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SATURDAY 19TH SEPTEMBER, 2026

NOTICE

COMMISSION OF INQUIRY — M/V “BARIMA”



COMMISSION OF INQUIRY INTO

ALL OF THE CIRCUMSTANCES WHICH LED TO THE CAPSIZING AND SINKING OF THE M/V “BARIMA” AND CONSEQUENTIAL LOSS OF LIFE AND INJURIES TO PASSENGERS AND CREW, TO DETERMINE THE CAUSE OF SAME, AND MAKE APPROPRIATE RECOMMENDATIONS FOR STRENGTHENING AND REFORM OF NATIONAL MARITIME OPERATIONS INCLUDING SAFETY PROTOCOLS AND THEREBY REDUCE THE LIKELIHOOD OF THE RE-OCCURRENCE OF MARITIME CASUALTIES

COMMISSION OF INQUIRY M.V. “BARIMA” PROCEDURAL RULES NO. 1

In the exercise of the powers conferred on it under Section 9 of the **Commissions of Inquiry Act, Cap. 19:03**, the Commission of Inquiry appointed by the President of the Co-operative Republic of Guyana on the 30th day of July, 2026, and whose appointment was published in the official Gazette on the said date, makes the following Rules: -

CITATION

These Rules may be cited as the Commission of Inquiry (M/V Barima) Rules No 1 of 2026.

COMMENCEMENT

These Rules come into operation upon publication in the Gazette.

INTERPRETATION

1. In these Procedural Rules—
 - i. “**Commission**” means the Commission of Inquiry appointed by the President of the Co-operative Republic of Guyana on the 30th day of July, 2026, to inquire into the circumstances surrounding the capsizing and sinking of the M/V Barima on the 18th day of July, 2026 and to make appropriate recommendations to mitigate the recurrence of similar marine casualties.

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- ii. **"Commissioners"** means Godfrey Phillip Smith SC, Captain Hamada Fouda, Nyree Dawn Alfonso Attorney-at-Law, Rear Admiral (Ret'd) Hayden Pritchard, and Dr. Andrzej Jasionowski, the Commissioners appointed being the persons appointed as Commissioners by His Excellency, the President of the Co-operative Republic of Guyana on the 30th day of July 2026, under the provisions of the Commissions of Inquiry Act, Cap. 19:03.
- iii. **"Commission Counsel"** means Counsel appointed to assist the Commission and retained by the Government of the Co-operative Republic of Guyana;
- iv. **"Designated email address"** means:-
 - (a) In the case of the Commission, the email address notified to any person (and their recognized legal representatives if any), by the Secretary to the Commission, in whatever manner he sees fit, as the email address to be used for communication by email; and
 - (b) In the case of any person, the email address notified by the person to the Secretary to the Commission, in writing, as the email address to be used for communication by email.
- v. **"Designated postal address"** means:-
 - (a) in the case of the Commission, the address notified to any person (and their recognized legal representatives if any), by the Secretary to the Commission, in whatever manner he sees fit, as the address to which correspondence should be sent; and
 - (b) in the case of any person, the address notified by that person to the Secretary to the Commission, in writing, as the address to be used for postal communications.
- vi. **"Document"** includes any paper, writing, book, map, plan, graph, drawing, photograph, audio recording, video recording, electronic record, digital file and any data or information recorded or stored by means of any device or on any platform;
- vii. **"Electronic means"** includes any website, software or electronic programme in use for the time being for the purposes of receiving and sending messages and documents and operated on platforms as determined by the Commission.
- viii. **"Hearing"** means procedural, evidentiary and/or any other hearing of the Commission whether in-person, or electronically/virtually or a hybrid of both and whether in public or in private;
- ix. **"Media"** refers to the print and electronic media including newspaper, radio and television broadcasters and the Parliament channel.

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- x. **“Person”** means a person, group of persons, association, entity or organization. The singular includes the plural and the plural includes the singular; the masculine gender includes the feminine; the word *person* includes bodies corporate, companies, partnerships, sole traders, trusts and any association of persons.
 - xi. **“Report”** means the Final Report issued by the Commissioners to His Excellency the President.
 - xii. **“Privilege”** includes legal professional privilege and any other privilege recognized by law;
 - xiii. **“Rules”** mean these Procedural Rules as may be amended from time to time;
 - xiv. **“Service”** means in relation to any documents, summons or subpoenas, personal service or service by electronic means.
 - xv. **“Secretary”** means the person so appointed by the President and who, when appointed, will be the Head of the Secretariat.
 - xvi. **“Secretariat”** means the administrative office of the Commission.
 - xvii. **“Standing”** means a person who has expressly been granted standing by the Commission in accordance with Part 4 of the Rules.
 - xviii. **“Terms of Reference”** refers to the Commission’s Terms of Reference gazetted on the 30th July, 2026 including any addition and/or amendment thereto.
 - xix. **“Witness”** means a person interviewed by, requested to provide information to, or called to give evidence before the Commission.
2. Any requirement under these Rules that a document is given or sent to any person by the Commission is satisfied by that document being:-
- i. delivered in person; or
 - ii. sent by registered mail to the person’s designated postal address; or
 - iii. sent by email to a person’s designated email address.
3. Any requirement under these Rules that a document is received by the Commission is satisfied by that document being:
- i. left at the Commission’s designated postal address (where it has been acknowledged as having been received);
 - ii. sent to the Commission’s designated postal address by registered mail; or
 - iii. sent by email to the Commission’s designated email address.

