

## **RACING RULES COMMITTEE**

MET AT 0930 – 1800 HOURS ON TUESDAY 7 NOVEMBER 2006 AT THE MARINA CONGRESS CENTRE, HELSINKI, FINLAND



### **MINUTES**

#### Present:

David Tillett – Chairman	Pertti Lipas
Bryan Willis – Vice-Chairman	Marianne Middelthon
David Irish – Vice-President	Bill O'Hara
Bjørn Anker-Møller	Dick Rose
Bernard Bonneau	Bo Samuelsson
Kamen Fillyov	Ana Sánchez del Campo Ferrer
Carlos Gastelu	Katsumi Shibamura
Luciano Giacomi	Leo Pieter Stoel
Josje Hofland	Richard Thompson
Nelson Horn Ilha	Costas Tsantilis

#### Apologies:

Jack Lloyd

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## **1. MINUTES OF THE PREVIOUS MEETING**

### (a) Minutes

The Committee noted the minutes of the Racing Rules Committee meeting of 9 November 2005 (circulated and approved after the meeting). The minutes can be downloaded at [www.sailing.org/meetings](http://www.sailing.org/meetings).

### (b) Minutes – matters arising

The Chairman of the Case Book Working Party reported that Case 45 was labelled 'withdrawn' in the 2006 supplement to the Case Book. See also item 19, Any Other Business, of these minutes. There were no other matters arising (not covered elsewhere on this agenda).

## **2. ITEMS DEFERRED FROM NOVEMBER 2005**

### (a) Deferred Submission 145-05

The Committee reconsidered submission 145-05 from the Royal Spanish

## RACING RULES COMMITTEE (CONT.)

Sailing Federation about rule P2.3.

### Recommendation to Council

*Approve with following amendment:*

*Edit to read as follows:*

### **P2.3 Third and Subsequent Protests**

When a boat is protested a third or subsequent time during the series, she may acknowledge her breach by immediately retiring from the race. If she does so she shall be disqualified without a hearing and her score shall not be excluded. If she fails to do so she shall be disqualified without a hearing from all races in the series, with no score excluded, and the protest committee shall consider calling a hearing under rule 69.1(a).

(b) Deferred Submission 154-05

The committee reconsidered submission 154-05 from the Chairman of the Race Officials Committee about Case 78.

### Recommendation to Council

*Defer again to the Case Book WP.*

## **3. PROPOSED CHANGES TO RACING RULES**

The Committee considered the following submissions and made the following recommendations to Council:

<u>Number</u>	<u>From</u>	<u>Rule</u>	<u>Recommendation</u>	<u>Comment</u>
124-06	Canadian Yachting Association	Preamble to Part 2	Recommendation to Council: Approve	Vote: 16 in favour, 3 against, no abstentions
125-06	Chairman of the Racing Rules Committee	Rule 18.1(c)	Recommendation to Council: Defer	To be considered in connection with the total revision of rule 18. See agenda item 20.
126-06	Deutscher Segler Verband	Rule 19	Recommendation to Council: Reject	Although uniformity between different kinds of racing is desirable, it does not justify an unnecessary extra burden to crews in fleet racing.  Vote: 2 in favour (of the submission), 17 against, no abstentions
127-06	Royal Yachting Association	Rule 31 and 44	Recommendation to Council: Approve with following amendment	To be edited by the WP. This is to replace submission 137-05 accepted in November 2005.  Vote: 19 in favour, 0 against

## RACING RULES COMMITTEE (CONT.)

128-06	Royal Yachting Association	Rule 41	Recommendation to Council: Defer	Pros and cons to be studied.
129-06	Royal Yachting Association	Rule 42.3	Recommendation to Council: Approve with following amendment	Edit and complement as follows:  (h) Sailing instructions may, in stated circumstances, permit propulsion using an engine or any other method, provided the boat does not gain a significant advantage in the race.
130-06	Chairman of the Offshore Committee	Rule 49.2	Recommendation to Council: Reject	In view of widely varying classes and circumstances, should be regulated by class rules.
131-06	Royal Yachting Association	Rule 60	Recommendation to Council: Approve with following amendment	Combine with submission 132-06. Rules 60.2(a) and 60.3(a) are to begin as  (a) protest a boat, but not as a result of information arising from a request for redress or an invalid <i>protest</i> , or from a report from an <i>interested party</i> other than the representative of the boat herself.
132-06	US Sailing	Rule 60.2(a) and 60.3(a)		See submission 131-06.
133-06	US Sailing	Rule 62.2	Recommendation to Council: Approve with following amendment	Delete ', identify the incident on which the request is based, '.
134-06	Canadian Yachting Association	Rule 69	Recommendation to Council: Defer	The WP to consult with the Constitution Committee. Laws governing procedures by national authorities must be observed.
135-06	Royal Yachting Association	Rule 70	Recommendation to Council: Defer	Accept in principle, together with submission 137-06. The WP to edit and consult with special working party appointed in 2005.
137-06	Koninklijk Nederlands Watersport Verbond	Rule 70.1		See submission 135-06.

## **RACING RULES COMMITTEE (CONT.)**

138-06	Chairman of the Racing Rules Committee	Rule 76.3	Recommendation to Council: Reject	Reject, together with submission 142-06. Unmanageable for racing in multiple fleets. Procedures announced in the notice of race and sailing instructions can be used to identify true entries.
139-06	Chairman of the Offshore Committee	Rule 78.2	Recommendation to Council: Reject	The notice of race and sailing instructions can change rule 78.2 if needed.
140-06	US Sailing	Rule 86.1	Recommendation to Council: Approve	Vote: 12 in favour, 2 against, 5 abstentions
141-06	Chairman of the Offshore Committee	Appendix A	Recommendation to Council: Reject	Rules of this kind belong appropriately in sailing instructions.
142-06	Chairman of the Racing Rules Committee	Rule A4.2	Recommendation to Council: Reject	See submission 138-06.
143-06	Cyprus Yachting Association	Rule B8.8	Recommendation to Council: Defer	The effect of acceptance would be to delete rule B8.8(a) and retile as appropriate. To be studied with consideration of the special nature of speed competition.
144-06	Chairman of the Racing Rules Committee	Rule C8.2	Recommendation to Council: Approve with following amendment	WP to edit for consistency with rules 31 and 44.
145-06	Chairman of the Match Racing Committee	Rule C11.1	Recommendation to Council: Approve	
146-06	Chairman of the Racing Rules Committee	Rule C11.1	Recommendation to Council: Approve	Same as submission 145-06.
147-06	Chairman of the Racing Rules Committee	Rule C11.2	Recommendation to Council: Approve	
148-06	Chairman of the Match Racing Committee	Rule C11.3	Recommendation to Council: Approve with following amendment	WP to edit.
149-06	Chairman of the Racing Rules Committee	Rule C11.3	Recommendation to Council: Approve	Same as submission 148-06.
150-06	Chairman of the Racing Rules Committee	Rule C2.3	Recommendation to Council: Approve	

## **RACING RULES COMMITTEE (CONT.)**

151-06	Chairman of the Match Racing Committee	Rule C8.6	Recommendation to Council: Approve with following amendment	WP to edit.
152-06	US Sailing	Rule D2.2(d)	Recommendation to Council: Approve	
153-06	Chairman of the Offshore Committee	Appendix J	Recommendation to Council: Reject	A single example is sufficient.
154-06	Chairman of the Racing Rules Committee	Appendices K and L, Advertising	Recommendation to Council: Approve	
155-06	Chairman of the Racing Rules Committee	Appendix L, instruction 16.1	Recommendation to Council: Approve	
156-06	Croatian Sailing Federation	Appendix N - International Juries	Recommendation to Council: Approve with following amendment	Rule N1.4(a) to be edited to read 'A jury may divide itself into panels of at least ... [unchanged]'

### **4. NEW APPENDIX R**

The Committee considered submission 157-06 from the Chairman of the Offshore Committee about a new Appendix R, Rules for Oceanic Races.

#### Recommendation to Council

*Reject. Properly handled by sailing instructions except for the rule 42 issue, which is covered by rule 42.1. Development of standard sailing instructions in cooperation with the Racing Rules Committee is encouraged.*

### **5. THE CASE BOOK**

The Committee considered the following submissions and made the following recommendations to Council:

<u>Number</u>	<u>From</u>	<u>Rule</u>	<u>Recommendation</u>	<u>Comment</u>
158-06	Royal Yachting Association	New Case	Recommendation to Council: Approve with following amendment	Subject to major editing by the Case Book WP. See submission 163-06.
159-06	US Sailing	New Case	Recommendation to Council: Defer	Subject to major editing by the Case Book WP.
160-06	Royal Yachting Association	New Case	Recommendation to Council: Reject	Not important. Length criterion ill defined for multi-class racing.
161-06	Royal Yachting Association	New Case	Recommendation to Council: Approve with following amendment	To be edited by the Case Book WP.

