

# VOLVO OCEAN RACE

## Protest by Race Committee against Ericsson 3 (E3) Case VOR 07

### JURY NOTICE JN10 Jury Decision

9<sup>th</sup> January 2009

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

1. The Race Committee protested Ericsson 3 (E3) alleging that 'from evidence supplied by E3 at 05h56 UTC 3rd January 2009', E3 failed to round the virtual mark 'Sri Lanka 1' on the southern side as required in Leg Addendum 3.

2. The 'Leg 3 Addendum' included the following clauses:

'1. THE COURSE: Start— between Tarangini to starboard and Volvo white mark to port —south of Sri Lanka exclusion zone—west to east through the Pulau We scoring waypoint—north of Malacca Straights exclusion zone and finish in Singapore.'

'The Sri Lanka exclusion zone: Boats shall pass to the south of a line formed by points 050 12.000N, 0780 42.000E and 050 12.000N, 0800 60.000E'.

3. At the commencement of the hearing it became apparent that the claim in the original protest (that E3 failed to round the virtual mark 'Sri Lanka 1' on the southern side) was replaced by a claim that E3 had, after passing Sri Lanka 1 to port, entered the exclusion zone to the north of the line extending east of Sri Lanka 1.

4. Aksel Magdahl, representing E3, accepted the Jury's suggestion that the hearing could proceed without the formal need for the Jury to initiate a new hearing.

5. Aksel Magdahl, navigator on E3, gave evidence that he had 'realised E3 was breaching the rule' after passing from the south to the north of the line. Jack Lloyd, Race Director, representing the Race Committee, gave evidence that the obligation not to sail to the north of the line after rounding the virtual mark 'Sri Lanka 1' at 1 05° 12. 000N 078° 42.000E was known to all competitors.

6. As there was no evidence that any boat had any doubt as to their obligation, the Jury interpreted the clause 'Boats shall pass to the south of a line formed by points ...' to mean that boats were prohibited from crossing from the south to the north of that line after passing the virtual mark 'Sri Lanka 1'.

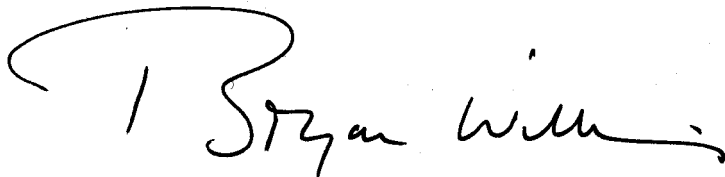
7. E3 accepted that she infringed Leg 3 Addendum Clause 2 by passing from south to north which required boats to pass to the south of the Sri Lanka exclusion zone. On the question of an appropriate penalty, Aksel Magdahl gave the opinion that no penalty should be given.

8. The Race Committee was invited to make a verbal submission on the question of whether a penalty should be given and if so what it should be, but declined to do so. Observers representing other teams present were then invited to make verbal submissions. Richard Slater representing Telefonica declined to give an opinion about a penalty but pointed out that all other boats had ensured that they complied with the requirement not to enter the exclusion zone. Kimo Worthington representing Puma agreed and added that the boat speed of E3 was such that she had sailed rather than drifted into the exclusion zone.

9. The jury has taken into consideration that the breach was inadvertent, that E3 took immediate steps to exit the exclusion zone as soon as she realised her error, that she cooperated with the Race Committee in providing the relevant evidence, and was in the exclusion zone for only 3 minutes 40 seconds. The Jury also took into consideration the verbal submissions from the observers representing the teams present at the hearing.

## DECISION

10. Taking all these matters into consideration and using its discretion regarding penalties given to it in NoR 3.5(b)<sup>1</sup>, the Jury has decided that the appropriate penalty is one point to be deducted from the score of E3 for Leg 3. (Points for other boats not to be affected)

A handwritten signature in black ink that reads "Bryan Willis". The signature is written in a cursive style with a large, sweeping initial 'B'.

Bryan Willis  
Chairman

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

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<sup>1</sup> Notice of Race 3.5(b): 'RRS 64.1(a) is changed to permit the International Jury to waive penalties and/or impose penalties other than disqualification, including financial penalties.'