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APPLICATION OF RULES

4. The Commission is governed and guided by the Commission of Inquiry Act, Chapter 19:03 of the Laws of Guyana and by these Rules which shall be applied to enable the Commission to fulfil its mandate fairly, thoroughly, efficiently and with appropriate transparency in accordance with its Terms of Reference which are annexed to these Rules as Annex "A".

HEARINGS OF THE COMMISSION**Hearings to be held in public**

5. Hearings of the Commission shall be conducted in public unless the Commissioners otherwise direct in accordance with these Rules.

Venue

6. Hearings shall be held at the Arthur Chung Convention Centre, located at 5-E ½ Orchid Drive, Liliendaal, East Coast Demerara, Guyana or at such other place as the Commission may direct.

Secretariat

7. The offices of the Commission shall be at the said Arthur Chung Convention Centre or such place as the Commission may direct.

Notice of hearings

8. The Secretary of the Commission shall give notice of the date, time and place of hearings in such manner as the Commissioners consider appropriate, such notification to be as sufficient in duration as is practicable.

Days and Hours of sitting

9. Unless otherwise directed, the Commissioners shall sit from Monday to Friday from 9 a.m. until 4 p.m. with such adjournments, breaks or further sittings as the Commissioners may direct.

COMPLIANCE WITH RULES AND DIRECTIONS

10. Every witness, person and every Attorney-at-Law appearing before the Commission shall comply with these Rules and with every order or direction of the Commission.
11. Where there is non-compliance with these Rules or with any order or direction, the Commissioners shall deal with any such non-compliance/ breach as they deem fit.

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INVESTIGATION

12. The Inquiry by the Commission has commenced and will continue with an investigation by the Commission, including obtaining information and documents in relation to the Terms of Reference. The principal objective of the investigation is to identify the witnesses for the evidentiary hearing.
13. The investigative phase will consist primarily of the collection and review of documents from persons with information, inspection of physical evidence, consultations and interviews of persons with information.
14. All persons are required to preserve originals of all documents relevant to the Commission's Terms of Reference that are in their possession, power or control and any relevant physical evidence in their possession, power or control until such time as the Commissioners have ordered otherwise.

APPLICATIONS FOR STANDING**Grounds**

15. Persons who wish to participate in the Inquiry may apply for standing. The Commission may grant standing if it is satisfied that an applicant:-
 - i. has played or may have played, a direct and significant role in relation to the matter to which the Inquiry relates;
 - ii. has a substantial, personal or direct interest in the subject-matter of the Inquiry whether as a witness, survivor, family member of a victim or otherwise;
 - iii. may be subject to explicit or significant criticism during the proceedings of the Inquiry or in the Report; or should participate in the Inquiry as his or her participation may be helpful to the Commission in fulfilling the Terms of Reference.

Method of Application

16. Applications for standing may be made to the Commission by submitting a written request to the Secretary: -
 - i. giving the name of the person seeking standing and his contact information;
 - ii. giving the name of the legal representative of the person seeking standing (if any) together with his contact information;
 - iii. saying (in no more than 3 pages) why standing is sought; and

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- iv. enclosing copies of any relevant documents.
17. The Commissioners shall determine on what terms a person may participate in the Inquiry, and the nature and extent of such participation.

VARIATION OF DATES

18. The Commission may postpone or vary any date fixed for a hearing or for the taking of any procedural step.

DUTIES OF COMMISSION COUNSEL

19. The duties of the Commission Counsel shall include but not be limited to:
- i. act as the main legal, procedural, and administrative lead for the inquiry.
 - ii. serve as the principal point of contact for witnesses and legal representatives.
 - iii. Advise the Chairman and Commissioners on legal and procedural matters.
 - iv. Manage the procedural work of the Commission.
 - v. Question witnesses in oral hearings.
 - vi. Generally, assist the Commission throughout the Inquiry and be responsible for ensuring that the Inquiry is conducted in an orderly fashion and that all matters bearing on the public interest and falling within the Terms of Reference are brought to the Commissioners' attention.