## RACING RULES COMMITTEE (CONT.)

162-06	US Sailing	New Case	Recommendation to Council: Reject	A boat that leaves a mark on the wrong side does not break rule 28.1 until she finishes. The Q&A Panel is requested to replace interpretation 05-003 to reflect this decision.  Vote: Unanimous
163-06	Royal Yachting Association	New Case	Recommendation to Council: Approve with following amendment	To be edited by the Case Book WP. That WP to study possibility of combining with submission 158-06 and compressing into suitable length.
164-06	US Sailing	New Case	Recommendation to Council: Reject	Incorrect.

### 6. THE CALL BOOK FOR MATCH RACING

The Committee considered the following submissions and made the following recommendations to Council:

<u>Number</u>	<u>From</u>	<u>Rule</u>	<u>Recommendation</u>	<u>Comment</u>
165-06	Chairman of the Racing Rules Committee	New Call UMP 6	Recommendation to Council: Approve with following amendment	From the presented options the Racing Rules Committee agreed on choosing option B – see attachment 1.  Vote: unanimous
166-06	Chairman of the Racing Rules Committee	New Match Racing Call	Recommendation to Council: Approve with following amendment	Subject to major editing by the MTRRWP to clarify the interpretation. The Case Book WP to study the call for developing a case for fleet racing.

### 7. THE CALL BOOK FOR TEAM RACING

The Committee considered the following submission and made the following recommendation to Council:

<u>Number</u>	<u>From</u>	<u>Rule</u>	<u>Recommendation</u>	<u>Comment</u>
168-06	Chairman of the Racing Rules Committee	New Team Racing Call	Recommendation to Council: Reject	Incorrect.

## **RACING RULES COMMITTEE (CONT.)**

### **8. CALL BOOK FOR UMPIRED FLEET RACING**

The Committee considered submission 167-06 from the Koninklijk Nederlands Watersport Verbond about a new Call Book for Umpired Fleet Racing.

#### **Recommendation to Council**

*Reject. A selection from the call books will be made as guidance for umpired fleet racing. A submission to approve those calls as authoritative for umpired fleet racing will be made in 2007.*

### **9. UNIFICATION OF APPENDICES C, D AND Q**

The Committee considered submission 169-06 from Koninklijk Nederlands Watersport Verbond about unification of Appendices C, D and Q.

#### **Recommendation to Council**

*Reject. No new working party is needed. The existing working parties recognize the need to harmonize the appendices for special kinds of racing. For example, Addendum Q was modelled on Appendices C and D to the extent possible.*

### **10. FLEXIBILITY OF PENALTIES**

The Committee considered submission 170-06 from the Chairman of the Offshore Committee about flexibility of penalties for breaches of the racing rules.

#### **Recommendation to Council**

*Reject. Rule 64.1(a) provides for non-DSQ penalties via sailing instructions. Such sailing instructions should contain definite tables of breaches and penalties rather than giving discretion to the protest committee.*

### **11. ISAF REGULATIONS GOVERNING THE RACING RULES OF SAILING**

The Committee considered the following submissions and made the following recommendations to Council:

#### **007-06 Administration – Notices and Submissions – Regulation 1.5.1**

##### **Opinion: Defer**

Accept in principle. Defer for further development in consultation with the Constitution Committee. Detailed comments have been circulated within the WP.

#### **039-06 ISAF Regulations – New Definition and Housekeeping**

##### **Opinion: Defer**

As submission 007-06.

#### **040-06 ISAF Regulations – Housekeeping – Regulations 15.10, 15.20, 24.1.1**

##### **Opinion: Defer**

As submission 007-06.

#### **042-06 ISAF Regulations – Housekeeping – Regulation 42.6**

##### **Opinion: Defer**

As submission 007-06.

## **RACING RULES COMMITTEE (CONT.)**

043-06 ISAF Regulation – Housekeeping – Regulations 33.1(i), 34.1(i), 35.1(i) and 36.1(i)

### **Opinion: Defer**

As submission 007-06.

<u>Number</u>	<u>From</u>	<u>Rule</u>	<u>Recommendation</u>	<u>Comment</u>
171-06	Chairman of the Racing Rules Committee	Regulation 15.19	Recommendation to Council: Defer	Accept in principle. Defer for further development in consultation with the Constitution Committee. Detailed comments have been circulated within the WP. Comments are invited from the RRC by the end of 2006.
172-06	Chairman of the Racing Rules Committee	Regulation 15.21	Recommendation to Council: Defer	As submission 171-06.
173-06	Chairman of the Racing Rules Committee	Regulation 18.16.5	Recommendation to Council: Defer	As submission 171-06.
174-06	Chairman of the Racing Rules Committee	Regulation 31	Recommendation to Council: Defer	As submission 171-06.
175-06	Koninklijk Nederlands Watersport Verbond	Regulation 31.3	Recommendation to Council: Reject	See submission 167-06.

## **12. ADDENDUM Q TO THE STANDARD SAILING INSTRUCTIONS**

Jan Stage reported on the development. It was resolved to extend the mandate of the Addendum Q working party for another year and to recommend to the Executive Committee that approval be given to the changes to the Racing Rules incorporated in Addendum Q for 2007 as was done in 2006. It was noted that Addendum Q on the ISAF website is to be amended accordingly.

## **13. CODE OF BEHAVIOUR**

Bryan Willis gave a report based on an extensive written document (see attachment 2). The Executive Committee has approved that the Chairmen of the Race Officials Committee and the Racing Rules Committee appoint a working party for further development of the matter.

Four recommendations were made:

- To develop educational material (PowerPoint presentation) aiming at clarifying what behaviour is – and is not – acceptable in the sport of sailing.
- To produce a guide to International Judges on dealing with bad behaviour, dealing with rule 69 including a guide for giving penalties.



## **RACING RULES COMMITTEE (CONT.)**

- To support race officials with a 24-hour helpline on issues around behaviour.
- To deal with the issue of liability insurance for officials dealing with behaviour issues.

### **14. ISAF RACING RULES QUESTION AND ANSWER SERVICE**

The Committee received a report on the work accomplished from Josje Hofland.

### **15. ISAF POLICY ON THE REPRODUCTION OF THE RACING RULES OF SAILING**

The Committee considered submission 013-06 (other Committee) from the Italian Sailing Federation about the ISAF Policy on the Reproduction of *The Racing Rules of Sailing*.

#### Recommendation to Council

*Reject. The ISAF policies about printing the racing rules seem adequate.*

### **16. RACING RULES COMMITTEE REPRESENTATIVES ON OTHER COMMITTEES**

#### (a) Equipment Committee

The Committee received a verbal report from Dick Rose.

#### (b) Equipment Control Sub-Committee.

The Committee received a verbal report from Dick Rose. The Sub-Committee discussed submission 130-06 (lifelines). Progress is made in developing an ISO standard for equipment such as quick release hooks, which may be referred to in the new edition of *The ISAF Racing Rules of Sailing*.

#### (c) Class Rule Sub-Committee

The Committee received a verbal report from Ana Sánchez. The use of the bowsprit was discussed and a possibility to have a rule in the racing rules about the use of bowsprits. Also it was reported that concerns were raised that classes are not aware of rule 86, limiting changes to the rules by class rules.

#### (d) Race Officials Committee

The Committee received a verbal report from Bryan Willis.

### **17. ISAF STRATEGIC PLAN**

The Committee received a verbal report from Vice-President David Irish on the implementation of the ISAF Strategic Plan as it applies to the Racing Rules Committee. Discussions occurred and the following issues were identified as relevant:

## **RACING RULES COMMITTEE (CONT.)**

- (a) The readability of the racing rules should always be observed.
- (b) Special entry-level racing rules should be considered. It was noted that the RYA and US Sailing have successfully used such rules for a number of years.
- (c) Issues of behaviour were considered relevant from the point of sailors leaving the sport.

### **18. ANNUAL REPORT**

The Committee noted the Chairman's report to the ISAF Council meeting of 10 November 2006 on the activities of the Racing Rules Committee for the period 1 January 2006 to date.

### **19. ANY OTHER BUSINESS**

Dick Rose presented a revised version of Case 45. A draft was sent to the Committee Members on 30 October.

### **20. RULE 18**

Dick Rose, Richard Thompson and Bryan Willis gave presentations of work on revising rule 18.

Kamen Fillyov gave a presentation of work revising rules in Appendix B, including rule 18

### **21. CONCLUSION**

The Chairman thanked the Committee, the Racing Rules Committee Working Party and ISAF staff supporting the Committee for their work over the year.

There being no further business the meeting was closed.

