. - Mr. Richard Ernesta – SMSA (page 95).
- W18. - Mr. Anandkumar – IDC (page 97).
- W19. - Mr. Sankar Kanji – GICC (page 104).
- W20. - Mr. Bryan Camille – IDC (page 110).
- W21. - Mr. Yannick Roucou – SFA (page 114).
- W22. - Mr. Golty Dupres – IDC (page 117).
- W23. - Mr. Patrick Sopha – Prison Inmate (page 122).
- W24. - Mr. Rommell Albert – IDC (page 135).
- W25. - Dr. David Payet -IDC (page 143).
- W26. - Mr. Ronny Malvina – IDC (page 148).
- W27. Mr. Elvis Stravens – IDC (Page 162).

2.2 Exhibits Tendered

During the hearing, 31 documents were produced by witnesses. These were admitted by the Commission and marked as exhibits. A brief description of each exhibit is set out hereunder:

- Exhibit 1: Magistrate’s Court file PQ 468/2019. This is the file containing all the verbatim statements made by witnesses, relevant documents, police report and the findings of the Learned Magistrate at the Inquest.
- Exhibit 2: Box file from MAIB.
- Exhibit 3: Supreme Court file MC19/2019. This is the entire case file of the Judicial Review filed by IDC in respect of the Sea Horse incident.
- Exhibit 4: This is the Report of the MAIB, produced by its Chairperson Ms. Emily Gonthier.

- Exhibit 5: A blue file produced by Ms. Emily Gonthier in connection with the investigation by MAIB.
- Exhibit 6: A blue file produced by Police Officer Davis Simeon containing all the statements recorded by the Police during the course of its investigation of the incident.
- Exhibit 7: Letter dated 15th March, 2019 from the CEO SPA Mr. Ronny Brutus to Mrs. Sarah Dugasse.
- Exhibit 8: Letter dated 23rd June, 2020 from Ms. Emily Mousbe of the SPA to Mr. Jude Fanchette.
- Exhibit 9: Statement of Mr. Glenn Savy, the CEO IDC.
- Exhibit 10: Local Safety Manning Certificate dated 4th May, 2018.
- Exhibit 11: Local Safety Radio Certificate dated 4th May, 2018.
- Exhibit 12: Local Load Line Certificate dated 4th May, 2018.
- Exhibit 13: Minimum Safe Manning Certificate dated 29th March, 2017.
- Exhibit 14: Request to Sail dated 23rd August, 2018.
- Exhibit 15: Copy of Local Port Clearance.
- Exhibit 15A: Booklet of Local Port Clearance Book.
- Exhibit 16: Sea Horse Management Agreement.
- Exhibit 17: Letter dated 15th February 2019 from SEYPEC setting out procedures for transporting fuel in plastic containers.
- Exhibit 18: Letter dated 14th July, 2015 from SEYPEC re: drum filling of petroleum products.
- Exhibit 19: Report of incident “MV Sea Horse” dated 26th August, 2018.
- Exhibit 20: Memorandum dated 14th May 2018.
- Exhibit 21: Checklist dated 3rd May, 2018.
- Exhibit 22: Owner’s Manual of Manitou Telehandler.
- Exhibit 23: Bundles of documents.
- Exhibit 24: Pink file.
- Exhibit 25: Blue file.
- Exhibit 26: Admiralty Chart No:724.
- Exhibit 27 (a to g): Bundles of photos.

Exhibit 28 (a to c): More Photos.

Exhibit 29: Photo of the sole survivor Mr. Glenn Gappy and four other persons.

Exhibit 30: Aerial Photo of the “MV Sea Horse”;

Exhibit 31: Written records made by Mr. Ronny Malvina, IDC setting out chronologically the sequence of events.

All the above stated documents are also appended to this Report at the page indicated.

2.3 Research Documents

The Commission also obtained certain other documents e.g. Tidal Information; Loading Plan of MV Sea Horse, etc. These documents are appended to this Report.

Through its own research, the Commission accessed other pertinent and relevant documents. These are also appended and marked as (RDs) Research Documents.

RD 1 - Guidance for the Storage of liquids in Intermediate Bulk Containers issued jointly by Chemical Business Association and Solvents Industry Association;

RD 2 - Civil Aviation Authority (UK), Aircraft Fueling and Fuel Installation Management (Cap 748).

RD 3 – Safety Data Sheet – Gasoline (All Grades) issued by Hollyfrontier.

RD 4 – Loss Prevention February 2017 issued by North of England P & I Association.

RD 5 – Battery Talk issue No: 03 of 2010 – exploding batteries. Issued by Century Yuasa.

RD 6 – University Concordia – Environmental and Safety (EHS – DOC – 146 v .1 p 9 to 18).

RD 7 – Safety Data Sheet (dry battery) – issued by East Penn Manufacturing Co.

RD 8 – Principles and practices towards SAR (Search and Rescue) services: a comparative study on states’ approaches to improving maritime SAR - dissertations by Chao Wang, World Maritime University. The Maritime Commons: Digital Repository of the World Maritime University.

RD 9- Notes on Aviation Fuel and Fuel Tanks from International Fire Centre (UK) – 3rd October 2004.

RD 10 - A Toxicological Review of the Products of Combustion – Health Protection Agency –Centre for Radiation, Chemical and Environmental Hazards, Chemical Hazards and Poisons Division, Chilton, Didcot, Oxfordshire OX11 0RQ (HPA-CHaPD-004) (UK).

RD 11 - IBC Guidance Issue, 1 March 2008_2 (HSE).

RD 12 - Marine Fire Prevention, Firefighting and Fire Safety, published by the US Marine Administration.

2.4 Synopsis of Testimonies

The Commission heard the testimonies of 25 witnesses. Some of whom returned to the witness stand on more than one occasion in order to complete their testimonies.

What follows is a synopsis of their respective depositions highlighting the pertinent points made. The full depositions of each witness are appended to this Report at the pages flagged.

W1 MR. FRANCIS SAVY – Sworn

Mr. Francis Savy, produced the Bill of Sale between Universal Enterprise Private Ltd of Maldives represented by Captain Manikur owner of Sea Horse transferring MV Sea Horse to Seychelles Logistic Ltd and he represented Sea Horse in that document. Since around 2015, he formally left that company which was taken over fully by Mr. Ahmed Mahair Didi, whose name is also listed in the document. At some point Mr. Didi was the majority shareholder of that company. The last that he was involved with the vessel was around mid-2015, and the vessel thereafter went back to the Company and they entered into an arrangement with IDC. He was and is not party to that. Any further information has to be provided by Mr. Didi. The Certificate of Incorporation of Logistic Ltd showed the shareholders as himself with 10% of the shares 90% was for Mr. Didi, at that time.

Mr. Glenn Savy the CEO of IDC who was present undertook to provide to us the Management Agreement between IDC and Mr. Didi who at that time was the owner of MV Sea Horse.

Mr. Glenn Savy said that he will get in touch with Mr. Ahmed Mahair Didi. He spoke to Mr. Didi a day ago or so to establish whether he has received the summons and he has not yet and he confirmed that. He confirmed that Mr. Didi has either left Seychelles this morning or tomorrow for family reason but will be back next week but he will try and get hold of that information. But what he would be able to provide to the Commission is the Management Agreement that existed between IDC and Mr. Didi on the management of vessel and as far as he knows, at the time they signed the management agreement of this vessel, the ownership was with Mr. Didi.

W2 REGISTRAR OF THE SUPREME COURT – Sworn

The Registrar of the Supreme Court, Mrs. Juliana Esticot produced case file No. 468/19 which contains the verbatim record of the Inquest regarding the crew members of MV Sea Horse, namely Darren Kevin Laurence Morel, Nigel Luc Fanchette; Norcy Alexander Serret and Ranjit Prematilaka who disappeared in the incident. The file is now **Exhibit P1**.

She also produced documents PQ468/19; PQ556/19; PQ557/19 and PQ 558/19 in connection with that Inquest. The case files are **Exhibit P2**.

Mrs. Esticot also produced the case file of a Judicial Review, MC19/2019 filed by IDC represented by its CEO Mr. G. Savy as Petitioner vs Marine Accident Investigation Board represented by its Chairperson Ms. Emily Gonthier, as the Respondent. The case was heard by Judge Vidot. The Judicial Review case file is now **Exhibit P3**.

W3 MS. EMILY GONTHIER – Sworn

Ms. Emily Gonthier was the Chairperson of the Marine Accident Investigation Board who investigated this matter and produced a Report. She produced the MAIB Report with all the exhibits, including some correspondence and some notes. The MAIB Report is now **Exhibit P4**. The file etc. is now **Exhibit P5**.

W4 POLICE OFFICER DAVIS SIMEON – Sworn

Mr. Simeon produced a file containing all documents, statements etc., in connection with his investigation. He had previously produced these documents at the Inquest. The file is now **Exhibit P6**.

W5 CAPT. ALLAIN ANDRE KHAN – Sworn

Capt. Khan deponed that at the time of the incident in August 2018, he was not a member of the MAIB but as the investigation was going on, he was called upon to assist. Accompanied by Mr. Idney Basset who was a member of the MAIB, flew to Coetivy Island on 6th September, 2018 and interviewed the inmates, the Prison Warden and many other persons. Prior to that a member of the MAIB had done so but then they found that lots of bits and pieces were missing and that was the reason why they went again.

They submitted their findings to MAIB and he was then asked to stay and assist with the Inquiry and he volunteered to do so pro bono. At the end of it, though not being hundred percent certain of what happened he felt that they had a very good idea of what may have happened, obviously subject to other opinion.

The MAIB Report contained no malice, and as a professional seaman, he felt that the recommendations made in the Report ought to be put in place.

The Report is **Exhibit P6**. He felt that they had put a lot of effort and at the end of it they felt that they made many recommendations which to his personal surprise, found that it was not entirely appreciated. Things then started to take wrong turn because he felt the recommendations, especially those relating to petroleum products, which was acknowledged by SEYPEC, were later very hotly disputed by other parties, and which in the end, the Report was not accepted. He does not know the technicality why the Report was not accepted. But as far as he understands, the content of the Report was never disputed at all.

Capt. Khan also felt that because they did the investigation very shortly after the incident happened, he could say that, you would not believe you will get a better Report than that because a lot of people have since left, moved on and have forgotten certain things. To this day, the majority of the members of MAIB who produced it still stand by what they stated.

Ms. Emily Gonthier who was still present at the hearing applied for and was granted permission to clarify certain matters. She stated that the Court Ruling in the case of the Judicial Review is not final it is being appealed. The grounds of appeal are basically on the Judge's interpretation of the competency of the jurisdiction of MAIB to investigate and his interpretation of MAIB as a adjudicating authority. The contents of the Report itself were not challenged. The Report contained only recommendations submitted to the Minister and who would take action and not MAIB therefore it cannot be judicially reviewed.

A point that Ms. Gonthier raised was that when they were doing the investigations, they did not go to SEYPEC directly, the people they spoke to were people who were on the ground who were actually involved with the loading operation who she personally interviewed. Some of them did not want to make formal statement because what was found out eventually was that whilst SEYPEC did have procedure in place about loading of fuel apart from some guidelines, which on the ground in fact these were not necessarily being followed. The names of some people interviewed are not necessarily in the Report because they wanted to remain anonymous as they fear of losing their jobs.

The other point raised in the Judicial Review was about the search and rescue operation subsequent to the investigations and the Report. She did not get any opportunity to speak to the person in charge of the Coast Guard but they obviously liaised with Capt. Valmont. The basis of their findings of the search and rescue operation was that there should be a protocol in place as to how it should be carried out. The main problem is that the authorities who should have taken the steps but did not do it. One of the findings, was that IDC sent a plane to Coetivy and there was still seats on board. Other authorities could have also flown there and taken action immediately. It seems that either they were confused about what the procedure was or they knew but did not take, and that is one of the main things we found.

W6 MRS. SARAH DUGASSE – Sworn

Mrs. Sarah Dugasse is the Administrator at the Logan Hospital, La Digue.

Her elder brother Mr. Nigel Fanchette was involved in the incident. She received a call on Sunday 7 am from her other brother Mr. Jude Fanchette who lived on Mahe, who informed her that there was an incident involving “Sea Horse” that Nigel was also involved. After all messages had been circulated, and then Mrs. Herminie called her and told her to get a member of the family to come to IDC Office. She received confirmation that four people got lost and that Nigel was also included. She never gave any information before MAIB. It was the first time that she gave evidence. She never received any call. None of her brothers or sisters gave any information. Her bother was married and had children. He was not married but was living on Mahe with Ms. Maryse Lucas who has a 13-year-old daughter named Chelsea. He had a 20-year-old son, his first child, Chris Fanchette, who lives at Grand Anse, La Digue.

Mr. Nigel Fanchette was living on La Digue before going to work on “Sea Horse. He was living with her and their parents. He went go to school and also to NYS. Nigel, had been working at sea all the time. He was a good swimmer. And whoever talks to me, tells me that my brother is good swimmer.

Nigel always had a smile on his face. He was a very lively person. When the house is quiet, he will put up the animations. He liked cooking coconut curry especially local chicken. He was in love with the sea and started way back with his father Mr. Ludgere Fanchette together with his other brothers. Nigel was someone that loved music. His guitar was his best friend. He always had a dream and he told her - *“sister, one day I will release a CD”*., the way he liked to sing. He told her that he had a lot of problems and he will compare his problems to be a sickness. He used to think about the sickness as ‘cancer’. When she looked look at Nigel, he was a man full of life, quite big, a good father, a good fighter in front of everything, and there was nothing he would not have fought for his life. Each time she thinks of him, she thinks of him with his smile and his music.

Like everyone else, he used cigarette and his drinks. When at work he is to be a serious person; well-disciplined, who knew what he was doing. Nigel liked to crack jokes and that he liked helping others too. When he says he is going to work, he is really going to work. All his other siblings would describe him the same way that she had just described. During his younger days he played football. When he went to school those days, he used to walk from Grand Anse to La Passe to go to school. He was a physically a fit person. Before they moved to Grand Anse they lived at Nid D'Aigle. When he was working on the boat, he always travelled from Grand Anse to La Passe on foot. She never knew that Nigel worked at any other place other than the sea. When he was younger, he was slimmer but when he joined the Sea Horse he was older and physically his body had changed.

The last time she saw Nigel was when he came to La Digue on the 13th August 2018 and he left La Digue on the 16th August. When she saw him, he was having some grey hair, he was past 50 years then, his face was still fresh but he has put on some weight. He stayed at home and then he visited other family members at Grand Anse and at L'Union Estate. Every year he will come for La Digue feast on the 15th August, staying with the family, he will cook, he will play music amongst themselves as family.

When came at home, he drank sociably but never to the point of falling down.

He usually smoked Mahe King cigarette. In her presence he would smoke one or two but he was not a heavy smoker. When lighting his cigarettes, he used whatever he was carrying, either matches or lighter. She never observed him waking up at night to go and smoke. He smoked during the day only.

After the incident it remained an empty hole, it remains a lot of questions without answers. She tried to follow all developments with regards to what happened to "Sea Horse" and she came to the conclusion that she is not really seeing the closure that she would have wanted that would have ended the whole situation. It is still going on and is still a very big pain for

the family. She learnt from the media, that IDC was financially assisting Nigel's companion and/or the daughter.

On only one day that she came to listen when the Inquest case was being held before the Magistrate. That was the day when she heard Mr. Ange David Morel, Mrs. Claire-Lise Serret, Ms Maryse Audrey Lucas herself, the skipper Mr. Golty Dupres, Col. Michael Rosette, Mr. Glenn Savy and Mr. Ronny Malvina were giving evidence. She stated that when Mr. Ronny Malvina was giving evidence, she noticed that he was giving the precise timing but it seems that he was not able to state the people that were really involved.

At the time the MAIB Report was given she felt that the whole of Seychelles knew about the Report but the way Mr. Glenn Savy was commenting on the Report itself and with what she had heard or read about, it was not really agreeing and that seemed to bring a lot of doubt until now.

She said that in her own mind she identified her area of doubt as follows.

“When the incident happened, I was not on the “Sea Horse”, my brother was on the “Sea Horse”. Something bad had happened, a committee had been setup to investigate. I would think that the investigation had been done as a work in whole to get information. I strongly believe that they could not have got the information here and there, I think they would have known what they were doing. According to what they investigated and what they have seen or heard, they came up with their findings. I always have the doubt about the clearance itself that comes up every now and then that was part of the findings of this Inquiry. And when you hear one side saying one thing and the other side saying something else, it certainly brings doubt and it pushes you, yourself to try and see what you can do yourself in your own ability to pursue further”.

There were rumours going round. She stated that, for example, on the first day she heard that it was the prisoners that had put fire to the boat. That there were technical issues on the boat and each would say whatever he wants about the issue.

Of all the people that are mentioned only Mr. Glenn Gappy, once came to La Digue, it was a Saturday and her family were not expecting his visit and they saw only him visiting them. That was about after the incident. One year had passed then. She left him with her mother on that day because she was already prepared to go somewhere which she had planned and he stayed with her mother. She excused herself that she was leaving because she was not expecting his visit but he remained at the house with her mother and they spoke. Her mother told her that he did not remain for long because there were other friends with him, and had passed by only to say “hi” and then he left. She did not develop any interest to find out from him what happened. At one point Mr. Glenn Gappy called the family. He saw each one of them separately as family. They spoke, they asked him questions that they could. He was the one who was in the incident, he was involved and they only listened to him. She asked him how much cramps Nigel was suffering from, he told her that they were swimming and every now and then Nigel will suffer that cramp and that they tried to swim both of them. The situation itself when it comes up, it is not something easy for us to talk about.

As to the issue of compensation from the Insurance or otherwise, she stated that she received calls from Mr. Glenn Savy saying that a letter was forthcoming. On the 11th November 2020, each one at home received a copy of that letter from the IDC regarding an offer the IDC was making to the family members. Those who received that letter were her mother, Radicka Fanchette, Lindy Ernesta (nee Fanchette), Jude Fanchette, Vicky Fanchette, Sarah Dugasse, Jacintha Fanchette, Mathieu Fanchette and his son Chris Fanchette. That letter to each one of them had exactly the same wording but the amount is different. The amount for the mother was SR150,000.00. Nigel did not have any other has any property apart from the heirs' property. Chris is staying with his mother Ms. Denise Cousin, a Nurse at Grand Anse, Praslin.

They received the letter during the time when their brother Vicky was sick and family members have not yet sat together to discuss the letter, but every one of them knows about the letter. Vicky, aged 48 years, had no wife of children passed away.

She confirmed that she and Jude received a letter from the Seychelles Port Authority. She produced the letter dated 5th March, 2019. It was addressed to Sarah Fanchette, with a copy of the port clearance certificate and a receipt, in respect of “Sea Horse”. It was written by Mr. Ronny Brutus CEO of the Port Authority and addressed to Sarah Fanchette. The letter is now **Exhibit P7**.

Her brother also received a letter dated 23rd June 2020, from Ms. Emily Mousbe, Legal Adviser to the Seychelles Port Authority, referring to a copy of port clearance and receipt paid for “Sea Horse” attached to a previous letter.

W7 MR. GLENNY SAVY – CEO of IDC – Sworn

Mr. Glenn Savy gave evidence at the Inquest on the 25th November 2019. He maintained that whatever he stated can be admitted by this Commission as part of its records. Statement is **Exhibit 9**.

Mr. Savy produced documents issued by SMSA in respect of MV Sea Horse, namely, Local Safety Certificate dated 4th May, 2018, (**Exhibit A10**); Local Safety Radio Certificate dated 4th May, 2018 (**Exhibit 11**) Load Line Certificate dated 4th May, 2018 (**Exhibit 12**) and the Minimum Manning Certificate (**Exhibit 13**)

Mr. Savy also produced a document received by IDC's Logistic Manager bearing two "stamps", one at the top made by the SPA and one at the bottom made by SMSA. This document is the crew list of MV Seahorse for that voyage. This is now **Exhibit 14**.

It is to be noted that Exhibit 14 contains certain differences from the one previously produced, which does not bear any "stamps".

Mr. Savy explained that that document was received by IDC upon its request which it made firstly to SMSA every time before sailing and SMSA would stamp it. That same document is then taken the SPA together with a completed page of the Local Port Clearance Book issued to IDC by SPA. This page is also stamped and a Port Clearance Certificate is then issued.

Local Port Clearance Certificate is **Exhibit 15**, is a photocopy of the relevant page of Port Clearance Book.

The Port Clearance Book is always kept by IDC. Whenever its boat is sailing, a page is filled in and taken to SPA where an authorized Officer stamped and signed it. SPA retained the green copy and the red copy stays in the Book with IDC. Normally the Captain sailing the vessel gets only a copy of Exhibit 14, which bears the stamps of both Authorities. The Local Port Clearance Book is **Exhibit 15A**.

There is an existing Management Contract between the owner of the MV Sea Horse and IDC which Mr. Savy undertook to provide the Commission with a copy afterwards.

On the day of the incident Mr. Savy was on Platte Island at the material time did not personally call anybody at the SMSA about it. It was Mr. Elvis Stravens, IDC's Operations Manager who contacted SMSA to inform them of the incident. Mr. Stravens is now employed at the SFA.

Mr. Savy contacted Lt Co Leslie Benoiton of the SCG because all searches and rescues that he had been involved in, he liaised with him at the SCG as he had always been the contact person.

Captain Khan being an interested person in the audience asked the following questions through the Chairman.

- (1) Why did Mr. Savy not include personnel from other relevant agencies on that first flight?
- (2) Since Mr. Savy claims that SPA could not provide the copy of the Port Clearance Certificate, could that be because there was no Port Clearance at all?
- (3) Does it mean that Mr. Savy does not agree with everything in the MAIB Report or is there bits and pieces that he agreed with and rejected others or does he totally reject its finding?

When Mr. Savy said that when he commented everything that could be done was done, he was referring to a very specific period of time, at around midnight, one o'clock, two o'clock in the morning. He was on Platte Island communicating by satellite telephone with the Manager on Coetivy as well as IDC's Operations Manager, Mr. Elvis Stravens. The

comments he made were directed at that particular moment in the middle of night and what action could have been taken by IDC, he felt had been taken at the material time.

Mr. Savy added that it is very clear from Captain Khan's questions that the MAIB is under the impression that IDC is in charge of the search and rescue operations. IDC has never been in charge of any search and rescue operation and never mandated by law, by regulations or by any statutory body to be responsible for search and rescue operations. There are times when IDC are called upon to assist the SCG with a search and rescue, even it did not involve IDC vessels or personnel. IDC does not send its aircraft or equipment or personnel. It had been always the SCG which do these things because it was only after the instant incident that Mr. Savy was told that in fact SMSA it is which is responsible for search and rescue.

That is a fundamental problem which he expected this Commission will address. He was very surprised when he was told that IDC should have contacted SMSA as it was in charge of the search and rescue operations. SMSA was indeed contacted very early by IDC's Operations Manager, and were informed.

Mr. Savy said that even when there had been incidents on Praslin, La Digue, boats in distress at sea, people called IDC to seek for help, and he advised them to contact the SCG because in his mind he was under the impression that it is SCG which is responsible for search and rescue. If he had felt that it was SMSA, he would have called Captain Valmont that night as he had his mobile number. He called Lt. Col. Benoiton because in his mind, SCG was the authority responsible for search and rescue and they would then do the necessary.

Mr. Savy informed the Operations Manager that he was about to contact Lt. Col. Benoiton. The Manager confirmed that he had already done so. He realized that SCG would be organizing the plane and the boat and so on, so he again talked to Lt. Col Benoiton and informed him that IDC would be dispatching a plane as soon as possible with a primary objective of getting a Doctor and a Nurse to the island as he knew that there were no medical facilities on the island. IDC have its own Company Doctor and Nurse. If a person is picked

up in the sea, it is most important to bring medical **assistance** to that person. His primary objective was to get a Nurse and a Doctor to Coetivy.

The second concern of primary importance to him was that IDC had a very small number of personnel on the island at that time. The Manager would have been very busy with a hundred and one things happening around him. IDC did not have a skipper on the island, so it was important to send additional help to support the Manager. That was why he took the decision to send the plane as early as possible with Doctor, Nurse, Mr. Brian Camille who is an IDC's Assistant Island Manager who was on Mahe at the time. He also sent Mr. Golty Dupres who is an experienced skipper who knows the current and the movement of tides in that area. SMSA and the SCG were informed that IDC will be sending a plane.

Mr. Elvis Stravens confirmed to him that he informed SMSA and had SMSA requested for two or three or four seats that would obviously be made available to them as always. Mr. Savy thought that is why the MAIB in its conclusion says that IDC was in charge of the operation. That is one of the contentions that IDC brought before the Court for Judicial Review.

The assistance that IDC traditionally provided in search and rescue does not mean that IDC took over the operation. Mr. Savy stated that, had IDC been in charge of that operation, was it reasonable for MAIB to think that IDC had the authority to dispatch a SCG vessel, or a SCG plane? IDC have no authority to do that. SCG boat or plane goes there certainly not under the authority of IDC.

The primary objective for Mr. Savy was to send a second plane. By then the Police Authority Police were somehow informed and they contacted IDC to facilitate some Police Officers to go there. Very often when there is an incident on the island, IDC also informed the Police.

On that second flight there was SMSA personnel and the plane manifest will show who went and whether he was an employee of SMSA or a member of MAIB.

Mr. Savy stated that after he had spoken to Lt. Col Benoiton a few times in the very early hours of the morning, the latter confirmed that he was dispatching a SCG aircraft to observe where the burning boat was and that he was also dispatching a SCG vessel. There was no viable boat on Coetivy Island that would have been able to get out to the burning boat.

Mr. Golty Dupres was a very brave man, very few people would have done it, in a very small outboard “Mini Mahe” in those weather conditions and went out to where Sea Horse was. There was no boat on Coetivy that could have taken a team from the shore out to the fire, whether they were firemen, or Police Officers. There was no boat that would have been able to bring human resources or equipment close to the burning boat.

Mr. Savy added that IDC does not reject the entire MAIB Report. There is a number of points that have been raised in that Report that IDC does not accept and does not agree with. The reason for that, is simply because that Report in IDC’s view is very important that it should be as factual as it possibly can. Because it is from that, that lessons will be learnt from it. If the Report contains information which in fact is erroneous, then going forward, the recommendations cannot be correct. The issue of insufficiency of anchor chain is again a contradiction. IDC’s objections to the Report are stated in its objections before the Supreme Court as sustained by affidavit.

IDC’s Legal Counsel advised that there was no necessity to go through all the objections simply because they would be wasting the Court’s time. There were some fundamental points which really could not be accepted. It was decided to take the case to Court on those fundamental points upon which IDC won. But there are many other points in that Report that IDC would be more than happy with. In fact, before this Commission, if IDC is given the opportunity to come and present all these things, it will certainly do.

A couple of days after the incident, the then Deputy CEO of SPA Dr. Egbert Moustache, wanted to see a copy of the Local Port Clearance Book held by IDC at that time. Mr. Savy said that he was not prepared to release the Book because, he considered this to be evidence. Mr. Moustache came to IDC Office accompanied by Mr. Allen Chetty and they inspected the Book.

Mr. Allen Chetty is a Port Pilot at the SPA and was the one who actually signed the Port Clearance as well as the SMSA letter. They were showed the original. Mr. Chetty confirmed his signature on two separate documents but said that he could not remember signing. There had been talk about whether these were genuine or not. His signature appears on two separate documents. The same procedure is still existing as it happened last week again with one of IDC's vessels. The law says that once you get this Port Clearance, it is in order to sail, and has nothing to do with SCG or SMSA. There is a problem amongst themselves.

Mr. Savy stated that with regards to the issue of anchor chain, existing regulations required a minimum amount of anchorage apparatus, but does not specify chain or rope or wire. "Sea Horse" had a piece of chain of certain length and, beyond that, if more is needed, they have rope on board.

Mr. Savy stated that it is clear, that from the position of the vessel that Capt. Khan referred to, was taken from the GIS. Mr. Savy said - *"we all know, all the seaman, that on a chart especially the outer island, you check the position and it tells in principle where you have 30 meters of water. You go to that position, it can be shallow as 10 or can be as deep as 70 metres because these charts of outer islands are not accurately chartered like the Port of Victoria is, which is used for precise navigation. So, whenever someone stated that you need three times more chain and MAIB made reference in the Report to 26 meters of water, his answer to that is that you are wrong"*

Generally, the chart of the outer islands may be correct, but it is written on the chart - *"do not use for navigation purposes"* because it is not accurate. Mr. Savy said that this is where

he has problem with the MAIB Report when it states that where Sea Horse started burning is 26 meters deep, whereas he is saying that that is an interpretation of the position that they got from the GIS. He looked at the statement given by Mr. Glenn Gappy who said that they were anchored in about 10 meters of water. He is the only surviving person. Nobody knows if that is true or not.

Mr. Savy maintained that the position of the boat when it got fire, is not confirmed by anybody not even by GIS as GIS cannot indicate that. According to the GIS picture available, it indicates the track of the vessel. He does not dispute the position of the GIS as being inaccurate, but would have to get expert opinion on that. What he is saying is that, he simply does not believe that there is an exact position which one can take as accurate as to exactly where the vessel caught fire. Therefore, it should leave some doubts in the mind of all of us that how much water there was under the vessel at the time that it caught fire. Secondly as to where the anchor was laid and where the boat may have been, are two different positions. It is not established whether the Captain managed to start the engine or not. He maintained that he is comfortable with his statement.

Mr. Savy produced a contract to show the relationship between the owners of Sea Horse and IDC. That is contained in the Management Contract between IDC and the owner of the MV Sea Horse. The Contract is **Exhibit 16**.

There is no written arrangement between IDC and the Prison Authority for the hiring of the MV Sea Horse for that trip. This is in fact a shortcoming which IDC have already addressed. Usually, it is just made by an exchange of emails between Prison and IDC. IDC hired boat from UCPS, or Vijay or others, only by an exchange of emails. There is actually not even a contract and in fact it is now that IDC is doing that. But up until that time, it was casual. In the present case it was just a phone call which would not even have reached his level. It would have reached the level of the Transport Manager Mr. Mervin Mederick, who is presently working for the Seychelles Fishing Authority (SFA) as an Observer on tuna fishing vessels.

Mr. Savy undertook to organize for the Commission to have a copy of the employment contract of each member the crew of MV Sea Horse, IDC personnel on Coetivy at the time and the name of Manitou Operator. Mr. Mervin Malvina was the island Manager on Coetivy with a very small team of people. Some crew members of Sea Horse were contract and some will be on appointment. Crew, probably will be contract and island staff will be normal continuous employment.

Sea Horse was insured by the owner Mr. Didi with SACOS through his broker Mr. Eddy Mancienne. The only thing IDC insured on the boat is its cargo. The vessel insurance and the crew insurance were with SACOS in the name of "Sea Horse", but taken out and paid for by the owner of the vessel. It is called Maritime Insurance for the vessel. Mr. Savy undertook to send a copy to the Commission. It also includes a number of other things. It inter alia states - *"as per the company marine policy, including crew liability"*.

Mr. Savy stated that the Insurance Company finally paid because IDC were threatening to take them to Court. They paid out the sum insured and the owner of the vessel agreed to compensate the families of the victims. Offers were made to the families a few weeks ago and all the families have accepted the offer except one family which is yet to accept. If they are not satisfied, then IDC will negotiate.

