



# **SAIL CANADA APPEALS**

## **Interpretations of the Racing Rules, 2013-2016**

**April 2013 Edition**

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## PREFACE

The Sail Canada Appeals, Interpretations of the Racing Rules, 2013-2016, April 2013 Edition brings the Sail Canada Appeals up to date with the current version of the Racing Rules of Sailing. This was accomplished through a complete review of each appeal to rewrite decisions as though they were decided under the 2013-2016 rules. Along with updating the appeals to the current rules, there were numerous editorial revisions. As a result of the review, Appeals 73, 77 and 98 were deleted.

The April 2013 Edition includes six Sail Canada Appeals that have been adopted as ISAF Cases: Appeals 7; 27; 29; 32; 46; and 83. ISAF recognizes Cases as authoritative interpretations and explanations of the rules. This Edition also includes six appeals that were completed since the February 2010 Edition.

The Sail Canada Appeals Committee hears new appeals on an ongoing basis. Appeals that augment interpretations published herein will be added sequentially to the book. Revisions will be published periodically to the Sail Canada web site ([www.sailing.ca](http://www.sailing.ca)) in PDF format.

*The Sail Canada Appeals, Interpretations of the Racing Rules, 2013-2016* was prepared by the members of the Sail Canada Appeals Committee: Lynne Beal, Andrew Alberti, Rick Hatch, Don Martin, Warren Nethercote, and Leo Reise. Our secretary, Irene McNeill supports our work.

We invite readers to send comments and suggestions to the Sail Canada Appeals Committee, care of Sail Canada. Email is the preferred medium, via [sailcanada@sailing.ca](mailto:sailcanada@sailing.ca).

Lynne Beal, Chair, Sail Canada Appeals Committee  
April, 2013

**MEMBERS OF THE  
SAIL CANADA APPEALS COMMITTEES**

The Sail Canada Appeals Committee heard its first appeal in August 1962 and appeals were heard thereafter as they occurred. The first formal record of the decisions of the appeals committees was published as a booklet in 1973. The following Canadian sailing officials are the members who have served on the Appeals Committees since its inception.

D M Jemmett	1962	Chair 1962
Lawrence Hynes	1962 to 1963	
Lindsay Place	1962	
L E Metcalfe	1963	Chair 1963
Al Rae	1963	
E G Sorsoleil	1963	
Livius Sherwood	1970 to 2002	Chair 1963 to 1976
Jack Cameron	1970 to 1997	
Graeme Hayward	1970 to 2003	Chair 1980 to 2003 Member Emeritus from 2004
Lynn Watters	1970 to 2000	Member Emeritus 2000-2012
Bart Dalton	1971 to 1978	
John Holmes	1971 to 1999	
Harry Jemmett	1971 to 1978	
Warden McKimm	1971 to 1978	
Charles Steinbach	1971 to 1989	
Dan Harmer	1974 to 1979	Chair 1976 to 1979
David Hague	1979 to 1994	
Bill Cheek	1980 to 2001	Member Emeritus 2001-2012
Peter Evans	1980 to 1994	
Heather Robertson	1983 to 1989	
Warren Nethercote	1989 to present	Chair 2004 to 2006
Stephen Tupper	1991 to 1997	
David Pelling	1995 to 2003	
Don Martin	2002 to present	
Leo Reise	2003 to present	
Lynne Beal	2004 to present	Chair 2006 to present
Andrew Alberti	2010 to present	
Rick Hatch	2010 to present	
Irene McNeill	Secretary, 2010 to present	

## SECTION 1: ABSTRACTS OF SAIL CANADA APPEALS BY RULE NUMBER

*Section 1 enables readers to find the appeal that interprets a particular rule. For example, three appeals (24, 34 and 39) interpret rule 1.1. The abstracts for these three appeals are in Section 1 under the heading, Rule 1.1, Safety: Helping Those in Danger. For the rules of Part 2, there are many appeals referring to the rules, but some references are secondary. In such cases, the abstract is not listed under the rule of part 2, although the appeal is identified. The abstract may not mention every rule that is interpreted by the case; therefore the reader must study the case itself in Section 2, to see how the rule has been interpreted or illustrated.<sup>1</sup>*

## INTRODUCTION

### Terminology

#### Boat

##### Appeal 3

The word “boat” in the rules is always inclusive of the hull, crew and equipment.