COUNSEL FOR WITNESSES

20. An Attorney-at-Law representing a witness may appear on behalf of that witness during the giving of that witness's evidence without applying for standing, subject to these Rules and any direction given by the Commissioners.
21. The role of the attorney is to represent the interest of a witness, for example to intervene if he considers questioning is inappropriate or if the witness is becoming particularly distressed and needs a break.

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EVIDENCE

22. The Commission may receive any evidence that it considers helpful in fulfilling its mandate, whether or not the evidence would be admissible in a court of law.
23. Every person shall, as soon as practicable after being granted standing, produce to the Commission true copies of all documents in his/her possession or control having any bearing on the subject matter of the Inquiry.
24. A witness shall list, but need not reproduce, documents already in the possession of the Commission, unless the Commission otherwise directs.
25. The Commission may require the production of originals for inspection.
26. The Commission may require any person, agency, department or body to produce true copies of all documents in its possession or control having any bearing on the subject matter of the Inquiry.
27. The Commission may require the production of originals for inspection.

Confidentiality of documents

28. Every document received by the Commission shall initially be treated as confidential until the Commission —
 - i. decides whether it will be made publicly available
 - ii. determines it is to be admitted into evidence at the hearing;
 - iii. directs otherwise; or
 - iv. orders its disclosure
29. Nothing in this rule prevents the Commission from showing a document to a potential witness for the purposes of investigation, interview or preparation, subject to any redaction deemed necessary by the Commission.

Disclosure by the Commission

30. Subject to privilege, confidentiality restrictions and any order of the Commission, all relevant documents in the possession of the Commission shall be disclosed to parties within a reasonable time before witness interviews or hearings, or within a reasonable time after such documents become available to the Commission.

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31. The Commission may disclose documents to a witness where reasonably necessary for the purposes of interview, preparation or testimony.
32. Disclosure may be subject to redaction, staged release, confidentiality terms or other protective conditions.

Undertakings as to use

33. Before receiving confidential material from the Commission, a person, witness or Attorney-at-Law shall give an undertaking—
 - i. to use the material only for the purposes of the Inquiry;
 - ii. to preserve its confidentiality unless and until it is made public by the Commission or admitted into evidence in a public hearing;
 - iii. to comply with any restriction imposed by the Commission on copying, dissemination, storage or publication; and
 - iv. to return or destroy the material as directed by the Commission
34. The Commission may release a person in whole or in part from such undertaking on such terms as it considers just.

Return of documents

35. Unless the Commission otherwise directs, every document provided by the Commission and not admitted into evidence in a public hearing, and every copy thereof, shall be returned to the Commission.

CLAIMS OF PRIVILEGE

36. A person claiming privilege over a document required to be produced by the Commission shall state the basis for so claiming and the Commission shall decide whether the claim for privilege is justified.
37. Pending determination of a claim of privilege, the disputed document shall not be disclosed to any other party. Where privilege is upheld, the Commission may direct that a non-privileged summary be prepared and disclosed if that can fairly be done.

WITNESSES

38. The Commissioners or any one or more of them, with or without the assistance of Commission Counsel may interview any person believed to have relevant information or documents.

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39. The Commissioners or any one or more of them may be present at any interview or may receive a transcript or report of an interview conducted in their absence.
40. A person interviewed may have an Attorney-at-Law present.
41. A person interviewed shall answer relevant questions and produce relevant documents, subject to any lawful claim of privilege.
42. The Commissioners may issue a summons or subpoena where they deem it necessary to compel the attendance of persons and/or the production of relevant documents.

WITNESS STATEMENTS

43. Where the Commission determines that an interviewed person should be called as a witness at the inquiry, the Commission shall cause a witness statement, summary or transcript of anticipated evidence to be prepared in advance of the testimony by the witness at a hearing.
44. The witness shall be given a reasonable opportunity to review such statement or summary before signing the statement and testifying at the inquiry.
45. Such witness statement, summary or transcript, whether signed or unsigned may be disclosed by the Commission to such persons with standing upon their written undertaking to use it only for the purposes of the inquiry and on the terms required by the Commissioners.
46. Where a witness has provided a signed statement, the Commission may permit that statement to be adopted by the witness, on oath or affirmation, as evidence in chief.

MODE OF TESTIMONY

47. A witness may give evidence in person, by video link or by audio link, as the Commission may direct.

RIGHT TO COUNSEL

48. A witness is entitled to have his or her Counsel present while giving evidence. A witness' Counsel has standing in the Inquiry for the purpose of that witness' testimony.

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SUMMONS AND SUBPOENAS

49. The Commission may issue a summons or subpoena requiring a person—
- i. to attend for the purpose of pre-hearing interviews;
 - ii. to produce documents or other things pre-hearing or at a hearing or;
 - iii. to attend and give evidence at a hearing.