Mr. Savy gave a brief history of the management of Coetivy. He stated when SMB left the island after the prawn farms closed down. The prawn farms are now the only asset on the island belonging of SMB. SMB appointed Liquidators and they were looking after the island. After a year or two after that, IDC received a call from Mr. Hans Aglae of the Ministry of Finance saying that it would appear that there are lots of assets on Coetivy which were regularly coming down to Mahe on fishing boats and charter boats. The island was being depleted. Mr. Savy said that then IDC teamed together to go and took over the island and agreed to act a watch keeper of the island.

IDC agreed to do that on the condition that a detailed inventory was done. A few days later, there was a team from IDC and a team from the Ministry of Finance that went to Coetivy

for at least a week, signed off the inventory and IDC took possession of Coetivy and the people that were there employed by SMB. The Liquidators who were there were in a sort of limbo/watch keeper and then they left the island. There were some exchanges of correspondence which were in relation to that agreement which are in the files. At that time there was no Prison presence and no drug rehabilitation program either on Coetivy and IDC was just submitting the monthly invoices with a mark-up to the Ministry of Finance and IDC was paid.

Later on, the Ministry of Internal Affairs took the decision to make use of Coetivy facilities and to shift prisoners and drug rehabilitation patients there because there was an overflow of inmates at Montagne Posee Prison. IDC was then asked to build some new infrastructure and renovate others. IDC made its costings and started and completed the works. There were two islands that were involved, Marie-Louise and Coetivy. The Prisons Superintendent at that time was Mr. Maxime Tirant and prisoners thereafter arrived at Coetivy.

Because there was a variation in monthly invoices, for example some months when no boats went to the island, there were no boat charges. Other months there might have been one flight and other months three flights. The Ministry asked IDC to iron the variations for annual budgeting purposes to avoid the fluctuating figures. IDC looked at what the annual operation expenses were, divided it by 12 and gave the Ministry a monthly figure. That included fuel for the generators, an average of two flights a month, a ship call, approximately once every two months, flight for medivac and IDC were also asked in the early days to provide Supervisors to be sent out to work with team of prisoners to help them in the rehabilitation program. That was a little bit of what IDC had done many, many years ago when IDC was taking prisoners at that time to Long Island Prison.

Under that Agreement the Ministry of Finance was paying IDC every month. After Superintendent Tirant (Senior) left, Mr. Vic Tirant came for a very short time and he was replaced by Mr. St. Ange who expressed to IDC that he felt that they could make savings by doing the operations themselves.

What also happened at that time was that Government was re-structuring the manner in which it was paying out its budget. They included the money for Coetivy in the Prisons Budget, and it was then the Ministry of Internal Affairs which was supposed to pay IDC instead of the Ministry of Finance. There had been no problem up until the time that IDC was paid by the Ministry of Finance.

The Ministry of Internal Affairs felt that they could do it cheaper by taking over the responsibility of buying their own fuel. In fact, Prison Authority were supplying IDC fuel to run its generators on Coetivy. Prison was running its own boat calls to Coetivy. Prison was chartering boats not necessarily only from IDC but from other people as well. That was the same for aircraft. IDC did not provide any more Supervisors to take prisoners to work and so on. Prison Authority was running its own affairs and paid for them.

There is ongoing discussion between Government and IDC to rehabilitate Coetivy island and to re-start economic activities that IDC were doing there in the 1980's. IDC was the largest producer of livestock in the 1980s. IDC left Coetivy at the end of the 1980s because it fell out with the SMB about the manner in which the prawn project was being managed. IDC walked away in 1989 after being there from 1981 to 1989. IDC went back after Government requested to go back again.

IDC pointed out to Government that it was not possible to do that with prisoners on the island. IDC cannot develop a tourism establishment on an island like Coetivy with an open Prison. There were going to be problems between those two. It was either you keep it as a Prison or you do development. To do development on Coetivy without a tourism component, is not going to be successful because the cost of electricity and flights are covered for by tourism.

In agriculture there is not that much profit as there is, in selling a hotel room. The two activities, in the moral of the outer island, tourism and agriculture and fisheries and everything has to be an integrated type of development.

Finally, the Government decided that the Prison would move off the island and go back to Montagne Posee. IDC is now back under a Lease Agreement has started the re-development of the island.

Prior to the Prison taking over the transportation of fuel, IDC transported fuel in a ship hold and then it is pumped from the hold on board the ship into a fuel tank ashore by a pipe. Jet A1 fuel, is transported in two ways - in sealed 200 liters special steel drums which IDC imported empty from Singapore and Kenya. There is a special coating on the inside of the drums to protect the fuel from the metal. IDC filled them up at SEYPEC and SEYPEC sealed the drums and certified. Once the seal is broken you have to use the fuel here and cannot carry it over. On the island where IDC have a large consumption of Jet A1, IDC had various bowsers on wheels which get wheeled onto the Landing Craft.

When collecting fuel here in Mahe, the SEYPEC Road Tanker comes to the ship and put it onto IDC "tank-trailer" on the ship. On the island the trailer is pulled by a tractor and pumped into the JET A1 tank ashore.

That is a second way that IDC transferred JET A1 to the island. Empty tank-trailer is put on the boat, SEYPEC filled the tanks, closed them and a padlock is put on that tank. When it gets to the island, the island's tractor will pull the trailer ashore to the JET A1 storage tank and the fuel is pumped by an appropriate pump into the JET A1 tank, then the fuel is retested and so on. That had always been the case going back for many years.

IDC does not use very much Mogas. It was transported in 200 liters drums. The drum is similar but it is not specially coated inside. These drums are bought from the Spanish and French fishing vessels when they finished using the oil in the drums. They are then cleaned

out and IDC put Mogas in them to be sent to the islands. These drums are taken to SEYPEC Depot by IDC truck, to be filled and a cap seal is put on them.

More recently, because of the hotel operations on the outer islands, more Mogas is required for outboard engines. IDC imported small tank-trailers on wheels of four to six thousand liters. These are then put on the boat when empty, SEYPEC comes near the boat with its Tanker, fill them up, and on the island, they are towed off, and taken to the Mogas storage tank ashore and thereafter pump out for use. This is how IDC transported its fuel. Others may do it differently.

A Telehandler (Manitou) always travels on IDC Landing Craft. It is a four-wheeled-drive diesel tractor with a telescopic fork in front. It can move up and down, out and in, - it is a machine used for loading and unloading. It can pick up a drum on the boat and take it ashore. It can drive up and down the beach, onto the boat, pick up a sling of cement, a drum of fuel, a drum of oil etc.

Certain islands like Desroches have its own Telehandler that stays on the island. A boat going to Desroches will not carry a Telehandler. On the island where there is no Telehandler, the boat will sail with one and return with it. IDC has two or three telehandlers on Mahe.

IDC uses LPG on the island for cooking. The bottles of LPG are put on the deck of the vessel and transported to the islands.

Carrying flammable products to the outer island is an old as hills. This is being done every day on boats from Mahe to Praslin or La Digue. Even after that incident, boat was still bringing fuel back and forth as it has always done. It may not be a safe practice, but simply that historically, it has been used to carry fuel back and forth to the inner islands and even to some IDC islands until Mr. Savy put a stop to it. Apart from not necessarily the best of practice, it was because people pinched the fuel. The crew steal the fuel and put in a jerry can, hide it on the boat and brings it back to Mahe. A jerry can of Mogas costs SR500.00.

That was done by taking a piece of hose pipe, put in the drum and siphoned. Over the years there has been dozens of crews that IDC sacked for stealing fuel.

After the system of sealing drums was introduced, island Manager when receiving Mogas, will break the seal, open the drums and pump out the fuel into vehicles to be used. They found the drum to be full of sea water. One wonders how it was done. It was found out that the crew bought the sealing machine and the same type of seals that SEYPEC used. They were caught eventually.

IDC came to know of that because the island Manager was smart. When fuel goes missing on the island, it is the manager who is held responsible. What the Manager used to do was, when the fuel drums get off loaded and by habit he will know, he will then call and inform the Captain that although such and such drum is sealed, there is not 200 liters in there. On one or two occasions, the Captain and the Manager would open the seal, pour it out and what was in the drum was sea water. They siphoned out 25 liters of petrol and put in 25 liters of sea water, when they figured out that the Manager will check. In those days IDC were also carrying diesel in drums. That was what was happening.

On the subject of smoking on board a vessel carrying fuel, Mr. Savy opined that is an area where MAIB missed the point. There was the fuel but where was the spark.

First of all, there are the big plastic tanks that the Prison Authority provided to transport its fuel. Those tanks have only just a screw cap which are not a sealed cap. Nothing is easier than to open and put a hose in there to siphon the fuel. It was a windy night, the vessel was anchored, and there were lots of wind on deck. It is an established fact that there were two people on board who were smokers. They are the two people who were supposed to be on watch shift. One had gone to sleep and the other was on shift. The cap can be easily opened to transfer fuel into a jerry can. There are lot of fumes coming out of that because the cap is wide. Like all good Seychellois, what they do when transferring fuel, as one can see by the side of the road when people are filling their brush cutter, with a cigarette in their mouth.

Mr. Savy emphasized that he is not saying that that was what happened but in the absence of concrete evidence of someone seeing what elements were there on that boat that night that could have created that spark. Of course, the battery could have, what is the right probability of that on a scale to 1 to 1000, probably one. What is the probability of a cigarette being the source of spark, on a scale of a thousand, probably like, nine hundred.

The fumes were in front of the vessel. If one looks at the boat plan, this is where the containers were. The wind would have been blowing towards their cabin because the ship was anchored by its front. This is from his personal knowledge, after having himself seen workers on the island with lighted cigarette in their mouth when fueling the pickup wherever it is on the island.

It was a horrendous explosion, the moment that plastic container would have exploded, be it in the steel container or otherwise, it will explode. Five meters away, six meters away, seven meters away – one should not use naked light.

The boat was supposed to arrive since 5 pm and the high tide was about 5:30 p.m. They were to beach at that high tide and would have actually stayed on the beach all night unloading the vessel. The vessel would have left on high tide the following morning. But the weather on the way was rough so it was delayed on arrival. When it arrived at about 7:00 to 7:30 p.m. the Captain and the island Manager decided not to beach at night which was a wise decision.

The Telehandler Operator was an Indian vegetarian and vegetarian food is not cooked on the boat. By the time he got to Coetivy, it was normal to disembark him so that he would go ashore and get fresh food from his colleagues. With the help of prisoners in an outboard which went out to meet the “Sea Horse”, he was taken ashore. That was the only reason that the operator disembarked. He was a passenger and not a crew member. He was the only person for that reason to disembark from the vessel.

Mr. Malvina, the island Manager, did not have the facility to go and collect him. The cargo was not for IDC but belonged to the Prison authority. Mr. Malvina would have probably discussed with the Prison authority and probably sought assistance to bring him ashore.

Mr. Savy answering a question from the audience through the Chair, stated that at IDC, a primary objective why IDC does not use IBCs was because of theft of the fuel. Once you used those IBCs which are three or four times more expensive, they also get damaged and it is not a worth the investment to transport fuel. Whilst a steel drum you can use many times over again.

Mr. Savy emphasized that the only service IDC was providing was the charter of Sea Horse. A boat is chartered alongside they quay at a particular time. The cargo was brought to the boat by the Prison authorities. IDC insisted that normally people who charter boat from them, needs to bring their boat note or their cargo list before the start of loading the boat. IDC then gave the cargo list to the Captain who then decides or mandated his first Officer in some instances, to oversee the loading, the placing for the cargo for a number of reasons, including -

- (1) The way of distribution especially on Landing Craft, is very critical and he had seen what happened when it is badly done;
- (2) For the stability of the vessel. Dangerous cargo such as flammable products will normally be put towards the front of the vessel; so if something goes wrong, you can get your firefighting equipment from the back of the vessel to be able to fight the fire. It is the Captain's decision as to where he puts the cargo. It is also the Captain's decision to reject any cargo, and it had happened in the past.

Mr. Savy said that the boat was near IDC headquarters when it was being loaded. He knows that you cannot seal these plastic tanks.

W8 MR. RAYMOND KERSLEY ANTOINE ST. ANGE – SUPERINTENDENT OF PRISONS –

Supt. St. Ange testified that at the material time, he was off duty and asleep. He was not on Coetivy island and it was Sergeant Romell Albert who was there. On Mahe the procurement was handled by Chief Inspector Alexia Adrienne. It was through C.I. Adrienne, that they (Prison) were notified by IDC that they needed to resupply fuel on Coetivy.

At the material time, on Coetivy, there were two Seychellois Senior Prison Staff and a few Security Staff. He could not specifically recall the procurement process but normally they would have been informed by IDC that they need to resupply fuel. They will confirm how much fuel is needed. In the instant case they sent some Mogas for the outboards that are used for fishing. Their procurement would have gone through C.I. Adrienne, being one of the Program Managers.

As to the inmates that were involved, some are still in his custody, and he would organize for them to attend the Inquiry. Those inmates mentioned in the MAIB Report, have given their testimony about the incident. He could have them to come as well if so required. There are four or five of them. Three of those inmates who were involved have since been released and he was looking for their addresses. All the three named inmates are still in prison.

Supt. St. Ange stated that he was not called and did not appear before MAIB. He also did not attend and testify at the Inquest.

It was not the first time that Prison had organized for fuel supply since the new budgetary arrangement.

Having heard the testimony of the CEO of IDC, he had a slight difference of opinion. He could not find any written Agreement for the charter of MV Sea Horse. He knows that that had to be done because he was spending SR650,000.00 per month for the services and support of IDC. That was done without question but it is just that the document went missing.

As to the procurement, Supt. St. Ange stated that there was no need to go through the Procurement procedure because that was something already in existence. But since he was ultimately responsible for the budget, he was requested to produce the document. He never saw any such document. There were only some email communications which was quite specific to the areas that IDC was to support the Prison operation, that was clear. He had some email communications back and forth with Mr. Savy. He had no reason to doubt this, because that was what they were doing. There was just a Legal Agreement that was signed. The Minister had asked him to locate this Agreement.

On Coetivy, IDC supported the Prison with the generators and Prison provided the fuel because Prison had the most people there. IDC would normally let Prison know when it was time to resupply, sometimes couple of months ahead. In the instant case, Prison had ample time to organize and to initiate the resupply.

The procedure was that, the Chief Inspector on Coetivy would indicate that there is the need for extra amount of diesel etc. Supt. St. Ange would then receive the supply list here in Mahe, he would sign it based on input from his staff and he would confirm the order. But normally everything is tallied up to what they normally sent.

Supt. St. Ange agreed with CEO of IDC Mr. Savy when he said that there might have been some abuse here and there, may be on prison side as well, some missing fuel, maybe overuse of the Mogas, depending on how much fishing they did, what they did with the boat and so on. There were always the questions about that, but when he was asked to supply fuel, he supplied.

There are other Prison Officers stationed on the island apart before Sgt. Romell Albert who had experience in the handling of fuel. Inspector Julitha Agathine was the officer in charge, and she would have information on how she would receive the order.

Supt. St. Ange stated that after listening to what Mr. Savy said, and the question asked, he does not think that he can add anything more to that, except, that he confirmed that he did use the opportunity to send some consumables which he believes are always over eaten.

Supt. St. Ange stated that what the CEO of IDC said about smoking on board, and may be some other things that could have happened, he wanted to state for the record that these things happened. There were rumours flying around that there were inmates who attempted to escape, that they had used weapon to shoot at the vessel etc. These are not true because the inmates had no weapon on the island. He wanted to put that on record. Otherwise, inmates did their best that early morning to assist and he also thanked the IDC for giving them support as quickly as possible.

With regard to the MAIB Report, Supt. St. Ange said that he does not agree with some other points that Prison should have done. He thinks that it is human nature to see what they could do to assist, and they were able to assist with some guidance from IDC as well, and one person was rescued. Unfortunately, the ones in the sea could not be found. This Inquiry may establish what exactly happened and how to prevent it from happening again.

When asked about the rumours relating to drug, Supt. St. Ange stated that he understands from another source, that on Coetivy there were selected prisoners of good behavior. He believes that in 2018 the previous administration normally sent low risks inmates as part of the program. Some inmates came from Marie-Louise back to Montagne Posee. The ones who came from Marie-Louise are on life sentence and he thinks two or three of them were part of the rescue efforts. It may probably be true that they may have used drugs in the past. He would not know the situation in August 2018.

Supt. St. Ange confirmed that IDC was a good partner and provided information about that they thought when there are suspicious activities going on. But obviously one way to smuggle things across would have been by the supply vessel.

W9 MR. JUDE FANCHETTE – Sworn

Mr. Jude Perrin Fanchette is a Marine Mechanic. On Sunday 25th August 2018, at 6.55am he was at home at Les Canelles he received a phone call that “Sea Horse” had burnt down and that his brother was on that vessel. He called his sister Sarah who was on La Digue. He went to attend his Prayer Service. A Police Officer who was there and was receiving many calls from people. She informed him that things were very serious and that there were no survivors. He waited for sometimes but he did not get any further information.

Two weeks after the incident he and the family were invited to hear the sole survivor Mr. Glenn Gappy at the IDC Office.

Mr. Gappy told them what happened. Gappy then went on TV and explained something else and that confused him and the family. When Mr. Gappy met them, he told them that that night, he had already finished his watch and handed over to his brother Nigel Fanchette. He took a shower then went back on the bridge where there was a settee and he slept there. Mr. Gappy told them he heard an explosion that woke him up. From the bridge, he could see what was happening. He saw that the Manitou which was covered under canvas, was up in fire.

Mr. Fanchette added that Mr. Gappy told them that he knocked on the Captain’s door which was just behind him, and told the Captain that there was fire. He then went down where he saw his brother Nigel sitting on a chair as if he was trembling. Mr. Gappy also told them that he then went back to the bridge wing and saw that the Captain was considering what to do. The Captain came inside and started the engine in order to turn the boat because the wind was coming from the front pushing the flame towards the back. According to Gappy, the Captain said that he was trying to save the boat.

From his experience as a seaman, Mr. Fanchette said that with the amount of fuel on the Sea Horse the type of containers used, it was not safe for the Captain to be able to do that. He would not have been able to save that boat. The boat is trim by stern and once something happens in front, everything will come back towards the wheelhouse. The first thing the

Captain should have done was to abandon the vessel. Considering the type of fuel on board, the way the boat was loaded, the type of containers, if he Mr. Fanchette, was the Captain at the time, he would not have accepted to take this boat out.

Mr. Fanchette said that based on his own investigation at the Port Authority the Sea Horse did not have any Clearance to depart. As a person who is usually on the Port in Mahe, in Praslin and La Digue, he knows how loading is done. Normally after these schooners are loaded, they go to the Port, and asked for Port Clearance. The Officer at the Port comes with his Book, see how the boat is loaded, if it is safe and then give them the Clearance to sail.

Mr. Fanchette also said that IDC is saying is something else according from what he heard. He thinks that if they would have done the proper process, the Officer would have come and see the boat for himself that the boat was not safe to travel the way it was loaded. He also thinks that they have to improve on that next time.

He maintained that his brother Nigel knows how to swim. He and his brother used to live at Grand Anse, La Digue, not far from the beach. Almost every Sunday they go to the beach, even with their uncle Captain Khan. At that time, Captain Khan was the only one who had surf boards on La Digue. They went along with him to surf. They started their life very early in the sea.

His brother Nigel studied at Maritime School for two years and after completion he went to work on the boat 'Scorpio' owned by the Spanish. His brother thereafter worked on lot of boats, including the landing craft "Fregate", on tuna fishing vessels, on La Belle Edma, Seraphina, Dolphin etc... His brother had a lot of experience. It is just that he did not have the STCW, as he has not done that yet.

Mr. Jude Fanchette opined that Mr. Glennly Gappy and Captain Morel had worked on Tanker before and they should know the safety measures. He is of the further opinion that

if they had taken their safety measures seriously, and had said that they could not sail on such vessel the way it was loaded, this incident would not have happened.

The last time his brother Nigel visited him, told him that he is thankful to God that he had managed to live up to that day. Nigel then recounted to him an incident how once when he was going to the islands on MV Sea Horse with Captain Randolph, on a previous voyage, the Sea Horse was almost about to sink. He could not recall the exact islands he was talking about whether it was Desroches or Daros. The Sea Horse was carrying concrete blocks and it was taking a lot of water. Captain Randolph ordered them to throw all the blocks overboard. His brother said, thank God Captain Randolph did not panic, as the minute he saw that, he took action and ordered them to throw all the blocks overboard.

It was after Captain Randolph left that Captain Darren Morel was promoted to become the Captain of the Sea Horse. Mr. Jude Fanchette said that considering those containers in which Mogas was put, he would say that these containers were not safe to put Mogas in. The first thing he would say, is that the thread of the groves in the container caps are big and very easy to leak. A small plastic fuel tank of a 25 hp outboard motor, the minute you fill it up, if you do not release the valve on it, you will notice that it swells. There is no pressure release valve on those type of plastic tanks that they were travelling with. Imagine sailing from Mahe to Coetivy in bad weather, in the hot sun too, what may happen? The drain valve underneath the plastic containers is very easy to leak because it is made of plastic. That, he said, was not safe. But it is too bad, he has lost his brother due to a lot of negligence.

Mr. Jude Fanchette stated that once he went to the petrol station with a plastic bottle to buy fuel to cut grass at his home, the salesman told him that SEYPEC had banned such type of bottle and that he could not sell him the fuel. He had to get a proper container after which the salesman allowed him to get the fuel. SEYPEC also does not authorize to fill these big types of plastic tanks in at their Depot. Yet they take their truck and loaded the plastic containers on the Sea Horse which he believes was not safe.

Mr. Fanchette stated that Mr. Gappy did not talk to him about the lifting of anchor. He said that he only dropped the anchor. Mr. Gappy also told to him that when he had already dropped the anchor, the vessel was safe and the Captain told him to step down, it is okay. But Mr. Jude Fanchette is of the view that maybe Gappy was tired at the time that he was letting go the anchor, and might have felt that he has put enough chain in the water, which Jude believes was not enough. That was why the vessel was drifted. At Coetivy there are big corals (called tet-de-mor) and if the vessel was drifting and you have enough chains, it might entangle somewhere.

Mr. Fanchette said that Mr. Golty Dupres mentioned that when he went around the vessel and saw that the anchor chain was hanging and does not know if the anchor was still there or the chain had broken. If he is not mistaken, that is stated in the in the MAIB Report. Jude does not know if Mr. Golty saw whether the chain was hanging or got broken or still going deep down. In his experience, if the anchor is well attached to the chain locker, it will not affect the vessel on anchor, even the brake burnt, it will slip but it will extend but not break.

Mr. Fanchette added that the Captain of the Sea Horse did not supervise the anchoring of the vessel as it was at night. There is also the question as to why it was Mr. Glenny Gappy who was the Chief Engineer who was he the one dropping the anchor.

On the boat, there were the Captain, the Bosun, AB, the Cook AB, Glenny Gappy and a Sri Lankan who was the mechanic. There was only one survivor and the four others died. There were two of them in engine room, Glenny Gappy and the Sri Lankan. Where was the Chief or the Third Mate.

Mr. Fanchette said that in his opinion, the Manning Certificate issued is incomplete. It does not sufficiently verify the number of people on the boat in relation to the number of cabins available. If there is a fire to be dealt with, or somebody on watch fell overboard especially in bad weather, when you are doing long crossing like this, you are tired and when some emergency, happens, it is very difficult for you to deal with it.

Mr. Fanchette also added that Mr. Gappy told him and the relatives of the Captain who were there, that it was him (Gappy) who told Nigel to abandon the boat and to jump in the sea. It was not the Captain who told them to abandon the boat. Mr. Fanchette said that as far as he knows it is the Captain who has the final say and that is the procedure. It was not for Gappy who was supposed to tell Nigel to jump in the sea. He opined that - *“If you were telling me to jump in the sea, at least there is something that we can survive onto; could you not have taken the life raft, the life ring on the bridge”*.

He knows that all vessels these days have life jackets on the bridge and if the boat is big enough, even in the front. He presumed that they did not do any drill at all, they neglected to do drill because they do not have that much crew. Being an experienced seaman himself, the number of boats that he worked on, normally the Captain designates Chief Officer or Third Mate, to be in charge of all of safety drills

It is the Master of the vessel who is responsible for safety drills, not the ground management. Normally when you do a drill you send a report to the office, stating what type of drill you have done, where did you do the drill, where was the fire if in the engine room or the cabin.

Mr. Jude Fanchette concluded by saying that the questions are - why is it that it was a seaman like Mr. Gappy who was advising the Captain what to do. Is it because Mr. Gappy is an experienced seaman? The Captain was thinking about the way to turn the boat so that the flame goes to the other side, when Gappy was thinking about saving the life of people on board. Health and Safety take no order from nobody.

W10 CAPT. JOACHIM VALMONT – Sworn

Capt. Joachim Valmont lives at Anse Dejeuner, Mahe, and for the last 10 years has been the Chief Executive Officer of the Seychelles Maritime Safety Authority (SMSA). He has 31 years' experience as a seafarer and over 20 years as a Captain. He used to sail to the outer islands including Coetivy as part of his duties

He was once the Captain of the Landing Craft "MV Enterprise 1" which is a similar type of vessel to Sea Horse. "Enterprise 1" had cargo holds whilst "Sea Horse" did not, and cargos were loaded on deck.

Capt. Darren Morel worked as a Cadet with him for a short period of time, plying mainly to Coetivy.

Capt. Valmont said that the anchorage position at Coetivy is always the same regardless of the time of arrival at Coetivy. The anchorage position was 0.6 nautical miles from the shore, about 2 shackles, 60 meters of chain would be paid out. If anchored at 0.06, you end up in coral, but when anchored 1.2 nautical miles offshore, there is no coral, only seaweeds. The coral is concentrated near the shore and the drop off is 8 to 9 nautical miles from shore. From his experience this position at 0553 is about 5 to 6 nautical miles from shore and not 0.6 nautical miles. He had done this practice for over a period of 14 years. According to Capt. Valmont this is the best anchorage in the southeast monsoon. During the northwest monsoon he used to anchor a little further out to sea. He provided the Commission an Admiralty Chart with those locations plotted thereon.

The anchorage position at Coetivy was always the same in the Southeast Monsoon regardless of the time of arrival at Coetivy. The anchorage position was 0.6 nautical miles from the shore. About 2 shackles, 60 meters of chain would be paid out. If you are anchoring at 0.06, you end up in coral. But if you are anchoring 1.2 nautical miles offshore, it is seaweeds, there is no coral. The coral is concentrated in very near the shore and drop off is 8 to 9 nautical miles from shore. From his experience, this position at 0553 that is about 5 to 6 nautical miles from shore and not 0.6 nautical miles.

Captain Valmont undertook to provide the Commission with the said position spotted on the Chart.

When asked how much anchor chain he used – he said 3, usually it was 3 shackles.

This position would be checked by the night anchor watch crew member. This practice was done over a period of 14 years.

According to Capt. Valmont this is the best anchorage in the Southeast monsoon. During the northwest monsoon they would anchor a little further out to sea.

Exhibit 26, is an Admiralty Chart of Coetivy produced by Capt. Valmont and the position indicated. He said that he never used the anchorage position a little further North with the depth of 9.2 meters.

He opined that the Sea Horse was anchored a little bit further out. If it was anchored further out, there would be seaweeds, and sand but no coral at all and it is easy for the anchor to drag once anchored.

Capt. Valmont was part of the MAIB which was investigating the Sea Horse incident. He went with Captain Khan to Coetivy and he indicated to him where that anchor could have been dropped, but Capt. Khan could not find it.

Capt. Valmont stated that SMSA was not yet established at the material time. The Authority that existed was Seychelles Maritime Safety Administration which became the Authority in April 2020.

Capt Valmont said that it was Mr. Richard Ernesta from SMSA who dealt with the pre and post departure of the Sea Horse and had the responsibility to see if the vessel was seaworthy in terms of manning, if the Capt. is suitable to sail to Coetivy and so on and so forth.

In August 2018 there was no direct supervision. SMSA has since taken the recommendations of MAIB. At that point in time SMSA had no indication what type cargo the Sea Horse was transporting. SMSA checked only seaworthiness of the vessel, to see whether it is properly manned, but not its cargo. It was not a requirement to declare what type of cargo a vessel was carrying.

The loading of the vessel is the responsibility of the master. SMSA does not issue Port Clearance; it is the SPA which issues.

SMSA's responsibility then as administration was to check that vessels engaged in local trade are seaworthy and on request from IDC, SMSA gave approval for the Sea Horse to sail for Coetivy bearing in mind the policy regarding piracy. There are certain mandatory requirements for vessels sailing to certain islands to take up armed, security on board. Capt. Valmont said that the loading of the vessel is the responsibility of the Master. SMSA does not issue Port Clearance, it is the Seychelles Port Authority (SPA) which issues that. SMSA's responsibility at the time was to check whether vessels engaged in local trade are seaworthy. On the request of IDC, SMSA approved for the Sea Horse to sail for Coetivy and advised to bear in mind the policy in view of piracy. There were certain mandatory requirements for vessels sailing to certain islands to take up armed, security on board.

SMSA is the ultimate Authority which allows the vessels to sail. SMSA has few staff, and it is impractical for it to go out and inspect all vessels upon departure. If there is any problem the Pier Master would inform SMSA.

Capt. Valmont then explained the working relationship between the SMSA and SPA in relation to vessel leaving Port. SMSA is responsible to oversee and audit the compliance of

SPA with regards to the ISPS Code. With regards to vessels, SMSA ensures that the vessel is seaworthy and then gives SPA the go ahead that the vessel is seaworthy in order for them to be able to issue a Port Clearance Certificate means that the boat is compliant. SMSA is Regulatory and SPA is Operational with regard to vessel loading. SPA has its own Safety Officer. Every time a vessel sails, there is the Pier Master or somebody in authority from SPA who verifies that the vessel is properly loaded.

Capt. Valmont said that there are different kinds of seaworthiness. There is the seaworthiness of the vessel, the crew and then of the cargo, and that SMSA oversees the SPA Port operations. SMSA surveys life rafts, check the validity of life crafts and if these had been serviced. Presumably the “Sea Horse” life crafts were in good order. They would have the certificate that they have been serviced on such a date.

After the Sea Horse incident, the SMSA took on board the MAIB recommendations and presently when vessels complete their loading, the loading plan is sent to SMSA which gives that vessel the go ahead to sail, but the final approval and clearance is obtained from SPA.

Capt. Valmont said that after SMSA issued its guidelines for the transportation of dangerous goods, SEYPEC only after came out with its notice. SMSA carried out several ad hoc inspections after the Sea Horse incident and he certified that vessels were complying with those guidelines. The Commission asked Capt. Valmont to produce a copy of all the protocols or guidelines that have been put in place after the Sea Horse incident.

After the incident in 2018 the SMSA issued written protocol/guidelines which Capt. Valmont undertook to provide a copy.

Regarding SEYPEC, Capt. Valmont said that SMSA came out with a guideline for transportation of dangerous goods and it was only after SMSA have put out the guidelines that SEYPEC came out with its notice.