## DEFINITIONS

### Finish

##### Appeal 9

A boat is *racing* and remains subject to the rules of Part 2 until she has cleared the finishing line and finishing marks. She is subject to a penalty if she breaks a *rule* while *racing* and may be disqualified under rule 24.1 if, after she clears the finishing line and marks, she interferes with a boat that is still *racing*.

##### Appeal 21

Boats shall sail the course prescribed by the sailing instructions but, whatever may be implied from the sailing instructions, they shall finish in accordance with the definition of finishing.

##### Appeal 57

A boat must finish in accordance with the definition. Competitors who have retired from a series are no longer interested parties because they have nothing to gain or lose by a protest committee decision.

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<sup>1</sup> Text derived from “The Case Book for 2013-2016, Interpretations of the Racing Rules,” International Sailing Federation, February 2013.

### Appeal 112

When a boat meets the definition Finish, a race committee shall score her in her finishing position. If a boat touches a mark at the finish line the race committee may protest her for the breach of rule 31.

### Keep Clear

#### Appeal 5

Facts found by a protest committee are not subject to appeal.

#### Appeal 14

When a windward boat overtakes a leeward boat so close to windward that the leeward boat cannot change course without immediately making contact with the windward boat, the windward boat has not *kept clear* and breaks rule 11.

#### Appeal 46 (now ISAF Case 50)

When a protest committee finds that in a port-starboard incident S did not change course and that there was not a genuine and reasonable apprehension of collision on the part of S, it should dismiss her protest. When the committee finds that S did change course and that there was reasonable doubt that P could have crossed ahead of S if S had not changed course, then P should be disqualified.

#### Appeal 83 (now ISAF Case 87)

A right-of-way boat need not act to avoid contact until it is clear that the other boat is not keeping clear.

### Mark-Room

#### Appeal 105

There is no proper course after the finish. If an outside right-of-way boat has fulfilled her obligations under rule 18, then an inside give-way boat is required to keep clear. A boat that has not cleared the finishing line and marks is racing and subject to the rules of Sections A, B, and C of Part 2.

### Obstruction

#### Appeal 51

A boat is on port or starboard tack corresponding to her windward side. A boat that inadvertently tacks onto port tack ahead of a starboard-tack boat cannot claim that she is an obstruction to avoid breaking rule 10.

#### Appeal 56

A windward overlapped boat is entitled to *room* under rule 19.2(b) to pass to leeward of a right-of-way boat of which both must keep clear.

#### Appeal 70

A boat clear ahead is an obstruction to a boat overtaking her from clear astern when the boat clear astern requires *room* from another boat to pass to leeward of the first boat.

### Party

#### Appeal 44

A boat may appeal a decision of a protest committee only when she was a *party* to the hearing. A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own decision, not the action of the race committee, made her finishing position significantly worse.

### Proper Course

#### Appeal 8

A boat's *proper course* is a course she would sail to finish as soon as possible.

#### Appeal 54

A leeward boat which establishes an overlap more than two boat lengths to leeward and maintains that overlap is not restricted to sailing no higher than her proper course.

#### Appeal 105

There is no proper course after the finish. If an outside right-of-way boat has fulfilled her obligations under rule 18, then an inside give-way boat is required to keep clear. A boat that has not cleared the finishing line and marks is racing and subject to the rules of Sections A, B, and C of Part 2.

### Racing

#### Appeal 9

A boat is *racing* and remains subject to the rules of Part 2 until she has cleared the finishing line and finishing marks. She is subject to a penalty if she breaks a rule while *racing* and may be disqualified under rule 24.1 if, after she clears the finishing line and marks, she interferes with a boat that is still *racing*.

#### Appeal 32 (now ISAF Case 68)

The failure of a race committee to discover that a rating certificate is invalid does not entitle a boat to redress. A boat that may have broken a *rule* and that continues to race retains her rights

under the racing rules, including her rights under the rules of Part 2 and her rights to protest and appeal, even if she is later disqualified.

#### Appeal 105

There is no proper course after the finish. If an outside right-of-way boat has fulfilled her obligations under rule 18, then an inside give-way boat is required to keep clear. A boat that has not cleared the finishing line and marks is racing and subject to the rules of Sections A, B, and C of Part 2.