**CALL UMP 6**  
**as approved by ISAF Racing Rules Committee November 2006**

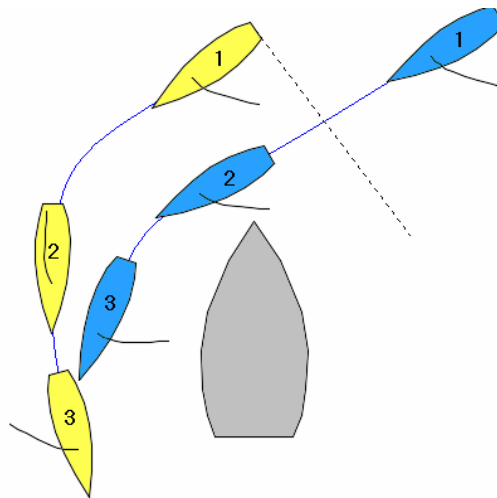
**Rule 10**      **On Opposite Tacks**

**Rule 16.1**    **Changing Course**

**Rule 18.2(c)** **Rounding and Passing Marks and Obstructions: Giving Room; Keeping Clear**

**Question 1**

Before the start Yellow and Blue, reaching on starboard tack, approach an anchored boat. When Yellow reaches the two-length zone, she is clear ahead of Blue. Yellow passes to windward of it, bears away alongside it, then gybes in order to sail around its stern. Very soon after Yellow gybes, Blue is still on starboard and gains a small inside overlap. Blue changes course trying to avoid contact with Yellow but there is contact. There is a protest. What should the call be?



**Answer 1**

Rule 18.2(c) requires Blue to keep clear until the boats have passed the obstruction, and she is not entitled to room to pass the obstruction if she becomes overlapped inside Yellow. When Yellow changes course and gybes towards the obstruction, she is subject to rule 16.1 (See Answer in CALL UMP 27), and must give Blue room to keep clear. Blue is able to keep clear by luffing but chooses not to, so breaks rule 18.2(c). Penalize Blue.

**Question 2**

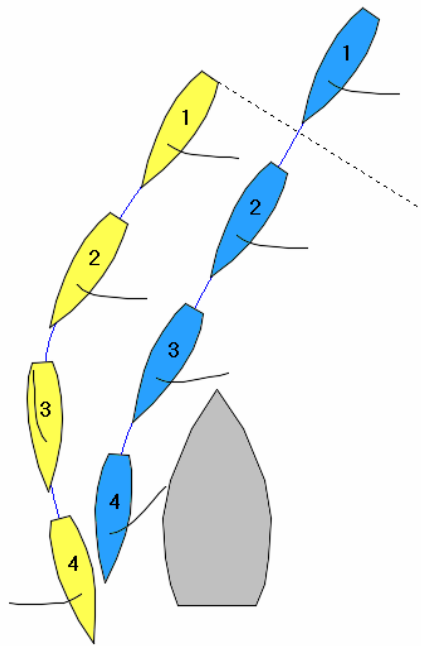
How far beyond the obstruction may Yellow sail before gybing and still rely on 18.2(c)?

**Answer 2**

When the entire obstruction is astern of both boats, rule 18 ceases to apply and Yellow may no longer rely on rule 18.2(c) to give her right of way over Blue. (See also Answer 2 in CALL UMP 22.)

### Question 3

If while keeping clear Blue gains the inside overlap within the two-length zone, and is sailing a course parallel to Yellow's, before Yellow changes course and gybes, and if Blue is then unable to keep clear, what should the call be?



### Answer 3

Blue must keep clear of Yellow under rule 18.2(c) until both boats have passed the obstruction. In addition, Blue is not entitled to room when she becomes overlapped inside Yellow. Although Yellow is subject to rule 16.1 when she changes course (because 18.2(d) does not apply at an obstruction), Blue breaks rule 18.2(c) when in position 3 she is no longer keeping clear. Penalize Blue. If Yellow continues when Blue cannot keep clear and contact is unavoidable, either between Yellow and Blue or between Blue and the obstruction, Yellow has not given Blue room under rule 16.1. Penalize both.

### Question 4

Would the answer be the same if Yellow changed course to parallel Blue in position 4 in order to give her room under rule 16.1?

### Answer 4

No. In this case, Yellow complies with rule 16.1 and Blue breaks rule 18.2(c). Penalize Blue.

# **Cheating and Inappropriate Behaviour in the Sport of Sailing**

A survey by Bryan Willis for the Executive Committee  
of the International Sailing Federation  
November 2006

*From a contributor: 'I was reminded of Alistair Cook's description of Bobby Jones: "Once, in a national championship, he drove his ball into the woods. He went after it alone, and, in standing to the ball, he barely touched it. He came out of the woods, signalled his fault, penalized himself one stroke and by one stroke lost the championship. When he was praised for this and similar acts of sportsmanship, he was genuinely disgusted, 'You might as well,' he said, 'praise a man for not robbing a bank.'"*

<b>1</b>	<b>Introduction</b>
<b>2</b>	<b>Sources of information</b>
<b>3</b>	<b>The questions posed</b>
<b>4</b>	<b>Responses</b>
<b>5 – 20</b>	<b>A selection of the most coherent contributions (in no particular order but summarised by subject)</b>
<b>21</b>	<b>Conclusions</b>
<b>22</b>	<b>Recommendations</b>
<b>23</b>	<b>Summary</b>
<b>24</b>	<b>The relevant Racing Rules of Sailing ('Sportsmanship and the Rules', Rules 2 and 69), referred to throughout the report.</b>
<b>25</b>	<b>Acknowledgements</b>

## **Introduction**

- [1] At the Annual Conference of the International Sailing Federation in Singapore, November 2005, the Executive Committee commissioned me to undertake a survey to discover to what extent cheating and bad behaviour is a problem in the sport of sailing and, if appropriate, make recommendations.

## **Sources of information**

- [2] I phrased three questions which were sent by the ISAF office to all 120 Member National Authorities and to all ISAF 87 Class associations. The questions were also included in ISAF's email distribution 'Making Waves' (distribution 5000) and consequently appeared in Scuttlebutt and several Sailing magazines world-wide. This prompted responses from about 80 individual sailors and officials. I also used my own experiences and those of sailors and officials I know.

## The questions posed

- [3] Question 1: Have you had any experience within your class in recent years of cheating or bad behaviour? If so please give me some examples, including the action that was taken (if any).

Question 2: Do you think there is a problem generally that needs addressing? If so, what action do you think ISAF should take?

Question 3: [Within your class], have you had experience of International Juries (or protest committees) being reluctant to proceed with a rule 69 hearing, and if so, why? (For example, have committee members felt they do not have the experience or knowledge to be able to proceed, or do the members feel exposed to being subject to litigation?).

I offered anonymity. Some contributors specifically asked not to be named. Others may have assumed they would not be named. I decided not to include the name of any contributor.

## Responses

- [4] Responses were received from 22 Class Associations, 9 Member National Authorities, and 79 individual sailors and race officials. This level of response was lower than might be expected for an important survey. This could be due to (a) satisfaction with the status quo, (b) a well-established reluctance to respond to surveys, (c) the difficulty of routing the questions to the right person.

## A selection of the most coherent contributions (in no particular order but summarised by subject)

### [5] Reluctance to open a rule 69 when clearly appropriate to do so.

- [5.1] 'I have no clear proof, but I believe that IJs indeed are reluctant to proceed under RR 69 because this is a difficult issue (needs legal experience) with a lot of possible consequences for the judges and the 'victims'. In any case I think ISAF should work on third [party] liability insurance for IJs and IUs (all ROs!) to give them the necessary freedom to make appropriate decisions.'
- [5.2] 'Rule 69 is something that many crew take very seriously, particularly in relation to foul language and gestures. I have no reason to believe that juries take this matter any less seriously.'
- [5.3] 'Rule 69 hearings? I don't have enough experience with international juries to fairly answer this question. The protest committees that I serve on or chair will

not hesitate to hear or initiate a protest under Rule 2 (fair sailing), but are very cautious about moving to a rule 69 hearing. Had I been the chair of the jury in the incident described above, I would not have hesitated to call a rule 69 hearing.'

[5.4] 'Juries/Protest Committees should be less reluctant to enforce Rule 69. The reluctance appears to stem from having little experience with the issues and the heightened emotions associated with them and a reticence about imposing the necessary penalty.' There were several responses on similar lines. There were several reports of disappointment when a jury did not open a 69 when it seemed it was appropriate to do so.

[5.5] '... our concern, having had serious indications of impropriety, was the personal liability we might incur if we proceeded to a Rule 69 hearing which would have been appropriate in the circumstances.

The situation that was revealed showed us that the ethics and honesty for which our sport was once renowned no longer exist, at least at the level of the event we were judging and it must be understood that the event was at the very top end at least so far as wealth is concerned.

I take the view that the provisions of [an appropriate insurance policy], and in particular the nature and amount of the cover, should be published to all race officials. **I consider that anything that discourages juries from calling Rule 69 hearings in appropriate circumstances is more likely to bring our sport into disrepute than almost any other issue.**

However, while greater knowledge of the protection which is available will encourage juries to act more strongly, the solution of a Rule 69 hearing can only be effective when evidence of malpractice is available. In this case the protestor was prepared to push the breach of the rules and presumably had the support of his owner. If he had not been willing to do so, the incident would not have come to the jury. In our view the problem needs to be dealt with at an earlier stage, by the issue of a strong policy statement by ISAF so that those who are cheating at the moment will be aware of the consequences.