SMSA has carried out several *ad hoc* inspections and certified that they are in compliance with guidelines.

It is SMSA which issues Ships' Officers with Certificate of Competency after undergoing examination as Class 3, Home Trade Master. The same applies for Marine Engineer/Marine Mechanic.

Capt. Valmont stated that in 2020 SMSA came out with a policy called "Seafarers Competency Policy" whereby SMSA requested all Seychellois seafarers going on local vessels to undergo the non-STCW training. There are still seafarers on local vessels who have not gone through the non-STCW basic training yet.

Capt. Valmont reiterated that Port Clearance Book and issuing of the Port Clearance Certificate is a matter for the SPA.

Capt. Valmont said that the Sea Horse was fitted with an Automatic Identifying System [AIS] and it was through that that the MAIB obtained positions of the Sea Horse on its journey from Mahe to Coetivy.

Capt. Valmont opined that, as the southeasterly wind was blowing, and the fire was in the front part of the vessel, all the smoke or the fire will be blowing towards the wheelhouse. It would have been wise of Capt. Morel to it around. It was a small vessel, and when you are on the bridge you can see everything. If somebody could have seen the start of the fire, he believes that the best option was to start the fire pump or used fire extinguishers or try to do something. He does not know if they have a rescue boat on board, and he is not too sure that they could use the life craft. He added that, most probably that when they woke up, the fire was already out of control and then it was total panic. If they could have spotted the fire when it started, there would have been a much better coordination.

Regarding specific drills and practices with regards to fuel in the tank, battery connection on vehicles carried on board, Capt Valmont said - *“if you are carrying it on deck, then you can only remove the pole but this is normal practice.”* He added that during his time, those IBCs were not common. Since he started back in 1979 sealed drums were always.

W11 MR. CONRAD BENOITON – CEO – SEYPEC - Sworn

Mr. Conrad Benoiton lives at Pangea Beach, Providence. He is the Chief Executive Officer of the Seychelles Petroleum Company (SEYPEC).

Mr. Benoiton stated that 3 or 4 days before, SEYPEC delivered Mogas following a request from the Prison.

The procedures at that time were that when a request is received by the Sales Department, it instructed the Bunkering Department which is situated in the technical area. The Technical Operations Department under the supervision of the Transport Supervisor will then load a petroleum bowser designated to transport that request of 500 or a thousand liters of fuel, which thereafter proceeded to the IDC quayside and the fuel loaded into containers on the vessel. A Delivery Note is signed by the receiving entity. The billing is handled by another Department of SEYPEC.

In 2015 SEYPEC issued instructions to all its customers asking them to ensure that ordering of fuel to be transported either by land or sea would be required to meet certain standards. He produced a copy of the letter he issued to all its customers.

At all petrol stations that SEYPEC contracted out, it is clearly defined how much fuel that can be delivered outside the fuel tank of a vehicle. A client cannot come up with a 200 or 500 liter recipient to fill.

SEYPEC maintained its responsibility up to its delivery point. Its responsibility ends at the nozzle.

SEYPEC was requested to filled the IBCs on the Sea Horse and the bowser driver did that. It is not the responsibility of SEYPEC to check the condition of the IBCs. There are no legal requirements in Seychelles as to what an IBC should carry.

Following the Sea Horse incident, SEYPEC carried out an investigation and produced a Report, copy of which will be made available to the Commission.

Even before that incident SEYPEC started an investigation of its delivery of fuel between Praslin and La Digue that was being carried out in IBCs. SEYPEC at that time felt that it was not safe for the public on La Digue quay.

SEYPEC produced a detailed Technical Report on the conditions for the use of IBCs. SMSA, SPA and the DRDM collaborated in drawing up guidelines to inform the public about the discontinuance to load fuel into IBCs. SMSA allowed its continuation for a period of three months for operators of Landing Craft or others to make alternative arrangements. SEYPEC then set out to ensure that.

SEYPEC's mandate is to ensure safety at its delivery point and it takes all measures of oversight of safety. SEYPEC run tankers and when fuel is loaded on a vessel, it is the Master who is responsible for the safety of its loading.

Mr. Benoiton said that, there were no guidelines issued by SMSA to vessels carrying fuel to outer islands. In the absence of that, it is the Master of the vessel who is ultimately responsible to ascertain whether the recipient or container of fuel being delivered conformed with safety measures. SEYPEC tried to move the portfolio forward in getting the Government Regulator to issue guidelines as to the standards and procedures for carriage of fuel to the outer islands.

Mr. Benoiton stated that SEYPEC delivers fuel from Mahe to Praslin by "MV Seychelles Paradise" under safety measures. It also delivers fuel to nine petrol stations on Mahe, at hotels, and construction sites, and it ensures that it maintains standards prescribed in its ISO preambles and its mandated requirement of the American Institute of Petroleum and the British Standards

Mr. Benoiton felt the MAIB Report leaned towards the fact that SEYPEC was responsible for the state of the IBCs and that SEYPEC may have been ignoring them. That, he said, is not entirely correct where it concerned fuel conveyed on a vessel. If a vessel is loading gas oil in its belly tanks, it is not for SEYPEC to verify the conditions of the tank. That is up to an Authority like SMSA in its due diligence and oversight. If the Master asked that fuel is put in a particular container, SEYPEC will do so, because how he carries it, where he goes with it, how he exercises oversight of the safety of the fuel, is entirely up to the ship's Master and SEYPEC does not take the responsibility away from the Master.

Mr. Benoiton produced an Internal Report that he had prepared. He also produced a copy of a Petrol Station Agreement and letters were issued to SEYPEC's customers in 2015. He said that since 2015, SEYPEC were taking measures and laying greater emphasis on safety measures. Prior to that, people would turn up at petrol station with drums or large containers to be filled. In the absence of any road safety regulations, SEYPEC refused, and limited the size of the container that can be used. But that is not necessarily legally enforceable.

Exhibit 17, is the Internal Report of SEYPEC dated 15th February 2019.

Exhibit 18, is a copy of letter dated 14th July, 2015 concerning drum filling of gas oil and mogas at the petrol station,

Mr. Benoiton, said SEYPEC regularly does the business of taking fuel to islands. The island operators would either have their own vessel or they would charter a landing craft to take their fuel. SEYPEC is then commanded to deliver the fuel to a vessel and it proceeded to do so. There have been instances where the island operator complained to SEYPEC about short supply of fuel carried by boat. SEYPEC will not entertain such complaint. SEYPEC has to deliver that to the operator of the vessel who signed for it.

IDC took drums of mogas to Coetivy or Desroches but not in huge amount. IDC came with steel containers for mogas or drums that have been inspected. Even in drums, SEYPEC

informed IDC it has a condition of release and that IDC does not hold SEYPEC liable for the quality and in any subsequent outcome of the fuel delivered in drums.

Mr. Benoiton said that IBCs had been filled up in other instances. After the incident happened there was a slump in the use of IBCs.

Q. *Did “Sea Horse” do that sort of exercise before, using plastic IBCs from Mahe to Coetivy or Desroches prior to the incident?*

Q. *Does the driver of that bowser have a checklist when he comes, before he started fueling? Prior to this incident, did SMSA have meetings with SEYPEC and boat operators to advise them against carrying fuel in IBCs? Had SEYPEC given any written instructions to bowser operators?*

Mr. Benoiton answered that – *“They have been told, there are certain conditions that they need to follow and if they feel that it is not in accordance with their safety margin, they simply have to leave and not come back to the Depot.”*

Bowser drivers do induction training. They will refuse after that incident. SMSA called SEYPEC to give a leniency of three months before SEYPEC said no more, they have been instructed in writing.

Instructions to customers are contained in the letter that he issued and there has been follow up letters for non-compliance and SEYPEC have called their attention to it. That has been ongoing beyond that letter.

SEYPEC also have Inspectors who go out with the Fire Marshal, and carried out surprise inspections on petrol stations and recipient of its customers to verify that the standards are in place.

The use of IBCs was acceptable until that incident happened. Prior to that SEYPEC took measures to prevent the conveying of fuel from Praslin to La Digue in IBC because of the perceived danger and instructed the operator. SEYPEC constructed steel tanks to be used to convey the mogas fuel from Praslin to La Digue.

Mr. Benoiton observed that there is no law for oversight of transportation of fuel on land from a station or from a depot to a point to a delivery point. There are trucks or bowsers on the public road transporting fuel that do not belong to SEYPEC. SEYPEC bowsers are fully equipped with safety measures within standards and its drivers instructed on how to operate their bowsers. SEYPEC by a commercial decision would not deliver fuel if it believes it to be a danger to the position of SEYPEC to do so. Drivers had come back because at the point of delivery, safety measures were not in accordance with the perimeter requirement to deliver fuel, LPG, etc.

Q. Under what authority that on certain construction sites there are fuel containers or fuel are being transported on the road, other than by SEYPEC bowsers?

A: Mr. Benoiton *inter alia* said that it is the Land Transport Commission which has oversight on how a vehicle operates on the public road, including all security and safety measures. SEYPEC may make observations. From now on, post incident, no more plastic IBC is used. IBC has a wide rubber ring which can leak if incorrectly used to put certain light fuel in it. This is what happened with the IBC in use that had been imported for other products, like SEYBREW and then these are turned into the carrying of fuel.

Fuel carried on landing crafts that have been authorized to do so by the island operator to carry their fuel from Mahe to the island as well as in tanks of local fishing vessels. It is SMSA that is responsible to verify the safety arrangements on holds of vessel carrying fuel, not SEYPEC. SMSA has to certify that a vessel is fit and proper to be commercially in line in the carriage of deck cargo and fuel in its tank and SEYPEC will rely on that to load fuel.

The findings and technical analysis what IBC can be used and under what condition, are all in the Report (Exh.17) and SEYPEC fully complied with what is stated in that Report.

Q. *Even if the Master or owner of a vessel requests SEYPEC for its boat to transport fuel to La Digue or Praslin, will SEYPEC refuse if it does not conform to the Maritime Safety measures, even the Master can refuse to do so?*

A. The same conditions will apply to skippers of the local vessels too. Skippers will lack certain criteria of navigational and safety measures on the vessel that they are responsible.

Mr. Benoiton confirmed since 2015 nobody was supposed to carry gasoil and mogas in the plastic IBC or other plastic element from all petrol stations as stated in the letter of 14th July 2015, regarding drum filling of gasoil and mogas.

It was after the incident that SEYPEC advised all vessels that it was not going to fill up IBCs on any vessels anymore and also not to use IBCs. After the incident SEYPEC took additional measures as it was concerned as to the safety of La Digue public area. That was a few months before that incident. After the incident, SEYPEC undertook technical research after which it said that it is not going to deliver any more fuel in an IBC.

Mr. Benoiton confirmed that those people on the island might ask for fuel again. From now on this will be done under SEYPEC ISO. The Fire Marshall Mr. Francois Pierre, will be going to the outer islands to verify that the minimum conditions of safety are indeed being incorporated. SEYPEC has sent hundreds of LPG bottles to the islands. They are required to maintain basic fire measure standard. There is continual routine inspection made by the Audit Safety Department of SEYPEC.

There is no direct responsibility on the Audit Manager of SEYPEC to verify whether fishing vessel has been certified by SMSA. It is taken for granted that a vessel entering or leaving port had due authorization to do so and that specifically how SEYPEC judge its position.

When foreign fishing vessel enters Port Victoria, and called for refueling, it is SFA which does the refueling of fishing vessels and not SEYPEC.

When SEYPEC does ship to ship bunkering it to go through series of questions from the receiving vessel before delivering the fuel to that vessel. If bunkering a vessel by quay through pipe line, just connect and deliver straight into the tanks of the vessel.

SEYPEC our drivers are constantly trained and evaluated. They are monitored by GPS all the way from the point of exit to the point of delivery and they are strictly limited to their mileage, speeding, all that are monitored 24/7.

Regarding fibreglass boats, there has been significant shifting of oversight and control by the SMSA in the recent years on account of safety and the death in conveyance of passengers from La Digue to Praslin on the 15th August.

Mr. Benoiton said he can only speculate as to how the fire occurred on the Sea Horse. If it was ignited either by a sparked wire on deck, if someone smoked and threw a cigarette butt, but that was unlikely as smoking on deck was not permitted. But there was evidence that the containment of fuel could allow a consumption of air and a spark of some sort caused the fire to take place. Whether the IBC was leaking, is another matter to be considered. But there must be something that initiated a spark because if there were no sparks and even the fuel was leaking, it will just leak, something had to cause the spark ignited the fuel. How they responded to the fire is another question that needs to be investigated. Who were on watch duty, where were they and where were they sleeping. These are all factors that would need to be established. SEYPEC run tankers, manned watches, and have 24/7 manning presence on MV Seychelles Paradise. There are all the pre-measures and drills on board, constant crew training about what they need to do if there is a fire. That again is another

matter that would need to be investigated. In terms of depth training, depth reaction, procedural issues, from the Master and to the simple seafarer on the vessel, all that are required to be investigated into.

To assist in the prevention of such incident in the future, SEYPEC can pronounce and publicize what it has adopted from the American Petroleum Institute and the British Standards of how to handle petroleum products. On SEYPEC petrol stations you are not allowed the use of mobile phones, engines have to be switched off, yet how many people do not comply? SEYPEC try to sensitize people as far as possible by running certain criteria on the media but it is up to people and the station operator to follow.

In instances where petrol station operator refused one can imagine the uproar. But in many instances fuel attendants ignore the oversight. There is also the 24/7 camera on all its petrol station for monitoring but it cannot detect whether the engine is not switched off. Camera caught a pump attendant using his phone while he was serving. The matter was addressed by the station operator. That is the best SEYPEC can do.

SEYPEC is running LPG safety measures, defusing that on the media and so far, luckily there has not been any incident. There are 116,000 LPG bottles in circulation in the country, and it takes only one to blow up. SEYPEC has now moved into the vintage bottle that will not blow but simply melt, but will still cause a fire.

SEYPEC bowzers on the road have high safety measures and all the necessary safety gadgets. Drivers are trained, it may not be the driver that cause an accident, it could be someone else bashing into the bowser. All these have to do with our culture, practices and discipline on the public road.

Bowser drivers are strictly not allowed to overtake and certain drivers have been taken to task for speeding. After delivering fuel they returned to the depot doing 70 to 60 kmph. They have been put under caution and warning letter issued.

If the New Port Depot, blows up, Seychelles will grind to a halt. SEYPEC had been striving and fighting the authorities about that in relation to its neighbors if there is a fire. Significant sum of money will have to be spent to build walls to prevent the potential of fire hazard entering the depot. There was once a fire at the SPTC nearby. That is why SEYPEC has an equipped Foam Fire Tender and a team of people called Initial Response Fire Fighters standing by at SEYPEC. They are all trained waiting for the Fire Service to come in. SEYPEC called in the Fire Service once a month to get themselves acquainted with the systems within the Depot. SEYPEC has an automated fighting foam and water fire system in the entire depot. If there is a fire in one tank, it can try and to contain it, while other tanks are cooled down.

The shifting of storage tanks to the island across the Port, is a question that has been discussed. If it is to be moved, you have to create a new depot as the current depot is not going to be able to serve the demand. A new depot will cost around SR3.5 billion to construct. The present depot infrastructure at New Port is now valued at SR3 billion. Where will the money come from?

W12 GLENNY GAPPY – Sworn

Mr. Gappy said, as an Engineer he followed orders from his Superior. It was not his business to involve himself in saying anything to the other person, he just minded his own business.

The tanks were filled by SEYPEC and were done with the approval of IDC. He just watched and had nothing to say. He does not know if it was approved and by whom.

Mr. Gappy said that Sea Horse arrived at Coetivy at low tide at around 8 p.m. Lights were visible on the island and they navigated with the assisted of GPS and Radar. The Manager of Coetivy was informed by the VHF Radio when Sea Horse was a mile away.

When we reached Coetivy, the Captain called the Island Manager who said that as it was late, the tide was already low, the Sea Horse was 0.6 miles from shore at the time, the vessel should stay where she was and to wait for high tide the next day.

The communication with the island by VHF Radio and the Captain informed the Manager that there was a person on board who had not eaten due to sea sickness and had to be taken ashore to get some food.

The man went ashore in a small fibre glass boat that came from the island.

Mr. Gappy said that it was a bit difficult to get further inside as there was no light and was unable to get closer to the island. They approached as close as they possibly before dropping anchor. He was given the responsibility of anchoring the vessel with the help of Norcy Serret and Nigel Fanchette.

Where they dropped anchor, it was about 20 to 25 meters deep. About 35 to 40 meters of anchor was paid out. That day the wind was very strong. Mr. Gappy said that there was no smell or trace of fuel when he was engaged in the anchoring operations. After anchoring a schedule for anchor watch was organized. He was allocated the first watch and Nigel the second watch. Each watch was for 3 hours.

Mr. Gappy said that during his watch he kept moving around the vessel and did not really sit down. He also went to the engine room to check the generator. He does not know if anyone from shore could have climbed on the vessel during his watch but that was very unlikely because he would have seen.

During his watch, the Radar was on. There was a ring on the Radar set to show how far you are from the island. The GPS also was on. Mr. Gappy said that on changing shift at 11 p.m., he was to be relieve by Mr. Nigel Fancheette. Nigel was smoking in his vcabine when he went to call him. They sat in the alley way and he handed over the watch to Nigel and explained everything that he had done including topping up the diesel tank for the generator. There was a sort of log book where the watch keepers log various activities. He also showed Nigel how to do that. When he went around the vessel at 11 p.m., he did not notice any heat or fire from the Manitou. The Manitou was stowed on the starboard side of the vessel and all its four wheels secured with a ratchet system. There was no checklist or any procedure set up by IDC or by whoever, that when you load machinery, you have to disconnect the battery. The Manitou did not move during the voyage and its ignition key was with the driver as this was his responsibility.

Mr. Gappy said when the Manitou was loaded its battery was still in place and connected. He does not know what type of battery was fitting on the Manitou. The battery was in a closed box and the Manitour was covered with a tarpaulin. On arrival at Coetivy, the tarpaulin was not removed. He could not ascertain if the driver checked the Manitou before he disembarked from the vessel to go ashore.

After handing over the watch, Mr. Gappy said that he went for a shower. There is a steel sliding door, on rollers, between the alley way and the foredeck. When he went for his shower, that door which was not watertight was opened. After his shower he did not see Nigel on the foredeck and assumed that he was at the rear. He went to sleep straight away as he was tired as the crew had to take turns to do two hourly shifts steering the vessel as the auto pilot was not working.

Before sailing for Coetivy there was very bad weather. The Captain told Mr. Glenny Savy to delay the trip to the next day, but Mr. Savy did not agree and said that it has to sail that same day. He is sure about that. The Captain made a phone call to Mr. Savy in his presence in the morning when the vessel was being loaded. Sea Horse sailed that same afternoon. He and the Captain were checking the weather forecast together and they noticed that it was windy on that specific day and the next day would be better.

Mr. Gappy said that while he was sleeping. He heard an explosion. He woke up from his sleep and looked outside. He saw the drum going up and down. He woke up Captain Morel and ran down and saw Nigel Fanchette sitting on a chair. Nigel was in a panicked state. He talked to Nigel but he did not reply.

Mr. Gappy said that he woke up the other crew on board who were sleeping and told them that they have to run to the other part of the boat as fast as they could. When he asked them to go on the other part of the boat, the Mechanic who was in the engine room told him that they have to put down the fire. He told him that the way it was at the time, with the fire raging, they could not be able to put down the fire.

Mr. Gappy said that when he opened the sliding door the heat was coming in, so he closed it. Mr. Gappy said that upon hearing the explosion, he looked at this watch and it was past midnight that is an hour after handing over the watch. He said that he used the word explosion because when he heard it, he saw a barrel/drum go up in the air. At that time the Manitou was already in flames. There were two or three drums containing jet fuel. The drum of Jet A1 was about half a meter from the Manitou and stowed against the bulwark of the vessel. He knows where all the drums were stowed because he was there when they were loaded.

Mr. Gappy was shown a drawing indicating where the Manitou was, in relation to the tanks/fuel for him to confirm whether that was the way it was placed.

He said *“I saw the barrel when it went up in the air and fire fully on the Manitou. I did not see where the first started.”* - *“we did not have time to put life jacket, to put life raft on the water.”*

Mr. Gappy said that the drums were secured with ropes which had worked a little loose during the trip. He noticed that whilst he was doing anchor maneuvers.

Mr. Gappy said that he slept on a mattress on the floor in the Captain’s cabin and at no point his watch did he sleep, he was drinking cups of coffee.

On this trip they did not consume alcohol as the sea was rough.

Mr. Gappy said that he saw the electrical cable leading to the deep freezers in the container when he was on his way forward to drop the anchor and on his way bank. The cable was protected by a rubber hose which had reinforcing wires inside and normally used for high pressure. The container was already customized where it came from, even with its door closed, there is a small hole which the rubber hose went through.

The container was locked before the vessel sailed and was seen by Captain Morel, Nigel and himself. It was opened by himself and Nigel on arrival at Coetivy. He went inside the container and checked the content the contents of the two freezers which were inside the container. The freezers were plugged into a double socket inside the container. Apart from the two chest freezers there were chainsaw, grass cutter and animal feed in the container which was half full. The temperatures inside the container was not hot.

Mr. Gappy said that he does not think that the fire started in the electric cable on the deck of the boat. He does not believe that the fire could have started in the switch. There were people on board who smoke. He cannot blame anyone for smoking because at the time that he went to sleep he did not see anyone smoking so he cannot point finger at anyone. When he went to the cabin, Nigel was smoking. He showed Nigel the routine that he did when he was doing his watch and then he left him.

The next time that he saw Nigel, he was in a panic mode. He said that Nigel was panicked because when he talked to him, Nigel was panicking, and did not reply, he just sat there and he looked disoriented. He left him there and went to call the others.

Mr. Gappy said that he does not know what could have caused the Jet A1 drum to explode. According to him all the crew except himself were smokers. Because they had gasoil on board, the crew would go to the rear to smoke.

Mr. Gappy clarified that, when he said that he was at the back of the boat and the fire was in front of the boat, he was the one who saw the fire, he was the one who went to wake up the Captain and informed him about the situation and then to the crew.

After he had woken up all the crew members, he asked them to go up. *The Mechanic said to him that he wanted to put down the fire.*

Mr. Gappy said – *“With our fire hydrant there was no hose in front, the way it was, we have to go inside the sliding door but we were unable to do so because there was fire already inside.”*

Mr. Gappy said that he and the Mechanic discussed about how to try to put the fire out. The Mechanic suggested putting the fire pump on, but he (Gappy) told him that it will be of no use because the fire had spread everywhere.

Mr. Gappy said – *“When he (mechanic) was going to start the engine, the fire had melted the drum in which the one thousand liters of gasoil. The gasoil was flooded on the boat in front, so the fire had already taken place. He did start the fire pump but in the meantime he (Glenny) and the other had gone up to the bridge. So after, the Mechanic joined them. So everyone was on the bridge /wheelhouse. Captain Morel told me that if we are able to turn the boat from the direction of the wind, we will be able to put down the fire I told him that we to abandon ship but the Captain told that if maybe he turns the boat, he will be able to*

save the boat in the other side of the wind direction. He (Captain) started the engine but did not get the chance to turn the boat.” - “Two days before we sail, we did have fire drill and also the life raft.”

Mr. Gappy said that it was Captain Morel who gave the order what to do. They talked about it, saying no smoking where there is fuel. There is a special area at the back of the boat where crew will be able to smoke, not in front or on the deck where there is fuel on the boat. The fire drill was done two days before the Sea Horse left, on board the vessel, with all the crew present and did the drill and training before the loading.

Mr. Gappy reiterated that the fire had melted all the plastic drums and the other drums exploded. It created a big back draft that threw them in the sea.

Mr. Gappy said – *“I was trying to escape from the flame on the sea. I jumped from the direction of the front of the boat and I do not know if Nigel jumped from the back.”*

“When I fell in the sea, there was already fire on top of the sea. It was after a while that I saw Nigel coming behind me.”

Mr. Gappy said that about 20 minutes later Nigel asked him to help him because he was having cramps.

Referring to the other 3 crew members, Mr. Gappy said – *“I do not know if they have drowned or stuck on the ship but only one was behind me.”*

Mr. Gappy said that the two other crew members who were also on the steps could have fallen to the bottom of the steps inside the boat. He heard no noise or shouting. He had to dive below the surface of the sea because there were flames on the sea.

“When I was in the sea, I could see the ship being burnt even in the wheelhouse” “I could not see any people moving into that flame” “I tried shouting calling the name of every member of the crew but in vain.”

“The container’s door was opened and he could hear the explosion of what was in the container.”

Mr. Gappy said that when he and Nigel were in the sea there were two fibre glass boats which came from shore heading towards the Sea Horse. When the first boat went past, he tried whistling and shouting but the boat kept on towards the Sea Horse. At that point Nigel was still in his company and was alive but he was only having cramp and he was holding him. They were not swimming but just floating.

Mr. Gappy said – *“I was holding him under his arm and for him to be able to float on water and I even drank some water too.”*

“If the first boat had seen them, possibly Nigel would have still been alive.”

“The second boat was for Sopha. I shouted and whistled and I was making foaming on the sea and one of them saw and came to my rescue and it was after about 45 minutes”

“It was when I called the second boat for help that I realized that I have let go of him and he had already started drowning.”

“They took me on the island in a shelter. When I woke up around 4 to 5 a.m., I looked outside and saw the boat which still has the fire on.”

“In the morning when I up and looked at the boat, it could have been 1200 to 1500 meters from shore.”

Mr. Gappy confirmed that when he was ashore the next morning, he saw that the Sea Horse was still there, still burning and was still in the same place. The next day when he woke up, he saw that the “Sea Horse” had still some flame going on. It was still hanging onto its anchor. Around 8 or 9 a.m. that the anchor chain burst out and that was when the boat started to swing. That is why they were saying that there was a piece of chain hanging.

If someone had thrown an anchor on the boat just to hold the boat, they would have known what had happened. At the point where the chain broke, there was a piece of chain hanging outside the boat. He does not really know the impact of the boat. The fire could have gone into the windlass. If you place cold water on something that has been heated, it will blow away.

Mr. Gappy confirmed that he witnessed the Sea Horse going with the wind when he was waiting for the IDC plane to bring him back to Mahe.

Mr. Gappy opined that if the anchor chain broke, you can safely assume that the anchor will still be there on the seabed at Coetivy. If maybe the person who was in charge of the boat had called the Coast Guard, then the boat would have been there. Mr. Glenn Savy brought his own people to come and look at the boat.

Mr. Gappy said that after the incident, he received a phone call and given a date for him to come to IDC Office. When he went to that meeting at the IDC Office, he was accompanied by his mother. When sitting there, he was asked if he was okay. The only injury he received was that he lost all of his hair and eye brows. He was asked whether he needed a phycologist and he said yes. He was also told that they see that he was fit and whether he was ready to come back to work. He told them no, he was not okay, and had just been in a tragedy. He was asked that if maybe he did not want to sea, but was able to do some work in the office or in the engineering unit, he said not. Mr. Gappy said that these were not questions to ask him as he had just come out of a situation. He was upset and he stood up and left the place and closed the door. He called his mother and asked her to assist him with getting counseling by Mrs. Beryl Dodin. He went for two weeks but that did not help him and he did not go

again. He then went to another Professional in private. His sister helped him. The lady that he went to see is today a Minister, Minister Francourt. He did a three months' session and it is because of her that he was before the Commission that day.

Mr. Gappy clarified that the socket that was used with the deep freezers, was waterproof socket, which was closed.

Below are notes not necessarily included in the report.

It was the second explosion when it popped up that brought the fire at the top of the wheel house level. He opined that possibly the Captain could have been stuck inside the cabin from he was. There were flames on the sea which stayed for a long time. He remained for about 45 minutes there were waves. The kitchen on board, was gas operated. It was common when on watch to put the gas stove on to boil water or boil the kettle. The fire melted all the plastic drums (IBCs) and to evacuate the vessel he, had to go down the steps and escape from the rear.

There was a fire hydrant but had to use fire hose, it was not a fixed nozzle.

That day he did not have the change to use the life jacket. They were not able to use it on that day because all the life jackets are placed in the cabin so none of them were able to get to it. Nigel was in the corridor, not in the cabin, in a state of fright.

When he was doing his watch, he did not close the latch; but did not know about Nigel. There was no use of closing the sliding door, because he had to go that way for him to be able to reach the engine room to do his watch. He had to go back and forth through the sliding door for him to be able to go round the boat.

Mr. Gappy further clarified that The Captain was informed that it would take some time for the outboard from the island to reach the Sea Horse. He could follow the conversation because he also had a portable radio with him. During anchoring maneuverers Captain

Morel was in the wheelhouse and the Sri Lankan Mechanic was in the Engine Room. It took about 20 to 30 minutes to anchor and to get back to the back of the boat. Having agreed that the anchor was holding, Nigel and Norcy went to the back of the vessel and he waited another five minutes before going back. There was no smell or trace of fuel when he was engaged in the anchoring operations. Schedule for anchor watch was organized after the anchoring and everyone was at the back of the boat. That was after the Manitou driver had gone ashore in an outboard from the island. Nobody boarded the Sea Horse. The man got into the boat and was taken ashore. He was allocated the first watch and Nigel the second watch.

Each watch was for 3 hours, and his watch finished at 11 p.m. All the crew had food together before the watches started. During his watch he kept moving around the vessel and did not really sit down. He also went to the engine room to check the generator. After dinner, everyone went to sleep except him who was on watch. He slept on a mattress on the floor of the Captain's cabin. At no point during his watch did he sleep. He was drinking cups of coffee. Between finishing dinner and 11 p.m. the Captain was asleep as were the rest of the crew. They slept two in a cabin. The cabins are separated by a corridor and are not soundproof.

W13 COLONEL MICHAEL ROSETTE – Sworn

Col. Rosette was in England from 21st August to 31st August 2018. He learnt of the incident 12 to 15 hours later after the incident. When he returned to Seychelles, he received a Report about the incident and how the operation went. From the Report, he noted that, on the part of the SCG it was Lt Col Leslie Benoiton who was first informed in his capacity of Fleet Commander at the time. He was directing the search and rescue after receiving that information from IDC. According to the Report, the first thing that he did, was that he contacted the Air Force, and the Pilot who was in charge of the operation, was Captain Don Dupreez who did the first flight on the 26th August about 5 a.m. The Captain had a crew and they did two flights on the 26th August that was when they noticed the vessel “Sea Horse”.

According to the Report, Lt. Col. Benoiton then contacted Captain Lindon Lablache to prepare “TOPAZ” to do the search for the Sea Horse. “TOPAZ” left in the morning around 8 a.m. and arrived at the location around 10 p.m. It was Captain Lablache who was commanding the vessel and he can give more information about that.

There was a third flight on the 27th August and that one included an Indian Commander called Commander Dhar. Other details are well detailed in the Report and Col. Rosette produced a copy of the Report of Lt Col Benoiton. The Report included the Air Force Image Intelligence Report of the first flight on the 26th August, the second Report for the 26th, and the other Report of the 27th. This includes the photos that show what was happening.

The Report entitled - “Incident “MV Sea Horse” 26th August 2018, Lt. Col. L. Benoiton Coast Guard Fleet Commander’s Report, dated 30th August 2018 is **Exhibit 19**.