WARNING LETTERS

50. The Commission may send a warning letter to any person –
- i. it considers may be, or who has been, subject to criticism in the inquiry proceedings; or
 - ii. about whom criticism may be inferred from evidence that has been given during the inquiry proceedings; or
 - iii. who may be subject to criticism in the Report, or any interim report.
51. The recipient of a warning letter may disclose it to his legal representative.
52. The Commission must not include any explicit or significant criticism of a person in the report, or in any interim report, unless it has sent that person a warning letter and that person has been given a reasonable opportunity to respond to the warning letter.

OPENING AND CLOSING STATEMENTS

53. The Commission may permit opening statements and closing statements from the Commission's Counsel and other Counsel representing participants as the Commissioners may deem helpful and appropriate and subject to such conditions, including time limits, as the Commissioners may direct.

ORAL EVIDENCE

54. Where a witness has provided a signed witness statement: -
- i. the witness, after being sworn in or having affirmed, will be invited by the Commission Counsel to certify that what is contained in his or her witness statement is true and correct and, thereafter, the witness statement may be admitted into evidence as the witness' evidence-in-chief;
 - ii. the Commissioners or Commission Counsel may then examine the witness, if necessary;
 - iii. There is no automatic right for counsel to question witnesses, however, a witness may, with the permission of the Commission, be cross-examined by persons granted standing, or by their Counsel, to the extent of their interest and in accordance with such time limits as the Commissioners may direct.

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- iv. the Commissioners or Commission Counsel may further examine the witness.
 - v. Witnesses may be called to give evidence in the Inquiry more than once and may be recalled as determined by the Commissioners.
55. The Commissioners shall not be obliged to call any witness who has provided a written statement to the Commission to give oral evidence and may instead, in their discretion, place such written statements into the Inquiry's record.
56. The Commissioners shall be at liberty at any stage of the hearing to ask questions of a witness on the evidence adduced before the Commission.

PUBLIC ACCESS AND THE MEDIA

57. Subject to these Rules, hearings shall be held in public. Subject to any restrictions that the Commission may from time to time impose to ensure fairness, the Commission shall take reasonable steps to ensure that members of the public and media are able to attend the inquiry or to see and hear a simultaneous transmission of proceedings of the inquiry and, where practicable to obtain or to view a record of evidence and documents provided to the inquiry. The press, television and public radio broadcasters shall be entitled to attend, subject to such directions as the Commission may make for the proper conduct of proceedings.

IN CAMERA HEARINGS

58. Though there is a presumption that its hearings will be held in public, the Commission may, where appropriate, direct that part of its hearing be held in camera where it is satisfied that this is necessary in the interests of maintaining order; for the proper administration of justice; in fairness to any person; to safeguard confidentiality, privilege or other protected interests; or any other sufficient reason consistent with the Commission's mandate.

TRANSCRIPTS

59. Transcripts and exhibits from public hearings shall be made available for public viewing on the Commission's website or other website or other available means designated by the Commission as soon as is practicable.
60. Transcripts and exhibits from any hearing or part of a hearing held in camera may be released on such terms as the Commission directs where the Commission considers that such release is in the public interest

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61. The Commission may redact any transcript or exhibit before release to the public and/or media where necessary to protect fairness, confidentiality, privilege, security or the proper administration of the Inquiry.

GENERAL

62. The Commission may extend or abridge any period fixed by these Rules or by any order or direction of the Commission, whether before or after the expiration of that period.
63. Where the time for doing any act expires on a day when the offices of the Commission are closed, the act shall be deemed done in time if done on the next day on which the offices are open.
64. A failure to comply with these Rules or with any order or direction of the Commission may be treated as an irregularity and does not of itself invalidate any step taken and, in addressing any irregularity, the Commission shall consider the nature of the non-compliance, the reasons for it, the prejudice caused, and interests of fairness and efficiency.

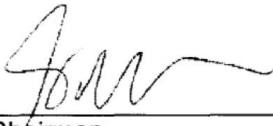
SAVING OF GENERAL POWERS

65. Nothing in these Rules limits any power conferred on the Commission by the Commissions of Inquiry Act, Cap. 19:03.

AMENDMENTS TO THESE RULES

66. These Rules may be amended, from time to time, if the Commission considers it advisable to do so to ensure that the Inquiry is conducted fairly and in accordance with the Terms of Reference.

Issued by the Chairman of the Commission on behalf of and with the concurrence of the Commissioners on this the 9th day of September 2026.