### **Room**

#### Appeal 67

When a boat acquires right of way, she shall initially give the other boat *room* to keep clear. *Room* depends on the existing wind and sea conditions.

### **Rule**

#### Appeal 26

A boat may be disqualified for breaking a class rule which is in effect under the definition of Rule (d).

#### Appeal 45

Class restrictions on eligibility of helmsman for certain class-sanctioned events apply only to those specific events. They do not apply to other open events.

### **Start**

#### Appeal 60

Oral instructions given at a skippers' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

### **RACE SIGNALS**

#### Appeal 33

When conducting a race, the race committee must satisfy both the visual and sound signal requirements of the race signals section of the rules.

#### Appeal 87

A boat must sail a changed course when it is signalled by the race committee.

## **BASIC PRINCIPLES**

### **Sportsmanship and the Rules**

Appeal 29 (now ISAF Case 39)

Except when it receives a report of a breach of a class rule or of rule 43 from an equipment inspector or a measurer for an event, a race committee is not required to protest a boat. The primary responsibility for enforcing the rules lies with the competitor.

## **PART 1 – FUNDAMENTAL RULES**

### **Rule 1.1, Safety: Helping Those in Danger**

Appeal 24

A boat that breaks a rule of Part 2 and causes serious damage to another boat must not only retire but must also stand by to afford assistance to the endangered boat without waiting for a request to do so.

Appeal 34

The requirement 'to give all possible help' demands a high standard of compliance and a boat may be required to render help or stand-by to do so, even though another competitor is already doing so.

Appeal 39

When a right of way boat changes course, she shall give the other boat room to keep clear. Notwithstanding the proximity of a race committee boat, a boat may be subject to disqualification for failing to help another boat in danger.

### **Rule 2, Fair Sailing**

Appeal 4

When a right-of-way boat touches a keep clear boat that is not keeping clear without causing damage or injury she does not break rule 2 and she shall be exonerated for breaking rule 14.

Appeal 109

A boat that cannot be identified, although it may have broken a rule, cannot be penalized. Redress under rule 62.1(d) can only be granted when a boat has been penalized or a member of her has been subject to disciplinary action with respect to the incident.

### **Rule 3, Acceptance of the Rules**

#### Appeal 24

A boat that breaks a rule of Part 2 and causes serious damage to another boat must not only retire but must also stand by to afford assistance to the endangered boat without waiting for a request to do so.

#### Appeal 102

A boat that meets the requirements for entry in a race, and sails in or near the racing area, and participates in a race is racing from her preparatory signal until she finishes or retires from the race. The Racing Rules of Sailing apply to such boats. She does not have the option to claim that the Racing Rules do not apply to her.

The boat's sole responsibility to decide to participate in a race does not include the right to choose whether or not to be governed by the rules once she participates in the race.

By participating in a race, competitors are governed by the Racing Rules of Sailing, including action by a protest committee under rule 69.

### **Rule 4, Decision to Race**

#### Appeal 44

A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own decision, not the action of the race committee, made her finishing position significantly worse.

## **PART 2 – WHEN BOATS MEET**

### **Section A: Right of Way**

#### **Preamble to Part 2**

#### Appeal 9

A boat is *racing* and remains subject to the rules of Part 2 until she has cleared the finishing line and finishing marks. She is subject to a penalty if she breaks a rule while *racing* and may be disqualified under rule 24.1 if, after she clears the finishing line and marks, she interferes with a boat that is still *racing*.

#### Appeal 32 (now ISAF Case 68)

The failure of a race committee to discover that a rating certificate is invalid does not entitle a boat to redress. A boat that may have broken a *rule* and that continues to race retains her rights under the racing rules, including her rights under the rules of Part 2 and her rights to protest and appeal, even if she is later disqualified.

#### Appeal 78

The rules of Part 2 apply between boats that are *racing* and boats that have finished *racing* but are still sailing in or near the racing area.

#### Appeal 102

A boat that meets the requirements for entry in a race, and sails in or near the racing area, and participates in a race is racing from her preparatory signal until she finishes or retires from the race. The Racing Rules of Sailing apply to such boats. She does not have the option to claim that the Racing Rules do not apply to her.