Col. Rosette also produced documents showing that he was not in the country at the time. Documents are **Exhibit 20**.

Col. Rosette added that in the Report it is well stated who were the Officers on board the Aircraft, the Pilot, Co-Pilot. The Report contains well detailed information as per the

intelligence. Most of these personnel are still presently working for the Air Force and if the Commission feels that it needs further information concerning the Report with exactly what happened about the incident, they can be called.

Lt. Colonel Benoiton had since moved to be the Director of the National Information Sharing Centre but he is also available. He is now under the Ministry of Internal Affairs but he is still a member of the SPDF.

W14 MR. RONNY BRUTUS – Sworn

Mr. Ronny Brutus lives at Anse Boileau and is the CEO, Seychelles Port Authority (SPA).

Chairman to Mr. Brutus:

Some of SPA staffs were involved in that incident of “Sea Horse”. He can organize for them to attend the hearings if so required.

Some personnel of SPA were involved with the Sea Horse incident. Mr. Allen Chetty is employed by SPA. Mr. Brutus suggested that the Deputy CEO, Dr. Egbert Moustache may also be called and requested to attend. Requests for the attendance of other staff members can be sent through him as the CEO.

The session was adjourned and the witness will continue on another day.

W15 LT. COL. LESLIE BENOITON – Sworn

Lt. Col. Leslie Benoiton, lives at La Louise, Mahe, and at the material time he was the Fleet Commander and the Military Officer of the Seychelles Coast Guard.

Normally nationally, the search and rescue activity were legally mandated to SMSA. For a long time, it was the then Navy, (now Coast Guard) which have the assets to participate in search and rescue as part of its mandate under the Defence Forces Act to aid civil authority. They assisted most civilian authority in their search at sea.

In 1992, the Navy changed its name to the Seychelles Coast Guard, (SCG. Before 1992 the SCG was non-existent under the law. Even in 1992 it was still the Navy even it was called the SCG. Then it was realized that the legality of SCG had to be properly documented under the Defence Forces Act.

In 2018, it was not legislated yet, they were just doing it customarily, to assist civilian authority under the Defence Forces Act although it had no legal authority. They were assisting the Seychelles Port Authority (SPA), the Seychelles Fishing Authority (SFA) and the other authorities in that respect.

There was a set up a sort of standard operation procedure. Normally at the SCG, any operation requiring air support, they would do air tasking to the Air Force and Air Wing would request what was required of them to do and they followed up with the tasking. They thereafter gave a report at the end of their flight. That procedure is still being done today.

In the instant incident, he was the one in charge of that office at that time. Somewhere between midnight and the morning, he received a call from Mr. Glenn Savy, the CEO of IDC who informed him of an incident and that he would require assistance. He said - *“I got a problem, there is a fire on “Sea Horse” on Coetivy, they have just called me and I would need your assistance”*.

He quickly realized that they will need an aircraft. Two or three minutes later, he informed the Authority of the incident. He called the Commanding Officer of the Seychelles Air Force, (SAF) Lt. Col. Pouponneau, but could not get him. He then called the Operation Officer Capt. Don and informed him that there was a fire incident on board a vessel and he had to get the aircraft in the air as soon as possible to investigate the incident so that they can get a picture to know what was going on. It was about 2am or so by then. Capt. Don agreed to organize for the flight.

Around 4 am the flight took off to Coetivy and arrived there and took over, as “on scene commander”. Capt. Don did the appreciation and saw what was there on the scene as part of his responsibility being the first on that scene. He took some pictures and went around investigating the area. He saw the vessel which he described and gave feedback that it was there but completely burnt. He took a picture of that and then returned to Mahe. Capt. Don wrote his report which Lt. Col. Benoiton included as part of his own report to the STB Commander.

Lt. Col. Benoiton realized that they will also need asset to go there. Planning of normal patrol at the SCG is done on Monday to Monday. The vessel leaves Monday morning and comes back to base the next Monday morning. At the of the incident patrol boat “TOPAZ” was on patrol and it was its seventh day and it was due back on Sunday. They had all the crew that it was supposed to come back with on the Monday.

Lt. Col. Benoiton called the Officer commanding the TOPAZ was Lt. Lyndon Lablache and informed him of the incident and asked to return TOPAZ to Port, replenish and go back. TOPAZ was close to Ste. Anne Island by then, coming back with an illegal Sri Lankan vessel. Capt. Lablache instructed his crew, contacted the Duty Officer, returned to Base and refuel TOPAZ. Capt. Lablache took additional technical personnel because Coetivy is about 190 nautical miles away. He then sailed at 8:30 or so to Coetivy.

The aircraft of SAF normally has only about 6 hours of flight and they take about an hour or so to reach there. Lt. Col. Benoiton realized that even if TOPAZ reaches there, there will be no aircraft to support it. Normally these two go together in a search,

When the aircraft returned, Lt. Col. Benoiton did a second air tasking to send that aircraft, after refueling, back again to assist the vessel. It was more day time and would be easier to see any sign of life or activities on the vessel, or whatever they could see. They went there and thereafter they reported that somebody survived the incident, maybe there was somebody in the water. The aircraft took part at that time to investigate around the island to see if there was any sign of life.

The aircraft then came back and reported to him that the vessel itself was not to be seen. They went round the island, they saw no activity, no sign of life. They saw vessel TOPAZ on its way to Coetivy. At that time, the south east monsoon had brought rough weather. TOPAZ arrived there, at around 10 p.m.

Lt. Col. Benoiton received information from IDC that they were airlifting some Police Officers who had requested to go to Coetivy and to be taken to the vessel for investigation.

The next morning, the Police Officers boarded the TOPAZ at Coetivy going to the Sea Horse. The Police Officers were informed that the aircraft did not see the whereabouts of the burnt vessel but saw only trace of oil. The Police Officer continued to assist with the search around the island. They gave up the search and there was no further search for the burnt vessel. After 1 or 2 hours on the TOPAZ the Police returned to Coetivy. TOPAZ was kept on the scene as the Scene Commander being the next asset on scene.

Lt. Col. Benoiton said that the next day he sent another aircraft to assist with the search. At that time IDC aircraft had flown in the vicinity and "Zil Air" was also assisting with a flight in the area. They coordinated with TOPAZ, but nothing was seen. The aircraft returned and TOPAZ stayed there to continue the search again the next day. Normally they would

search for about three days, 72 hours plus. On Wednesday night TOPAZ left Coetivy and returned to Mahe.

At that time the coordination arrangement for the Search and Rescue (SAR), was normally that when an incident happens at sea, Lt. Col. Benoiton is the first one to know as he was the Contact Point, him being the “Joint Coordination Centre Coordinator (JRCC)” based at the Coast Guard.

In the SCG there is a Maritime Operation Centre (MOC) which has three functions. One of its functions is to operate as a Rescue Coordination Centre. This is a Joint Coordination Centre because they had agreed with Seychelles Civil Aviation Authority (SCAA) and SMSA, through a Memorandum of Understanding. Based on that, they operated the search and rescue activities that happened on sea. If it is very prolonged, then they set up a Joint Committee. At the material time it was not the case because the SMSA and MAIB representatives went to Coetivy to undertake certain activities which he was not aware of. He came to know later after talking to Captain Valmont who told him that they will be sending some personnel down there to do some investigation.

They were the first to know about the incident and based on the urgency they reacted and never waited. If they see that this will go on for over a long time, they formed that group and meet at the SCG and started doing search planning. According to his experience and knowledge, he quickly realized that there was nothing to search. The depth of the water in the area where that vessel sank was 1500 to 2000 meters. The search did not prolong much as it would have been the case where they were searching for a boat and were not finding it.

When he received the message, he did not call any of the other members of JRCC. He only activated all the assets. He informed them the next morning. He called Captain Valmont who told him that he was already aware of the incident. The DRDM was not part of the team.

There was an Operational Code for coordination exercise between SCG and SMSA in such cases. They did that on previous occasions where all of them came together. They do exercise and had workshops whenever it was organized by different Structures, like UNODC which grouped personnel from SMSA, SCAA and SCG. They did it before, where they sat together and brainstormed and did exercises and operations together.

When the first flight went across early that morning, the Pilot noticed that there was smoke coming out of the vessel.

When the flight returned to Mahe Lt. Col. Benoiton said that he handed over to GRCC, but continued to do the coordination. He was never out of the coordination. The TOPAZ was also tasked to investigate on its way to Coetivy and was given the position of the vessel to watch out for, but it could not find the vessel. Because TOPAZ could not pick Sea Horse on its Radar and the rough weather could have been an issue. Later on, when the flight went there again and could not see the Sea Horse, he realized that they could not have seen it because, maybe, it has already sunk by then. They can only give a time frame about when Sea Horse went down.

When TOPAZ reached there at 10 p.m., the Sea Horse had already sunk. The SAF plane on its first flight left Coetivy at 5 am and not see the boat. The second flight was at 11.17 local time and did not see the Sea Horse.

Zil Air got involved because normally when there is a national incident, they received calls from Zil Air offering assistance. Zil Air came to know about incident on Coetivy. He informed the SCG because it had to do the airspace “de-confliction” and when the Pilots reached the scene

When Zil Air participated, it did not have to come through him for the coordination of the SAR. When Zil Air was on the scene, it was the Scene Commander who did the coordination of the assets on scene. Zil Air was aware that SCG had informed TOPAZ that

Zil Air aircraft is in the air doing the flight. Lt. Col. Benoiton stated that he does not know how the request or offer came from Zil Air and who will be paying Zil Air. Zil Air was aware of the search because they have shared the information with the Pilots.

SCG normally reacted in case of SAR operation. Its first reaction was that IDC would have a local reaction team before the main SAR team arrived on Coetivy. IDC had a small boat, and they will go and search. Whoever will arrive first, as in all other incidents, those who first reached scene will try to do something until you come to put order into the scenario. That was what happened initially there.

When the incident started prolonging, all the planning was done at the Centre. All the drawings, search and rescue patterns, since they have a specific software at the Centre that does these works and then distributed to the ship, to the aircraft for them to follow the patterns because there was not only one aircraft or one ship at any time in an area. They will do that and then give each one a sector for them to search accordingly.

There is a written MOU among the three Institutions SMSA, SCAA and Coast Guards.

After the Sea Horse sank there were no more plan to be done, the whole procedure did not prolong.

The MOC is located at Perseverance, close to the Coast guards. Lt. Col. Benoiton stated that a new organization is being set up called the National Information Sharing and Coordination Centre, (NISCC). He is the Director responsible to set it up. It will house the JRCC with a Radio Coast Station (RCS) which they are establishing as well. These will be situated at Bois de Rose. Whilst this is being set up they followed the old procedures.

Even at Bois de Rose, all assets required for SAR will be mobilized from the SCG. The new Centre does not have any asset. The NISCC is a collaboration of all maritime

stakeholders. Once the NISCC is established, it will avoid any misunderstandings among law enforcement agencies, SAR and all those things. The NISCC will coordinate all law enforcement operations in Seychelles seas.

Under the NISCC MOU, there is the SMSA, the SPA, Seychelles Police Force, SDF which represented its three wings, SCAA and DRDM. The MOU which was signed in 2017 and its provisions are being put in place now. Lt. Col. Benoiton was officially posted there early 2019 to set it up. It will take few more years to finish setting it up. The MOU was signed by all the CEOs and Chief of Defence Forces. SFA is also included as there are a lot of issues of illegal fishing going on. The SCG have been in operation over 20 years. They have decided to create the NISCC where all the stakeholders could come under one roof for coordination purposes.

There are issues whereby, at times, there are a bit hesitation on the part of certain members) in releasing a little bit of what they have, but they are getting there.

The NISCC will eventually be run by a Council with a representative nominated by each agency and will give the strategic guidance.

If any incident happens pending its finalization, officially the SCG is still holding the NISCC but when there is any incident, all parties will still have to participate in it. The NISCC already employed some Watch Tenders, and the NISCC is being equipped. Whenever there is any activity, especially on the information side, the NISCC is starting to provide as it has access to the different agencies better than the SCG would have had in the event. NISCC is also linked to the Seychelles Intelligence Services (SIS) as well as with the Regional Centre, (RC) so that in an event outside our EEZ, the RC is a partner.

The RC has an obligation under the Major Maritime Security Project (MMSP) which was launched under the control of the Indian Ocean Commission (IOC). It is based in Seychelles under the NISCC. Normally in an operation there must be intelligence. For the region,

the intelligence information side is based in Tana, Madagascar. The NISCC is based in Seychelles

Lt. Col. Benoiton stated that there is a rescue system in place in the maritime field. If any boat has any issue, the skipper simply presses a button a signal is relayed to all stations automatically and to the SCG by satellite.

Once a signal is received at the SCG the Operator will send it to his Duty Officer who might inform his Field Officer and a group email will be sent to all members concerned, including SMSA, SPA, NISCC. DRDM may not be in it because they are not much involved in maritime space. SFA will most likely not get it unless a fishing vessel is involved. Some senior officers of the SPDF will be informed that there is a distress scenario, and they will start reacting to it. The SPDF will see where the patrol vessel is, if they will require an aircraft, will task their aircraft to go and investigate where that incident is. Accordingly, the aircraft will give them feedback and they will continue the search.

If NISCC realized that it is a major event, it will pull in personal from SMSA, may be from SCAA, SCG and will bring them together to start planning. That is when they start computerizing search plans, draw charts and then phase it into the operation. If the incident occurred in the vicinity of Mahe, the skipper makes mobile phone call or whatever or radio, and call the SCG and SPA and declares the distress.

All skippers of fishing boats know the SCG number to call. A fishing boat has a special equipment, they just press a button and a signal is relayed to the satellite which goes to SFA and to the NISCC.

There are two types of buttons. There is a button for when there is an engine break down or a just a flat battery. The other one is for emergency distress. The NISCC knows how to treat each kind of signal from the fishing vessel accordingly.

The NISCC is taking shape and is still doing some coordination, for example in narcotic operation. It can do this because it does not involve much equipment. It however has an issue with Department of Public Administration (DPA) concerning allowance, pay structure, number of personnel to be employed within the structure, how to get funding for these etc... They still do not grasp the concept of maritime security and that even shown to them when they visited the NISCC struggle is still ongoing.

According to the MOU, there is supposed to be a Liaison Officer appointed. Even one is appointed to work with NISCC it still needs Watch Tenders to work on 24 hours' duty. To operate 24 hours, according to Government Regulations, four persons per position are required. For two positions eight are required and that is a problem when he requested the structure. Watching the screen is okay but analyzing what is on the screen, again, you need an analyst. Then someone is needed for manning the GSM Radio. At least one person is required on each shift, so the structure shows four times the labour requirements.

Presently, NISCC has about 8 staff and most of them are seconded personnel from the SCG. NISCC cannot afford to employ anyone as it does not have the as DPA has not approved the structure yet.

In terms of the MOU, Lt. Col. Benoiton as well as four other SCG Officers are seconded to NISCC. The NISCC actually employed only two persons and is very much understaffed. Firstly, it needs its structure to be approved by DPA to enable it to receive funding to pay them.

Lt. Col. Benoiton stated that his job now is to take this up this matter with all these Agencies. Under the MOU SMSA has to second an Officer, SFA has also to second one Officer – but none of them has provided an Officer yet. He added that he had gone to the highest level and met the previous Designated Minister (DM)/Minister of Internal Affairs, who wrote a letter to all the CEOs, asking them to second an Officer to represent them in this NISCC. There was no response. These Officers are needed to write protocols, SOPs, how to take part in operations, how to get involved, how to access these data. Now, what is being done

at the NISCC is basically technical work and not administrative organization as these Officers are not there.

Lt. Col. Benoiton invited the Commission to visit the NISCC where he will explain the present situation and what NISCC is supposed to be and do. He will also provide a copy of the MOU so that the Commission can see the scope of work in the coordination works and the activities it provided for.

Within the NISCC there will be the SCG which has all the assets, the SPA which has tugboats. The Liaison Officer will liaise with SPA and the SCG Officer will activate the boat which is on patrol, the Police will activate the Marine Police boat. SMSA Officer will handle the legal framework for the MAIB. If it has to do with aircraft, similarly SCAA will start activating whatever needs to be activated in the air for their air coordination at their centre.

At the moment if the signal goes to SCG it will do the activation but in time to come when NISCC is set up, signals will have to be relayed to it.

Lt. Col. Benoiton added that the procedure for SAR is black and white under the IMO and cannot be changed. There is one for the NISCC and one for the person in the aircraft/ship and one for the on-scene commander. This procedure requires that you man this centre in a particular manner. For example, you should have a person who is trained in SAR and have a SAR Mission Coordinator. There is a special training course for that.

In the event of incident involving an aircraft or a big ship, the owners of these vessels will want to know as to who was coordinating the operation. You will have to say that it was a Duty Officer in SCG, or was the Captain of the vessel or a Chief Mechanic of a vessel who was the Duty Officer. Otherwise, they will sue you because you are not abiding by the IMO Convention and its Rules.

There will be different floors in the NISCC. A hot floor for whenever the Duty Officer picks up an incident, he automatically throws on the floor of SAR where there are professionals like the SMC, the person who has prepared all the charts, and other manpower to do with SAR. If it has got to do with narcotics, you throw it to the floor of narcotics, to be dealt with during the first 24 hours, then the specialist in narcotics will deal with that narcotic incident. If it has to do with maritime law enforcement incident, it will go to the Police, on the enforcement or environment floor. There will be a multi-floor concept which needs to be set up in the NISCC. That will solve all the existing coordination problems.

Then there will be the need to train the Search and Rescue Mission Coordinator (SMC). NISCC is already having training from UK personnel who came down to train them. There used to be only three SMCs but now there are eight of them. It is a very expensive course but they do get the training to do that.

Lt. Col Benoiton stated that – *“Because in the event an aircraft goes down, you have to explain to the authority who was coordinating that activity, who was the specialist who was coordinating that activity? And it has to be black and white in the book of IAMSAR manual and the IAMSAR manual explains to you, who was supposed to man the floor when there is a search and rescue”*.

Presently, there is no national communication provider for seafarers. There is just the number of the SCG where one can call, and also the VHS 16, which is very close range. There is no HF radio communication, no coverage of SAR communication in the Seychelles EEZ. If one has to call, one to use a satellite phone, they must know the number and there is no other process, till that Radio Coast Station (RCS) is set up. This is one of the functions of NISCC - to run the RCS. Land is available as well as the cost of the whole project, but it is a matter of getting the people which is not easy.

Lt. Col. Benoiton said that the process started under the Ministry of Internal Affairs/Home Affairs and went to Cabinet and was approved. It received a budget to start its setting up but that only includes the salary of two persons. He is paid by the SCG as a seconded

Officer and is still operating under the Defence Forces Act like most of his staff are Defence Force personnel. There is the need to put a structure in place and that is his responsibility. He has determined all the manpower requirements, everything needed to be done to set it up, and the non-approval by the DPA is the final issue. DPA wrote in their Report that NISCC does not need to coordinate these activities, each Department can coordinate its own activities. He said – *“and that is very sad to say”*.

Lt. Col. Benoiton stated that in a sense he was the Scene Coordinator for the SAR on that day.

There is the IAMSAR Manual Volumes, 1, 2 and 3 and all these things are stated there. There is one for the boats, one for the NISCC but there is no personnel.

Lt. Col. Benoiton stated that young people that are being trained at the Maritime School have to be informed how unsafe it is to ply our seas. There is no Radio Coast Station, (RCS) and if they are helpless at sea, they have to be told the truth and the risk involved.

If they go within the mobile range, it is okay. If they go where there is equipment on the vessel which they can press, it will automatically go to the NISCC or if on a fishing vessel with no such equipment, they will be stranded at sea. There is no long-range CRS. There was a Radio Station at Barbarons which was once being used as the Receiving Station, but it was a very high-powered radio set which cannot be kept close to the Transmitter Station. The Transmitter will be at La Misere and the Receiver at Barbarons.

In fact, for this to be done, there is a Board called Financial Board by the Government. Whenever there is a project, you have to go before that Board to get the funding. The RCS costs about SR32 million. The Board told him to get funds from SFA. He requested the SPA to give SR6 million, and SMSA to give SR6 million, SFA to give SR3 or SR4 million and SCAA was supposed to give SR17 million.

SR6 million was received from SMSA, but this was and is kept by the Ministry of Finance at the Central Bank in a transit account because otherwise the budget will take it. SR6 million was received from SPA. SFA did not want to release the SR4 million unless it sees the Council in place first.

Lt. Col. Benoiton said that he told them that he needs to set it up first, for the Council to see it. SFA is still holding back the SR4 million. SCAA decided not to give the money because the Government has taken more dividends than normal from them. All the CEOs are aware of it. So NISCC has SR12 million sitting at the Central Bank. SR4 million sitting in the account of SFA; SR17 million still under that account of SCAA which still has not been disbursed. Lt. Col. Benoiton said that he does not think that they have that money any more now because of the COVID. That is the situation regarding the RCS.

The cost of the RCS has gone up. They have a piece of land at the ex-Mont Royal to build. Lt. Col. Benoiton said that he does not want to put money in a building to get out after two years. The whole project of NISCC has been drawn up and it is with the Government. He has requested some funding from friendly countries to assist and to build and is yet to receive a response.

Lt. Colonel Benoiton, said the need for the RCS is more than urgent as any incident can happen any day. There is very little that he can add to help. The NISCC already has some very good equipment. It was a very sad case when his dear friend Capt. Grandcourt passed away in "Diamond Ace" incident.

NISCC even today does not have Analyst and people have difficulty to understand why Analyst is needed in NISCC. Nobody in Seychelles water is analyzing a vessel which is seen on the radar system.

When a vessel will go on a reef, then it will be drawn to our attention and will have react to that. If there is an Analyst, the minute the vessel enters our EEZ, Analyst on duty pick it up, find out who is the vessel and start analyzing and if it is okay and can classify it. As it moves further, you see the ship. The SCG saw the “Diamond Ace” when it entered Seychelles waters on the eastern coast from Singapore. Nobody analyzed the data, who was that vessel, where was it going, and all these are done by Analyst. The Watch Tender basically received information but they did not analyse. It is the Intelligence Section of the NISCC that does the analysis and that is very difficult for Heads of Department.

Lt. Col. Benoiton said that he brought the Commissioner of Police and his Deputy and told them that he needs a Police Officer to assist him but they did not believe and said that Police Officer has to be in uniform and in the Police Station. They do not believe that Police Officer behind a computer will do the job to stop criminal from coming in the Port. He cannot help them, and explain them anymore. It has to come from higher authority to execute that process.

When he gave the structure to DPA, they said it was too big. He needs an Operator for the Radio Coast Station, he needs Watch Tender as well, he needs Analyst for the Intelligent Section to see who can see vessel in the EEZ. All these are people that are needed to operate 24 hours. This issues once clarify will address all these problems.

The Intelligence Section in NISCC basically worked with Narcotics. It follows a lot of activities on vessels. The last vessel which was coordinated by NISCC was a very serious matter for Narcotics in Seychelles. It is priority number one for Seychelles because every day you see different queues at different buses everywhere where people are taking drug to try and survive. The NISCC is developing its capacity to do analysis from other foreign services so that it can get the right information. The NISCC is also training the people to start picking up the database and somehow knows most of the vessel that may be involved in such activities. Bit this a matter of consolidating all these in the Intelligent Centre. It is a priority for Seychelles, especially of the seasonal maritime situation due to our weather. The NISCC is aware of it and keep a close eye on it, but again, it does not work on its own.

Lt. Col. Benoiton added that if you would not be able to coordinate drugs activities, do SAR, enforce maritime law, with the same group of human resources – unless you get a group of human resources to train them. Analyst must be trained to become one. Even if you see a boat, to go and dive to see that boat, you have to be trained. Once you train them, the same group of people will have that knowledge to investigate a target for SAR, investigate a target for other things. All these things work together, not individually, otherwise it would stay the way it is now.

The NISCC works with Interpol, with UNODC, and with different maritime forces, like, UK Coast Guards, UK Navy, the US Navy, the US CMF; a lot of Naval Intelligence Forces that give them training. They come and do it for free at the NISCC, at Regional Centre, and there is a Centre which is called Refectory. The British gave a building where these are all located. They coordinated all the laws and enforcement training, intelligence, analyst and all those things. NISCC does some training every year but it needs to spread it to all the Agencies.

All the training costs from abroad are paid by the Organization giving such training. Training that is needed to be done here, is for the RCS and is called General Maritime Disaster and Safety System (GMDSS). That is a specific training which is required for ships' Operators. You have to renew it every two years or so. This is done by SMA which required the NISCC to pay SR10,000 per head. It is a local renewable training for the Government and there is no budget for a GMDSS training which cost that much. It would be easier to certify these Operators into GMDSS. In fact, the SPA and SMSA need to have the certified people to be able to operate properly, legally in the right framework. The Coast Guard Operators need that qualification to man a GMDSS Station as required under SOLAS Convention.

In the past, to be able to do these works, you have to be a Coast Guard Officer. Now, anybody who is a trained professional, either you have left the Coast Guard or not, you get

seconded. Even those coming from the Maritime School, or even “A” Level. The NISCC is even looking for Graduates with Degrees because its needs professionals. There is one girl at the Centre who came with a Law Degree to work at the Regional Centre. You do not need to be a Defence Force personnel to join the NISCC. The NISCC needs a bigger pool to operate because it will enable all Agencies involved, not only the Defence Sector.

W16 Lt. LYNDON LABLACHE – Sworn

Lt. Lyndon Lablache is 57 years old, works with the SCG and lives at La Gogue. He started as a sailor and has gone up to become the Captain Commanding TOPAZ.

Capt. Lablache stated that he recalls Lt. Col. Benoiton calling him at around 2 a.m. and he explained to him the situation whereby “Sea Horse” has caught on fire at Coetivy. He asked him to come to Mahe to refuel and take additional things needed for the trip to Coetivy to assist the situation back there. He quickly returned to base, took food, and additional fuel and other crew members such as divers who should help. TOPAZ left at around 8:30 a.m. for Coetivy but as the sea was very rough, it did not allow them to go faster. It took them about 12 to 13 hours to get there and it was around 10:30 p.m. when they anchored.

Whilst they were travelling, he received a call at around 7 p.m. from Lt. Col. Benoiton who gave him the position of “Sea Horse” which the plane had located. It was around 17 nautical miles north west of Coetivy. He was also told to use almost the same pathway that the Sea Horse used and to see if he could locate it on the Radar. He passed around 3 nautical miles of that position and he did not spot it. It was very strange because in view of the size of the boat, he would have located it. On his Radar, considering the size of the Sea Horse, he could have detected it 15 nautical miles away.

Lt. Col Benoiton instructed him to standby at Coetivy and that in the morning of the next day CID Officers will be coming on board to be transported to “Sea Horse” to do their work. At around 8 a.m., the CID Officers boarded TOPAZ and at the same time, he received the information that the plane had gone to that previous location and had only seen traces of fuel on the sea and nothing else. He thought that there was no necessity for him to go there.

Although it was rough weather and there was a lot of sea clutter on the Radar, he would have still been able to see that vessel within 15 miles away because before each time he leaves Port, he makes sure to tune the Radar to notice even the smallest object. The Radar is a Porono 75 nautical miles range.

He was told approximately where “Sea Horse” was anchored when it caught fire. Where TOPAZ anchored, mostly downwind, if someone has fallen into the sea, drown, or anything and if a body was afloat, they would have seen it as he had placed a lot of men on guard to check.

The direction of the sea current was north-west at the that time, and as TOPAZ was coming from the south east direction, if the current has taken a body, it would have come towards his boat.

He has knowledge of the area. He is not too sure if there are really big sharks there and he does not really believe in the issue of shark eating people.

If Mr. Nigel Fanchette drowned, he must have gone deep down in the sea. From what he was told, it is only after sometimes that the body would rise again. He had put two zodiac dinghies in the sea, especially in shallow waters, to go round and try to search,

Not much search was done using TOPAZ because the plane was doing such search. In case they see any object or human being floating, they would be informed to do the necessary. They did not notice anything floating.

TOPAZ was anchored in waters 8 meters deep, about 4 to 5 nautical miles. Where he was told “Sea Horse” was anchored, was about 200 meters from where they anchored. TOPAZ was anchored between 400 to 600 meters from shore line where he got 8 meters of sea at that point.

When he said that “Sea Horse” was 200 meters from where TOPAZ was anchored, he means that “Sea Horse” was further out to sea, windward to it. It should have been in front of him

and at that time the wind was blowing south west. He was given that position from the workers on the island.

From his knowledge and experience, approximately where he was informed that “Sea Horse” was anchored, the depth of the sea should have been around the same depth, 8, 9, 10 meters, as it is a plateau. It could not have been very much different.

From his experience the ‘drop’ at Coetivy, depending from which side of Coetivy you are, it could be around 10 nautical miles from shore before you get a ‘drop’. Where the “Sea Horse” was, it was about 17 nautical miles when the plane located its position and it was drifting.

There is the possibility that the anchor chain had broken.

At Coetivy there is not really a reef, but it is somewhere you can anchor, 8 to 10 to 14 meters the boat can pass over it. This is the best place to anchor rather than at the back of the island where it is deeper.

Where a flat-bottom boat like Sea Horse was anchored, if something had happened and it was pulling its anchor, it could happen that the anchor will not grab the reef. If it has grabbed onto a reef; it would have stayed. On that day it was very windy, there was a lot of wind. Even where TOPAZ was anchored, it moved and you have to check and rearrange the anchored area.

Approximately where SEA HORSE was anchored, there were no waves but you get lots of wind.

Mr. Golty Dupres, came on board TOPAZ accompanied by the other CID Officers. They were talking a little bit with him saying that whilst the boat was still drifting, Mr. Dupres

said that he went around to check on it and he believes that the boat was taking in water and that he could not board the boat because the boat was very hot at the time.

It is not possible that when he was passing to go to Coetivy, the Sea Horse was still afloat because Mr. Dupres had been to Sea Horse on Sunday morning and he had arrived there at around 10 p.m. on the previous Sunday evening. Mr. Dupres was talking to him about the incident on Monday morning.

While he was going to Coetivy on TOPAZ, "Sea Horse" could have still been afloat at that time. When TOPAZ entered that area although with its radar on, it passed about 3 nautical miles from it was located. On a radar sometimes when there is very rough sea, you get a lot of little spot called sea clutter which sometimes is difficult to pick up signal. It could also be that as there was no flame, they could have passed it and may not have seen it. Sometimes the Radar have to be adjusted to reduce the sea clutter but when removing the sea clutter, you can also be removing the visibility of other objects. He was the one on the Radar and was very alert, as he was working on it to the maximum to see if he could notice anything. Even if there were waves, he could have spotted at intervals - he was very alert.

It was only Dupres who gave him some information and nobody else.

It would have been easier for the plane to notice anything, but it did not see anything.

TOPAZ continued to search the area on their way down to Mahe to see or notice if they could see anything. There was not any.

W17 MR. RICHARD ERNESTA – Sworn

Mr. Richard Ernesta, of Cascade, Mahe, is a qualified Local Master and is working as a Director Technician and had been working at SMSA for the past 8 years. He joined SMSA in 2006. He left in 2009 to join SEYPEC Tanker “Seychelles Paradise” as Chief Officer Local Trade and in 2011 he worked on SEYPEC Tanker “Seychelles Patriot” as Third Officer international.