Any such statement must be followed by active encouragement for competitors and all those associated with the sport to take action when they believe that a competitor has been cheating. Equally juries should be advised to encourage such action and not to question any attempt to do so.'

[5.6] 'Our Class's experience is that the judgment of Jury Chairmen on applying RRS 69 is excellent and not inhibited by unjustified constraints.'

[5.7] '... There is also a problem with Yacht Clubs who do not want to be seen to be washing their linen in Public. There have been 2 occasions at my club where

there have been clear breaches of rule 69 but the Club officials have refused to follow the required procedures and have dealt with it as an internal matter. In one case the person was banned from the Club but simply got on his boat at another jetty on the river, sailed in the race and then got off the boat.'

## **[6] Bad language.**

- [6.2] 'Judges should make a distinction between language which is distasteful and language which is threatening. If distasteful, consideration should be given to whether it was intended to be distasteful. If threatening it is far more serious'
- [6.3] 'I do see an insidious increase in unsportsmanlike behaviour - cursing out competitors, etc. in our sport. In my opinion, rule 69 does not adequately address this type of behaviour problem'
- [6.4] 'Mostly we need to talk about it, when young people had problems using appropriate wordings in a foreign language or used words or a way of talking they were familiar to do so with their companions. Elder people are more trained to use polite words when having ugly thoughts. Judges know this and try to find, if possible, other solutions than using the big hammer 69. And this is a good way of handling young people and bring them back to a behaviour closer to what we want.'

## **[7] Cheating that went unpunished**

- [7.1] Illegal boat (lead chips in fibreglass keel) – reported to Jury but Jury took no action. Sailor was allowed to enter another boat.
- [7.2] '...cheating really became a problem. Bunches of boats did not take the correct course. We had control boats at the buoys but they did not do anything against the cheating crews. The result was that some countries refused to participate in the next Europeans. This helped'

## **[8] Rule breaches which may not be realised as infringements**

- [8.1] "'Stacking". RORC to issue sticker so people realise it is illegal.'
- [8.2] 'The question that needs to be addressed after a normal hearing where a boat broke a rule of part 2 is: 'did the sailor know this was illegal at the time'. If the jury is satisfied that the answerer is 'yes' then move to a 69. The usual answer is 'no' or 'we cannot be sure that he did' OK Take no action. But if the answer is or is likely to be 'yes; then you must go to next step and open a rule 69'
- [8.3] 'At a recent major junior individual event all the coaches were telling the sailors from their state to team race to help the ones who might get medals. They did not know this was not allowed by rule 41 (until they were informed).'



## **[9] Reluctance to protest**

- [9.1] 'My experience in other one design dinghies is that rule breakages go unpunished because people do not want to spend time in the protest room. This encourages people to flout the rules.'
- [9.2] 'When some of these incidents have gone to protest then there is a reluctance for any of the other competitors to witness at the protest. The main reasons being that the protests are late at night after a long day of sailing and that other sailors do not want to become enemies of the cheating sailor.'
- [9.3] '... people (including myself) are there for enjoyment and either sitting in a protest room or getting into a confrontation with a competitor are not enjoyable things to do.'
- [9.4] 'Touching marks without making penalty turns can be observed in a high percentage of the regattas I have attended in the last two years. There is a great reluctance among Laser Sailors to file a protest. Even if a race committee boat is at the mark nothing is done.'
- [9.5] 'The protest process should not be stigmatized; it should be de stressed as far as possible and presented as an educational opportunity.'
- [9.6] 'The protest system is a very good way but is not simple or streamlined enough. A lot of in-experienced sailors feeling they are out of their depth while protesting a more experience sailor. A mentoring system would be good. I also like an arbitration before a full protest hearing, and giving the option of either boat to withdraw.'

## **[10] Situation deteriorating**

- [10.1] 'My comments pertain to grass roots level, in particular club keel boat racing. On the surface there should be little motivation for cheating. However, my view is that cheating is rife. It may not be the type of cheating you are examining such as hidden weight in a dinghy, but is more a culture of behaviour. Competitors rarely take a penalty to exonerate themselves following an incident. Few would do a turn after hitting a mark. We have time on time handicapping and I doubt if anyone would inform the handicapper should they modify their boat or purchase new sails, equipment etc that would have a significant effect on their performance. It is common for competitors to break rules, in many cases deliberately. As we have a wide range of experience there is often intimidation ... by supposed knowledgeable people on the less experienced.  
There are a number of factors that I think contribute to this:
1. Arrogance – there is a sizeable minority who think they know it all and somehow convince themselves that they are always in the right. Thus

they are not open at all to the fundamental principle of sportsmanship. When these people appear in protest hearings they are usually the ones who have tried to brief their witnesses etc i.e. they lie. Often it is so glaringly obvious that they are in the wrong, yet they will never admit it.

2. A culture that protests are bad – There is a culture in our club, and I have seen it elsewhere, that protests are bad news, cause ill-will, and that the person who lodges the protest is a troublemaker. Results are delayed, prizes may not be handed out on time etc. As there is no real other way of improving the behaviour, other than expelling people from the club this culture ends up condoning cheating.. Over time this may reduce with the use of arbitration which can speed up the process a lot.
3. Ignorance – In my opinion the average competitor's knowledge of the RRS is very poor. I have been trying to overcome this with education but you cannot preach to those that do not want to listen. With the more experienced, it is often a case of false assumptions or not keeping up with rules changes. Yes some people still yell "mast abeam!"
4. Machismo – I'm not going to let the b\*\*\*\*\*d past, no matter what.
5. It doesn't matter – so what if I was in the wrong, it is only a casual race, what does it matter.

On a positive note to finish, I have found that the newer entrants to the sport have shown a greater willingness to understand the RRS. We have just finished a series of seminars on the rules where I have been emphasising the issues of sportsmanship and self-policing and I'm optimistic that the actions of these people will have a positive impact on the behaviour of the fleet as a whole.'

[10.2] 'There seems to be a gradually growing incidence of failure to observe the racing rules at mixed country regattas. I believe it is tolerated behaviour amongst the sailors - minor collisions, forcing passage at marks, tacking in water. At European and World Championships active on water judging and the use of a whistle by judges to indicate an infringement has been seen seems to help control and sometimes results in a two turns penalty or a protest with the protestor more confident of a result if they know the jury may witness. At this level overall rule observance is very good maybe because of the jury presence afloat.'

[10.3] 'As a form of constructive input may I comment that I believe that an inquiry such as yours is long overdue. Over the last ten to fifteen years or so both as a competitor and adjudicator at National and International level I have noticed an increased lack of respect for race officials of all categories from the next generation of sailors down to even some junior classes. In my opinion an attitude has developed that if you can't win on the racecourse then try and win it in the protest room by whatever means are available. The main by-product of this current situation is that the attrition rate amongst racing officials is increasing and we are losing from the sport those with the knowledge and practical experience to ensure that it is regulated efficiently and retains its

viability as an international sport. There has to be circuit breaker activated at some stage in order to reinforce acceptable standards of behaviour. Perhaps the penalties for infringements should be quantified and made mandatory with the procedures for the initiation of such an action simplified.'

## **[11] The self-policing culture**

[11.1] 'The fundamental rule is not clear. Obviously one part means 'take a penalty when you know you've broken a rule' but is it compulsory to 'protest when you see a boat breaking a rule' or 'to protest when another boat breaks a rule in an incident with you'? I don't think it should be compulsory to protest.'

[11.2] As a contributor pointed out, in umpired Match Racing there is no 'self policing'. That is to say, boats are not required, or expected, to take a penalty even when they know they have broken a 'when boats meet' rule or when they hit a mark. Umpired match racing is a 'refereed' sport. But we expect these sailors to revert to a self-policing attitude (taking a penalty when they break a rule) when they go back to fleet racing. The contributor continues: 'The area that in my opinion this principle is most blurred is in Team Racing. There is still an element of self-policing in umpired team-racing with the option to take a single turn or risking being given a double turn. However, my experience of team racing suggests that the decisions that the sailors are making in this situation are not based on their belief of whether they are right or wrong but more on the risk-reward matrix of allowing the umpires to decide. It is interesting that when I talk to a number of team racing umpires they still see the option to take the single spin as a form of self-policing and consequently a sportsmanship issue to an extent.'