The boat's sole responsibility to decide to participate in a race does not include the right to choose whether or not to be governed by the rules once she participates in the race.

By participating in a race, competitors are governed by the Racing Rules of Sailing, including action by a protest committee under rule 69.

### **Rule 10, On Opposite Tacks**

#### Appeal 4

When a right-of-way boat touches a keep clear boat that is not keeping clear without causing damage or injury she does not break rule 2 and she shall be exonerated for breaking rule 14.

#### Appeal 6

A hail of 'Starboard' by a boat does not alter the respective rights or obligations of either a right-of-way boat or a keep clear boat. A starboard-tack boat that tacks after a port-tack boat has borne away to pass astern of her does not necessarily break a rule.

#### Appeal 17

In a port-starboard incident, when a protest committee finds that S had reasonable doubt that P could keep clear and S alters course to avoid contact, S shall not be penalised if she makes a reasonable attempt to avoid contact, even if this attempt is not successful.

#### Appeal 46 (now ISAF Case 50)

When a protest committee finds that in a port-starboard incident S did not change course and that there was not a genuine and reasonable apprehension of collision on the part of S, it should dismiss her protest. When the committee finds that S did change course and that there was reasonable doubt that P could have crossed ahead of S if S had not changed course, then P should be disqualified.

#### Appeal 51

A boat is on port or starboard tack corresponding to her windward side. A boat that inadvertently tacks onto port tack ahead of a starboard-tack boat cannot claim that she is an obstruction to avoid breaking rule 10.

#### Appeal 61

A give-way boat that cannot keep clear of a right-of-way boat because of rigging failure cannot be exonerated on this account for breaking a rule of Part 2.

#### Appeal 64

A right-of-way boat shall not alter course directly at (i.e. shall not 'hunt') a give-way boat unless she gives her *room* to keep clear. If the right-of-way boat so alters course, the give-way boat is protected by rule 16.1.

#### Appeal 71

Both S and P are disqualified in a prestart incident when S continually changes course towards P which, because neither boat was keeping a look-out, results in contact and damage to P who did not take action to keep clear.

#### Appeal 75

A protest committee must arrive at a single set of facts in a single incident.

#### Appeal 83 (now ISAF Case 87)

A right-of-way boat need not act to avoid contact until it is clear that the other boat is not keeping clear.

#### Appeal 104

Both the diagram and written facts are facts found by the protest committee. Neither takes precedence over the other. Rule R5 gives a national authority the authority to require the protest committee to provide revised or additional facts that resolve the conflict.

#### Appeal 105

There is no proper course after the finish. If an outside right-of-way boat has fulfilled her obligations under rule 18, then an inside give-way boat is required to keep clear. A boat that has not cleared the finishing line and marks is racing and subject to the rules of Sections A, B, and C of Part 2.

Appeals 24, 39, 40, 55, and 78 also make secondary reference to rule 10.

### **Rule 11, On the Same Tack, Overlapped**

#### Appeal 2

When approaching the starting line to start, windward boats shall keep clear and shall not force their way between leeward boats and a starting race committee boat.

#### Appeal 7 (now ISAF Case 25)

When an inside overlapped windward boat that is entitled to mark-room sails below her proper course while at the mark, she must keep clear of the outside leeward boat, and the outside boat may luff provided that she gives the inside boat room to keep clear.

#### Appeal 12

Until an inside right-of-way boat reaches the point in rounding a mark where her *proper course* is to gybe and she does so, an outside overlapped boat must keep clear under rules 11 and 18.2(a). Rule 18.4 then requires that the inside right-of-way boat shall sail no further from the mark than needed to sail her *proper course*.

#### Appeal 14

When a windward boat overtakes a leeward boat so close to windward that the leeward boat cannot change course without immediately making contact with the windward boat, the windward boat has not kept clear and breaks rule 11.

#### Appeal 35

A leeward boat may be required to leave *room* at a starting mark when a windward boat is unable to respond to a change of course by the leeward boat without contacting the mark.

#### Appeal 47

An intervening boat is exonerated for breaking rule 11 when a boat to windward of her breaks rule 11 and thus prevents the intervening boat from keeping clear.

#### Appeal 54

A leeward boat which establishes an overlap more than two boat lengths to leeward and maintains that overlap is not restricted to sailing no higher than her proper course.