He had not given evidence in any Court in relation to this incident. He received an email dated 23rd August 2018 (Exh. 13) addressed to the Director SMSA (Exh.14), which pertained to a request for permission for “Sea Horse” to sail to Coetivy, Platte, Victoria on 24th August 2018, leaving port at 9 hours. He received that email at 3.30 the previous day informing that the Sea Horse is leaving at 9 o’clock the following morning.

Attached to the Request were the Crew List, the Manning Certificate of the vessel and the Certificate of the Captain. He verified the Manning Certificate, the validity of the Certificate of the Captain and found all the documents to be in order. He signed on the Crew List as approved, scanned a copy of all the documents, and sent them back to the sender and a copy to all Agencies including the SPA.

Mr. Ernesta added that without SMSA having approved the Crew List, the SPA would not give the Port Clearance Certificate.

The letter that came from Mr. Mervin Mederick, the IDC’s Logistic and Support Supervisor on which there is an IDC stamp above the name of Mr. Mervin Mederick, was shown to Mr. Ernesta. There are two stamps and some handwritings on that letter.

Mr. Ernesta was asked whether he could identify the stamp and the signature on the top right-hand corner and the other stamp at the bottom right-hand corner. Mr. Ernesta answered that he could only identify the stamp as that of SPA he does not know whose signature it was. He is not accustomed to that signature. With regard to the bottom one Mr. Ernesta

identified his signature and the word “approved” which he wrote next to his name, and the date.

Referring to the Port Clearance Certificate from SPA, Mr. Ernesta said that on the copy he kept on file there is no signature of SPA, adding that may be IDC went with the Crew List and the Port Clearance Book to SPA and may be had it stamped. There is no time and date indicated on it. According to Mr. Ernesta, SPA should have the Port Clearance Book in its custody and not the Ship owner.

W18 MR. B. N. ANANDKUMAR– Affirmed

Mr. B. N. Anandkumar lives at Ma Constance, Mahe, is a Retiree and now a Consultant with IDC. He had been authorized by the CEO IDC to attend the Inquiry and testified on its behalf. He recalled the “MV Sea Horse” incident

He is a trained Engineer who was previously employed at SPTC from 1982 until 1991. He specialized in diesel mechanical engineering.

He started employment with IDC in 1991 as Engineer and remained in that post for nearly 11 years when he moved to its Purchase Department where he was mostly responsible to order, import, purchase and procure all materials, machinery and vehicles that were required for the entire operation of IDC. He procured all spares and everything for maintenance of the vessels belonging to IDC.

‘Manitou’ is the brand name. It is a telescopic handler. It was imported from Singapore by IDC. It is a diesel machine.

He knows that on the “MV Sea Horse” there was a ‘Manitou’ Telehandler at the material time. He could not recall exactly how that particular machine was imported because IDC had around 6 of these machines. He used to be responsible for the maintenance of these machines at a certain time but when the incident happened, he was in the Purchase Department and was in no way related to its loading on the Sea Horse.

He does not recall when that Manitou was imported. He does not know if a Log Book was kept for all that Manitou. A servicing chart is maintained for all equipment of IDC and he undertook to produce such chart. He does not recall who was the person responsible for machinery at the material time.

From 2002 up to now there were about 16 Workshop Managers, some have gone and some are still there. They are all professionals. The first Manager came with him for two, three months to get acquainted.

He undertook to check and inform the Commission as to who was the person responsible for maintenance on 25th to 26th August who can produce the Log Book of the Manitou that was board the Sea Horse. Changing of oil is done regularly for the machine to be kept well for it to be utilized.

A Manitou is started by a key in the switch and used a battery. It is heavy duty machinery and safety factors are very crucial. The battery of any vehicle which IDC loads on the boat going to the islands are always disconnected after loading on the boat. After reaching its destination the battery is re-connected. It must be the Operator/mechanic who was on the Sea Horse who disconnected the battery.

It is not known who was the Operator who loaded the Manitou. He had no idea what type of battery that was on the Manitou, when was it changed and so on and forth, but he undertook to find out.

(The Commission told Mr. Kumar that it wanted to establish the brand of the battery that was being used, its voltage, amperage and even possibly its trade mark. Whether it was purchased locally or imported. All the details of the battery, dry or acid.)

Manitou used pneumatic tyres which can burst with heat. The tyres on every such equipment are not easy to burst because these heavy machines do not have spring. He produced a Red Handbook of Telehandler (Manitou) model MT732, admitted as **Exhibit 22**.

Mr. AnandKumar stated that during his 11 years' experience they have their own ways and means of doing things. He will find out who was there at the material time and he will ask

the person. The idea was to bring the machine to Coetivy was only for loading and unloading on the island.

He also undertook to find out about the registration number of that Manitou and if it had a log book.

During his time Mr. Anandkumar had an Assistant who knew that when the battery is changed, that had to be entered in the Log Book. He did not know from whom to get the Log Book for that Manitou. At the moment, IDC still has these Manitou.

(Mr. Anandkumar was asked to find out and to inform the Commission how IDC was managing the Manitou and its related records, for how long such records are kept and the way it was kept, as at the IDC, everything is professionally managed, all records properly kept, and that was why the Commission was asking those questions).

Mr. Anandkumar does not know who loaded the Manitou on Sea Horse, or what type of battery was on it.

It was the practice at IDC that everything that is imported, is photographed.

It was put to the Mr. Anandkumar that – *“In view of his experience in the engineering field, could he not comment as to whether if only one battery lead was disconnected and one was still connected to the battery and through the movement of the vessel that could have got loose and touched somewhere and created a spark”*.

Mr. Anandkumar replied that he could not comment on that situation.

It was also put to him that – *“as an experienced Engineer, if one lead was on the battery and the other lead came loose and someone walking by, takes a lead and rub it against a bit of steel whether it would cause a spark”*.

Mr. Anandkumar replied that it can spark but depending on how it was touched. When you connect the battery in the way that it should be done, he does not think that any spark will come there at that time. If you do not connect the battery properly, you cannot start the machine.

Normally, it is a safe practice to disconnect the battery before a trip. After loading, once it is secured, the battery should be disconnected. If the battery is not disconnected, there is a small warning light that will indicate to you. That has been a practice at IDC although there was no standing order as such. He would not know if that was not done in the instant case.

To load the Manitou, you have to drive it on board, secure it for it not to move backwards, sideways or forward. That was the common practice.

If a machine is 12 volts, there is only one battery and if it is 24 volts there will be two batteries.

During his years of experience at SPTC and IDC, at both places there were lots of heavy-duty batteries. Battery explosion can happen, but he had never experienced a single battery exploding. What could cause a battery to explode normally is the use of the wrong battery chargers.

If there is a short circuit in the battery, the battery will lose its charge and it will not have enough amperage.

Mr. Anandkumar does not know if on the “Sea Horse” there was an electric cable running from the inside the ship through a hole onto the deck and into the deep freezer that was in the container. There are containers designed with a plug point, like a small hole. In this particular case, he does not know.

From his experience, a spark can be caused by anything for that matter through any negligence.

Ships’ crews at IDC are issued with good quality safety shoes.

It was possible that flashlights were used on the boat. Electricity for any navigation lights would have come through from the engine room.

Although Mr. Anandkumar was the one ordering everything from overseas during that period, he did not recall if anybody from “Sea Horse” placed an order through him for any equipment or whatever for the “Sea Horse”.

The procedure was that if Sea Horse needed anything, the request should come from the mechanic to the Supervisor or Chief Engineer who will then make a request to the Workshop Manager. If it is a normal order, Mr. Anandkumar will list these in one order because airfreight of up to around 45 kilos of cargo, is the same per kilo. To cut cost he will go through the items and if it is too expensive and he will reduce the cargo. A final list is then made, approved and signed by the CEO and the Finance Officer. It then comes back to him to place the order, clear the goods upon arrival and issued to them.

It is the Workshop Manager who was in charge of all the machinery and equipment. Finally, it is the Workshop Manager who decides what to order and what not to order.

The Fire Extinguishers on the Sea Horse were purchased locally.

During his time at IDC, there was never a shortage of fuel on the island. He did not experience any loss through syphoning.

Mr. Anandkumar undertook to organize for the Commission to see a Manitou.

Mr. Anandkumar – sworn to the oath as translator to translate English into Hindi and Hindi into English.

Oath

“I affirmed to interpret before this Commission the statement made by the witness and the conversation engaged by the Commissioners with the witness and to give a truthful, correct and precise interpretation of the words he used”.

W19 MR. SANGAR KANJI - Affirmed

Mr. Sangar Kanji was the Manitou Operator on 25th August 2018 and he was aboard the “Sea Horse” to Coetivy on that day. The Manitou is similar as that shown in the Exhibit 27 (a) to (g). All the pictures refer to the same type Manitou.

On the 25th August Sea Horse was at the IDC Head Office and he drove the Manitou on board. After that the boat and the boat left for Coetivy. After loading it, he switched off everything, took out the battery connection. After that he put a block under the wheel for it to not to move. There was no chain or rope tied to the Manitou to secure it.

He left the machine and went inside the cabin and stayed inside. He did not come out at all during the voyage. He is a vegetarian and did not any food and was hungry. After parking the machine, he did not see the Manitou again.

He does not know whether with the rough weather, the Manitou moved backward, forward or sideways. When he reached Coetivy, everything was intact before he left the Sea Horse.

When he went to Coetivy he carried only one bag which contained three clothes and his mobile charger, but no food. There was no tool box on the Manitou. As the Operator he normally carries a wheel spanner.

He asked the Captain where and which way to park it, he did accordingly. After he had secured the battery, he put on its cover and placed the key on the dashboard. The battery connection was tight. It had to be tight because it would make sparks. One cannot pull the battery connection with bare hand. He used a 30mm spanner to connect or disconnect the battery poles. The spanner was in the Manitou. In his 20 years of experience, he had not seen anything that can cause spark on the Manitou.

When he reached Coetivy, before he went ashore to eat, he checked that everything was okay, even the cover was there. The battery poles were in the same condition when he left.

He did not see that the battery had moved around. He did not check the battery. He just checked the Manitou and it was still there. He did not lift the cover and did not open the box where the battery is kept. He did not know whether the battery had fallen down on the side during the voyage. The battery is always intact and everything was intact before he left to go ashore.

Normally after the machine is loaded, the key is removed and kept on the dashboard of the Manitou.

He cannot tell from experience what caused the fire.

It was the man who came from the island to show where to put the anchor, who then came on board and he told him that he had not eaten any food and that same person took him ashore.

The man came and the Captain talked to him and he then left. The Captain had earlier called the island Manager and told him that he had not eaten anything and if he could take him ashore.

The small boat came to show where to put the anchor and then he left. He was there when the boat came, the man talked to the Captain and then he left. He came to show the Captain where to put the anchor.

He does not understand in English. The Captain was talking to the man who came and after that the man left. He does know what was their conversation. Before he left the Sea Horse, the anchor was already down. It was on the second time that the man came to get him. He felt that the boat was about 3 to 4 hundred meters from shore, but it could much further.

When Sea Horse caught fire, he was ashore in a room and the Security Guard called him, and when they were talking he saw the fire. It seemed to him that Sea Horse was moving back with the sea.

He could see the fire but could not hear the sound of the engine or whether the boat was going in reverse. At that time the fire was on the deck and the whole ship was on fire.

It could have been about 7:30 to 8 p.m. when he left the boat and when the Security called him, it was around 11 p.m. He was fast asleep when somebody knocked his door, but was afraid to open as he did not know who was knocking the door.

He did not hear any explosion or anything.

When he was leaving the Sea Horse at about 7.30pm all the crew were there were on the deck of the vessel. In all there were 6 people. The Captain helped him to get into the outboard. There was one Sri Lankan, excluding himself, there were five. They were all there. He did not notice anybody smoking.

At that point Mr. Anand Kumar answered.

Apart from the Manitou on deck there was a deep freezer in a container and the electrical cable was connected inside from inside the cabin. It ran on the floor of the vessel. The cable from the container passed through the door of the container to the cabin. The extension cable was connected to the cable. There was a socket to connect the extension. That socket was inside the container. The container doors were not secured but was tied with a rope, there was a gap and the cable passed through. It was a normal steel container with steel doors. That cable came through the unlocked door which was not closed. When the Sea Horse was going the doors of the container could move because it was not locked and the cable passes through. The doors were only secured with a rope and that cable went inside from under the door along the ship's floor. Only food items were kept in the container. The freezer was plugged onto the connection that was inside the container.

There was a deep freezer inside the container, there was an extension cord going to the plug and that extension cord went under the door of the container to the cabin and that door of the container was not locked during the voyage, it was loosely tied with a rope. He could say whether the doors could move or not but he saw the doors. They could not lock it because the wire was under the door. He used to put the deep freezer into the container.

That cable on board, is the same type that you will see in a house but it could have been bigger for the deep freezer connection.

Mr. Sankar Kanji - continued

He did not smell any fuel when he was leaving the Sea Horse that night. He was hungry at the time, and was just thinking about his food. He does not remember if the person who collected him from the Sea Horse in an outboard had a jerry can with him.

He knows that the Captain can drive a car, other than that he does not know if any crew member on the "Sea Horse" can operate the Manitou.

He does not know if the person in the outboard who came to pick him up, was a Prison Warden, an inmate or an IDC employee.

From his cabin on the Sea Horse, he did not see any crew member smoking on board.

It was the first that he travelled on the "Sea Horse", but he had been to Coetivy before. He knows that he would need to carry food. When he went before, he did not carry food with him. On the Sea Horse he was given snacks, like "pti mimi" but he could not eat. Even if he had carried food, the problem was that when the boat moved he felt like vomiting, he gets seasickness.

Mr. Anand Kumar (with leave interjected and answered)

Basically, when it is said that there was no fuel on the island that does not mean that there was zero fuel out there. Scheduled supply boat does the random check. IDC has a Reserve Tank on the island for the fisherman and they have to have that. Even if for some reason the supply boat gets delayed, there will still be some fuel available. It has never happened that IDC islands ran out of fuel completely. Nobody needed to come on the “Sea Horse” to get some fuel, not at all.

Q: In that particular circumstance, was it IDC which was responsible to stock the fuel on Coetivy or the Prison?

A: I cannot comment on that and I do not know if IDC was responsible to keep or Prison. I will tell you very honestly, from that “Sea Horse”, I am finding out more what I have discovered.

Q: You should come and tell us some more of what you discovered, can you help us?

A: Yes. Now I found out who was the Operator in charge and now I found out who is the person and this is the thing that I have taken note and I am trying to come to know.

Chairman: The Commission has concluded its question regarding the Manitou Operator for now, and if the Operator is required for more information, he will be notified.

Chairman: Mr. Anandkumar you are still under oath and you will continue where you left the last. The Commission asked you to look up for answers to certain questions put to you which you undertook to do.

Commission to Mr. Anandkumar (Still under oath)

Mr. Anandkumar, said that there was no anchor chain ordered or purchased by the Purchase Department. Only some spare parts were ordered sometime back for “Sea Horse”.

He does not know anything else about “Sea Horse”, its running or whatever. He saw the Sea Horse tied there for so many days/months. From his side in the Purchase Dept. there was nothing ordered like a chain and anchor in the name of “Sea Horse”.

There is a department at IDC called the Logistic and Transport Department and all IDC vessels came under that department. The person in charge at that time was called Mr. Mervin Mederick. He was the Transport and Logistic Manager and he is no longer working at IDC. Mr. Elvis Stravens was the Operations Manager and he was on leave at the time of the incident.

The mechanical repairs on “Sea Horse” would be IDC’s responsibility only. IDC boats are repaired by Naval Services. The size of the battery compartment of the Manitou is 430mm long, 400mm wide and 430 high.

W 20 MR. BRIAN NADDY ROCH CAMILLE – Sworn

Mr. Brian Naddy Roch Camille is presently employed by IDC as the Manager of Silhouette Island. He lives at Glacis.

He recalls the incident of “MV Sea Horse” which occurred on 25th August 2018. He was working at IDC in operations at the time. That morning Dr. Payet came by transport to collect him at Glacis, then went to Bel Eau to collect Nurse Ms. Vadivello and thereafter went to collect Mr. Goltz Dupres at Foret Noire. They all proceeded to Pointe Larue IDC airport. It was around 3 to 3:30 a.m. They waited in the IDC departure lounge. It took sometimes to get the plane ready. The plane left at around 5 a.m. On board were Mr. Goltz Dupres, Nurse Vadivello, Dr. Payet and Mr. Elvis Stravens. The Pilot was Captain Marcus Labrosse. While flying to Coetivy they did not see the “Sea Horse” as the sun had not risen yet.

They arrived at Coetivy between 5:30 to 5:45 a.m. and went directly to the Guest House. He was in a pick-up going from the airport to the Guest House when he saw some inmates walking around. Later on, he heard that those inmates were doing some search around for any survivor on the beach. The IDC Island Manager was present at the Guest House. The Nurse and the Doctor went directly to Mr. Glenn Gappy. They took him to a room for examination. After that he did not see Mr. Gappy again.

During that time, there was himself, Marcus and a foreigner. Marcus had a VHF Radio waiting for communication from Captain Don of the SPDF. The SPDF was also coming to Coetivy for search. He was there with Captain Marcus and Elvis and the sun was rising. He heard Captain Don said that he had seen the Sea Horse and gave directions according to his Radar. Capt. Don said that he had seen what looked like a small light flashing like a morse on the Sea Horse. He felt happy as he thought there was still life on board. Later on, when Capt. Don got closer, he informed that it was only the sun that was flashing on one of the metal bars of the boat.

After talking to Captain Marcus, Elvis decided to plan for the search. He asked Mr. Golty Dupres to take one of the two outboards. It was a 25-foot fishing boat belonging to IDC with outboard engine. Mr. Dupres can confirm whether the two boats actually belonged to IDC.

An inmate named Sopha took the other outboard. Mr. Dupres had another inmate with him. Mr. Sopha also had another person with him.

Mr. Camille then went to the Prison for assistance. Mr. Romell Albert was in charge of the Prison on Coetivy at the time. Mr. Albert allocated him 10 inmates who all got into the pick-up and went to towards the south. Getting there five of them went on beach towards the east direction and the other five went to the west direction. Their meeting point was at the IDC Office. He returned alone in the pick-up to the IDC Office. Later on, he met with the 10 inmates and he enquired whether they saw anything. They had not seen anything. He stayed on Coetivy until 5 p.m. when he took the flight back to Mahe.

When he was returning to Mahe, there were Mr. Glenn Gappy, Dr. Payet, Nurse Vadivello and himself on the plane. He does not recall if Mr. Elvis and Mr. Dupres stayed back. He was not required for any follow-up after that.

Mr. Elvis Stravens was the one in charge of operation, so he would be the one who went to the de-briefing.

Mr. Camille clarified that when the incident happened, the southeast monsoon was strong at the time. When the southeast monsoon is strong, and something fell in sea, the wind will push it in the northwest direction of the island. That was why he used the strategy of starting the search from the south instead of the north going towards the south. He said that maybe he was confused about direction when testifying earlier. The fact is that he went in the vicinity where the Airtel antenna is situated on Coetivy but not actually where the antenna is.

NB. After interpreting the Chart, Captain Morgan established that the two groups started from the north of the island going south towards the main establishment.

Mr. Camille said that the settlement is in the west, so it was his mistake. The boat was moored in the west of Coetivy. Prison settlement is on the opposite side. There was another group of people who went to search towards the south, possibly with Elvis. He does not know more on that.

He was previously working in the Operations Department at the IDC Head Office. Mr. Elvis Stravens was the Island Operations Manager. Mr. Camille said that he twice acted as the Relief Manager on Coetivy when the Manager was on leave for a period of one month each.

During the relief period, a Landing Craft came with cargo from Mahe. He had done off-loading operations of MV Enterprise 2.

When the two outboards returned from the search, he was still on Coetivy and did not hear anything. The person who can give more information was Mr. Dupres as he was on one of the outboards.

When the incident happened, Prison was already on Coetivy. All the islands are managed by the Island Manager of IDC who oversees everything. The Prison had its own policy but have to abide by what IDC has to say.

IDC does not get involved in their internal management of the Prison but if IDC observed that they go beyond its policy, this is when IDC will interfere.

Normally when a Landing Craft cannot beach, and if there is something urgent, the Manager went to meet the boat. Otherwise, he had to wait when the Captain beached. It is the Captain

who has the final say and he is the one who knows when he is ready to beach and he will communicate via VHF Radio.

When other boats came, it depends on the Manager how to manage the unloading. Normally it is the Island Manager who goes on board by an IDC outboard.

Mr. Camille said that on his way back to Mahe, he saw the Sea Horse still floating. The Pilot made two turns, so he saw it once and then he saw it again. He did not see any big flame but only some smoke. The back of the boat was starting to sink.

He did not see the anchor chain. He does not recall if it was him or the Pilot who took picture that was on the Seychelles Nation Newspaper. The picture was given to Public Relation Officer (PR) of IDC.

He is a very experienced Island Manager after working as such for 8 years. There is only one IDC island that he had not yet managed and that is the Providence Island.

At the time the picture of the Sea Horse was taken, he noticed that there was a tear at its side. That opening did you reach the bottom where the water was. The glasses had been broken.

W21 MR. YANNICK JUDE ROUCOU – Sworn

Mr. Yannick Jude Roucou is working at SFA for the last 8 years and its Legal Adviser for about 5 years.

He was a member of the MAIB at the material time. He was one of the first persons who went on site at Coetivy.

He received a call early morning, of Sunday 26th. He is not sure who called the meeting, whether the Chairperson of MAIB or Captain Valmont. The meeting was chaired by Captain Valmont. He was instructed that he was to be in a meeting at the SPA regarding an incident involving the vessel “Sea Horse”. The meeting, was meant to start around 9. When there, he saw representatives of various other Agencies present. He does not remember exactly who all of them were. He recalls that there were some members of the MAIB and SMSA present as well as SPA, SCG and Air Force. He was the one who was selected to go to Coetivy. He left the meeting and proceeded to the IDC Aviation at Pointe Larue. He went alone. The plane left at around 11. It was Captain Ploughs who was the Pilot. There were some other people on the plane including CID Officers.

The plane took-off at around 11 am on Sunday 26th August, 2018. On that day, there was another vessel that had gone aground somewhere along the reef at Cerf Island, so there were two incidents. The Pilot circled that vessel and took couple of pictures and then proceeded to Coetivy.

On the way, the Pilot said that he will try see whether he could spot the vessel. Mr. Roucou took a few pictures around 12:37 according to his mobile phone. These pictures were in the MAIB report.

Chairman: The witness produced 3 photos marked as **Exhibit 28 (a) (b) and (c)**.

The plane then proceeded to Coetivy and landed at around 1 pm. Passengers were welcomed by the Island Manager who was there and then everyone proceeded to the village.

Mr. Roucou said that he interviewed Mr. Glenn Gappy and the inmate Mr. Patrick Sopha. He first interviewed Gappy and then Sopha. He recorded the interviews. There was no other interview other than those.

He left Coetivy around 3:30pm to return to Mahe. On the way back, the Pilot again circled the Sea Horse and he (Roucou) took more photos of it at 3.39 pm.

Exhibit 29, is a picture of the people who were involved. There is also Mr. Glenn Gappy and Captain Ploughs in the photo. He identified Mr. Glenn Gappy, Mr. Patrick Sopha and Captain Plows in the photo but does not know the three other people in that picture.

Exhibit 30, is a closer picture of the vessel.

When he came back, he had a de-briefing the following day with MAIB but he did not make any written report.

He chose to interview Mr. Sopha because he said that when Sopha woke up, he saw flames and he went out and then he was also involved in the search and rescue.

Mr. Roucou clarified that the meeting on Sunday morning which was held in the SPA Conference Room at the New Port, was to do with this incident. It was to get all the relevant Agencies round the table to discuss the case and what next course of action to be taken. He left mid-meeting because he had to go to Pointe Larue to board the flight to Coetivy.

Mr. Roucou saw the Sea Horse when he was going to Coetivy and also when returning to Mahe, as they went in the same direction. He saw that the vessel had drifted away from Coetivy.

At the time the he was observing the vessel, he could not see Coetivy at the same time. It was like about 10 minutes' flight where the vessel was.

W22 MR. JOSEPH GOLTY DUPRES

Mr. Joseph Golty Dupres is a retired seaman living at Foret Noire, Mahe.

He used to work as Bosun on MV Enterprise 2 belonging to IDC. He worked for about 6 years as Bosun and prior to that he worked as a sailor for about 21 years. Even after his retirement whenever IDC needs him, they still call him. In August 2018 at the time of the incident he was called by IDC.

On that Sunday morning he went to Coetivy. He was informed at 2am that morning that Sea Horse was on fire at Coetivy and that he had to get ready to go to Coetivy. On the phone, was Elvis who talked to him early morning and Mr. Brian Camille talked also talked to him whilst he was in the car. He went to the airport to board the plane and arrived at Coetivy at around 5 a.m. On the plane there was Captain Marcus Labrosse, Dr. Payet, Mr. Elvis Stravens, Nurse Vadivello and Mr. Bryan Camille. On arrival at Coetivy he went towards the beach to see if he could see the Sea Horse but he did not see anything. The sun had not risen at that time. He then went to the Guest House and was standing next to Marcus who was communicating by portable walkie talkie to the Pilot of the aircraft which was doing a search at the time. He heard the Pilot said that he saw a small light on the Sea Horse and it looked like that there was someone still on board. The sun started rising at that time.

Mr. Dupres said that he asked Elvis to get an outboard from the Prison authorities to enable him to search the area where the Sea Horse was supposed to have anchored to see whether he could find anybody as they did not expect the SCG to arrive until later. When Elvis got him the outboard, he told Elvis that he will do a small search and try to get near the Sea Horse as he had seen that the plane was circling in the air where the Sea Horse was. Elvis agreed that he could try. It was raining at that time and was very windy. There was low visibility but he still went there with a prison inmate. They went in the northwest direction but the wind was strong and drifted them further and further away. Before they left shore he heard Marcus when talking to the Pilot who said that the Sea Horse was either 4.5 or 4.4 nautical miles northwest of Coetivy. They searched around the corals in the general area. As they went further out the sea got rougher and he suggested that they returned back ashore.

The inmate suggested that they went a little further. The rain had stopped and that was when they saw the Sea Horse. They went further down and the other outboard that was there, went as well. They managed to get closer to the burnt Sea Horse which was drifting towards northwest. They were not far away from it. The other outboard that Sopha was in, went the other way. At that time, the burnt vessel was just there because its chain was hanging in front and the wave was coming towards it. It seemed to him that the anchor had held onto something. When they got to the vessel the port anchor was tight and hooked to something. The chain which was from the forward side was tight, indicating that the anchor was properly hooked and holding on, because the anchor was holding the boat, the chain was tight and the “Sea Horse” was floating.

Mr. Dupres said that he did not see flames on the Sea Horse but there was smoke coming from under the Manitou. It was only the timber floor underneath the Manitou that was still sending out smoke. The Manitou was completely empty and had already been consumed. There was no flame coming from the Manitou. He personally saw and observed what he said. Sopha wanted to go on board but he told the inmate who was with him, to tell the inmates in the outboard not to go as they do not know what could happen with the boat if it explodes, but instead to go far away from the boat. At some point, the engine of his outboard went off and he did not know what to do as the boat that he was in, was drifting directly towards the Sea Horse. They reached around 2 meters from it and could see the inside of the Sea Horse.

Mr. Dupres said that he identified a leak in the fuel line of the outboard engine that he was in and that was what caused the outboard engine to fail. Another fuel tank was used and the outboard engine started. He tried to reverse his boat for it not to hit the Sea Horse. He could then see inside the wheelhouse. There was a bed where the Captain used to sleep, the roofing of the cabin was in TNG (wooden); and the wheelhouse was completely burnt. The fire has reached the kitchen as well. He saw a fridge on the side which was completely empty and burnt down.

Mr. Dupres said that when they were drifting around the Sea Horse, each and every time waves hit against it, he could see dirty water discharging from its porthole. He also noticed

that the back of the Sea Horse had started to sink. The porthole is not at the level of water but mostly at deck level. There was the sheet that was torn, this could have been caused by heat, and discharge was coming from the discharge of the engine. He opined that if the torn sheet had been caused by an explosion, all the tanks that were closed and completely sealed would have exploded open.

Mr. Dupres said that when they were leaving, the back of the had started to sink but the part of it was above the water when he left the boat around 3 p.m. He waited for the SCG vessel which was supposed to come, but it only arrived at around 8 p.m. When the SCG vessel arrived at Coetivy at around 8 p.m. it anchored on the north side and did not do any search until next morning at around 7:30 a.m. At that time, it was still raining and the weather was still bad and the time and place that the plane saw the trace of oil, was around 7:30 a.m. Monday morning.

Mr. Dupres said that he had a conversation with Captain Lablache of the SCG who said that he did not see any boat but only trace of oil on the sea and that the boat had disappeared.

Mr. Dupres clarified that on that day he received a call from Mr. Savy who told him that he should not leave on Sunday but instead to stay with Elvis until Monday afternoon. There was also a container that was leaning against the door where he thinks there was a freezer. There is an electrical cable where power is taken from the cabin to the container. The freezer and the deep used electric cable from the main cabin going to the container. It a normal extension cable and it was not in any pipe or anything and even the socket was like the ones that is used in houses.

Mr. Dupres said that when we were going back, the inmate who was with him told him that they should look around to see if they could see anything regarding the boat. When he ashore, he told Elvis what he saw.

Mr. Dupres said that Capt. Lablache of the SCG told him that there was bad weather and the antenna mast was about to break.

Mr. Dupres clarified that he was in the outboard looking into “Sea Horse”, and did not see any life ring but he saw life raft and the cover was kind of stuck in the hook of life ring and there was no life ring. The life raft was already burnt out and there was no life raft but only the cover which was stuck in the hook of the life ring. He opined that the life raft itself did not operate and he thinks that it was because of the heat that the life raft got burnt down and opened by itself. Mr. Dupres further opined that, when he looks at that incident, he could imagine that there was no coordination or organization as there was no life ring or life raft.

Mr. Dupres said that he had been working at sea at night for about 15 to 16 years around all the islands. Throughout that time, he had been diving with a torch, he saw sharks and other fish. If you flash light at sharks, they will go away, but without light, you cannot see a shark, so how could you kick it. If you kick a shark, it will react. It could come towards you to see what happened or it could also leave and not come back again.

Regarding the three people who disappeared, Mr. Dupres said in his opinion he could see that everybody on board did whatever they wanted. They just jumped off the boat however they wanted. There were five of them, only the foreigner who did not know how to swim and everyone else went for themselves. He could see that there was no coordination, and if they had coordinated, they would not have disappeared. There was that person who was helping another one who could not swim, he thinks that it was a bit embarrassing to just leave the person there and let go of him. The boat was already on fire and the Captain could have wanted to start the engine and turned the boat around, but the fire itself would have stopped the boat from moving and by the time the boat would have turned around, it would have been already on fire. Regarding the people on the boat, he thinks from his experience, someone would not just stay on the boat and let the fire consume him. Regarding smoking on the boat, crew members are not supposed to smoke on the boat where there is fuel. If there was a fuel leak, and the person smoking not realizing where he was whilst smoking and went in the position of the leak, something could happen, even he did not do it on purpose.