Chairman

SCHEDULE**GOVERNMENT OF THE CO-OPERATIVE REPUBLIC OF
GUYANA****COMMISSION OF INQUIRY INTO THE MARINE CASUALTY INVOLVING
THE MV BARIMA****TERMS OF REFERENCE****PREAMBLE**

WHEREAS on the night of Saturday, 18 July 2026, the *MV Barima*, owned and operated by the Transport and Harbours Department, Ministry of Public Works, having earlier departed Georgetown on its scheduled voyage to Port Kaituma, have capsized and sunk at sea at or near the point situated at 7 degrees, 28 minutes and 12.8 seconds North Latitude and 58 degrees, 23 minutes and 26.6 seconds West Longitude, resulting in the tragic loss of life, injuries to passengers and crew, persons remaining missing, and the loss of cargo and the vessel;

AND WHEREAS the casualty raises serious public concerns regarding the full circumstances and causes of the occurrence, including the loading of the vessel, passenger boarding and management, conditions on board, the seaworthiness and maintenance history of the vessel, compliance with applicable maritime laws and safety standards, the conduct and competence of the master and crew, life-saving arrangements, regulatory oversight, emergency preparedness, and the adequacy, coordination and effectiveness of the search, rescue and recovery response;

AND WHEREAS His Excellency the President has announced the establishment of an independent Commission of Inquiry comprising persons of international standing, unquestioned integrity and recognised expertise in law, maritime safety, accident investigation, marine engineering, maritime operations and disaster management;

AND WHEREAS the Government considers it necessary in the public interest that a thorough, independent and impartial inquiry establish the facts, examine every relevant circumstance, identify any shortcomings or failures, recommend appropriate accountability where warranted, and propose reforms to strengthen the safety, reliability and resilience of Guyana's maritime transportation system and reduce the likelihood of a recurrence;

- (j) the governance, management, safety systems and accountability arrangements of the Transport and Harbours Department;
- (k) the functions, capacity, independence, inspection practices and enforcement arrangements of the Maritime Administration Department and other relevant authorities;
- (l) passenger-vessel and cargo-vessel safety;
- (m) public accountability and implementation-monitoring mechanisms; and
- (n) any other measures necessary to strengthen maritime safety and prevent a recurrence.

I. PROCEDURE AND METHOD OF WORK

1. Subject to the *Constitution*, the *Commissions of Inquiry Act, Cap. 19:03*, the requirements of natural justice and any directions contained in the Instrument of Appointment, the Commission shall determine its own procedure and method of work.
2. The Commission may pursue any line of inquiry which, in its opinion, is relevant or reasonably necessary to enable it fully and effectively to discharge its mandate, notwithstanding that the matter is not expressly particularised in these Terms of Reference.

- (g) whether the availability, condition, accessibility or use of life-saving appliances and emergency equipment affected survival;
- (h) whether the search, rescue and recovery response was adequate, timely, coordinated and effective;
- (i) whether the vessel should have been permitted to sail and whether previous inspection, survey or audit findings were acted upon;
- (j) whether the Transport and Harbours Department, the Maritime Administration Department and every other relevant public authority and official discharged their respective legal, regulatory, supervisory and operational responsibilities;
- (k) whether any regulatory, managerial, systemic or institutional failure contributed to the casualty or the response;
- (l) whether existing legislation, regulations, institutional arrangements and operating procedures adequately protect maritime safety;
- (m) whether any matter warrants referral to a competent authority; and
- (n) what legislative, regulatory, institutional, administrative and operational reforms are required.

H. RECOMMENDATIONS

The Commission shall make such recommendations as it considers necessary or appropriate concerning—

- (a) maritime legislation and subsidiary legislation;
- (b) the regulation, inspection, survey, certification and licensing of passenger and cargo vessels;
- (c) vessel seaworthiness, maintenance, repair, stability and loading controls;
- (d) passenger boarding, manifests, capacity controls, passenger management and safety information;
- (e) cargo and vehicle loading, stowage, securing and dangerous-goods procedures;
- (f) crew qualification, certification, training, manning, fatigue management and emergency preparedness;
- (g) life-saving appliances, emergency equipment, evacuation and abandon-ship procedures;
- (h) search, rescue, recovery, medical response, disaster preparedness and inter-agency coordination;
- (i) marine casualty reporting and investigation procedures;

F. REPORTS

1. The Commission may submit interim reports and make urgent safety or administrative recommendations at any time where the evidence discloses an immediate or continuing risk to life, maritime safety or the effective administration of maritime transportation.
2. The Commission shall submit a Final Report containing—
 - (a) its findings of fact and the established sequence of events;
 - (b) its analysis of the immediate, direct, contributing and systemic causes of the casualty;
 - (c) its findings concerning seaworthiness, loading, passenger management, navigation, machinery, human factors, life-saving arrangements, regulatory compliance and the search, rescue and recovery response;
 - (d) any shortcomings, failures, negligence, misconduct, dereliction of duty, systemic deficiencies or institutional failures disclosed by the evidence;
 - (e) recommendations concerning appropriate accountability and referrals, where warranted;
 - (f) safety, legislative, regulatory, institutional, administrative and operational recommendations;
 - (g) such other conclusions and recommendations as the Commission considers necessary in the public interest.