#### Appeal 56

A windward overlapped boat is entitled to *room* under rule 19.2(b) to pass to leeward of a right-of-way boat of which both must keep clear.

#### Appeal 84

Windward boats must keep clear and avoid contact when possible.

#### Appeal 86

A windward boat shall keep clear and shall not bear away causing contact.

#### Appeal 89

When approaching the starting line prior to the starting signal, a boat clear astern may establish an overlap between boats clear ahead when at that moment there is *room* for her to do so and if she allows the windward boat *room* to keep clear. Thereafter she must keep clear of the leeward

boat and the windward boat must give her *room* to do so. The leeward boat may not cause contact if it can be reasonably avoided.

#### Appeal 92

A boat is not required to anticipate that another boat will break a rule. In a changing situation, a newly obligated boat is entitled to time for a response.

#### Appeal 111

A windward boat shall keep clear of a leeward boat. A leeward boat does not break rule 16.1 when she gives the other boat room to keep clear when changing course.

Appeals 10 and 66 also make secondary reference to rule 11.

### **Rule 12, On the Same Tack, Not Overlapped**

#### Appeal 49

When two boats are on the same tack and the boat that is clear ahead tacks, rule 12 does not override the requirements of rule 13.

#### Appeal 70

A boat clear ahead is an obstruction to a boat overtaking her from clear astern when the boat clear astern requires *room* from another boat to pass to leeward of the first boat.

#### Appeal 90

When rounding a mark, a boat clear astern shall keep clear of a boat clear ahead. If the boat clear ahead passes through head to wind and is then keeping clear, the boat astern may not alter her course unless she gives the other boat *room* to keep clear. Thereafter, when the boat astern passes through head to wind she shall herself keep clear of the boat ahead and, in particular, shall avoid contact with the other boat if this can reasonably be avoided.

Appeal 22 also makes secondary reference to rule 12.

### **Rule 13, While Tacking**

#### Appeal 18

A boat is no longer subject to rule 13 after she completes her tack and is on a close-hauled course.

#### Appeal 40

A right-of-way boat is disqualified when she does not attempt to avoid contact and causes damage to a give-way boat. Penalty turns must be taken one immediately after the other.

**Appeal 49**

When two boats are on the same tack and the boat that is clear ahead tacks, rule 12 does not override the requirements of rule 13.

**Appeal 51**

A boat is on port or starboard tack corresponding to her windward side. A boat that inadvertently tacks onto port tack ahead of a starboard-tack boat cannot claim that she is an obstruction to avoid breaking rule 10.

**Appeal 52**

A starboard-tack boat need not anticipate that a port-tack boat will tack so close to her that the tacking boat will not give her *room* to keep clear when the tack is completed.

**Appeal 90**

When rounding a mark, a boat clear astern shall keep clear of a boat clear ahead. If the boat clear ahead passes through head to wind and is then keeping clear, the boat astern may not alter her course unless she gives the other boat *room* to keep clear. Thereafter, when the boat astern passes through head to wind she shall herself keep clear of the boat ahead and, in particular, shall avoid contact with the other boat if this can reasonably be avoided.

**Appeal 104**

Both the diagram and written facts are facts found by the protest committee. Neither takes precedence over the other. Rule F5 gives a national authority the authority to require the protest committee to provide revised or additional facts that resolve the conflict.

Appeals 5, 9, and 40 also make secondary reference to rule 13.

**Section B: General Limitations****Rule 14, Avoiding Contact****Appeal 4**

When a right-of-way boat touches a keep clear boat that is not keeping clear without causing damage or injury she does not break rule 2 and she shall be exonerated for breaking rule 14.

**Appeal 7 (now ISAF Case 25)**

When an inside overlapped windward boat that is entitled to mark-room sails below her proper course while at the mark, she must keep clear of the outside leeward boat, and the outside boat may luff provided that she gives the inside boat room to keep clear.

**Appeal 13**

When a right-of-way boat makes a reasonable attempt to avoid contact, she shall not be penalised under rule 14 even if her attempt is unsuccessful and the contact results in damage.