Regarding safety drill, Mr. Dupres opined that he does not think that Safety drill is done on the boat in Seychelles. The Captain may train someone but it may not be the same person working on the boat anymore.

Mr. Dupres said that during the time that he had been sailing on Sea Horse there were fire extinguishers and the crew knew how to use them. On “Enterprise 2” you have to disconnect the battery of the Manitou and arriving on the island you reconnect it.

W23 MR. PATRICK SOPHA – Sworn

Mr. Sopha testified that he is the person in the blue T-shirt and orange cap in photo **Exhibit 29**. The other persons in that photo are Nelson Derothe, Hubert Ernesta, Perry Simeon, Glenn Gappy and the pilot Mr. Ploughs.

There was a group of people from prison, a group of people from the IDC and another group on the boat. On the IDC side there were the manager Mr. Ronny Malvina, his wife, and some Indian workers.

There was an outboard for IDC that was on shore.

On the island that night there was only one IDC outboard on shore. To his knowledge, IDC had two or three small outboards and there was another bigger one and all were not in operation. All together there were two to three outboards.

Prison had two 40hp outboards which were all operational and working pretty well. The day before the incident, one prison boat went fishing in the morning and the other did not go but it was operational.

Both boats have their own fuel tanks but they had been removed at the material time and he was not sure where it was kept. Sometimes he borrowed the prison outboard to go fishing or to pick up his fish trap. On that day there was only a little bit of fuel left in the tank.

He kept the outboard on the shore but partly in the sea. The tank was already removed. When he finished working at midday, he laid his fish trap in the sea and then went home. Usually when he goes to pick up his fish trap or went fishing, he was accompanied by another inmate Mr. Nelson Derothe. On the island the prisoners stayed as one group.

After he had his lunch, be it weekend or weekdays, he was still required to do some work. After lunch, he went to do some gardening. Each convict had its own living place in a sort of a duplex.

He was assigned his duties but he already knew what he should do every day.

The Prison Officer coordinated and made sure that everything was in order. At that time there were no conflict between the Prison Administration and the inmates on the island.

From his understanding, the Prison authorities always keep its fuel with IDC. Generally, when he needs to obtain fuel for the outboard on a daily basis, he asked the Prison Officer who will then ask the IDC Officer for the fuel. He does not go fishing for inmates but he shared his catch with them.

On the material day, there was not much fuel so he asked his colleague called Peter, to go and ask for fuel at the IDC. He was not given any so he had to use the little that was left in the tank to go out to the Sea Horse.

On that day the Prison Officer told the inmates that the Sea Horse would be arriving and that they were required to help unload it. The vessel came late that evening at around 9 to 10 p.m.

Usually, he goes to sleep about 8 p.m. or 10 p.m. depending on what was on the TV. At times he was allowed to watch TV and by 10pm when it closes, each inmate goes to his respective house. But on evening when there was a football match, they were sometimes allowed to watch till later.

Each room that is allocated to an inmate there has a toilet and shower.

All inmates have lunch together in the Mess Hall as they do not cook food in their house. On the island he could wear the blue prison clothes as well as his personal clothes and had to do his own laundry.

That night, as usual almost all inmates as well as himself, went to their house, but there few others who stayed behind waiting for the boat to come.

His attention was drawn to the arrival of Sea Horse after it had already arrived. He was at his place when heard Perry Simeon called him saying that the Sea Horse was on fire. That was after he had reached his house and was in the toilet from where he could see the fire on the Sea Horse which had already anchored.

That day, he did not bother if the boat was already there. He knew that the boat was there because the other inmates said so. At that moment everybody had gone to sleep and each inmate was doing his own things in his cabin. The IDC management was on the other side and the outboard also there.

When he was on the island, he knew that inmate Mr. Alex Serret went to pick up an Indian worker from the Sea Horse. Serret collected the person and brought him ashore and the Officer took the outboard and put it back where it was supposed to be and almost everybody went home.

He does not know the Officer who accompanied Serret because at night he must be escorted by an Officer.

Before Serret went to meet the Indian the IDC Manager must have been aware as he was the one who made the first contact with the Sea Horse.

His attention was drawn towards "Sea Horse" at around 11.45pm to midnight when Perry called and alerted him that there was fire on the Sea Horse.

It was inmate Mr. Jean Cinan who lived in the other side of his duplex. Inmate Mr. Perry Simeon was not yet at his own house because he was watching movies at the house of inmate Mr. Dereck Vel.

Sopha told Perry to call the Officer whilst he went to the seaside to see if he could take the outboard but it had no fuel. When he reached the seaside there were lot of people already there watching.

After Perry had called him, Perry then ran and alerted the Prison Officer. All the other inmates came out of their houses and were looking towards where the Sea Horse was on fire. When he looked at the Sea Horse, he could see that it was not as if the fire has just started, but that it had been burning for a while. He could see that things on board were exploding.

When he ran to get the outboard, he was in the company of inmate Mr. Nelson Dorothe and inmate Mr. Hubert Ernesta. When he reached the seaside, he saw that Alex Serret was already there and mostly all the other inmates.

Fuel tanks for the outboards were already at the shed where the Officers were. He was the one who went to get the fuel tanks.

In the outboard with him were inmates Mr. Nelson Dorothe, Mr. Hubert Ernesta and Mr. Perry Simeon. He did not leave the shore earlier because he had very little fuel. Alex took an outboard and went out. Alex used the same fuel that he returned with earlier and it was the same fuel that the Officer gave back to him.

Earlier, after Sopha collected his fish trap, the fuel that was left in the tank was too little and could not reach far. Alex was the first one who went out in the outboard. Sopha does not remember who accompanied Alex.

Sopha had to wait for the IDC Manager to come to ask him for some fuel. He tried to ask the authority and nobody wanted to give him fuel. That was when he took the little fuel that was left and he went to sea very slowly until he saw Gappy whom he picked up.

He asked an inmate Mr. Peter Philoe to alert the IDC Manger and to ask him for some fuel. There was no fuel nearby and the Manager had to go to the store where fuel was kept. If Sopha had gone himself to the store and then came back, it would have been too late to save Gappy. The IDC Manager took his time and was a bit late to come from his house to reach the seaside. The Manager would not have been able to see the burning boat, as his house is far away.

Sopha was still waiting at the seaside for the fuel when the first boat left and Alex Serret had already reached the Sea Horse. At that time there was already too much flame on the Sea Horse.

Whilst Sopha was still at the seaside, the inmates said that maybe other people that were on the Sea Horse had already jumped in the sea, as nobody will stay on it if there is fire. That was when he took the boat and went slowly with the little bit of fuel that was left and that took him a little bit of time to get there. That was when he saw the boy, and the sea was a bit rough. On his way back, it started raining. It was also drizzling and that was when Nelson Dorothe told him that he had seen something moving in the sea and asked him to go and see what was happening. That was when he directed the boat to where Nelson indicated. At that time there were four flashlights with them. The flashlights were given to them by the Prison Officers, he already had his own.

They were shining the flashlights on the surface of the sea, to see if they could see anything. Nelson said that he saw something moving. Sopha went towards the direction that Nelson indicated when he then saw the person in the sea by himself. Just to note that if Sopha was going faster, he would have never seen the person in the sea. He could see the person because he went a bit slowly and that was when he saw him. That person was the sole survivor call Mr. Glenny Gappy (hereinafter “Gappy”)

At that time, Gappy was in the sea trying to swim and at the same time alerting or waving his hands or hitting the surface of the sea so that Sopha could be signaled to come to where he was. The first boat of Alex Serret had passed Gappy by and did not see him.

The sea was going on high tide. Alex Serret went straight towards the Sea Horse, but as Gappy was trying to swim in the same direction as the current so that current can push him ashore, at that same time trying to alert them that he was in the sea.

It was a very dark night. The distance that Gappy had arrived from the Sea Horse itself, the light from the fire was not strong enough to shine on the sea for him to be seen.

When he saw Gappy, in the sea Sopha could not jump to save him. They had a rope in the boat. The current was a bit strong and the sea was rough and that was when they threw the rope to Gappy and the three other inmates tried to pull him towards their boat because they could not go in his direction due to the current. The current was very strong and the sea was very rough and the boat was going up and down on the sea, though not for it to sink but it was very rough.

When he looked at Gappy he felt that he was someone who knew about the sea. He did not fight the sea current but he rather let himself be pushed by the current.

The sea current was going towards in different directions and it was high tide and Gappy tried to catch the current that was pushing him towards the shore. As soon as he was picked up and put in the boat, Gappy told them that there was someone else with him and that he has to just let go of him. When Gappy told them that, they took about 10 to 15 minutes going round in that area to see if they could see that person. They tried going towards the upwards direction but the current pushed them back down. They could not find anyone. The other outboard came nearer and he advised them that there was also someone else with Gappy.

While they were trying to turn the outboard to go ashore, the fuel finished and the current pushed them towards the shore.

Gappy was not naked when he was picked up, he had a short on him. Sopha does not recall if he had a T-shirt on.

Sopha noticed that Gappy was in a very tired state and if they had not picked him up from the sea at that time, he would have never survived. Gappy was just there floating around in the sea and did not have any more strength to swim. According to his maritime experience, Gappy would not have survived.

When Sopha alerted Alex that there was someone else with Gappy and to try and see if he could see that other person, there was no one. Alex continued the but Sopha went towards the shore and when nearly reaching the shore the fuel finished. There was current plus the waves that pushed them until they reached ashore.

As soon as they reached ashore, they disembarked Gappy and handed him over the people on shore who took care of Gappy. The Manager had already arrived with fuel. Sopha then took the fuel, pour it in the tank and went back with the three people that were with him earlier to search for the other person.

They went straight in the direction of and nearer to the Sea Horse tried to look around. When they went back to see, the current was pushing the Sea Horse. They went to see if there was anything, but could not see anything.

Sopha said that according to his calculations, if someone had jumped in the sea, the way the current was going, automatically it will have pushed them to the shore or maybe in the direction they were searching. He went near to the coastal area to see if they could come across anyone but there was none. The only thing that was on his mind that day was trying

to find the other persons that was on the boat and to save them. When he looked at the fire on the boat, if nobody had jumped before, nobody would have survived. Alex was also searching as they were.

There was a moment when Sopha was still searching around the Sea Horse that he seemed to have heard something shouting or crying out in the sea but he tried to find but could not see anybody. He could hear the sound coming from the sea and he heard it only once. He is not sure that the sound could have come from the ship. As the fire was burning, they could not see any shadow on the Sea Horse. The fire on the Sea Horse was very fierce and there was lot of smoke and there was no way that they could access the Sea Horse to see if there was anybody on it.

From his experience whilst he used to go fishing, several times on a boat very far at sea, you might hear someone speaking, talking, laughing, shouting but could not see anybody. What he thought he heard, was maybe someone was crying out for help, like - "*help me*". There was no word but only shout.

Sopha said that he could only hear a cry but cannot say what nationality exactly. He did not know how many people were on the Sea Horse. It was when he reached ashore that he was told how many people were on the Sea Horse.

He searched for these people for about 2 to 3 hours. After searching, there was a time that the sea became rougher and started to rain. He decided that they could not search anymore and had to returned back.

Sopha is 42 going on to 43 years old, and the incident happened when he was about 40 years. He started doing his 13 years sentence when he was about 27 years old. When he was convicted, he was sent to Marie-Louise and that was where he went fishing. Since he was 16 years old, he used to go fishing with his stepfather and they went far afield for fishing. Before he went to prison, he used to dive for sea cucumber. He had done a lot of fishing

trip with his stepfather. When he stopped fishing with him, he continued fishing with Mr. Andre Moustache and then with Mr. Danny Loizeau. He then stopped and did masonry. When there were no cement, he worked on tuna vessels and when there are cement he continued with the masonry work.

Sopha reckoned that he has many years of experience in fishing and the sea in general. He is able to steer big boats because his stepfather used to teach him. He had never been in charge of any fishing vessel. He had never experienced any accident whilst at sea. He can swim very well. He remembers when there was a person who used to leave his boat with him for about six months and he used to make few trips.

He is saying that at the material time, he did his very best to save people. He returned ashore at about 2:30 a.m. Even after they had reached ashore, he went up and down on the beach to see if he could see anybody at sea. According to his understanding there were some people that stayed on the beach to see if there were anybody drifting back on the beach. He knows that because he did not sleep.

He took the boat again the next day after breakfast when it was already daylight. While he was on the beach the next day, he did not find any debris of the Sea Horse because according to the IDC Officials who came, they said that the plane went round and could not see anything. Whilst he was at sea that morning, he could not find anything, not even a hat, nor even a T-shirt – nothing.

He gave a statement to the CID Officers who came to the island. He knew CID Dogley and CID Belle. Some of them who came to the island, congratulated him, and told him that he saved one life and normally when a convict saves a life he may be qualified for Presidential pardon. When Mr. Glenn Savy himself came to the island, he promised him that he will have a talk or a discussion about his saving one life and maybe helping him to get a pardon but up until now he had not heard anything.

Sopha is serving life imprisonment and when the incident happened, he had already done 13 years in prison and was about 40 years old at that time. He had a wife but is now divorced. He has three children aged 19, 16 and 12 years.

Mr. Sopha - still under oath (continuation)

Perry who was accompanied by another inmate Mr. Dereck Vel, called Sopha. When that incident happened, the convicts talked about it amongst themselves but no one mentioned that he saw the start of the fire. After the incident, following his conversation with other convicts, Sopha did not hear anybody else said that they heard any voice prior to seeing the fire. The inmates were there when just all of a sudden, they saw the fire. Perry came out from Dereck Vel's house when he saw the fire that had already erupted.

Prior to picking up the Indian worker from the Sea Horse, nobody else had used the outboard to go to Sea Horse that evening.

Mr. Alex Serret skippered the first boat to go to the Sea Horse and Sopha was still ashore. Serret went was faster straight towards the Sea Horse. Sopha and his colleagues went slower and were looking all around for anyone in the sea when they noticed the hands of someone hitting the surface of the sea, making foam so that people could see him.

For the one year that he had been on Coetivy, Sopha never saw the "Sea Horse" vessel coming there. Other boats came but not the "Sea Horse". Maybe it came at a time that he was on Mahe for visit and he did not see.

According to Sopha it was the first time that he had seen a ship anchored there. Most of the other ships that came, anchored either in the bay or in the southern part and not in the northern part. Since he had been there, this was the first time that he saw that.

Sopha did not see the start of the fire. When he was on the beach, the only thing he saw were fuel drums exploding and going up in the air.

According to Sopha, the fire started in the front of the Sea Horse and blown to its rear by the direction that the wind was blowing.

When he was still on the beach Sopha saw that the fire was not on the entire ship but only on its front part. It took him some time to get the outboard out to sea and by that time the fire was everywhere.

Perry came to tell him that there was fire, that was when he realized it. He then told Perry to go and inform the Prison Officer as to what was happening. Perry went straight to the beach to try and prepare the outboard.

The Sea Horse burnt very fast. The wind also was blowing in the opposite direction as it was very windy.

The next day when Sopha was close to the Sea Horse, Mr. Golty Dupres told him not to board it because the sea was rough and the outboard was going up and down. He did not get chance to see inside the “Sea Horse” even he was close to it. He saw where the cabin or the kitchen are located at the back of the boat. When he was in his outboard looking up on the deck of the Sea Horse, he could not see anything. From where he was, he could not tell whether the portholes were burnt. Mr. Dupres told him that they were not allowed to board the Sea Horse so he could not answer whether there were burnt people on it.

When he was in his outboard the night before searching, he would have been able to see people walking on the deck of the Sea Horse but there was nobody on the deck. If there were people, automatically he would have seen them jumping from the ship into the sea.

At no point in time did Sopha heard the sound of the engine of the ship and neither the sound of its generator. The wind was also blowing against the shore.

When Sopha picked up Glenny Gappy, the first thing that Gappy said to him was that there was someone with him and as he was too tired, he had to let him go. Sopha said that he then tried to search the area where he picked up Gappy but could not see anybody.

Sopha said that Gappy told him that he came out of his cabin and saw fire on the ship, he went back in the cabins to alert everybody. Gappy also told Sopha that he jumped in the sea together with the other person, as the fire was already all over the ship.

If other people had also jumped in the sea, the current would have dragged them like Gappy. In that area there are lots of corals. For several days thereafter, certain convicts went fishing and others went round the island but not see anything. Sopha also went fishing but did not find anything.

When he reached the beach that night, he went home and sat under his verandah. After certain time, the Prison Officer asked all of them to go back to their house.

Sopha opined that there was no possibility for anyone someone to throw a petrol bomb on the ship. He also opined that if he was allowed to board the Sea Horse that day to verify if there was any body or bones, maybe that question could be answered today. He went round the Sea Horse and Mr. Dupres was also making rounds near his boat and nobody went on it. Where he was in his outboard, he could not see neither in the cabin nor on the deck.

The next day when he approached the Sea Horse ship, there was no heat as it had cooled off during the night. Nobody could say when or what time the fire was extinguished.

He only saw when the fire was taking place on the Sea Horse but cannot say exactly when it started.

He knows that there were convicts who had relatives on board the Sea Horse. There was Glenny's uncle who was a convict. Alex Serret, also a convict, had his uncle who was on board the Sea Horse. Alex was very worried and that was why he persisted to stay at sea to see if he could find his uncle. But after sometimes, it was too late and the sea was rough so he had to return. There was also Derek Payet who also had a relative on the Sea Horse.

Sopha said that the only thing he knows is that after he was informed that there was fire on board the ship and was going towards the beach, he saw drums exploding and going up in the air.

At that time the weather was cloudy but had not rained yet. The sea was rough and very choppy and where he usually kept the outboard, it took him approximately 30 minutes to just push the boat to reach the sea.

After he floated his boat, he did not go directly to the Sea Horse. When he was at sea and going towards the Sea Horse that he picked up Glenny and took him ashore. He then went back to continue searching where Glenny told him there was someone with him. He never reached near the Sea Horse that night.

If he was going slowly and directly straight to the Sea Horse, it would have taken him approximately 15 minutes.

It was the first time that he had seen a ship anchored near the coastal area because usually it anchored either in the bay or in the southern part. From the coastal area and to where the ship was, was very close.

W24 MR. ROMMEL ALBERT – Sworn

Mr. Rommel Albert, is 53 years old, and lives at Anse Royale. He went to Anse Royale primary and secondary schools and attended NYS for two years and thereafter to the Polytechnic in the School of Health, Maths and Science and then transferred to the School of Education. After 2 years he graduated as a Physical Education Teacher.

He taught at Cascade, Baie Lazare and Anse Royale schools before joining the Army. When he almost completed his recruit training and before taking the oath he left to work as a Sport Officer for 3 to 4 years. He then worked at the Beau Vallon Bay Hotel as Chief Steward for about 3 years before joining Transec at the Airport. After 3 years he went to Berjaya as Steward, then to Maya Hotel for three months. He thereafter worked at Ephilia, Hotel, Port Launay for 4 years prior to his joining the Prison Service which he left later.

After about 8 or 10 years he went back to work at the Prison again. On the second occasion in view of his past experience and knowledge he started as a Sergeant after working at Montagne Posee he was sent to Coetivy.

There was Inspector Chief Inspector (CI) Adrienne, who went there to set it up. Insp Mrs. Agathine thereafter took over and when she returned to Mahe, Mr. Rommel Albert then took over as the Officer in Charge. He was there when the incident happened.

He had been managing the Coetivy Prison on and off on his own without a Senior Officer for about five years in the absence of Insp. Mrs. Agathine. Mr. Tirant was Prison Superintendent at that time.

They always had a stock of three months supplies on Coetivy in case there was any accident or bad weather and the supplies could not come up. At the material time there were about 25 inmates on Coetivy.

Stocktaking is done to see what they need and then ordered them from the Montagne Posee Prison. It was IDC which used to deliver the supplies.

When the IDC vessel docked, the IDC manager went on board and picked up the manifest. Whatever supplies belonged to the Prison were handed over to him. If he was not present, the Supervisor verified in relation to the manifest. The unloading of the vessel was done by convicts and the Manitou. Each time the boat came there was a Manitou on board for unloading.

During his five years on Coetivy MV Enterprise 2, MV Pti Frer, MV St. Andre a fishing vessel belonging to Mr. Keith Andre, brought in supplies. All the procedures went smoothly throughout.

On Coetivy, convicts are assigned to IDC, even they still lived in the prison village. In the morning they assembled and the IDC Manager is also present. Those assigned to IDC, the Manager assigned them to their duties and those assigned to IDC, the Manager assigned them their duties those inmates remaining worked within the village and. They normally finished working at 11 a.m., and came back to the village to do their washing up and other village work. They get some time for themselves.

The prison area, is not fenced, it was an open prison. Inmates were allowed to go to the beach only during the day. There were two Nepalese Officers who worked every night patrolling the beachside and around the village.

That evening Albert saw the “Sea Horse” at around 8 p.m. The Sea Horse had been at anchor for about 4 hours before the incident.

The inmates always looked forward to the arrival of the boat as they will be expecting their goodies like some juices, chocolates etc... sent by their relatives in Mahe. They always looked forward to that day.

When a boat was expected, everybody in the village waited because normally there was parcel for them. They were the ones doing the off-loading. That day the Sea Horse could be seen coming in the far distance as a small shadow. Inmates used the prison outboards to pilot as the Captain who does not know the area to guide them inside. Alex Serret and an inmate met the Sea Horse. There was an Indian worker on board who was a vegetarian who had not been eating for 32 hours, and he was taken ashore.

Alex Serret wanted to direct the Captain to where every vessel used to anchor but the Captain anchored further out. Alex left the Sea Horse and returned.

At that time Prison fuel containers were almost empty, with no reserve whatsoever. IDC had only one drum of fuel remaining. Prison was waiting for its fuel. There were two big tanks of 2500 liters of Mogas for the outboards. Diesel which the Prison supplied to IDC for its generators and IDC in return shared electricity with the prison. On that boat the prison's contribution was 65,000 liters of Gasoil to be supplied to IDC which are kept in IDC's store. No cooking gas was ordered.

According to Mr. Albert, that was the first time that they had put fuel in plastic containers as usually metal drums were used.

According to Mr. Albert's information and knowledge people never interfered with the fuel on the island. They never siphoned fuel for their own use. He does not believe that anybody had interfered with the Mogas on board the Sea Horse that night. It has never happened where people siphoned fuel on board vessel for their own use.

There were lights on Sea Horse where it was anchored. Sea Horse was not dragging by itself or moving position, it remained tight. He saw Sea Horse holding even though the wind was blowing against it.

Nepalese sentry will stop any inmate from going to the beach at night. When the incident happened, Albert had been in his room. He went there at around 10 p.m. It was past midnight

when Perry knocked his door, shouting – “*Sergeant, the boat is on fire*”. He thought that it was an outboard. He took two flashlights. He then pressed the alarm for one minute and went straight to the beach.

On his way, Mr. Albert saw a huge fire on the Sea Horse and things were going up and down as if in an explosion. When he reached the shore, he saw few inmates already lined up. Alex Serret and Mike Vital were already preparing an outboard for them to go to the Sea Horse. It was low tide and they had to push the outboard for about 100 meters to float it. Albert was in the outboard with Mike Vital and Alex Serret was the skipper. On their way out, he asked them to slow down, in case someone was swimming in their direction, they will be able to see. He had two flashlights and were shining them to see if there was anybody in the sea. They did not spot anybody.

Mr. Albert noticed that Alex had a great interest as he had a relative on Sea Horse and he was going fast, then he told him to slow down and they went straight towards the burning vessel. Upon reaching near the Sea Horse, they went towards its rear, by then the fire had already engulfed the wheelhouse and everything. Th fire was still burning and he told them not to board in case there was anything that could explode and they will become part of the fire. He found that the fire had been burning for sometimes.

The fire started on the front of the Sea Horse and when he was going towards it, the fire had already engulfed its front part. There was no fire floating on the sea, but only on board. Alex panicked knowing that his relative was on board.

Mr. Albert said that to his knowledge, nobody could have survived that fire. They were about 30 to 50 meters away and he could feel the extreme heat. They were trying to fix their sight on the Sea Horse to observe any movement, but there were none. They maneuvered around and as they were low on fuel and could not stay at sea longer and were drifting, they went back.

On their way back, they were shining the flashlights and that was when Albert saw the other outboard coming in their direction. He saw a hand waving up closer to the other outboard and heard a voice saying - "*I have just let go somebody*" meaning "mon fek larg enn".

Mr. Albert saw an inmate from the other outboard throwing a rope at the person in the sea and pulled him onto the outboard and brought him to the beach. The person was Mr. Glennly Gappy. Where he was picked up was approximately 500 meters from the Sea Horse and another 500 meters from shore.

Mr. Albert later opined that where Glennly Gappy was picked up could have been about one kilometer from shore. On shore the inmates were talking to Gappy who did not have any change of clothes. One of the inmates, who was his relative, gave him some clothes. Gappy was saved by the prison inmates. When Gappy reached ashore he was taken to the communication centre on the IDC side by the inmates who were still on the beach. The inmate who was his relative accompanied him.

Mr. Albert returned ashore and he went to IDC. He took a fuel container and went back to the beach and asked the inmates to go to the village to find fuel oil to mix. He went back to the prison village and contacted Mahe to inform them that there was an incident. He phoned to Montagne Posee by land line.

He and a Sergeant stayed in his Office to coordinate. Prison Officer Jules Robinson with few inmates were patrolling the beach to see if they could find any survivor. After sometimes he saw the Sea Horse drifting slowly. At the time earlier when he was near the Sea Horse, it was still holding tight by its anchor. About 2 or 3 hours later, he could see the current pushing the Sea Horse sideways but did not know if the anchor was still holding. He could see the fire going off slowly.

By the time that Mr. Albert saw the fire, the Sea Horse had been burning and there was fuel in the sea. It was not IDC that was responsible for the search and rescue operation.

One of the outboards was under the shed at the time and the other one was near IDC Office. IDC had no skipper, and had five Indians workers, the IDC Manager and his wife and one Security Guard. IDC had no people with sea experience at all. It could not be that it was IDC which had to do the rescue operation. That night, it was the Prison which did all the operations.

The next morning IDC plane landed at 8:30 a.m. and Mr. Elvis Stravens and Mr. Golty Dupres were on board. At that time the IDC outboards were still under its shed.

On Sunday morning, the IDC Manager did not give Albert any fuel to put in the prison outboards to continue the search saying he was waiting for orders. After CID Officers came that morning, C.I Adrienne organized search patrols along the beaches. He divided 10 inmates into two teams of five. A team went towards the north and the other team went towards the south and were to meet at the airport. Nothing was found.

Mr. Albert worked on Coetivy for about 6 years and left two years ago. There was no pressure put on him by anybody which interfered with what to say at the Inquiry. He was not questioned much at the material time. Even the CID did not question much, nor did the IDC CEO.

The Sea Horse was hired by Prison to carry its supplies and had nothing to do with IDC. On its way back the Sea Horse was to drop few things for IDC on Platte island. That was the first time that prison directly hired a boat from IDC.

Mr. Albert found the colour of the fire to be very bright when he was there. He smelled of burning stuff. He presumed that the objects which he saw moving up and down, were drums

exploding. It may be possible that one of those drums could have fallen on the other side of the boat.

Prison does not stock jet A1 fuel which was on board the Sea Horse. There were 3 of 4 barrels of Jet A1 was for IDC. Prison only had two 1000 liters containers and one 500 liters container of Mogas.

After the Sea Horse had beached, Prison inmates were going to off-load the fuel by using the Manitou to lift up the IBCs and gravity fed fuel into metal drums, then rolled the drums up the beach and put them in a pick-up and to be transported to the IDC store.

It was previous normal practice to use a prison outboard as a pilot. That night a prison outboard went to indicate to the Captain where other boats usually anchored and as it was the first time for Captain Morel, he may not know where to anchor.

Captain Morel had earlier talked by radio to the IDC Manager who asked Albert to get Serret to go and collect an Indian worker on board. The request for piloting was possibly from the Captain who may not know the Coetivy area very well especially at night. Alex Serret and another inmate who were in the outboard offered to lead the Captain inside. Normally the other boats that came to Coetivy anchored closer to the beach, at about 300 meters.

Mr. Albert opined that even if Captain Morel had been to Coetivy many times when he was working with Captain Valmont on Enterprise 2, it was the first time that he came by himself during the time that he (Albert) was there. During the six years that he had been on Coetivy he had never met Captain Morel. Maybe he had seen him but did not know who he was.

The next morning after the incident some people from MAIB came to Coetivy, namely Mr. Yannick Roucou, Mr. Idney Basset and Captain Khan who remained at the guest house. That morning, inmates went out again with Mr. Golty Dupres in one outboard and Alex

Sopha and other inmates went in the other outboard, but Albert was not with them on either of those boats.

Mr. Albert recalled seeing TOPAZ anchored. He does not know if it was Monday or Sunday, that he went to the TOPAZ to ask them for some fuel as he had none, he was given some. He did not ask them whether they had come from Ile Platte or directly from Mahe.

According to Mr. Albert, Prison expected the inmates to prove themselves, rebuild their inner self, and prepare themselves to go back into society. They were given the opportunity to do that.

Even at low tide, no inmate will ever manage to escape or go to sea. Once an outboard engine is started, everybody will hear it because the island is quiet.

Anything could have happened to the two both prison outboards involved in the search that night. They could have disappeared on the high seas for good. They had to stop searching because they were running almost on empty fuel tank.

Mr. Albert lamented that those valiant Prison inmates were never recognized or commended for their heroic and valiant efforts exerted at great risks to their own lives. On the Prison side there was only a simple ‘thank you’. Mr. Albert added that in his view a reward should be of relevance regardless if they were prison inmates or civilians. Maybe these need to be stepped up.

After the incident, there was no meeting held between the IDC Manager and the Prison Service to discuss what happened. The only thing that happened, was that the CID came and went. Even on the Prison side there was no de-briefing. There was never any procedure or protocol of any kind in place, in case of emergency. They never had any such drill. There were only some inmates who were trained for the safety of the plane on landing and taking off.

W25 DR. DAVID PAYET – Sworn

Dr. Payet said that he graduated as a doctor in 1993 and had been working in Seychelles since 1996. He is actually working with IDC and had been there for the last four and a half years. At the time of the incident, he had been with IDC for one and a half year. He started in January 2017 and the incident happened in August, 2018.

Dr. Payet testified that around 2 a.m. on the 26th August, 2018, he received a call from the IDC Aviation Operation Manager, Liza Victorine who informed him that there might be a medivac with the vessel “Sea Horse” that caught fire near Coetivy Island. He immediately informed Nurse Ms. Cecile Vadivello that there is a possibility for a medivac and that she needs to get ready. A driver came to collect him around 2:30 a.m. at Bel Ombre, then went to Glacis and collected Mr. Brian Camille, and on to Bel Air to collect Ms. Vadivello. They arrived at the IDC Aviation at around 3 a.m.

