

VOLVO OCEAN RACE

Protest by Rule Management Group (RMG) against Ericsson 4 (E4) Case VOR 08

JURY NOTICE JN11 Jury Decision Amendment for clarification

12th January 2009

To: Teams, Volvo Event Management, Measurer, VOR Media Centre
From: International Jury

Clarification Amendment to decision, case VOR 08.

The Jury has received a request from the RMG asking for clarification of paragraph 5(c) of the Jury decision.

The Jury did not mean to infer that the RMG had accepted that the new bow section was the same as the replaced section. Rather, the RMG chose to limit its case to the assertion that VO 70 Rule 3.1 required E4 to report the change to the RMG, and that E4 had failed to do so.

The Jury therefore amends the original paragraph 5 as follows (**changes shown in red**):

5. The RMG's assertion was limited* to:

- (a) a claim that E4 was required to inform the RMG of the changed bow section,
- (b) the rule breached was Volvo Open 70 Rule (Version 2) 3.1 and no other rule.

~~(c) acceptance by the RMG that the new bow section was the same as the replaced section, and that the position of the measurement reference point was not an issue.~~

* During the hearing, the RMG chose not to proceed with the other aspects of the written protest. **Whether or not the new bow section was the same as the replaced section, and whether or not the position of the measurement reference point was moved, were therefore not issues in this case.**

The full decision as amended is as follows:

1. On 4th January 2009 the Rule Management Group (RMG) protested¹ Ericsson 4 (E4) asserting that E4 made alterations without reporting the matter to the RMG. As a result of removal of the original bow section and its replacement with a new component, original hull measurements have been invalidated. Specifically, the portion of the hull removed and replaced contained the measurement references LLF (Limit of Length Forward, see V70 Rule 3.2.1) and RPF (Reference Point Forward, see V70 Rule 3.2.3(a)). The RPF screw of the original bow section was removed and installed in the new bow section by ERT, without re-measurement by the RMG. Likewise, the new bow section was faired into the existing hull without re-measurement of LLF and LOA by a Measurer. As stated in V70 Rule 3.1, measurements must be carried out by the Measurer prior to issuance of a valid Volvo Open 70 Certificate. As such 'Ericsson 4' (Volvo Open 70 Hull Number 14) has not to this date held any valid Volvo Open 70 Certificate, as required in Notice of Race 5.1(g)(i).

¹ Notice of Race 3.1(g): 'The text of RRS 60.2 is deleted and replaced with: A race committee or the Rule Management Group may ... Protest a *Boat* ...'

2. By way of an Addendum issued on 5th January 2009 the RMG reported that in a measurement carried out on 4th January 2009 (using the same equipment and methodology employed during the original Ashore Measurements in Sweden for 'Ericsson 3' on the 10th December 2007 and 'Ericsson 4' on the 11th June 2008), the LOA with the new bow section was found to be 21.502m, 2mm longer than the original measurement taken in Measurement Ashore Condition of the boat with the original bow section. V70 Rule 3.2.1 states that LOA shall not be greater than 21.500m.

3. In the hearing Torben Grael gave evidence for E4. He accepted the bow section had been changed, and accepted that it was normal practice to inform the RMG when making changes. Not informing the RMG on this occasion was inadvertent. There was no intention to gain an advantage; they were simply replacing a damaged bow section.

4. On being questioned by the Jury, James Dadd, representing the RMG, said he wished to limit the matter to be decided simply to a claim that E4 was required to inform the RMG of the change and had failed to do so, and that the only relevant rule requiring them to do so was VOR Open Rule (version 2). Clause 3.1: 'Ashore Measurement Condition: On completion and assembly of the hull, deck, bulkheads and all structural components, before fitting of appendages and spars, a post-construction inspection and measurement of the hull shall be carried out by the Measurer.'

DECISION

5. The RMG's assertion was limited* to:

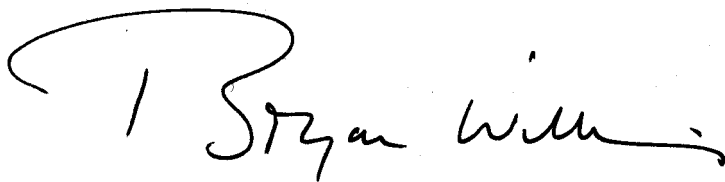
- (a) a claim that E4 was required to inform the RMG of the changed bow section,
- (b) the rule breached was Volvo Open 70 Rule (Version 2) 3.1 and no other rule,

On that basis, the Jury finds there was no obligation for E4 to inform the RMG of the change.

The protest is therefore dismissed.

The Jury endorses E4's opinion that it is normal practice for teams to inform the RMG of any such changes. Not to do so risks breaching other rules.

* During the hearing, the RMG chose not to proceed with the other aspects of the written protest. Whether or not the new bow section was the same as the replaced section, and whether or not the position of the measurement reference point was moved, were therefore not issues in this case.



Bryan Willis
Chairman

International Jury:
Shane Borrell (NZL), Rut Subniran (THA), David Tillett (AUS), Tee Suan Tan (SIN), Bryan Willis (GBR)