#### Appeal 17

In a port-starboard incident, when a protest committee finds that S had reasonable doubt that P could keep clear and S alters course to avoid contact, S shall not be penalised if she makes a reasonable attempt to avoid contact, even if this attempt is not successful.

#### Appeal 39

When a right of way boat changes course, she shall give the other boat room to keep clear. Notwithstanding the proximity of a race committee boat, a boat may be subject to disqualification for failing to help another boat in danger.

#### Appeal 40

A right-of-way boat is disqualified when she does not attempt to avoid contact and causes damage to a give-way boat.

#### Appeal 55

A right-of-way boat must avoid contact with another boat whenever reasonably possible. When she has time and opportunity to avoid a boat that has already begun to act to keep clear but she alters course in a manner that does not give the give-way boat *room* to keep clear she breaks rule 16. When such action makes contact inevitable, she also breaks rule 14 if damage results.

#### Appeal 71

Both S and P are disqualified in a prestart incident when S continually changes course towards P which, because neither boat was keeping a look-out, results in contact and damage to P who did not take action to keep clear.

#### Appeal 83 (now ISAF Case 87)

A right-of-way boat need not act to avoid contact until it is clear that the other boat is not keeping clear.

#### Appeal 86

A windward boat shall keep clear and shall not bear away causing contact.

#### Appeal 89

When approaching the starting line prior to the starting signal, a boat clear astern may establish an overlap between boats clear ahead when at that moment there is *room* for her to do so and if she allows the windward boat *room* to keep clear. Thereafter she must keep clear of the leeward boat and the windward boat must give her *room* to do so. The leeward boat may not cause contact if it can be reasonably avoided.

## Appeal 90

When rounding a mark, a boat clear astern shall keep clear of a boat clear ahead. If the boat clear ahead passes through head to wind and is then keeping clear, the boat astern may not alter her course unless she gives the other boat *room* to keep clear. Thereafter, when the boat astern passes through head to wind she shall herself keep clear of the boat ahead and, in particular, shall avoid contact with the other boat if this can reasonably be avoided.

## Appeal 92

A boat is not required to anticipate that another boat will break a rule. In a changing situation, a newly obligated boat is entitled to time for a response. A boat is not required to anticipate that another boat will break a rule.

## Appeal 111

A windward boat shall keep clear of a leeward boat. A leeward boat does not break rule 16.1 when she gives the other boat room to keep clear when changing course.

Appeals 2, 6, 14, 46, 52, 54, 63, 75, , 78, and 84 also make secondary reference to rule 14.

**Rule 15, Acquiring Right of Way**

## Appeal 2

When approaching the starting line to start, windward boats shall keep clear and shall not force their way between leeward boats and a starting race committee boat.

## Appeal 8

A boat's *proper course* is a course she would sail to finish as soon as possible.

## Appeal 18

A boat is no longer subject to rule 13 after she completes her tack and is on a close-hauled course.

## Appeal 38

A boat need not anticipate a change in right-of-way.

## Appeal 52

A starboard-tack boat need not anticipate that a port-tack boat will tack so close to her that the tacking boat will not give her *room* to keep clear when the tack is completed.

## Appeal 67

When a boat acquires right of way, she shall initially give the other boat *room* to keep clear. *Room* depends on the existing wind and sea conditions.

## Appeal 89

When approaching the starting line prior to the starting signal, a boat clear astern may establish an overlap between boats clear ahead when at that moment there is *room* for her to do so and if she allows the windward boat *room* to keep clear. Thereafter she must keep clear of the leeward boat and the windward boat must give her *room* to do so. The leeward boat may not cause contact if it can be reasonably avoided.

## Appeal 92

A boat is not required to anticipate that another boat will break a rule. In a changing situation, a newly obligated boat is entitled to time for a response.

**Rule 16, Changing Course****Rule 16.1, Changing Course**

## Appeal 7 (now ISAF case 25)

When an inside overlapped windward boat that is entitled to mark-room sails below her proper course while at the mark, she must keep clear of the outside leeward boat, and the outside boat may luff provided that she gives the inside boat room to keep clear.

## Appeal 14

When a windward boat overtakes a leeward boat so close to windward that the leeward boat cannot change course without immediately making contact with the windward boat, the windward boat has not *kept clear* and breaks rule 11.

## Appeal 22

When a right-of-way boat alters course, she shall give the other boat *room* to keep clear.