They prepared their equipment for the medivac and the plane took off around 4:10 to 4:15 am. arriving at Coetivy around 5:15 to 5:20 am. They went directly to the guest house where he saw Mr. Glenn Gappy talking to some inmates. Gappy was in a panic state, shaking and emotional. Dr. Payet asked him what he was doing there, he said that he did not know. He was then brought to a room in the guest house.

Dr. Payet checked his temperature, he was really cold, in a state of hypothermia. His body temperature was 36 degrees Celsius, his blood was 130/80, and his heart pulse was 103 per minute. He wrapped him in 2 blankets to keep his body warm because he was losing more heat than his body was producing. Gappy asked for something to drink and he was given water.

Dr. Payet questioned him about what had happened. He said that after he finished his shift he was going downstairs to his cabin to sleep. He heard an explosion and went back up where he saw fire.

Gappy told him that he woke the other crew and told them that there was fire on the boat and that they should jump off. When he went back on deck, he saw only Nigel Fanchette. He told Nigel that they should jump off the boat but Nigel was afraid. He held his hand and walked through the flame. Dr. Payet saw superficial burn on Gappy's arms where hairs were burnt. Gappy said that he and Nigel jumped in the sea and started swimming. At some point Nigel told him that he was tired and that he should carry him. Glennly told Dr. Payet that he held Nigel around his waist and swam with only one arm, that some point he got tired and let go of Nigel and continued swimming.

Dr. Payet added that Glennly told him that he kept swimming and at some point he felt something big close to his feet. When he looked, he saw a hammerhead shark. He said that he remembered that his grandfather told him that when you see a shark in the sea you should kick it on its head and that was what he did.

Glenny told Dr. Payet that he kept on swimming until he noticed a fiberglass boat coming. It was dark and could not really see the boat. He waved to them but the first boat did not see him. He later heard a second boat and he screamed again and that boat got to him, put him on board and brought him ashore. Dr. Payet said that that was what Glennly told him.

Dr. Payet said that Glennly sat there and was a bit agitated. He gave him an injection of diazepam 10 mg to relax and he slept. Dr. Payet went outside and heard people saying that they could see the fire from far away. Mr. Golty took an outboard and went to the Sea Horse could not make it because of the heat.

Dr. Payet stayed there until around 4 pm and together with Glennly returned to Mahe. Dr. Payet brought him to the IDC Clinic at Pointe Larue, just near the runway. Glennly was stable and he prescribed diazepam again for him to relax and be able to sleep. Dr. Payet told him that if he felt anything, he could come back to see him.

Dr. Payet said he had related what he heard from Mr. Glenn Gappy. He did not write it down but memorized it and is still vividly in his mind.

On the return flight to Mahe there were several other people other than himself, the nurse and Glenn. On the flight to Coetivy that morning, there were Elvis Stravens, Golty Dupres, Brian Camille and Nurse Vadivello.

Glenn came to see him for sick leave, because he could not come back to work. He issued him twice sick leave of five working days. Glenn came to see him again on the 17th September, 2018 complaining of backache. He examined him and did not see much. He ordered for an X-ray which revealed scoliosis of the lumbar spine. Scoliosis is a bone defect. His spine is not straight. He gave him some pain killer and he did not see him again. Dr. Payet believes that his scoliosis had nothing to do with the accident.

Dr. Payet opined that Glenn was really affected psychologically. When he saw him on Coetivy that morning he was in a state of panic. After that when he came to him for sick leave, he was not that bad. He was talking, driving, doing everything normally. He said that he could not come back to work because of what happened was still on his mind.

Glenn told Dr. Payet that he talked to Captain Daren and told Darren that they have to jump off the boat. Darren said no, that he would be the last one to jump because he has to turn the boat in the direction of the wind.

Dr. Payet said that Glenn did not tell him that there were flames on the surface of the sea but only mentioned that flames were on the boat. Glenn showed him superficial burns on his arms.

Glenny told him that Nigel was on the deck but did not tell him that he held Nigel's hand, but he rather pulled Nigel because Nigel was in a state of fear, and then they jumped into the sea.

Dr. Payet said that when he saw Glenny, definitely there was a T-shirt on him, but he did not ask Glenny whether when he was swimming he had anything on him.

Dr. Payet said that there was a pair of shorts on Glenny when he saw him Glenny. Glenny was already there for about an hour before he arrived. He had to put something around Glenny's body because he was cold.

Dr. Payet said that he checked Glenny and apart from the superficial burn there was nothing else on him. There were no hairs on his arms because of the superficial burn and that revealed to him that Glenny went through the fire.

Dr. Payet opined that when someone went through a fire, like where Glenny was on the deck, he could have held his breaths for seconds. But, if Glenny had inhaled the fumes or even the smoke, maybe he could get a cough, infection or even inflammation, but he had none. When he examined Glenny, he found that his chest was clear and Glenny never complained of any flu or even cough.

Dr. Payet said that his training as a doctor definitely included burns. When you do general surgery, there is a topic about burn and burn is not just burn, there is a degree; 1st, 2nd, 3rd and 4th degree burns. His training included Hypothermia which is when your body temperature is losing temperature more than it produces. Usually, hypothermia is less than 35%.

Dr. Payet opined that there are two possible options, either the other crew did not jump off and they got consumed by the fire or they jumped after Glenny and they got drown. If

someone had managed to board the Sea Horse after the fire, they would probably see bones if the body had been consumed by the fire. Unfortunately, nobody managed to board the boat.

Dr. Payet further opined that, if the crew had stayed on the boat, they would have been consumed by the fire but there will be bones left. But if they have jumped off and later on drank a lot of water, their body will definitely float and maybe the current will take them away if they have not been eaten by sharks or animals.

Dr. Payet said that when a person drowns, it means that the lungs are full of water, he cannot breathe, and will die and the body will still float for some while because of its density.

W26 MR. RONNY MALVINA – Sworn

Mr. Ronny Freddy Malvina lives at Bel Ombre. At the time of the incident, he was employed by IDC as the Island Manager for Coetivy Island. He stopped working for IDC 3 years ago. He is presently employed as Head of Enforcement with the SFA.

He appeared at the Inquest before Magistrate Burian and gave a statement that he made, which was filed, concerning the incident. All actions that he took from the time the vessel arrived to the island until Mr. Gappy left the island. He produced his Official Report which is now **Exhibit 31**.

He is a Forensic Scientist by profession with a Degree in Criminal and Forensic Science and Physiology from the University of India. He joined the Seychelles Police in 2010 and had been in the law enforcement for 7 years. He then went to IDC around 2017 and spent only spent one and a half year at IDC and came back to Mahe. He now works in Security Management at SFA.

He first sighted the “Sea Horse” at about 7 p.m. and he kept trying to get in touch with the Captain. He had a small handheld radio with around two miles of range. The Radio that he was using to communicate with “Sea Horse” is the one that you receive Marine Channel 16.

At 7.30 pm the Captain contacted him by radio and confirmed that it was too late to beach, and that it was the wrong tide to beach. He will do so with the next high tide around 5 am next morning.

Arrangement was made for a vegetarian Indian worker aboard to come ashore for dinner. He was brought ashore by the inmates.

He actually started to record everything live as soon as the inmates came to call him at his resident. He had been in law enforcement for a long time. He knows that he is expected to

write a statement afterwards. So, he started recording his actions as it happened and he then extracted from his written notes and produced his Report on 26 August, 2018.

On Coetivy at the time there were two managements so to speak - the IDC Management and the Prison Management. On that day there was a third element, the Captain of the vessel. He was in charge of one element management namely IDC.

His connection with the Prison Management was he got human resources from them. He was generally responsible for island security and does not get involved in the prison security as such. If inmates interfered with IDC property, he is responsible for that. The operation of the Prison was handled by the Prison. He had to collect the Indian from the vessel but did not have a Skipper and had very little fuel. He the Prison management to help him out, which they did. It is a small island they always helped each other out.

That day he talked to Mr. Rommel Albert the person in charge of prison at the time. On the IDC side there were only himself and another field worker. He did the driving of the two small pick-ups. There were two tractors, one was for fire service and the other was for general duties. He normally used the pick-up.

On that particular day he was expecting supplies by "Sea Horse". He had only had about 30 or 40 liters of unleaded fuel. He was expecting 25,000 liters of diesel and around 25,000 liters of unleaded fuel that was supposed to come. Mr. Stravens would know better. He had only one small fiberglass outboard. IDC used to have two outboards, but the other one was out of commission.

The small fuel tanks of the three outboards are kept in a locked store. There are two fuel stores, one where unleaded fuel in drums are kept and another small one where the outboard tanks are kept. Normally he does not keep fuel in the outboard during the day unless it is the day for fishing.

From where fuel is kept to the outboard is a walking distance. From where he lived to the ship's landing area is about 30 to 40 meters. The outboard is kept near the guest house. The approximate distance from IDC management to the Prison management is about 110 to 120 meters or about 5 minutes' walk.

He knew that the "Sea Horse" was coming a month or so before to bring diesel. Normally he was advised that the goods were coming more than 24 hours before, that was why he was expecting it and was at the sea side around 7 p.m.

There were six other Indian workers on the island employed by GICC a company under the management of IDC. He could assign them duties as they were there to help out with construction works and general maintenance. They take care of generators and carry out general maintenance of construction machinery. They have a foreman and he had full control over them. He was the senior most person representing IDC on the island.

When "Sea Horse" was coming, he had to make sure to organize manpower on his side to unload supplies. He ensured that the landing area is clear, the lights are working and the diesel tanks are cleaned out at least a week before. He also prepared the storage for supplies, for unleaded fuel and if there is anything else coming, he makes sure that there is space for it, and that the trucks are in working order.

There was only 30 to 40 liters of unleaded fuel which are used for grass cutting and for fishing. He was not no prepared for emergency situation.

The coming of Sea Horse was not an emergency, it was routine. Sea Horse being a landing craft, preparedness was not necessary for its arrival. He had to make preparations to meet vessel like St. Andre because it cannot land. He had to send somebody out to escort it through the pass. The only thing he was required to do on the Sea Horse was to meet the

Indian worker and for that he got the help of the prison to bring him ashore. He was there and he saw when prison inmates took the outboard to meet him. He did not go with them and does not recall who went with them. There could have been more than one inmate, because normally even if going for short distance they are not allowed to go by themselves. As soon as he was ashore, he started talking to his GICC colleagues who had dinner ready for him. Mr. Malvina said that after he went back to his residence.

Mr. Malvina stated that it was a very dark night. Generally, on the island there is no much light. He had been with IDC for one year and these guys have been landing on island for years. So, when the Captain told him that he had to wait for the tide he agreed because the Captain would know better than him. Actually, beaching that boat is a very technical operation. You have to wait for the tide. The Captain was more familiar with the area than he did and needed no guidance from him. That had nothing to do with his IDC management. As far as he was concerned, at 8 p.m. everything was okay.

Where he lived, he could not see the prison settlement. His house was part of a small village but furthest away from prison.

His next move was at 25 minutes past midnight on the 26th August. He was asleep when he heard someone outside calling, manager, manager, and said that the boat is on fire. At first, he thought that he was joking, but he did not have that kind of relationship with them, and they would not joke at 1 am in the morning. He awoke, got dressed and drove to the landing site.

Mr. Malvina stated that the inmate who called him was Mr. Peter Philoe and was possibly with somebody else.

He saw the vessel off shore and was on fire. At the time when he saw it, the fire was in full swing, burning front to rear.

When the inmates came to him, they told him that they needed some fuel to assist. He had to provide the best operational response and account for the fuel after. He went to the store, got them some fuel so that they could go and help. He did not have any skipper and those inmates were ready to help, so the best response for all of them, was to give them some fuel and they headed out.

He contacted Mr. Elvis Stravens the IDC's Operations Manager at the time.

After the inmates told him of the incident, he went beachside to get some fuel, then he figured out that more hands would be needed to take care of whatever comes up, so he got the Indian workers involved.

He does not recall who called him at 12.50am to report that the inmates had saved a first survivor. He then issued more fuel and torches for the search. He got more fuel from the same store. They had to continue searching because he knew that there was more than one person on board. He was hoping at that time that everybody was in the sea and that it would be easy, and they would just be picked up.

About 1 a.m., he received a call from Mr. Glenn Savy on Platte Island who told him that he had contacted the SCG about the incident. Mr. Malvina opined that if he is not mistaken, their response was extremely delayed. The SCG arrived there the next morning. Coetivy is 160 miles from Mahe.

About 1 a.m. he received another call from Mr. Savy from Platte Island asking for an update of the incident.

At 1:25 a.m., Mr. Glenn Gappy arrived ashore after being saved. The doctor had not arrived on the island at the time.

When Mr. Glenn Gappy came ashore, he reported verbally to him that he had jumped overboard. At the time he did not consider appropriate to take a statement from him.

Mr. Malvina stated that he remembers correctly, that Gappy was shirtless. He had only a short on him. Gappy walked with him to the guest house and the first thing he could think of doing was get him to take a hot shower which he did. He was thinking that Gappy should relax and calm down in the room. But when he spoke to Mr. Albert of the Prison, the latter advised him that it was better that Gappy comes out and interact with other people so that he was not alone thinking about the incident. He asked him to come outside and he was hanging around outside the guesthouse outside.

At the time Gappy was not really telling him much about what had happened. Gappy was following his advice. He came with him to the guest house, took off his wet clothes, and showered. Gappy was quiet for sometimes, then he went outside and was not really interacting with him because he was taking care of the ongoing operation. Gappy was allowed to talk to everyone just to keep him occupied. Gappy may have been received a T-shirt from an inmate.

Mr. Malvina called Platte Island at 1:35 a.m. and informed Mr. Savy about the survivor. He gave him phone access to Mr. Glenn Gappy who sat down and was discussing with Mr. Glenn Savy, IDC CEO, later on about 1.45 a.m. He did not hear what they were talking about.

The search was still ongoing. He was communicating with Mahe to make sure that the plane was coming and the police was informed.

While he was arranging for Gappy to get a shower, there were few people around who were asking him what happened. Malvina said that he also asked him at one point what had happened. Mr. Malvina said that he made sure that he was doing the right thing, especially

to get him a hot shower. He recalled Gappy saying something about the Manitou, the first thing that he saw was on fire.

Mr. Malvina said that Gappy mentioned to him that he saw the Manitou on board exploded first and it started the fire on the vessel. The statement was logged but not tape recorded. Mr. Malvina said that he was sure that a lot of things would happen that he would be taking a lot of action. So, he immediately started recording everything that was going on.

At 2 a.m., it was still dark, and he did not really have much in terms of equipment. He gave the inmates flashlight. These inmates know the pass very well. It was very rough and very dark. At that time, the inmates realized that they were going back and forth and it was getting risky, so they had to stop at that time.

At 2 a.m. the search operation by the inmates stopped but the shore line search was still ongoing. It was decided to go north because at the time it looked like the vessel was drifting north northwest and it was thought that if anybody would be drifting, they would be drifting towards the north. The search party headed along the beach as it would be more likely that they would end up north.

Mr. Malvina stated that at that time, it visually looked like the Sea Horse was drifting north northwest, as that was the direction of the current.

At the time that he was on the beach, he observed the flame off shore but it was too far away. Mr. Malvina was accustomed to the direction where he was. The vessel was going back towards Mahe direction.

Mr. Malvina phoned Mr. Toussaint, the manager on Platte Island and informed him that the search had been put on hold because of bad weather.

The beach patrol ended with no more survivor and he went back to set up operation at his office and he stayed there.

The Lance Corporal Germain of the SCG who called him seemed that she was at the Command Centre in Mahe. Her conversation was very brief. She wanted to know what was happening and what SCG could do. At 3 a.m., the SCG in Mahe must have known what had happened on Coetivy otherwise they would not have called him. At 3:15, he received another phone call from Lance Corporal Germain again inquiring about the number of small boats conducting the search on the island. He informed her that marine searches had been put on hold since 2 a.m. that morning and the beach patrol was called off at 2:30 with no result. The SCG by then had known what had happened.

About 3:20, Mr. Malvina called IDC Aviation to check on the plane. Mr. Stravens updated him. At 3:22 he received a call from Mr. that he will be informed as soon as the flight is airborne. At 3:30 hours, all staff gathered at the guest house waiting for flight confirmation. At 3:45 he received a call from Raquel from the IDC Aviation advising that the plane would be leaving soon. She also stated that the SCG plane would be coming as well within the next hour and he will be informed as soon as the flight takes off.

He and others were at the guest house waiting for the arrival of the plane. Before any flight comes in, they have to prepare grounding, which include fire and logistic. That was why he was calling back and forth to be sure that he would be at the runway at the time, lights are on, radios are working, fire service is there.

When he was waiting for the IDC flight, he saw the Air Force plane and he communicated with them by radio, and they told him that they were going to be on patrol.

Radio contact was made around 3:45 in the morning, the time when the IDC flight was still on the ground.

At 4 a.m. he was informed that aircraft S7-MAC left Mahe and was expected to arrive at Coetivy with five passengers about 4.50 a.m. together with the operations and medivac.

Raquel told him that the Air Force plane SY011 will leave Mahe about 4:40 a.m. and should arrive at Coetivy around 5:30 a.m.

At 4:55 a.m., S7MAC, the IDC flight landed Coetivy island with the doctor and the technical team, including Mr. Golty Dupres, Mr. Brian Camille and others.

At 6 a.m., SY011 the Air Force plane reported via radio that they had sighted the "Sea Horse" and they gave him its position as bearing 310 degrees and 5.3 nautical miles from Coetivy. That plane did not land on Coetivy.

At 7:08 am Sergeant Rommel Albert came to the Command Centre which was set up at the island shop. There was a briefing and de-briefing between and Rommel Albert and himself. They agreed to resume the beach patrol as well as the sea patrol. The beach patrol was in two groups, one going north and the other going south. The sea patrol was better as there was light.

At 7:33 a.m., he received a call from SY011, reporting that they were running low on fuel and were returning to Mahe. They said the last position they saw the "Sea Horse" was 7 degrees 4 minutes south; 56 degrees, 11.9 minutes east that was the position they saw the "Sea Horse" at 7:10 a.m.

At 8 a.m., the search started. At 9:10, the beach patrols came back to the Command Centre having not seen anything. At 10:54, the sea patrol including Mr. Golty Dupres an experienced seaman from Mahe reported having seen "Sea Horse" about 7 miles from Coetivy and was drifting westward. Mr. Golty said that he could not see sign of life on board. The vessel was afloat but almost completely burnt. He said he could not tell if there was anybody on board as he did not board that vessel. Mr. Sopha a prison inmate said that

he was not allowed to board the vessel for safety reason. But he said that the boat was still afloat.

At 12:35, a second IDC plane landed and this time with Police Officers. When the Police Officers came, they consulted with his superior Mr. Elvis Stravens who was already on the island and Mr. Albert. At that time, he had left everything up to his superior who was interacting with other agencies.

When Mr. Stravens came, he was briefed by Mr. Malvina and based on that that he was discussing with agencies. He was also involved in sharing his points and also doing logistic at the time.

At 2:15, S7 MAC left Platte Island. The other air craft IDC left empty and went to Platte Island, as part of the operation.

At 15:30, the other IDC plane left Coetivy for Mahe with Mr. Glenny Gappy, the medical staff, operation staff and the Indian worker who arrived on the vessel. He did not talk to the Police and he did not recall whether he gave the police a statement. He submitted his report to IDC, and supposed that they submitted it to the police. He gave evidence at the Inquest before Magistrate Burian.

He was not sure if Sea Horse anchored where other vessels that come to Coetivy normally anchored. "Sea Horse" was a Landing Craft, and was anchoring off shore because of the bad weather. Normally vessels other than landing craft, if there is bad weather, they will come into the kind of a basin somewhere near the reef if they can get through the pass. But he supposed since Sea Horse was loaded, it may have made more sense to the Captain to be somewhere where it was calm.

Mr. Malvina said that he had the impression that the Captain knew the pass and the channel. Normally he does not require any assistance from shore and he will just wait there at landing.

Mr. Malvina said that his house was at pretty much in the middle of the island, but south of the runway. The guesthouse is closed to the seaside and the landing area is on the west coast. The prison is 30 to 50 meters north of the landing area. His house is southeast of the landing area.

There are minimum lights on the island. There are normal street lights that are kept along the path, and there is one light at the landing area. It is a big square street lights that can be seen from offshore. The fishermen on the island used that light to know how far they are from their channel.

Mr. Malvina opined that it was probably Elvis who informed Mr. Savy who was on Platte Island of the incident. Malvina said that he called Elvis first.

As the Manager, he has one satellite call per week with the CEO but with the operation he used landline. There is a landline on the island that is linked via satellite to Mahe, like a Cable and Wireless connection. If the system is working properly, at any time of the day or the night he can call his CEO or his supervisor.

It looked like the vessel was drifting towards the north northwest, in other words it was headed back towards Mahe.

The thinking at the time, was that if anyone would be swimming northwest against the current, if they do get away, they would end up somewhere north. But the next day when there was light, they searched cleared the whole west coast. In the south, there is a very big reef and it would be helpful to get pass the south point that goes way out. In the north it is very rough. Anything drifting in that area or anyone swimming in that area, would be stuck on the west coast.

Mr. Malvina suspected that once Mr. Savy was informed of what was happening and being the CEO of IDC, he would know what mechanism would come inter agency wise, that was why he made sure that the first person he called, was his immediate supervisor, which he knew would definitely immediately inform the CEO know. He was sure that there would have been some kind of mechanism as to who would take charge and the right authority to inform to get the best response. Mr. Malvina did not make any direct contact with Lt. Col. Leslie Benoiton.

At 2:30 that morning, he does not recall whether he could still see the burning boat. He does not recall whether it was still raining at 7:30 when he resumed the search. But the picture he has in his mind now is that when the first flight landed, it was safe enough so he suspects that the weather must have been cleared as he could see the air force plane, it was good weather.

Mr. Malvina could not see the Sea Horse when Golty Dupres reported that it was about 7 miles from the island drifting west. He would not know who gave Mr. Dupres authority to decide who could go on the vessel and who could not go, maybe he was using his own good judgment made a technical professional decision.

As soon as his superior reached Coetivy he took over made sure that everything else was working well. The MAIB personnel came on the second flight at 2:15 pm. together with Police Officers.

Mr. Malvina said that he first saw the fire on board at around 25 minutes past midnight and Glenn was picked up about one hour later.

Malvina said that the fuel on board "Sea Horse" was mostly for IDC use. If there were fuel for Prison use it was minimal. He ordered diesel separately. He was expecting about 2000 liters of unleaded fuel on the vessel. All the IBCs would have been headed to IDC. The

unleaded fuel was for the Prison. On Coetivy, Prison stored its fuel separately and that was their own business.

At the time IDC did not have any transport, and was lending fuel to the Prison for its dumper. IDC would take 20 to 25,000 liters diesel and maybe 2 to 3000 litres of unleaded fuel. Prison would every now and then ordered some unleaded fuel because it does a lot of fishing and grass cutting, so it would have unleaded fuel as well, on that vessel.

It happened at one point that IDC agreed that Prison its supplies separately and IDC would get some supplies separately. There was a lot of traffic at the time because IDC had brought up 2 or 3 generators, either it was an issue of space or some other issue. But the Prison send few boats, not landing craft which would have to be guided into the pass. These boats would have to be met outside the reef and guided inside and then unloaded using the outboards.

Mr. Malvina said that he normally was the one responsible for firefighting and everything on the island. His training did not cover search and rescue at sea. It is not his knowledge that there was anybody on Coetivy who was trained for search and rescue at sea or rescue in fire training. He went to Coetivy, he received First Aid and Firefighting training but not for search and rescue. He has had technical search training but that was one module and not a full certified search and rescue course. It was more of a physical effort. It was his opinion that he was running a routine operation in the sense that any survivors were going to get picked up. They were systematic about how they did the search so they would have definitely found them. As for the sea patrol, whether or not they were doing it in systematically he would not know.

Mr. Malvina reiterated that he was not at sea but near the beachside in the Command Centre. It was super dark and nobody could see what was going on. The weather was really very bad. They could not put more people in danger while trying to save lives. He suspected that the inmates who were carrying out the search at sea in the outboards, when it was very dark in that weather, they must have realized that they were putting their own lives in danger

when they must have figured out that it was a bad idea to keep on searching, especially considering that they had minimum fuel. In that situation if another small boat would run out of fuel in the dark whilst conducting a search in really bad weather, then one more bad incident would have happened. The order to stop the search did not come from him because he did not have any contact with those who were conducting the search in the outboards. They must have realized how unsafe it was to be randomly around the area 160 miles from Mahe, in the dark with very little fuel in bad weather. Most of the search party were the inmates.

At the time of the incident, his certificate for firefighting at the airport was valid. He did his training at the Fire Service at the Airport during the first six months before he went to the island.

W27 MR. ELVIS DANIEL STRAVENS – Sworn

Mr. Elvis Daniel Stravens lives at La Misere and is presently working with SFA as Administration Manager. At the material time that is on 25th August 2018, he was employed by as IDC as Islands Operation Manager. His job involved, coordinating the supply of labour force, food and materials that are needed on the islands. By August 2018, he had been working for IDC about 25 years.

He started as an Accounts Clerk in 1991, then he went into accounting and started to go to the islands which attracted him. The island made him generally a master of all trades because there is no supermarket and no doctor, available on the islands. It had been a good life for him because he gained a lot of experience.

At the time of the incident, he was responsible for the islands. At the time there was another person called Mr. Mervin Mederick, who was responsible for the transport and logistics who was responsible to order the supplies for the islands.

Mr. Stravens was on leave at that time. Saturday evening, he received a call from Mr. Ronny Malvina. He did not have anything to do with loading or preparing “MV Sea Horse” for the trip.

During his 25 years with IDC Mr. Stravens did not work on Coetivy because at that time Coetivy was managed by SMB. IDC managed Silhouette, Platte, Farquar, Assumption, Desroches, Marie-Louise and Desnoeufs islands.

When he came back to work with IDC in Mahe, he was also responsible to ensure stocks and supplies for IDC islands. When he received request from the islands, he sent it to the Store which would liaise with Logistic.

The original arrangement was that IDC supplied provisions to Prison, but the Prison Department was in arrears with its payment. Mr. Glenny Savy, CEO, IDC, had a meeting with them and the arrangement was that they would procure their supplies by themselves and do the boat trips via IDC boats which will load for them.

On the morning of 25th August, 2018 in the morning, he was asked by the CEO Mr. Savy to go to Coetivy to act as liaison for him there and to give support to the other Manager at the time, and any logistic that were needed to be addressed to Head Office.

Prior to the incident he would normally get the supplies required to be sent and then he will draw up a list to be authorized by the CEO. If it was to be bunkered, IDC will have to go to Seypec to bunker for diesel. For unleaded fuel were put in drums from SEYPEC and diesel sometimes also goes in drums and also jet A1. Coetivy is a special case because at the time IDC normally stored different types of aviation fuel there for the operation of its plane. IDC has to prepare in case of emergency. The life span for jet A1 and avgas is different.

The IBCs had been purchased by Prison authority and was put on the Sea Horse and was accepted by the Captain.

Prior to that incident, as far as he knows, IDC used IBCs may be only to take fuel to Silhouette. But normally, it was diesel in drums. He remembers that "MV Ave Maria" had made one trip to the island and carried had plastic containers containing diesel, but not avgas and not jet A1 and even not unleaded fuel.

At the material time, it was Mr. Mervin Mederick who was doing the logistic and procurement. Normally IDC have to get the boat Clearance, to know the storage with the Captain who is the one to guide you with the loading of the boat because he cannot sign for loading of the boat because he was not the one going out at sea. You have to get that storage in place and then you get Port Permit and Port Clearance. At the time there was no

inspection by the Port Authorities. After the incident of the “Sea Horse”, he was still doing it. He had to load the boat until 2 am and wake up about 8 am to go to work again as the island Operations Manager.

A lot of people were needed to do the storage, as everything was stored beforehand. The boat was then loaded and no one from the Port would come to inspect in 2018. Nobody came to inspect the boat the way it was loaded. He had loaded many boats that went to the islands.

Normally Mervyn would go to New Port, pay for the Port Clearance, come back and give the Captain the Port Clearance Certificate. The Port Officer does not physically come to check the boat and neither anyone from SMSA would come. It was just a paper transaction that was going on, and even with the fishermen now, it is the same thing.

It is the Captain in charge of the vessel who may decide if he had to stay until the next day or must go the same day. He will have to inform the CEO of his decision if he had to stay. It is the CEO who is in control of the Company. If you are not sailing and he will know that the boat is not sailing because of the bad weather.

He does not remember of any situation when the CEO would say that regardless of whether there is a cyclone or not, you have to sail.

Mr. Savy may be very serious in terms of their duties. It once happened on Farquhar Island, that Mr. Savy acted sternly towards him whilst he was the Manager there. On that day, the rain was coming and Mr. Savy asked him to bunker out. Mr. Savy had a 40 HP outboard and he had a 25 HP outboard. At that time, it was high tide and Mr. Savy left him and went away and he was struggling, but it is part of the building up of a person.

Lot of things had been done regularly, routinely without any strict protocol or standard operating procedures and it was just done that way until something happened and corrective action taken afterwards.

On the day of the accident, before leaving Mahe, he was having some glasses of wine as he was on leave when he received a call and was informed that the “Sea Horse” was on fire. He received flight manifest on a daily basis and he knew that Mr. Savy had gone to Platte Island. He then called the island manager on Platte Island and asked him to wake up Mr. Savy and inform him that they have a situation and to call him back to let him know what needed to be done.

After hanging up the phone, he went to his room, packed his clothes as he knew that he had to go to Coetivy right away because it is the nature of his work. He was ready and he got a call back from Mr. Savy and was told to organize a flight, get the doctor, and everybody experienced to go there.

He did not have a meeting with SMSA or the SCG before his departure. He was not the one in charge of the search and rescue operation on the island.

He was coordinating with all the people that was there and as a liaison for Mr. Savy. He called Mr. Savy to let him know of the situation with the island manager. Just imagine, when he arrived on Coetivy, he saw that the island manager was having a situation on the island, where he was the only one and had only one IDC worker, and some Indian workers and inmates on the Prison side. He had logistic to do for catering for the people that were coming. Mr. Stravens said that he had to assist him organized and that everything is done accordingly. Mr. Stravens would not say that he was in charge but rather that he was liaising to save lives or whatever needed to be done.

There was nobody from SMSA on the island at the time to coordinate the search and rescue. SMSA personnel later came to Coetivy and they were supposed to be the ones to conduct whatever was needed to be done.

The SMSA personnel had a short briefing with him and the manager, and likewise when the Police and MAIB came, just to know the routine how to get the information with the other persons.

On the IDC side when they were there, it was only Ronny who was organizing for the search party with Rommel. Mr. Marcus Labrosse was coordinating the flight because he is an experienced pilot at IDC, and he even talked with Mr. Savy also.

Mr. Marcus Labrosse was the Captain who flew him there. Mr. Stravens said that it was IDC trying to do what needed to be done to save lives. At the time, the focus was on the people who were on the Sea Horse.

During his time at IDC, IDC had undertaken a lot of operation for the constructions that were going on. He used to send Manitou with containers and everything. This was why there was that Indian worker on the Sea Horse. He was the driver of the Manitou and had the key. He was the one to do the unloading. The crew will make sure that the Manitou was locked and tight on the vessel but the key normally will remain with the driver. Sometimes if there is a driver on the island, the key will be given to the Captain.