G. KEY MATTERS TO BE DETERMINED

Without limiting the generality of these Terms of Reference, the Commission shall determine—

- (a) why the vessel capsized and sank and why the casualty occurred so rapidly;
- (b) whether the vessel was seaworthy, stable, properly maintained and safely fit to sail;
- (c) whether passenger numbers, boarding procedures, manifests, loading, cargo stowage, weight distribution, possible overcrowding or cargo shift contributed to the casualty;
- (d) whether flooding, machinery failure, structural failure, steering failure, electrical failure or loss of watertight integrity contributed to the casualty;
- (e) whether weather, sea conditions, tides, currents, navigation, communications or other environmental or operational factors contributed;
- (f) whether the master and crew were competent, properly qualified and trained, exercised reasonable care and complied with applicable maritime safety and emergency procedures;

AND WHEREAS His Excellency the President, pursuant to **section 2(1) of the Commissions of Inquiry Act, Cap. 19:03**, has determined that a Commission of Inquiry be appointed to inquire into and report upon the casualty and related matters.

NOW, THEREFORE, the following Terms of Reference are established.

A. OBJECT

1. The Commission shall conduct a thorough, independent, impartial and comprehensive public inquiry into all circumstances surrounding the capsizing and sinking of the *MV Barima*, the response thereto, and all matters reasonably connected therewith.
2. The Commission shall establish, so far as the evidence permits, the full facts and sequence of events; determine the immediate, direct, contributing and systemic causes of the casualty; identify any shortcomings or failures; assess compliance with applicable legal and safety requirements; recommend appropriate accountability where warranted; and propose reforms necessary to strengthen maritime safety and prevent a recurrence.
3. In examining the technical aspects of the marine casualty, the Commission may have regard to relevant national laws and internationally recognised marine casualty investigation principles and standards, including, where applicable, the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident ("Casualty Investigation Code"). The Commission's mandate shall not, however, be limited to a safety investigation and shall extend to public accountability, institutional performance and reform.

B. PURPOSE

The Commission shall—

- (a) establish the full circumstances surrounding the tragedy, including the sequence of events before, during and after the capsizing and sinking;
- (b) determine why the vessel capsized and sank, why the casualty developed so rapidly, and the immediate, direct, contributing and systemic causes;
- (c) determine whether the vessel was seaworthy and safely fit to undertake the voyage, and whether applicable statutory, regulatory, certification, inspection and operating requirements were complied with;
- (d) examine the ownership, operation, maintenance and management of the vessel and the operational management, governance and safety systems of the Transport and Harbours Department;
- (e) examine passenger boarding, manifest preparation, passenger numbers and management, possible overcrowding, cargo loading and stowage, and the availability and use of life-saving equipment;
- (f) comprehensively review the search, rescue and recovery operations, including the adequacy, coordination, timeliness and effectiveness of the response by all agencies and stakeholders involved;

- (g) evaluate the extent to which applicable laws, regulations, standards, licence and certificate requirements, and operating procedures governing ferries and other relevant passenger and cargo vessel operations were complied with;
- (h) determine whether any act or omission, negligence, misconduct, dereliction of duty, systemic deficiency or institutional failure by any individual, entity or institution contributed to or caused the casualty or adversely affected the response;
- (i) recommend appropriate accountability and referral to competent authorities where warranted by the evidence; and
- (j) recommend legislative, regulatory, institutional, administrative and operational reforms, and any other measures necessary to strengthen maritime safety, improve emergency preparedness and response, and reduce the likelihood of similar tragedies occurring in the future.

C. SCOPE OF THE INQUIRY

Without limiting the generality of Parts A and B, the Commission shall inquire into, examine and report upon the following matters:

1. Circumstances and sequence of events

- (a) the date, time, place and sequence of events immediately preceding, during and following the casualty;
- (b) the vessel's departure, route, position, movement and condition before the casualty;
- (c) the circumstances in which the vessel capsized and sank and the reasons the casualty developed so rapidly;
- (d) the distress notification, communications and actions taken by the master and crew before, during and after the occurrence; and
- (e) the number and identity, so far as ascertainable, of the passengers and crew aboard, and the circumstances in which persons were rescued, injured, lost their lives or remained missing.