## **[12] Rule 69 'too severe' to be used**

[12.1] 'In the instance of a major behavioural allegation; assault, calculated cheating, destroying property, etc. I have not seen it to be a problem to convince a protest committee to seriously consider opening a rule 69 hearing, and to open a hearing if warranted. In my experience it is the lesser offences that give everyone, race committees, organizing authorities, protest committees, and even competitors of the offender pause [for thought] when the possibility of employing rule 69 is introduced. The bureaucracy, fear of permanently damaging reputations, and draconian punishment possibilities of a rule 69 hearing make it difficult to properly deal with the sailor who might have had a temper tantrum and acted inappropriately in a manner that merits some punishment, but not the 'nuclear option' as I have heard said of rule 69. Sometimes we think creating a rule with stiff penalties will convince people that the rule is too harsh to break. In practice, something quite different can happen – people instead become convinced that the rule is too harsh to enforce. Rule 2 can be the solution, but not always. No matter how much a race or protest committee wants to address a problem through rule 2, they cannot

unless they actually witness the incident or a competitor actually files a protest. Many competitors think their only option is to ask for a rule 69 hearing- which they, like many race officials, are reluctant to do – or the competitor is intimidated and wouldn't file under rule 2 anyway. So an incident occurs, a protest is not filed, and race officials don't hear about it till after protest time, when the only option is a rule 69 hearing. So the transgression goes unpunished – which, of course, leads to future transgressions by anyone who noticed the previous action go unpunished (the entire fleet). This leads to the gradual but certain lowering of behaviour standards.

Rule 69 allows for deadly serious punishment without a 'cap' for smaller offences. When confronted with a rule 69 hearing, even for a lesser offence, competitors bring lawyers, guns, and money to the table to make sure they are not 'over punished'. If we could make it easier for race officials to use rule 2, I think we would use that rule more often, we would make the point that such behaviour is not acceptable more often, and guilty competitors would concede the point more often.

During the creation of rule 69 I assume that the rules writers felt the problems the rule addressed were important enough to exempt rule 69 from the restrictions of rule 60.3. I believe rule 2 is no different. If a rule, whose punishment could reach all the way to a ban from the sport, can be exempted from the restrictions of rule 60.3- why not a rule dealing with the same subjects whose punishment is only a dsq? If a protest committee could consider holding a rule 2 hearing as a result of 'a report received from any source' they would have a choice of methods under which to proceed.

The obvious downside to this would be the instance of an in-progress rule 2 hearing that reveals behaviour worthy of greater punishment than rule 2 provides. I think we are in that position now, anyway, and I think if that happened a rule 69 hearing could still be called?'

- [12.2] 'ISAF should have a constant policy for cases of cheating or bad behaviour, which should be implemented also by the MNA. In this aspect ISAF may consider drafting of a code of conduct and proceedings in cases of cheating or bad behaviour by competitors, coaches, supporters, race officials and organizers.'

### **[13] Rule 42 (Pumping and Rocking)**

- [13.1] 'At an ISAF World Championship I shouted at a competitor (an Olympic gold medallist) to stop pumping and his response was "There is no jury boat near".

- [13.2] 'I guess we discuss about this a long time ago. In my opinion we (ISAF) had change our game. When we start with the judges taking care rule 42 we ketch part of the responsibility from the sailors. Now a day's I am seeing some new sailor believing, if the judges don't see they can cheating. Direct judging helps this

idea also. I believe would be important to find a way to address that the responsibility still on the sailors.'

#### **[14] Youth**

[14.1] 'I think a greater emphasis on teaching the Basic Principle at a youth level would help (although quite how you convince coaches to do so is another issue). It would be interesting to know how many sailors at the Youth Worlds know what the Basic Principle is.'

[14.2] 'There is a need at junior level to instil respect for race officials in sailing. Abuse of officials, questioning of decisions, etc. is not uncommon in more high profile televised sports such as football so it is important that junior sailors are aware that it isn't acceptable in sailing.'

[14.3] 'I do not believe in dealing with rule 69 with young children or at youth events: we wish to educate, not to punish.'

[14.4] 'I think a judicious use of Rule 69 is appropriate even for young children. In the first place it is actually the only rule which permits a jury to investigate all the facts where there has been what seems like bad behaviour. Secondly there are circumstances where young children need to be disciplined and, indeed, are educated through discipline. The question to be decided is how they are disciplined. I have agreed in similar circumstances that, whatever is discovered, the child will only receive a warning, which is a very useful part of the rule. In this case it would have been possible to discover why the child did what he did firstly by asking him and secondly by calling the other sailor. Indeed it might have been appropriate to make the other sailor a party to the proceedings. There is no stigma in being called to a hearing, only in being found liable. To have done so, would have been very worrying for them. However sometimes this can be necessary. Part of our job as the jury is to make hard decisions and to make the competitors aware that wrong-doing will not be tolerated. This is possibly even more important with children than with adults.'

[14.5] 'Rule 69 is a tough rule, but it is designed for just this sort of case. It requires a thorough investigation and, at least in the UK, we [the Jury be satisfied] 'beyond all reasonable doubt', rather than the normal protest burden of 'the balance of probability.' This is a protection for the accused competitor. Having said that, if the case is proved, the competitor deserves to be punished and punished severely. In the case of a young boy, this might seem hard, but he will learn as a result and the sport will benefit. Sometimes an individual has to suffer as a warning to others that such behaviour will not be tolerated.'

[14.6] 'The point I am trying to make, which may be relevant to your report, is that whatever the facts, we had a gross case of cheating which was virtually swept under the carpet. The jury should have considered the point, and, in my view, the competitor scored DNE and anyone else who might have been involved should have been proceeded against under rule 69.1, or in the case of the coach, 69.2. If they had been shown to be involved, the competitors, who of course are young, should have been excluded from the regatta. If the whole thing was coach-induced, probably their MNA should have been recommended to take no further action. If the coach was involved, he should have been excluded from the sport for life or at least for a very long time.'

### **[15] Measurement Infringements**

[15.1] 'Rule 78.3 "When a measurer for an event decides that a boat or personal equipment does not comply with the Class Rules, he shall report the matter in writing to the race committee, which shall protest the boat".

64.1(a) "When a protest committee decides that boat that is party to a protest hearing has broken a rule, it shall disqualify her unless some other penalty applies".

Concerning measurement protests nothing is said about "other penalties" then disqualification. So also at very small deviations, which are not influencing speed or handling of the boat, the penalty officially is disqualification.

I and others are feeling that at those very small deviations disqualification is not a fair solution. The International Europe Class Union recommends to enter in the Sailing Instructions some wording like, "At minor infringements from the Class Rules the jury is entitled to give other punishment than disqualification at their discretion".

### **[16] Education of and impartiality and support of race officials**

[16.1] 'The governing bodies should pay a great deal of attention to the quality and impartiality of judges and measurers'

[16.2] 'Last worlds in Japan we had 28 boats in one day who were taken on flag Z, but they didn't know it before we were at shore. Some of the regattas here in Europe we don't go to because the race committee let their own sailors start to early.'

### **[17] Education for sailors**

[17.1] 'Some fleet (at local level) seminars on rules should be encouraged or even made mandatory.'

[17.2] 'What can ISAF do for us?'

- Education on the rules, providing classes with rules example, diagrams and something we can all access via e mail or the website. e.g. UKsailmakers.com.

- More pictures/scenarios and less words in explanations of the rules.
- Judges/Umpires to coach the rules with pre-racing briefs and on the water umpiring with video evidence so that all can learn.
- Rules clinic on Yachts and yachting, with pictures, video clips if possible
- Some software package like TSS that all sailors can access and use to show scenarios.'

[17.3] 'In my opinion ISAF and the various classes are doing a good job with this. And I think the way in which I see our junior sailing programs going, with the watchful eye of instructors and their insistence in letting the kids know they have to do turns, especially in the Optimist class, has been a great help. It is best sailors learn from a young age to obey the rules. However, how we get the older sailors to do this is a concern.'

[17.4] 'Sailors need to understand that Rule 69 applies to areas beyond the Race Course (both in time and place).'

## **[18] Lying in a hearing**

[18.1] 'When I was a competitor at the ISAF World Team Racing Championships ... I overheard a few of the other competitors discussing protests and jury issues. One of the younger competitors described a protest [in which he was involved] where he had won the protest through lying. He was quite open about it and seemed proud of it as it had happened in reverse to him before. He also elicited comments from a few others in the room that indicated to me that that was the normal and accepted practice in the circles he raced in. As he was in the top group of the sailors at the regatta that worries me.

I guess I should have said something but to be honest given that I was 2 to 3 times the age of all the others in the room and this was one of the first days of the regatta (and as I was not doing well) I decided not to be an old curmudgeon and interject to a group of kids who could out sail me anytime.. I did not think my opinion was at all credible to them and I was so taken aback I did not say anything. However it does tell me there is a problem. One is that they had no compunction about lying and 2 that they felt that making up a believable story and selling it was more important than having the real facts found.'

[18.2] 'I see a problem in the relation between parents-coaches-competitors. Coaches and parents instruct kids not to tell what really happened and appear in front of the Jury not telling the truth. Also I witnessed several times kids were instructed not to admit there was contact.'

[18.3] 'In my country, medals are the sole guide to coaches advancement, state funding etc so they will do anything it takes to get good results for their sailors. This includes not telling the truth in a hearing'

## [19] **Morality v Risk/reward**

[19.1] 'As an instructor and not directly responsible for ISAF IJ policy, I strongly recommend against IJ's penalizing competitors who realize or admit in a hearing that they continued to sail after breaking a rule.'