He could not answer whether the driver had specific instructions to disconnect or not to disconnect the battery or to leave the key on the dashboard. But on the “Sea Horse” the battery of every vehicle was disconnected be it for a pick-up or anything electrical, you have to disconnect.

After “Sea Horse” incident specific instruction was issued to ensure that disconnection is done.

There is no ISO standard for management at IDC. He recalled about ISO but he does not know if it was completed.

Mr. David Brown is the Health and Safety Officer of IDC.

All fuel is kept in a sealed container; one cannot steal fuel when the boat is travelling from Mahe to the island. He had never heard of that. However, you can have a burst drum.

If the tide table indicates that it is 1.7 at 6, it is already full at that time and is going down and you should not miss that point. When it is high tide at 6 o'clock, the tide is starting to go down and not high tide.

At the time of the accident, when that person was swimming, it was 1:35 in the morning and the tide was going out.

Mr. Stravens concluded that he does not know much what went on the boat, but it seems that there was a bit of bad weather, and "Sea Horse" sailed through that bad weather. It made the journey and arrived there against all odds. The plastic containers were on board, there could have been many frictions. It happened only after mooring and he had lost good friends.

The boat was anchored by 8 p.m., everything was safe and everybody could go to sleep. The wind was blowing from the front.

If someone had flicked a cigarette butt and it falls back, fuel which had been turning into gas for example, a fire could start. All these are just assumptions. If there was a person who was there in front at the time, he would have to rush back, the fire would have obviously engulfed him at that time.

With the knowledge of what was contained on the boat, all the crew must have panicked.

In view of the height of the “Sea Horse”, when one is an outboard you cannot see inside. Mr. Golty Dupres must have told Sopha that the Sea Horse was so hot and he would not be able to go on board. Golty is a very good seaman, he was very upset that he was not able to go on board.

When he was on the island that day, he saw the SCG vessel TOPAZ but does remember if it was on the second day.

Part III – ANALYSIS, OBSERVATIONS AND FINDINGS

Chapter 3 – Analysis, Observations and Findings

3.1 MV Sea Horse

At the time of the incident the registered owner of the vessel was a locally registered Company known as MV Sea Horse Logistic (PTY) Ltd, holding Company Number 845310-2. The name(s) of its Shareholders/Directors were not clearly identified to us. The vessel was operated by IDC under a Management Agreement (See Exhibit 16). The members of the crew were employees of IDC.

The MV Sea Horse was launched in Indonesia on 12th September, 2005, was 27.08 meters long; had a 6.10 meters beam; 1.80 meters depth; draught of 1.250 meters forward and 1.200 meters aft and a gross tonnage of 105 tons. It was a Steel Landing Craft having the call sign S7L2231 bearing Official Number L-003-2017 registered at Port Victoria, Mahe, Seychelles.

Its minimum safe manning was 5 crew members with the Captain and Engineer required to be duly certified.

It has one deck with underdeck watertight compartments – 1 Forepeak Water Tank and 1 Cofferdam. There were 3 void spaces on port side, 3 void spaces on starboard side, 1 Fuel Oil Tank port side forward of engine room bulkhead, and 1 afterpeak Fresh Water Tank Aft of Engine Room.

Its superstructure is situated aft of the cargo open deck, with crew accommodation of 2 single cabins and 1 double cabin, and Chief Engineer's cabin, galley and toilet. There was an alley way between the cabins. Access to this level from the main deck is through a raised central weathertight door 800 mm above the main deck.

There was the wheelhouse deck which was located above the crew accommodation access from outside aft stairs. It was made up of the enclosed bridge, port and starboard wings, Captain's cabin and an aft platform leading to the stairs.

It was fitted with 2 SISU DIESEL, 620 DSBIM engines of 250 hp each and propelled by twin screw fixed pitch propellers.

Its engine room, located below the accommodation, accessible by port and starboard stairs. One main engine portside and the other one on starboard side. There was one diesel alternator, one cargo transfer pump together with its associated pipings for discharge, valve, manifold, bilge and general service pumps. The daily service tank was located at the aft bulkhead of the engine room. The engines exhaust manifold passed through trunkings on port and starboard sides aft and exiting above the bridge.

The forecastles were fitted with cargo access door which can be lowered and raised for loading and unloading of roll on/roll off cargoes. Each forecastle carried the electrical windlass for raising the anchor chains.

The bulwark was approximately 1 metre high and fitted above the main deck on port and starboard which were strengthened by stanchions at one meter distances.

It was brought to our attention that according to the approved drawing by the Indonesian Authority dated on 12th September, 2005, the Sea Horse's (ex Indus) had six tanks below deck intended to be void spaces. The vessel was supposed to carry deck cargoes, ballast, its own bunkers and fresh water. Those tanks were thereafter used as cargo tanks to carry diesel fuel. The necessary pipings and valves were installed for the transfer of the cargo from the tanks and discharged ashore. There were no dedicated filling lines fitted but all tanks had vents and one manhole each.

3.2 Crew Members and Passenger

At the material time, the Master of Sea Horse was 31 years old Captain Darren Kevin Laurence Morel; its Chief Engineer was 26 years old Mr. Glennly Gappy; its Bosun was 51 years old Mr. Nigel Luke Fanchette; 55 years old Mr. Norcie Alexander Serret was its Able Seaman, all of them Seychellois and its Mechanic was 45 years old Sri Lankan Mr. Andogoda Vitana Archigue Rangit Prematilaka. There was only one passenger, Mr. Kanji Sankar who was the Telehandler Operator.

3.3 The Cargo

IDC used to procure and transport fuel and other supplies to Coetivy on behalf of the Prison Service. The Prison Service then undertook to directly procure its supplies. The supplies were to be transported by Sea Horse. Hence, among other arrangements, the Prison Service purchased fuel from SEYPEC to be used on Coetivy.

On that voyage, there were Mogas which was filled by SEYPEC in 3 IBCs stowed on deck of Sea Horse. Part of the other cargo comprised of five steel drums containing other petroleum products. In addition, diesel was loaded in the cargo tanks of the vessel.

At time of the incident, there were also 6 full CO2 fire extinguishers.

The cargo included 12,000 litres of diesel, 2400 litres of leaded Mogas; 800 litres of JetA1 and 400 litres unleaded Mogas as well as 200 litres Caltex lubricant.

3.4 Port Clearance

We also consider the live issue regarding the two Port Clearance Certificates. One having two stamps and signature held by IDC and the other with only the stamp but no signature held by the SPA.

3.5 Transporting Hydro Carbon Fuel in IBCs

IBCs do not meet the stringent safety requirements for the transportation of fuel. The following are potential hazards in the use of IBCs when transporting fuel:

- Very low resistance to heat and tends to collapse when exposed to heat.
- There are no breathers/vents to release the accumulation of pressure in the container.
- The seal of the container drain is not designed to meet the fuel standard requirements and may perish thus causing fuel leakage.
- There are no baffles to control the fuel movement in the container.

It is in evidence that SEYPEC notified all parties concerned on its ban of filling IBCs on its premises based on technical information of the potential dangers of transporting fuel in IBCs. Yet, fuel in IBCs was loaded and transported on the Sea Horse.

3.6 Voyage from Mahe to Coetivy

MV Sea Horse sailed from Port Victoria at around 9.40 am on Friday, 24th August, 2018 for Coetivy Island.

It was the height of the southeast monsoon. The crossing from Mahe was extremely rough and very windy. The prevailing weather condition resulted in reduced speed thus delaying its arrival time at Coetivy. The vessel arrived at Coetivy at around 7.30 pm. on an ebbing tide. At around 8pm it was anchored waiting for the next high tide due early next morning Sunday, 25th August, 2018, to beach for unloading. The same evening after anchoring, the Telehandler Operator was taken ashore by a Prison inmate in a small fiberglass boat.

At around midnight, fire was seen on the Sea Horse by prison inmates on Coetivy who raised the alarm. By then very high flames had engulfed the front part of the vessel.

3.7 Propagation of Fire

Any vessel intended to be chartered to transport any cargo or dangerous goods for which it was not originally designed and licensed, should be surveyed by SMSA and a change of use certificate issued for the specified voyage or period.

The fire engulfed the deck in a matter of seconds and with the unprepared reaction of the crew, the chance of saving the Sea Horse was rather slim.

Absence of proper fire drills and appropriate firefighting equipment contributed to the unfortunate incident.

The Sea Horse was a general cargo vessel only. On that voyage, she was carrying a large volume of highly flammable and dangerous cargo. She would have had to comply with IMO (IMDG Code) minimum requirements notwithstanding her being a local trading vessel.

Proper loading practices with regards to petroleum products were not followed by all the authorities concerned.

First and subsequent responses were not well-coordinated, nor were they carried out by persons trained in search and rescue operations.

Strong south easterly winds gusting up to 60 km/hrs assisted the rapid propagation of fire from the deck to the crew accommodation and the engine room.

No life-saving appliances, (fixed or personal) were used by any crew member during the entire incident.

3.8 Abandoning Ship

Only two members of the crew, Mr. Glenn Gappy and Mr. Nigel Fanchette managed to jump overboard and left the others on the vessel. While they were swimming ashore, Nigel disappeared completely and only Glenn was saved by prison inmates Patrick Sopha, Hubert Ernesta, Nelson Derothe and Perry Simeon and taken ashore. The fate of the others namely Captain Morel, AB Serret and Mechanic Premathilaka are unknown and together with Nigel Fanchette were declared dead following an Inquest.

The sole survivor of that unfortunate incident is Mr. Glenn Gappy. He testified before the Commission and his full testimony as at page ...

3.9 Possible Sources of Ignition and Fire

We addressed our minds to the possible sources and causes of ignition and fire. We are unable to identify or to establish for certain the point of origin of the fire in view that the Sea Horse is not available for further investigation. Despite the absence of that most crucial piece of evidence, - “the MV Sea Horse”: - albeit, we turned to the pertinent issues that have been the subject of concern, primarily, what caused the fire. It is evident that out of the three required elements to start a fire, two could be easily established – “fuel” and “oxygen”. We could not find a definite answer for the third element – “spark”. We, however, gave due consideration to that issue and we could only surmise as to its probabilities and possibilities.

The cargo on board the Sea Horse included Mogas, a highly flammable liquid, having the following physical properties:

- Flash point -40°C.
(Flash point means the lowest temperature at which a substance whether solid, liquid or gas will give off sufficient vapour which when mixed with air forms an ignitable mixture).

- Vapour is more than two times heavier than air.
- Volatility – exerts a high vapour pressure.
- Rate of flame spread in normal condition is 215 – 245 meters per min.

Apparently there was no proper risk assessment carried out prior to loading of this very hazardous and dangerous cargo on the Sea Horse.

A static charge may build up in the fuel during, and if of sufficiently potential, it can cause sparking within the storage tank. The charge density in the fuel and the possibility of sparks inside the tanks are not affected by bonding. However, the use of static dissipater additives in fuel can contribute materially to reducing the risk involved.

Civil Aviation Publication 748 (UK) states – “... *static charge may build up in the fuel, and if of sufficiently high potential, it can cause sparking within the storage tank*”.

Mogas may have leaked from the IBCs and as its vapour is heavier than air, and considering that the Sea Horse was at anchor, the fuel vapour may have accumulated on deck and could have ignited any time if within the flammable range when coming in contact with any source of ignition.

Ignition sources include the following:

- Diesel generator exhaust.
- Domestic electrical extension cable leading from the accommodation to the deep freezer in the container.
- The start/stop from time to time of the deep freezer compressor.
- The Telehandler battery.

3.10 Uncoordinated Approach

During the search operations, there were no proper means of communication between shore and the vessels conducting the search (prison launches).

Chapter 4 – Post Incidence

4.1 Activities

Mr. Parick Sopha, who is still an inmate serving life sentence at the Montagne Prison, gave comprehensive testimony of what he saw and what role he played that fateful night and the following day. His synopsis of his testimony is at page 123.

We endeavoured to obtain the testimony of another inmate, namely, Mr. Alex Serret who was the skipper of another small fiberglass boat at the material time. Our endeavours were in vain as he could not be found.

Mr. Ronny Malvina was the IDC Manager of Coetivy at the time. He meticulously serially chronicled his involvement in the unfolding events from 1900 hours on 25th August 2018 to 1530 hours on 26th August 2018. His full statement is at page 149 of this Report.

The CEO of IDC Mr. Glenn Savy, who was on Platte Island at the time, was alerted by Mr. Elvis Stravens. Mr. Savy mobilized an IDC aircraft flown by Pilot Marcus Labrosse to Coetivy carrying: Mr. Elvis Stravens the IDC Operations Manager; Dr. Payet; Nurse Ms. Vadivello; Mr. Golty Dupres a very experienced seaman and Mr. Bryan Camille an IDC Island Manager.

The synopsis of the testimony of Mr. Glenn Savy is at pages 23; that of Mr. Mr. Elvis Stravens is at page 163; Dr. Payet's is at pages 143 and Nurse Vadivello was not called; that of Mr. Dupres is at page 118; and that of Mr. Bryan Camille is at page 111; Pilot Labrosse was not called.

Mr. Glenn Savy mobilized another flight to Coetivy flown by Pilot David Plows transporting CID Police Officers, including Officer Davis Simeon; Mr. Yannick Roucou member of MAIB. Officer Simeon made a Report on the involvement of the Police which he submitted to the Commission and is now Exhibit 6. Mr. Roucou testified before the Commission and the synopsis of his testimony is at page 115.

At the material time, Prison Service had an ongoing programme on Coetivy for the rehabilitation of prison inmates. Mr. Raymond St. Ange was the Superintendent of Prisons with his Office in Mahe and the activities on Coetivy were under the administration of Prison Sergeant Romell Albert. Both persons testified before the Commission. The synopsis of the testimony of Supt. St Ange is at page 39 and that of Sgt. Albert is at page 136.

Mr. Glenn Gappy testified that early morning of the next day he went towards the beach to observe the Sea Horse. He saw the vessel still holding on to its anchor but swinging sideways. After a short while he saw the vessel starting to drift offshore.

The next morning, more efforts were initiated to search for survivors or what may have remained of them that could have been washed ashore during the night. Search parties comprising mostly of prison inmates searched along the beaches in both directions but it was in vain.

The CID Police Officers and a member of MAIB Member, converged on Coetivy for the purpose of establishing what had happened.

In the morning of the next day, two small fiberglass boats with Mr. Dupres and an inmate in one and Mr. Sopha and another inmate in the other, went out towards the Sea Horse which was still afloat. In view of the rough seas, high waves and strong winds and heat emanating from the vessel, they could not board, hence, could not establish what may have become of the other three crew members. They had to

return ashore eventually. Mr. Dupres and Prison Inmate Sopha in their respective testimonies related to us what they actually saw and did that morning.

Capt. Allain Khan, an experienced Master Mariner who was assisting the MAIB in its investigation, testified before us. The synopsis of his testimony is at page 16 of this Report.

The MAIB carried out an investigation and produced its Report (Exhibit 4). IDC not being satisfied with certain elements in that Report, initiated a Judicial Review in the Supreme Court which gave a Ruling in its favour. That Ruling is pending before the Court of Appeal of Seychelles. The case file containing the Petition, Response and decision of the Court is Exhibit 3.

Capt. Joachim Valmont the CEO of SMSA testified, *inter alia*, as to the overall responsibility of the SMSA in Search and Rescue operations in Seychelles waters. It is evident from his testimony that there are certain grey areas when it comes to the coordination of search and rescue operations in Seychelles waters. These need to be promptly addressed and clarified to achieve a greater element of precision pertaining to ultimate coordination responsibilities.

The Report of Lt. Col. Benoiton made reference to many important issues relating to search and rescue operations.

The SCG vessel TOPAZ under the Command of Lt. Lyndon Lablache was also involved. He received orders on Sunday morning from Lt. Col. Benoiton to bunker at the base and board other personnel and then to proceed to Coetivy. He complied and TOPAZ arrived at Coetivy late in the night the same day. He did not detect the Sea Horse on his Radar.

Lt. Col. Benoiton also mobilized the Air wing of the Seychelles Defence Forces. Capt. Don Dupreez made a first reconnaissance flight in the Coetivy area, leaving Mahe at around 5am Sunday. Capt. Dupreez reported having seen the Sea Horse which was completely burnt. The Air wing made a second reconnaissance flight and reported that Sea Horse could not be seen at around 11.50 am. Another flight was made the next day.

It is also reported that Zil Air participated in the search operation.

Lt. Col. Benoiton stated that he is still a member of the Defence Forces but seconded to the NISCC. He presented a full Report (Exhibit 19) of the role that the SCG and the Air Force played in the Search and Rescue operations. The Report of Lt. Col. Benoiton is the same one that he submitted to Chief of Staff Colonel Michael Rosette. The latter also testified and referred to that Report.

Lt. Col. Benoiton also outlined the difficulties he encountered with regards to the search and rescue in view of limited human and material resources and the absence of a Radio Coast Station.

A Public Inquest into the circumstances associated with the disappearance or possible death of the crew members of the Sea Horse was undertaken and a Report of its findings was produced. This Inquest was undertaken pursuant to Section 2 and 3 of the Presumption of Deaths Act (Cap. 178) and a Report was submitted on 11th March, 2020. It concluded that there is a high probability that all the mentioned four crew members lost their lives as a result of the fire on the MV Sea Horse. That Report is Exhibit 1.

The cargo on board the Sea Horse included Mogas a highly flammable liquid having the following physical properties:

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Flash point means the lowest temperature at which a substance whether solid, liquid or gas will give off sufficient vapour which when mixed with air forms an ignitable mixture.

- The vapour is more than two times heavier than air.
- Volatility – exerts a high vapour pressure.
- Rate of flame spread in normal condition is 215 – 245 meters per min.

Apparently there was no proper risk assessment carried out prior to loading of this very hazardous and dangerous cargo.

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IBCs do not meet the stringent safety requirements for the transportation of fuel. The following are potential hazards in the use of IBCs when transporting fuel:

- Very low resistance to heat and tends to collapse when exposed to heat.
- There are no breathers/vents to release the accumulation of pressure in the container.
- The seal of the container drain is not designed to meet the fuel standard requirements and may perish thus causing fuel leakage.
- There are no baffles to control the fuel movement in the container.

It is in evidence that SEYPEC notified all parties concerned on its ban of filling IBCs on its premises based on technical information of the potential dangers of transporting fuel in IBCs. Yet, fuel in IBCs was loaded and transported on the Sea Horse.

Having considered the evidence, the exact source of ignition could not be established. However, based on research, the possible causes of ignition could be one or more of the following:

The properties of Mogas are such that with fuel movement, accumulation of a static charge may have built up and caused sparking within the IBCs.

Mogas may have leaked from the IBCs and as its vapour is heavier than air, and considering that the Sea Horse was at anchor, the fuel vapour may have accumulated on deck and could have ignited any time if within the flammable range when coming in contact with any source of ignition. Ignition sources include the following:

- Diesel generator exhaust.
- Domestic electrical extension cable leading from the accommodation to the deep freezer in the container.
- The start/stop from time to time of the deep freezer compressor.
- The Telehandler battery.

13 Further Observations

The sole survivor stated that he was awakened by the noise of what he thought was an explosion. He woke up, from where he was on the bridge, and looked towards the cargo deck, and saw fire coming from under the tarpaulin which covered the telehandler. He then saw burning objects flying above the deck.

The fire engulfed the deck in a matter of seconds and with the unprepared reaction of the crew, the chance of saving the Sea Horse was rather slim.

Absence of proper fire drills and appropriate firefighting equipment contributed to the unfortunate incident.

We have reasonable cause to infer that the explosion was probably caused by the rupture of IBC that was stowed about 15 meters forward of the superstructure bulkhead at the starboard side. That was followed by ignition of the vapour that was released from the IBC. In our considered opinion, the rupture could have been as a result of over pressure in the IBC from

initial ignition of the fuel in the IBC was probably caused by outside source of heat that may have ignited leaked fuel or due to static electricity in the plastic IBCs, due to the splashing and turbulence in the container during transportation, bearing in mind that the IBCs was partly filled and the vessel encountered bad weather during transit. A static electricity charge could have built up in the liquid. A spark can ignite a vapor/air mix that is in the flammable range, if the metal parts of the container are not earthed properly.

Other heat sources on board the Sea Horse at the time, possibly smokers, batteries, engines exhaust manifold and electric cable.

From our analysis of the evidence, we are amenable to accept the general view that unprotected composite IBC should not have been used to transport flammable liquid of less than 60 degrees' Celsius flashpoints, NFPA 77. We also took note, however, that the flashpoint of gasoline is -43 (minus 43) degrees Celsius and ignites at 238 degrees Celsius.

We observed from the aerial photographs that the damage from the excessive heat was on both sides above the waterline, especially the superstructure. One can observe that the steel around the bridge deck had crumbled whilst the steel containers which were lying forward of the accommodation was relatively unaffected by heat, on the right side but its left side was indented and affected by heat. According to the photo, it appears that the bridge deck steel gives us the impression that the steel had soften (became malleable). The temperature of steel to be malleable is about 538 degrees C.

We have no doubt that the combustion would emit heat, gases (carbon dioxide, carbon monoxide and other poisonous gases) which if inhaled can kill a person instantly or within ten minutes.

It is probable that the fire had burnt the accommodation and burning debris has fallen to the lower level and the engine room igniting flammable material at these levels. Fire in the engine room could have damaged the fuel valve manifold which allowed cargo fuel to drain into the engine room from the cargo tanks. The resulting load on these bulkheads may have

ruptured them in a domino effect. In view that these tanks were supposed to be void spaces, the bulkheads were not designed to carry such load and could possibly be corroded. As the cargo rushed aft the trim to stern increased quickly. The moment that the after deck was immersed below the sea, the Sea Horse lost the longitudinal stability and went under quickly as we see happens in war films when a vessel is torpedoed.

The Sea Horse was a general cargo vessel only. On that voyage, she was carrying a large volume of highly flammable and dangerous cargo. She would have had to comply with IMO (IMDG Code) minimum requirements notwithstanding her being a local trading vessel.

Proper loading practices with regards to petroleum products were not followed by all the authorities concerned.

First and subsequent responses were not well-coordinated, nor were they carried out by persons trained in search and rescue operations.

During the search operations, there were no proper means of communication between shore and the vessels conducting the search (prison launches).

Strong south easterly winds gusting up to 60 km/hrs assisted the rapid propagation of fire from the deck to the crew accommodation and the engine room.

No life-saving appliances, (fixed or personal) were used by any crew member during the entire incident.

Any vessel intended to be chartered to transport any cargo or dangerous goods for which it was not originally designed and licensed, should be surveyed by SMSA and a change of use certificate issued for the specified voyage or period.

Captain Valmont is of the view that the AIS position at 0553 hours, the vessel was about 5 to 6 nautical miles from shore and not 0.6 nautical miles.

Mr. Gappy said it was difficult to get further inshore as there was no light and was unable to get close to the island. This may be an indication that they anchored further out than 0.6 miles from the shore.

Chapter 5 – Questions and Answers

5.1 Could it be that through inadvertency a lighted cigarette caused a spark?

Captain Morel, through his training when serving on fuel Tankers, had previous knowledge of fuel chemistry. Four out of the five crew members were smokers. Mr. Gappy stated that two days prior to departure, Captain Morel executed fire drills. He also briefed his crew that in view of the type of cargo on board, mainly fuel, smoking was limited only to the rear of the vessel.

After the vessel was anchored at Coetivy, the crew went to sleep except for Mr. Gappy, a non-smoker, who was on watch. Mr. Gappy called Mr. Nigel Fanchette to relieve him at about 11 p.m. Mr. Fanchette was awake and smoking in his cabin at the time. Mr. Gappy showered and went to sleep and was awakened by sound of explosion. He went to alert the crew and found Mr. Fanchette, in a panicked state, sitting in the alley way and not smoking. The other crew were asleep in their cabin. The state of panic of Mr. Fanchette at the time, does not add any element to the cause of the spark.

Through the evidence of Mr. Gappy we establish that all the crew members were asleep at the time of the explosion except for Mr. Fanchette. We, however, infer that it was impracticable for Mr. Fanchette to have been at the front of the vessel smoking or throwing cigarette butt. Had he done so, the probability is that he would have been hit by the explosion.

In the circumstances we therefore conclude and find that the probable answer to this question is in the negative.

5.2 Could lightning have caused a spark?

From our analysis we deduced from weather report from the Seychelles Meteorological Authority dated 25th August 2018 was cloudy with isolated/scattered passing showers with fair to poor visibility, low tide was at 2304 hours. There was no report of any thunderstorm and lightning. The answer to this question is therefore in the negative.

5.3 Could it be that a person coming from shore ignited a fire?

There is absolutely no evidence that may lead us to believe that prison inmates could have reached the Sea Horse at anchor and started a fire. We note that there was very little fuel available for any of the fibre glass boats to be used. Even if they had used oars and assisted by prevailing weather conditions to board the vessel, they would have difficulty to return ashore without the engine. Moreover, two of the inmates had a relative on board and it would be absurd to assume that they would have intended to harm them. The answer to this question is definitely in the negative.

5.4 What could have happened to the other members of the crew?

We can only assume that in view of the intensity of the fire and the rapidity at which the flames and fumes engulfed the accommodation block, the other crew members may have been asphyxiated and incinerated or otherwise drowned.

5.5 Was the initial decision of Captain Morel to turn the vessel around reasonable?

The captain started the engines endeavoring to turn the vessel around so that the flames and fumes would be blown away from the accommodation block. This would be considered a standard maneuver in the circumstances. His decision was therefore reasonable.

Part IV – RECOMMENDATIONS

Chapter 6 - Recommendations

- 6.1** Having considered and assessed all the relevant and pertinent information laid before us in connection with our terms of reference, this Commission now makes the following recommendations for consideration by the relevant appropriate Authorities:
- 6.2** That role and functions of all statutory institutions operating in all Ports of Seychelles be clearly defined and its area of operation be clearly demarcated as well as all operating procedures, rules and regulations be set in writing and shared with all concerned stakeholders. These to include among others the SMSA, SPA, SFA, SFRSA, Defence Forces, NISCC, Police, DRDM, Health, FBOA and other vessels.
- 6.3** The resource capabilities of all operational and regulatory institutions concerned with the safe manning of vessels, including the ensuring of the competency of mariners on these vessels, its safety equipment, the appropriateness of the cargo being transported in relation to the type of vessel well as its safe loading, insurance coverage, prior to issuing clearance to leave Port, be reinforced to enable them to discharge their respective functions and responsibilities.
- 6.4** That an apex institution responsible for the national coordination of any disaster at sea be determined and its responsibilities, roles and functions be clearly set out in writing, published and in particular, made known to all stakeholders.
- 6.5** That an effective, efficient, accessible, professional and prompt communication system be put in place in the form of a Radio Coast Station and its *modus operandi* published to all stake holders.
- 6.6** That participation expected of all owners, lessees, operators of all islands situated in Seychelles waters as well as all manoeuvres or contributions expected from them in cases of disasters at sea be clearly set out in advance following prior consultations with them.

- 6.7** That all importers, wholesalers and distributors of all petroleum products operating in Seychelles be required as a condition of their licence to ensure the safe use of approved containers of these products and in particular when being transported or stowed on vessels.
- 6.8** That serious consideration be given to providing adequate resources to the NISCC in order to ensure its full operational capacities.
- 6.9** That the roles and functions of the MAIB be revisited and defined in order that it may fulfill its assigned tasks without hindrance. It must also be asserted that the MAIB is only a fact-finding institution with no judicial, quasi-judicial or adjudicative authority. Its sole aim being the prevention of the recurrence of marine accident. Its rules and regulations, procedures, modus operandi ought to be clearly set out in writing. Members to be appointed on MAIB must be trained and experienced professionals in the marine field.
- 6.10** That vessel owners/charterers be required to have an appropriate General Liability Insurance cover in respect of the crew and passengers.
- 6.11** That if any concerned Authority requires further clarification and elaboration of the recommendations made in this Report, the Commission shall make itself available for such consultation.

Part V – GENERAL

Chapter 7 – Ancillary Matters

7.1 Insurance Compensation

During the hearing, the Commission was informed that the Insurance Company of the owner of the Sea Horse had offered to pay certain amounts of damages to the heirs and successors of those who lost their lives in this unfortunate incident. It was not made clear to us what was the amount that the owner offered and whether the vessel had a General Liability insurance to cover the crew.

7.2 Commendations – Captain/Crew, Prison Inmates and Others

The Commission would to place on record its commendation for those who risked their lives during this incident.

Despite very rough weather condition, Captain Morel sailed the MV Sea Horse from Mahe to Coetivy. When the fire started he took a bold and reasonable decision, in accordance with good practice of seamanship, to turn the vessel stern to the wind in an endeavor to save the crew, vessel and cargo.

In spite of the fire, the Sri Lankan mechanic Mr. Andogoda Vitana Archigue Rangit Prematilaka, volunteered to go down the engine room to start the fire pump for firefighting purposes.

Mr. Norcie Alexander Serret, is believed to have remained on board and stood by the Captain during the last maneuvers.

Mr. Glenny Gappy grabbed Mr. Nigel Luke Fanchette and jumped overboard with the intention to swim ashore. Mr. Gappy assisted Mr. Fanchette who was suffering from cramp. Unfortunately, he could not save his life.

We also commend the efforts of all the inmates who volunteered to participate in the search and rescue.

Mr. Golty Joseph Dupres took the risk to go out to the burnt out wreck in order to try and established the general state of the vessel and whether he could see any sign of the other crew members.

Mr. Ronny Malvina, IDC, Island Manager, whose meticulous record of events provided the Commission with appropriate timing and useful information.

7.3 Expenses Statement

A letter was addressed to Ms. Irene Croisee, Comptroller General, Ministry of Finance Trade and Economic Planning on 20th November 2020 seeking for petty cash.

Pending obtaining funds from the Ministry of Finance, the Chairman of the Commission advanced SR2000/- to cover the initial basic expenses. The Ministry of Finance granted SR4726 as petty cash. The Commission incurred further expenses including boat fares for a witness from La Digue. The total expenses incurred will be determined after all payments have been made. Unspent petty cash if any, will be returned to the Ministry of Finance.

The following expenses are now due for payment:

(1) Honorarium to Chairman SR25,000	SR 25,000
(2) Honorarium to four (4) Commissioners at SR20,000	SR 80,000
(3) Honorarium to Secretary SR20,000	SR 20,000
(4) Honorarium to Usher SR5000	<u>SR 5,000</u>
Total Amount due for payment	SR130,000

7.4 Acknowledgements

The Commission would like to place on record its appreciation to the Chief Justice for allowing the Commission use of the Court facilities, equipment, personnel to assist in the

inquiry, in particular the Secretary of the Commission, Registrar of the Supreme Court, Ushers, Process Servers, Interpreters and IT Technicians. The willing and voluntary participation of all the witnesses as well as their respective employers who facilitated their attendance.

SIGNED AT ILE DU PORT THIS 30TH DAY OF OCTOBER 2021

B. RENAUD

R. R. MORGAN

M. A. BRUTUS

I. N. BASSET

J. F. ATHANASIUS