2. Particulars, ownership, operation and management of the vessel

- (a) the ownership, operation, custody, control and management of the *MV Barima*;
- (b) the vessel's age, design, construction, classification status, modifications, alterations and operational limitations;
- (c) the statutory certificates, licences and approvals held or required in respect of the vessel and its operations;
- (d) the vessel's survey, inspection, dry-docking, repair and maintenance history;
- (e) any reported or known defect, deficiency or unsafe condition and the action taken in response; and
- (f) the systems, policies, procedures and allocation of responsibilities governing the vessel's maintenance, crewing, loading, dispatch and safe operation.

3. Seaworthiness and stability

- (a) whether the vessel was seaworthy and safely fit for the intended voyage at the time of departure;
- (b) the condition of the hull, structure, watertight integrity, openings, freeboard and stability characteristics of the vessel;
- (c) whether any structural, mechanical, electrical or other defect rendered or contributed to rendering the vessel unsafe;
- (d) whether the vessel complied with applicable load line, stability, construction, survey, inspection and certification requirements; and
- (e) whether the vessel should have been permitted to sail in the condition and circumstances prevailing at the time of departure.

4. Passenger boarding, manifests and passenger management

- (a) ticketing, embarkation, boarding controls and passenger counting procedures;
- (b) the preparation, accuracy, maintenance and verification of passenger and crew manifests and other boarding records;
- (c) the actual number of passengers and crew aboard and the vessel's authorised passenger and crew capacity;
- (d) whether the vessel was overcrowded or carried persons in excess of any authorised or safe limit;
- (e) the distribution, accommodation, movement and management of passengers and the conditions on board; and
- (f) passenger safety information, briefings, instructions, access routes, emergency stations and arrangements for children, elderly persons and other vulnerable passengers.

5. Loading, cargo and stability arrangements

- (a) the nature, quantity and total weight of cargo, baggage, vehicles, fuel, dangerous goods and other articles carried aboard;
- (b) the procedures for weighing, recording, loading, distributing, stowing and securing cargo and vehicles;
- (c) the vessel's draught, trim, ballast condition, freeboard and stability calculations at departure and during the voyage;
- (d) whether any cargo or vehicle shifted, whether water ingress or flooding occurred, and the effect of any such event upon stability; and
- (e) compliance with applicable cargo, dangerous goods, load line, vehicle loading, securing and stability requirements and procedures.

6. Navigation, weather, sea and operational conditions

- (a) voyage planning, route selection, bridge procedures, navigational watchkeeping, lookout arrangements, helm orders and speed;
- (b) the availability, condition, accuracy and use of navigation, communication and positioning equipment;
- (c) weather forecasts and warnings, sea conditions, tides, currents, visibility and other environmental conditions;
- (d) communications between the vessel and shore-based authorities or other vessels; and
- (e) the extent to which navigation, weather, sea conditions, tides, currents, communications or any other environmental or operational factor contributed to the casualty.

7. Machinery and technical systems

- (a) the condition and operation of the propulsion machinery, steering systems, generators and electrical systems;
- (b) the condition and operation of bilge systems, pumps, alarms, emergency power and other essential safety systems;
- (c) whether machinery, electrical, steering, pumping, alarm or emergency power failure contributed to the casualty; and
- (d) whether structural failure, progressive flooding or loss of watertight integrity occurred before or during the capsizing and sinking.

8. Master, crew and human factors

- (a) the competence, qualifications, certification, training, experience and fitness for duty of the master, officers and crew;
- (b) the vessel's manning level, allocation of duties, supervision and compliance with hours-of-work and rest requirements;
- (c) fatigue, bridge resource management, situational awareness, communications and emergency decision-making;
- (d) the conduct, acts, omissions and decisions of the master and crew before, during and after the casualty;
- (e) compliance with established maritime safety, navigation and emergency procedures; and
- (f) the adequacy of crew training, drills, safety culture and readiness to respond to an emergency.

9. Emergency preparedness, life-saving arrangements and survival

- (a) the activation and audibility of alarms and the adequacy of emergency instructions and procedures;
- (b) the number, type, condition, accessibility, positioning and use of lifejackets, liferafts, lifebuoys and other life-saving appliances;
- (c) muster, evacuation, abandon-ship and passenger-control procedures and the conduct of the master and crew in implementing them;
- (d) whether deficiencies in life-saving equipment, emergency preparedness, passenger management or crew response affected survival; and
- (e) the circumstances and factors which enabled or hindered the survival and rescue of passengers and crew.