Rule 2 can be an effective tool for judges to help ISAF change the attitudes of sailors. When a judge sees a competitor break a rule and ignore it, and the jury is certain that the competitor knows he or she broke the rule, then a jury protest using rule 2 will help change the attitude that "rules are only broken if someone protests". Break a rule and do a 2-Turn Penalty - Break a rule and knowingly ignore the penalty; receive a DNE.

However, unlike 98% of the other rules, it is based on determining the sailors intent - not by their actions. If we are lucky, it is clear. The sailor is seen untangling his or her mainsheet from the mark then continues to sail.

However, even then she may say, "A windward boat did not keep clear compelled me to hit the mark. I was exonerated. There is no requirement to protest. 64.1(b) applied." Did this sailor knowingly break a recognized principle of sportsmanship? I would find it hard to find that as a Fact it is "clearly established".

If our evidence is that the sailor was honest enough to tell use that they eventually decided they had broken a rule then punishing them with a DNE is too harsh.

Finally these is a problem in that the rules are not clear. Is the Basic Principle a rule? It does not have a number. Is it part of the Introduction? Preambles are in italic. Finally, is the "fundamental principle of sportsmanship" that competitors are expected to promptly take a penalty when they break a rule a rule 2 "recognized principle of sportsmanship and fair play?

"How IJ's help change the attitudes and culture with our sport" is one of the discretionary topics at my seminar. We talk about models for changing group cultures: posting expected behavior, establishing a sense of urgency, developing coalitions (with class associations), rewarding rather than punishing change, ... Usually the participants are reluctant to leave the subject and go back to procedures. I based my stuff on a US book, LEADING CHANGE by John P. Kotter, published by the Harvard Business School.'

[19.2] 'One should not under-estimate the possibility of a single life-changing experience. These two stories are from people who are or have been sailing at the highest level. One has won several world championships. The other has sailed and coached at Olympic level. Both are ISAF committee members. I'll call them John and Jim.'



As a junior, John was keen to become the best sailor in his club. In an important race near the end of the club series, he finished the first beat in second place as usual behind the experienced older sailor; the man he so wanted to beat. He misjudged the mark and hit it rather obviously with his boom. He didn't take a penalty (re-rounding in those days) but continued in the hope of catching the old sailor on the reach. The old sailor released his sails and stopped. John soon caught him up, delighted that the old sailor obviously had some problem. As John passed, the old sailor said 'if you want to win that much, you go right ahead into first place'. John was overwhelmed with shame, he never again broke a rule without taking a penalty.

Jim was sailing in a qualifier; he needed a good result in this final race get in the squad and get funding for overseas travel. It was a windy day and after capsizing twice Jim and was resigned to finishing at the back of the fleet. As he approached the windward mark (which was also a finishing mark) to start the final lap he found himself amongst the leaders who were finishing. He received a finishing signal and in what he described to me as 'a moment of madness' he headed home with the leaders. Later he saw he had been scored 5<sup>th</sup> – good enough to secure his place in the squad. He has lived with the guilt ever since. The effect has been to decide the cost was too great and he never felt like cheating again.

Not all sailors would be affected in this way ("I'll never cheat again"). For some, it might have the opposite effect – for example, missing the last lap can sometimes have a great benefit, and that there is a high probability of not being brought to account.

I do not believe we should depend on morality because morality means different things to different people. Lying is second nature to some. A fourteen year-old London east-end kid is 12 to get half-fare on the bus, 16 to buy cigarettes and 18 if he goes into a pub. If you were given too much change in a shop and you realised when you got home, would you take it back? Some always would, some never would, for some it would depend if it was a corner-shop or a super-market. It depends on where you were brought up and in what culture. I don't think it is the role of judges to teach morality which is such a personal and cultural thing.

No, we should simply have a system whereby 'if you do that, and you get caught, the penalty is that' If it is serious, then the penalty will be serious. The only question is what are the chances of getting caught?

We should not put judges in the position of moralising for sailors who come from a wide range of backgrounds, very often (on the International scene) very different to that of the judge. Rather we should subscribe to a system of law enforcement that makes risk/reward decisions such that sailors, whatever their ethical standards, will decide not to take the risk of cheating.'

[19.3] 'These are of course isolated incidents but highlight what I think is the general problem – that with the sport becoming more "professional" many sailors at all levels make the decision to take a penalty based on the risk associated with not taking the penalty, not with their belief of whether they are wrong or right.

The other part to the solution in my opinion is to increase the risk associated with not taking penalties. It appears that jury at major events now only judge rule 42. My preference would be to see more jury initiated protests at major events. There are often a lot of reasons for an infringed boat not to protest at an event which means that sailors often expect an infringed boat not to protest. However, if the threat of a jury initiated protest was there I think there would be an increase in rule observance.'

[19.4] 'One area for concern is that the increase of on-the-water judging is leading to a culture of "check who is watching" but this is a widely debated and probably insoluble problem common to all large-fleet Classes.'

## **[20] Use of judicial body outside ISAF**

[20.1] 'Physical abuse. Sailor was suspended for a period which was reduced on appeal by the Review Board. Sailor took case to court. This case had some input to the ISAF changes to RR3 (court of arbitration of sports CAS)). Under German and many other continental laws the new RR3 does not prevent anybody to proceed directly to a state court without exhausting the ISAF remedies. This (the procedure under RR3(c)) can be done legally only with a special contract between event organiser and competitor that must be filed at every event. In the DSV we have as consequence of this case deleted the possibility to appeal in RR69 cases to a DSV appeal body, because there are remedies to the Review Board and/or CAS.'

## **21 Conclusions**

[21.1] A contributor wrote '... sailing has, as other sports, problems with improper behaviour. However, compared to soccer or ice hockey we have excellent behaviour.' This may be true but it surely isn't sufficient to be 'better than other sports'. Most other active sports are driven, at the top, by large numbers of spectators which attract TV coverage which in turn attracts sponsors and investors. Bad behaviour on the field of play might actually attract spectators in some sports, but traditionally the attraction to sailing has been as a participation sport. Parents have encouraged their children to start sailing, and adults have been attracted to the sport, in part because of its reputation as a friendly, social, challenging, healthy, outdoor sport, suitable for a wide range of physical attributes, *free of bullying and cheating*.

I have concluded that there is a problem of cheating and inappropriate behaviour throughout the sport which needs to be addressed:

### **The extent of the problem; general observations**

- [21.2] In some classes and some clubs, there is little or no problem with cheating or bad behaviour. This is due mainly to an established culture, but also to class and club officials who work successfully to maintain that state.
- [21.3] Some organising authorities accept that there is a problem but are satisfied that the Judges they use act appropriately to keep it in check. Typically, classes in this group have acquired the services of race officials who have the knowledge and confidence to investigate malpractices and take action including the use of rule 69.1 when appropriate.
- [21.4] However, it is clear that in a significant number of classes and clubs there is a problem which, if left unchecked, will grow, and damage the reputation of the sport, and, therefore, its attractiveness to new participants. At the highest level, at world championships and in the growing professional side of the sport, there is without doubt a problem which needs addressing promptly.
- [21.5] When stories get around that heroes and role models have cheated or behaved badly and have not been brought to account, others are thereby encouraged to do the same. When a coach or parent tells a young person it's OK to cheat, the young person treats that as acceptable, and when he gains from the action, that reinforces his view that it is 'OK to cheat'.
- [21.6] It is clear from the many reports which were received of matters that were handled using rule 69 that many judges feel they do have the knowledge and confidence to handle these situations. However, there are currently no guidelines for judges on how and when to proceed under rule 2 and rule 69.1. I believe the lack of clear guidelines is restraining other judges from taking action when it is clearly appropriate to do so.
- [21.7] Several contributors have spoken about the need for two rules, one a 69 as we know it and one a 'lesser rule with lesser penalties'. One contributor said that when a sailor is asked to attend a rule 69 hearing, he will 'bring in ... lawyers' because he has so much to lose. This is due to a misconception. Rule 69.1 does have limits as to a penalty – the maximum penalty being disqualification from the regatta over which the jury has jurisdiction. From a results point of view it's normally no worse than having two or three bad results. Only under rule 69.2 and 69.3 can the penalties be increased. A recommendation by a jury that no further action be taken is obviously considered by the national authority.

[21.8] One contributor wrote 'Rule 69 can be a bit unwieldy due to the care that needs to be taken to protect the competitor's rights, however Rule 2 provides an adequate alternative in less serious cases.' Guidance is clearly needed as to when a jury should proceed under rule 2 and when to proceed under rule 69. A penalty under rule 2 can have just as big an effect as one given under rule 69 (loss of championship, loss of big prize money) so the same care regarding the proceedings is needed.

[21.9] The Royal Yachting Association has introduced a 'Charter'. Organising authorities in the UK are encouraged to sign-up to the Charter and require sailors to accept the terms of the Charter when entering an event. The Charter provides on the one hand a commitment by organisers to provide fair racing and on the other hand a commitment by the sailor to adhere to its terms.