## Appeal 35

A leeward boat may be required to leave *room* at a starting mark when a windward boat is unable to respond to a change of course by the leeward boat without contacting the mark.

## Appeal 39

When a right of way boat changes course, she shall give the other boat room to keep clear. Notwithstanding the proximity of a race committee boat, a boat may be subject to disqualification for failing to help another boat in danger.

## Appeal 55

A right-of-way boat must avoid contact with another boat whenever reasonably possible. When she has time and opportunity to avoid a boat that has already begun to act to keep clear but she alters course in a manner that does not give the give-way boat *room* to keep clear she breaks rule 16.

## Appeal 64

A right-of-way boat shall not alter course directly at (i.e. shall not 'hunt') a give-way boat unless she gives her *room* to keep clear. If the right-of-way boat so alters course, the give-way boat is protected by rule 16.1.

## Appeal 71

Both S and P are disqualified in a pre-start incident when S continually changes course towards P which, because neither boat was keeping a look-out, results in contact and damage to P who did not take action to keep clear.

## Appeal 89

When approaching the starting line prior to the starting signal, a boat clear astern may establish an overlap between boats clear ahead when at that moment there is *room* for her to do so and if she allows the windward boat *room* to keep clear. Thereafter she must keep clear of the leeward boat and the windward boat must give her *room* to do so. The leeward boat may not cause contact if it can be reasonably avoided.

## Appeal 90

When rounding a mark, a boat clear astern shall keep clear of a boat clear ahead. If the boat clear ahead passes through head to wind and is then keeping clear, the boat astern may not alter her course unless she gives the other boat *room* to keep clear. Thereafter, when the boat astern passes through head to wind she shall herself keep clear of the boat ahead and, in particular, shall avoid contact with the other boat if this can reasonably be avoided.

## Appeal 111

A windward boat shall keep clear of a leeward boat. A leeward boat does not break rule 16.1 when she gives the other boat room to keep clear when changing course.

**Rule 16.2, Changing Course**

## Appeal 6

A hail of 'Starboard' by a boat does not alter the respective rights or obligations of either a right-of-way boat or a keep clear boat. A starboard-tack boat that tacks after a port-tack boat has borne away to pass astern of her does not necessarily break a rule.

**Rule 17, On the Same tack; Proper Course**

## Appeal 8

A boat's *proper course* is a course she would sail to finish as soon as possible.

## Appeal 54

A leeward boat which establishes an overlap more than two boat lengths to leeward and maintains that overlap is not restricted to sailing no higher than her proper course.

## Section C: At Marks and Obstructions

### Preamble to Section C

#### Appeal 2

When approaching the starting line to start, windward boats shall keep clear and shall not force their way between leeward boats and a starting race committee boat.

#### Appeal 35

A leeward boat may be required to leave *room* at a starting mark when a windward boat is unable to respond to a change of course by the leeward boat without contacting the mark.

### Rule 18, Mark-Room

#### Rule 18.2(a), Giving Mark-Room

##### Appeal 7 (Now ISAF case 25)

When an inside overlapped windward boat that is entitled to mark-room sails below her proper course while at the mark, she must keep clear of the outside leeward boat, and the outside boat may luff provided that she gives the inside boat room to keep clear.

##### Appeal 105

There is no proper course after the finish. If an outside right-of-way boat has fulfilled her obligations under rule 18, then an inside give-way boat is required to keep clear. A boat that has not cleared the finishing line and marks is racing and subject to the rules of Sections A, B, and C of Part 2.

#### Rule 18.2(b), Giving Mark-Room

##### Appeal 7 (now ISAF Case 25)

When an inside overlapped windward boat that is entitled to mark-room sails below her proper course while at the mark, she must keep clear of the outside leeward boat, and the outside boat may luff provided that she gives the inside boat room to keep clear.

##### Appeal 90

When rounding a mark, a boat clear astern shall keep clear of a boat clear ahead. If the boat clear ahead passes through head to wind and is then keeping clear, the boat astern may not alter her course unless she gives the other boat *room* to keep clear.

**Rule 18.2(c), Giving Mark-Room**

## Appeal 49

When two boats are on the same tack and the boat that is clear ahead tacks, rule 12 does not override the requirements of rule 13.