10. Search, rescue and recovery operations

- (a) the reporting of the casualty and the activation of search, rescue, recovery, emergency and disaster-response arrangements;
- (b) the preparedness, adequacy, timeliness, coordination and effectiveness of the response by all Ministries, Departments, statutory bodies, disciplined services, regional and local authorities, private entities, volunteers and other stakeholders involved;
- (c) command, control, communications, information-sharing and inter-agency coordination;
- (d) the availability, suitability, mobilisation and deployment of personnel, vessels, aircraft, medical services, equipment and other resources;
- (e) the roles and responses of the Guyana Defence Force Coast Guard, Maritime Administration Department, Transport and Harbours Department, Guyana Police Force, medical and emergency services, private vessels, fisherfolk and international partners;
- (f) the rescue, reception, identification, treatment and care of survivors;
- (g) the recovery and identification of deceased persons and the accounting for passengers and crew; and
- (h) communication and engagement with survivors and the families of persons who perished or remained unaccounted for.

11. Operational management and governance of the Transport and Harbours Department

- (a) the organisational, managerial and supervisory arrangements governing the operation of the vessel;
- (b) maintenance, safety-management, risk-management, reporting, inspection and emergency-management systems;
- (c) staffing, training, competence assurance, record-keeping and internal accountability arrangements;

- (d) the reporting, escalation and correction of defects, deficiencies and unsafe practices;
- (e) implementation of previous safety, inspection, audit and operational recommendations; and
- (f) whether any management, governance or safety-system failure contributed to the casualty.

12. Regulatory oversight and compliance

- (a) the respective legal, regulatory and supervisory responsibilities of the Maritime Administration Department, the Ministry of Public Works, inspectors of shipping, surveyors of ships and every other relevant authority or official;
- (b) inspection, survey, certification, licensing, monitoring, compliance and enforcement procedures applicable to the vessel and its operations;
- (c) whether inspections and surveys were adequate, timely, independent and properly documented;
- (d) whether any deficiencies or unsafe conditions were identified, whether they were corrected and whether the vessel was permitted to operate despite any outstanding deficiency;
- (e) whether statutory certificates, licences or approvals were properly issued, renewed, suspended or enforced;
- (f) whether any officer, employee or authority failed to discharge an applicable statutory, regulatory, supervisory or administrative responsibility; and
- (g) the extent of compliance with applicable laws, regulations, recognised standards, licence and certificate conditions, and standard operating procedures governing ferries and other relevant passenger and cargo vessel operations.

13. Previous and concurrent inquiries, inspections and reports

- (a) any previous or concurrent inquiry, investigation, inspection, survey, audit, review or report concerning the vessel, its operations, the casualty or the response;
- (b) the findings and recommendations arising from any such process;
- (c) whether identified deficiencies were corrected and whether recommendations were implemented; and
- (d) the relevance of any such material to the Commission's findings and recommendations.

14. Related matters

any other matter arising out of, incidental to, consequential upon or reasonably connected with the casualty or the response which the Commission considers necessary for the full and effective discharge of its mandate.

D. ACCOUNTABILITY AND REFERRALS

1. The Commission shall determine, on the basis of the evidence, whether any act or omission, negligence, misconduct, dereliction of duty, breach of law or established procedure, systemic deficiency or institutional failure by any individual, entity or institution contributed to or caused the casualty or adversely affected the response.
2. Where warranted by the evidence, the Commission shall identify the persons, entities or institutions concerned and recommend appropriate measures of accountability.
3. Without presuming that any offence has been committed, the Commission shall determine whether the evidence discloses possible criminal conduct, including possible criminal negligence, misconduct in public office, falsification or concealment of certificates or maintenance records, fraud, corruption, obstruction of justice, destruction or concealment of evidence, or any other offence under the laws of Guyana.
4. Where the evidence warrants further investigation or consideration, the Commission shall identify the relevant evidence and recommend referral to the appropriate authority or body for criminal, civil, disciplinary, administrative or regulatory investigation or action.
5. Any finding or recommendation under this Part shall not constitute a determination of criminal guilt or a final adjudication of civil liability, which remain matters for the courts and other competent authorities.

E. POWERS AND TECHNICAL ASSISTANCE

1. The Commission shall have and may exercise all powers conferred upon it by the Commissions of Inquiry Act, Cap. 19:03, and any other applicable law.
2. Without limiting those powers, and subject to law, the Commission may—
 - (a) summon and examine witnesses on oath or affirmation and require the production of documents, records and other material;
 - (b) receive oral, documentary, electronic, expert and technical evidence;
 - (c) inspect or cause to be inspected, where practicable and lawful, the vessel, wreckage, cargo, associated debris, maintenance facilities, ports, loading facilities, equipment and other relevant places or objects;
 - (d) obtain the assistance of independent experts, investigators, advisers and technical personnel;
 - (e) commission surveys, stability analyses, reconstructions, simulations, laboratory testing and other technical examinations;
 - (f) request, receive or obtain in accordance with law electronic records, communications data, navigation and positioning data, CCTV, meteorological information, hydrographic information and satellite imagery;
 - (g) conduct site visits and examine comparable vessels or systems; and
 - (h) take any other lawful step reasonably necessary to discharge its mandate.