### **Range of seriousness**

[21.10] It is important to realise that there is a wide range of seriousness of cheating and unacceptable behaviour. Clearly to break a rule accidentally is not cheating. Not to take a penalty after breaking a rule is unacceptable and should carry a heavier penalty. To break a rule deliberately if it is thought that to do so is the norm and 'everyone is doing it' is not as serious as breaking a rule deliberately to gain an advantage over other sailors. Lying in a hearing is unacceptable and should carry a heavy penalty.

[21.11] To cheat is to 'act dishonestly or unfairly in order to gain an advantage'. The decision can be a 'spur of the moment' decision when under great pressure, such as not taking a penalty when known to have broken a rule (like misjudging a port/starboard cross) to pre-meditated action (like building extra weight into a keel). We must have systems in place to investigate reports and to take effective action when appropriate. Most importantly, the penalty must be proportionate to the severity of the offence.

[21.12] The very word 'cheating' is emotive. 'Cheating' is not a word I would recommend using in the context of Rule 69 or in dispute resolution. I use it in this report only for expediency.

### **Cultural differences**

[21.13] One of the great things about sailing is that it has become the prime sport of people from many nations, and many cultures. International regattas have the potential to have a positive effect on international relations. Young people sailing at international regattas learn about cultures other than their own. Later in their lives they may be in business or political situations where this understanding will affect the way they behave.

[21.14] It is very important that ISAF judges who are called upon to judge sailors from many different cultures appreciate that sailors have differing ideas about what is 'right' or 'fair' or 'acceptable'; ISAF must lay out clearly what is acceptable and what is not acceptable in the sport, and should be careful not to 'moralise'.

[21.15] The important thing is to take action when appropriate. It is the knowledge that there is a significant chance of being brought to account together with the chance of a heavy penalty more than anything else that controls a sailor's behaviour.

[21.16] Given that different cultures have very different ideas about what is 'fair' and what constitutes 'good sportsmanship' or 'good manners', and given that our rules do not explain what we mean by these terms, it is difficult for sailors to extract from our rules just what is and what is not expected of them. Most sailors acquire their standards of behaviour from their peers (or from adult sailors in their class or at their Club) which, in the early days of their sailing careers, maybe very different to when they go on to sail internationally. I think the days are gone (if it were ever true, which I doubt) when it was appropriate to say 'everyone knows what is 'fair', everyone knows what 'good sportsmanship' is or what 'good manners' are'.

### **Different mind-set when competing in umpired events**

[21.17] Umpired Match racing events, although a tiny proportion of the total number of sailing events held throughout the world, are often the ones shown on TV and which get all the publicity. In umpired events sailors are not required to take a penalty even when they know they have broken a rule of part 2 or touched a mark, unless directed to take a penalty by their umpires. Sailors need to know that they are expected to behave differently in fleet racing.

[21.18] Team racing although also a tiny percentage of races sailed, is nevertheless an important part of the sport. It is currently not clear whether team race sailors sailing in umpired events can decide to take a voluntary (lesser) penalty on a risk/reward basis (hoping not to be given the higher penalty by the umpires), or whether they are, like fleet race sailors, required to take a penalty when they know they have broken a rule. This should be clarified by ISAF and the clarification published.

### **Offensive language**

[21.19] Swearing may or may not be offensive. The critical question is not what the words used are or whether they seem offensive to ISAF judges, but in the context of a particular event, are the words actually offending anyone. The same words used in two different places may be acceptable in one place and unacceptable in another. It is not a judge's role to make moral judgements

about which words are acceptable and which are not. Sailors who use language which offends should be penalised under rule 69.

### **Juries pro-active on water**

[21.20] There are a wide range of views as to what extent the jury should be proactive on the water. If they see a starboard tack boat duck behind a port tack boat, with no protest, should the jury protest? If they see a collision and no protest, should they protest? ISAF should publish clear guidelines which judges should be required to follow.

[21.21] The Laser class, which surely deserves credit for pioneering the control of pumping and rocking by the use of on-the-water judges, and which is always ready to try innovative ideas, have found that a system where judges blow a whistle when they see an apparent infringement increases the number of penalties taken by sailors. However this may have a detrimental effect long-term, in that, unless we want a sport which requires umpires in fleet racing, the system encourages the very attitude we are trying to discourage – that of sailors depending on others to make the penalty-taking decisions for them (which is what happens in match racing).

### **Errant coaches**

[21.22] The procedure for bringing errant coaches to account is obviously not clear. Several contributors made this point. Coaches are an important part of the sport and it is pleasing to see that (at last) ISAF is embracing coaches. Coaches have a vital role to play in keeping the sport clean. Obviously there must be a scheme in place to bring errant coaches to account, but nevertheless, penalising sailors whether they be adult or young, when they cross the boundaries albeit because of advice from coaches or parents, may be the most effective way of persuading coaches who would otherwise encourage their sailors to cheat, not to do so, since the performance of coaches is judged by their employers on the basis of the performance of the sailors. Some advice by coaches is out of ignorance. ‘You don’t need to take a penalty unless the other boat hails “protest”’ is perhaps the most common misconception. We owe it to the majority of fair-minded coaches to ensure their fair-minded sailors are not disadvantaged by sailors who cheat.

[21.23] A significant number of sailors are under the impression that when Appendix P (immediate penalties for breaking rule 42 – the yellow flag) is being used, only the judges can protest.

## 22 Recommendations

- [22.1] I recommend a Working Party to be appointed jointly by the Race Officials Committee and the Racing Rules Committee to address and put into effect the following matters:
- [22.2] Create a Power Point (or similar) presentational Tool aimed at educating sailors on sailors' responsibilities under the fundamental rules, and the consequences of breaking those rules. The presentation should be freely available (as a free 'download' from the ISAF website) to be used by any instructor at any level, or indeed any sailor. The presentation should be brought to the attention to all MNAs, Class Associations, and Race Officials by the ISAF office, and to all Seminar and Clinics attendees by ISAF instructors. One of the aims of the presentation would be to highlight the difference between 'umpired' races that are likely to be seen on TV, (where the sailor is not expected to make decisions as to whether or not he should take penalties) and the vast majority of races which are not umpired, where there is a fundamental responsibility on the sailor to take a penalty when he knows he has accidentally broken a rule. The PP presentation will explain what is meant by good sportsmanship, good manners and fair sailing, giving examples as to what is and what is not acceptable, the significant chance of errant sailors being brought to account, and the heavy penalties that would be imposed.
- [22.3] Produce guidelines for international judges on how to recognise sportsmanship and behavioural issues, when it is appropriate to take action, how to investigate them (interview etc), when and how to proceed under rule 2 and when it is appropriate to proceed under rule 69.1. A guide to taking evidence, and a guide to appropriate penalties to be included.
- [22.4] The guidelines should include the extent to which juries should be proactive on the water, indicate when International Juries should themselves protest and when they should simply record evidence. International judges should be required to follow these guidelines.
- [22.5] It is important that international judges be *required* to take action under rule 2 or rule 69.1 when appropriate. Failure to do so without a good reason should be subject to investigation by the ROC, and possible sanction.
- [22.6] Teaching ethics and morality is not the function of race officials. The procedures adopted to combat cheating and inappropriate behaviour should be based on:
- (a) stating clearly what is expected of sailors;
  - (b) stating clearly the respect sailors can expect from race officials;
  - (c) the fact that there is a significant chance of being brought to account;
- and

(d) the fact that cheating and unacceptable behaviour carry heavy penalties.

[22.7] A facility should be provided whereby judges faced with a difficult rule 69 issue can get real-time advice. This could be achieved by identifying a small group of experienced international judges with a legal background to volunteer to be listed. Between them they would be contactable 24 hours a day, 7 days a week by email or telephone.

[22.8] Race officials should be provided with adequate insurance cover so that they are not inhibited by intimidation or the threat of a lawsuit.

[22.9] For further education and guidance, and for the important matter of monitoring the problem and how it is being resolved or contained, all rule 69 decisions by International Juries should be reported to ISAF and published (without names) annually perhaps with comments from the ROC.

[22.10] Judges should adopt a new approach; every time they find a rule infringement, they should address whether the sailor knew he had infringed the rule. There will of course be only a small percentage of cases where this will be an issue, but the mere fact that it will be addressed at all will act as a deterrent. For example a sailor who is penalised twice for tiller-wagging should, at the very least, be interviewed and asked to explain how he did not know he was breaking rule 42. A protestee who chooses not to attend a hearing may be interviewed to discover whether he knew he'd broken a rule.

[22.11] I recommend that sailors be penalised, when appropriate, for the inappropriate actions of their coaches or parents, in the same way as a sailor who benefits from their friend for 'team racing' (manoeuvring against the opposition in contravention of rule 41) is penalised. We owe it to the majority of coaches who give sound advice on playing fairly to ensure that their sailors are not put at a disadvantage by sailors coached to cheat. There is no more powerful incentive for coaches and parents who influence young people inappropriately than the knowledge that it is the sailor who will suffer the consequences of their advice to cheat.

[22.12] I recommend that it become standard policy for ISAF seminar and clinic instructors to include a comprehensive section on rules 2 and 69 and their application and use. Instructors should draw the attention of participants to the ISAF 'Rules Power point for sailors', downloadable from the ISAF website, and encourage the seminar/clinic participants to download it and use it when giving talks and lectures at every level.

[22.13] ISAF should promulgate 'the interview' especially for youth events. This is the step before the possible opening of a hearing under rule 69, to investigate a report. In some cases the interview results in a decision not to proceed, but still



has real value in getting across to sailors that all 'sportsmanship' and 'behaviour' matters will be investigated.

- [22.14] The Racing Rules Committee should look at the rules governing the 'unstoppable chain' which starts when a measurer decides that a boat does not comply with the class rules (and is required by RRS 78.3 to report the matter to the Race Committee) and ends with an inevitable DSQ (RRS 64.1(a)). It may be appropriate to allow some discretion to the measurer and/or the race committee and/or the jury, as is the case with other rule infringements. There is a submission on this for the 2007 Conference.
- [22.15] The working group to look into the feasibility of introducing a system whereby sailors at events where there is an International Jury appointed, are provided with a facility to report what they consider to be unsatisfactory conduct by race officials. The ROC would then investigate. There is a submission for the 2007 Conference on these lines.
- [22.16] The working group to look into the feasibility of improving the current protest procedure. I believe it is possible to streamline the procedure by omitting the formal presentations. A protest chairman could be more proactive in driving the proceedings with questions (rather than spending time hearing opening statements and evidence much of which is often irrelevant or repetitive).
- [22.17] The 'advice to International Judges' should include advice on offensive language. Currently there are situations where penalties are being given when they shouldn't be and other cases where no action is being taken when there should be. It is important to address whether language is offensive to others, (a minor but significant infringement) or if the language is threatening with real concern of an assault (a major infringement). There is real evidence of people being put off sailing because of offensive language and this must be addressed.
- [22.18] The working group to make recommendations as to what activity is acceptable and what is not. It is often not possible to find the answers in the rule book. For example is it acceptable to close cover an opponent on the last race of a series to better one's own overall score? Having started correctly? Having been OCS? Having scored been OCS but in the belief of starting correctly? Can the sailor miss a mark out to close cover? Can a sailor close cover to help a friend's score? Can a sailor stop before the finishing line to allow a friend to pass? Can a boat hail "carry on" to let a port tack boat pass ahead, and duck his stern? The answers to these types of questions cannot be found in the rulebook. It could be that we need a 'code of conduct' in the rule book about what is and what is not acceptable, and what would be the consequences of breaking the code. At the very least these matters should be covered in the proposed Power Point presentation for sailors.

## Summary

- [23.1] There is a growing problem of a small minority of sailors willing to cheat and behave in an unacceptable way, which if left unchecked will encourage some other sailors to emulate them, and cause others to leave the sport, thereby exacerbating the problem.
- [23.2] The problem is not 'out of control' and ISAF can implement effective procedures by
- (a) providing educational material freely available to coaches, instructors, and sailors, to explain what are and what are not acceptable actions by sailors in the sport, and what are the consequences of acting in an unacceptable way;
  - (b) providing guidance and direction to race officials, advice as to what constitutes 'gross breach of good sportsmanship' etc., and including a requirement to act when appropriate;=
  - (c) providing a support service for judges (whereby judges may, when required, receive real-time advice from a pool of advisers); and
  - (d) provide appropriate insurance cover for ISAF race officials.
- [23.3] It is important for ISAF to put in place measures to discover and deal appropriately with the minority of sailors who cheat or behave in an unacceptable way, because only by doing so can we provide fair and enjoyable sailing for the majority. When the fair minded majority see that race officials are taking an active role in dealing appropriately with cheating and bad behaviour, they are not tempted to behave in the same way and can enjoy competitive sailing to the full. More people will then be encouraged to take up the sport, ensuring its continuing success.

## 24 The relevant Racing Rules of Sailing

### BASIC PRINCIPLE

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#### SPORTSMANSHIP AND THE RULES

Competitors in the sport of sailing are governed by a body of *rules* that they are expected to follow and enforce. A fundamental principle of sportsmanship is that when competitors break a *rule* they will promptly take a penalty, which may be to retire.

#### PART 1

#### FUNDAMENTAL RULES

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#### 1 SAFETY

#### 2 FAIR SAILING

A boat and her owner shall compete in compliance with recognized principles of sportsmanship and fair play. A boat may be penalized under this rule only if it is clearly established that these principles have been violated. A disqualification under this rule shall not be excluded from the boat's series score.

#### 3 ACCEPTANCE OF THE RULES

By participating in a race conducted under these racing rules, each competitor and boat owner agrees

- (a) to be governed by the *rules*;
- (b) to accept the penalties imposed and other action taken under the *rules*, subject to the appeal and review procedures provided in them, as the final determination of any matter arising under the *rules*; and
- (c) where the matter is not one to be determined under the rules, not to resort to any court of law or any tribunal until all internal remedies provided by the ISAF or by the Court of Arbitration for Sport have been exhausted

#### 69 ALLEGATIONS OF GROSS MISCONDUCT

##### 69.1 Action by a Protest Committee

- (a) When a protest committee, from its own observation or a report received from any source, believes that a competitor may have committed a gross breach of a *rule*, good manners or sportsmanship, or may have brought the sport into disrepute, it may call a hearing. The protest committee shall promptly inform the competitor in writing of the alleged misconduct and of the time and place of the hearing.
- (b) A protest committee of at least three members shall conduct the hearing, following rules 63.2, 63.3, 63.4 and 63.6. If it decides that the competitor committed the alleged misconduct it shall either
  - (1) warn the competitor or
  - (2) impose a penalty by excluding the competitor and, when appropriate, disqualifying a boat, from a race or the remaining races or all races of the

series, or by taking other action within its jurisdiction. A disqualification under this rule shall not be excluded from the boat's series score.

- (c) The protest committee shall promptly report a penalty, but not a warning, to the national authorities of the venue, of the competitor and of the boat owner.
- (d) If there is good reason for the competitor not to attend the hearing, the protest committee shall postpone it. However, if the competitor has left the event and as a result cannot reasonably be expected to attend a hearing, the protest committee shall not conduct one. Instead, it shall collect all available information and, if the allegation seems justified, make a report to the relevant national authorities.
- (e) When the protest committee has left the event and a report alleging misconduct is received, the race committee or organizing authority may appoint a new protest committee to proceed under this rule.

#### **69.2 Action by a National Authority**

- (a) When a national authority receives a report required by rule 69.1(c) or 69.1(d), a report alleging a gross breach of a *rule*, good manners or sportsmanship, or a report alleging conduct that has brought the sport into disrepute, it may conduct an investigation and, when appropriate, shall conduct a hearing. It may then take any disciplinary action within its jurisdiction it considers appropriate against the competitor or boat, or other person involved, including suspending eligibility, permanently or for a specified period of time, to compete in any event held within its jurisdiction, and suspending ISAF eligibility under ISAF Regulation 19.
- (b) The national authority of a competitor shall also suspend the ISAF eligibility of the competitor as required in ISAF Regulation 19.
- (c) The national authority shall promptly report a suspension of eligibility under rule 69.2(a) to the ISAF, and to the national authorities of the person or the owner of the boat suspended if they are not members of the suspending national authority.

#### **69.3 Action by the ISAF**

Upon receipt of a report required by rule 69.2(c) or ISAF Regulation 19, the ISAF shall inform all national authorities, which may also suspend eligibility for events held within their jurisdiction. The ISAF Executive Committee shall suspend the competitor's ISAF eligibility as required in ISAF Regulation 19 if the competitor's national authority does not do so.

## 25 Acknowledgements

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### About the author

Bryan Willis has been a member of the ISAF Racing Rules Committee for over 25 years. He helped set up the Judges Scheme and was a member of the Judges sub-committee for many years. He wrote the first Judges Manual and the first Match Racing appendix. He has chaired the Race Officials Committee and the Race Management Sub-committee. He has chaired international juries at events including the Olympics, the Americas Cup, the Volvo Round-the-world Ocean Race, the Match Racing Worlds, and a wide range of World Championships including Laser, Optimist, Sailboard, and RC Models. He is currently the chairman of the jury for the 32<sup>nd</sup> Americas Cup. For 25 years he ran a sailing school operating in the Easter and summer school holidays, which has taught over three thousand children to sail and race. He has written several books on the racing rules, and co-authored a book on Match Racing. He is currently vice chairman of the Racing Rules Committee and of the Review Board and a member of the Race Officials Committee. He is a professional Arbitrator and was a magistrate for 6 years in the UK sitting on adult and youth criminal court benches.