## Appeal 90

When rounding a mark, a boat clear astern shall keep clear of a boat clear ahead. If the boat clear ahead passes through head to wind and is then keeping clear, the boat astern may not alter her course unless she gives the other boat *room* to keep clear. Thereafter, when the boat astern passes through head to wind she shall herself keep clear of the boat ahead and, in particular, shall avoid contact with the other boat if this can reasonably be avoided.

**Rule 18.4, Gybing**

## Appeal 12

Until an inside right-of-way boat reaches the point in rounding a mark where her *proper course* is to gybe and she does so, an outside overlapped boat must keep clear under rules 11 and 18.2(a). Rule 18.4 then requires that the inside right-of-way boat shall sail no further from the mark than needed to sail her *proper course*.

## Appeal 50

A boat that is not handled in a seamanlike way cannot use this as an excuse for breaking rule 18.4. When an inside overlapped right-of-way boat must gybe at a mark to sail her *proper course*, until she gybes she shall sail no farther from the mark than needed to sail that course.

**Rule 19.2(b), Giving Room at an Obstruction**

## Appeal 36

Once an inside overlap on a continuing obstruction is established properly under rule 19.2(b), and until that overlap is broken, an inside boat retains her rights to *room*, regardless of any alterations of course by the other boat.

## Appeal 56

A windward overlapped boat is entitled to *room* under rule 19.2(b) to pass to leeward of a right-of-way boat of which both must keep clear.

## Appeal 70

A boat clear ahead is an obstruction to a boat overtaking her from clear astern when the boat clear astern requires *room* from another boat to pass to leeward of the first boat.

#### Appeal 89

When approaching the starting line prior to the starting signal, a boat clear astern may establish an overlap between boats clear ahead when at that moment there is *room* for her to do so and if she allows the windward boat *room* to keep clear. Thereafter she must keep clear of the leeward boat and the windward boat must give her *room* to do so. The leeward boat may not cause contact if it can be reasonably avoided.

### SECTION D: OTHER RULES

#### Rule 24.1, Interfering with Another Boat

##### Appeal 9

A boat is *racing* and remains subject to the rules of Part 2 until she has cleared the finishing line and finishing marks. She is subject to a penalty if she breaks a rule while *racing* and may be disqualified under rule 24.1 if, after she clears the finishing line and marks, she interferes with a boat that is still *racing*.

##### Appeal 78

The rules of Part 2 apply between boats that are *racing* and boats that have finished *racing* but are still sailing in or near the racing area.

##### Appeal 105

There is no proper course after the finish. If an outside right-of-way boat has fulfilled her obligations under rule 18, then an inside give-way boat is required to keep clear. A boat that has not cleared the finishing line and marks is *racing* and subject to the rules of Sections A, B, and C of Part 2.

### PART 3 – CONDUCT OF A RACE

#### Rule 26, Starting Races

##### Appeal 79

The starting signals displayed by the race committee determine the starting times of a race not the scheduled times published in the sailing instructions. No hearing is required to correct an obvious scoring error. Boats affected may request redress.

#### Rule 27.1, Other Race Committee Actions Before the Starting Signal

##### Appeal 73

When poorly written sailing instructions make competitors' scores in a race or series significantly worse, the protest committee shall resolve the matter as fairly as possible for all competitors.

## Rule 28, Sailing the Course

### Appeal 25

When a boat takes her own finishing position in conditions of reduced visibility, she shall use more than dead reckoning to prove that she has finished correctly. She needs to be able to positively identify and pass close-by a finishing mark.

### Appeal 37

A boat may leave on either side a mark that does not begin, bound or end the leg she is on. A starting mark has no required side once a boat has started. A finish mark has no required side until the final leg.

### Appeal 53

A race committee that failed to remedy the displacement of a *mark* made the finishing positions of a class significantly worse when boats rounded different marks.

### Appeal 59

Observations on protest procedure and shortening course.

### Appeal 74

Sailing instructions should be written and courses designated to ensure that there is clear distinction between rounding and passing *marks*. A protest decision and hearing must be limited to a particular incident that has been described in the protest. Without a hearing a boat may not be penalized for failing to sail the course.

### Appeal 81

An interpretation of the phrase: "a string representing a boat's track" in rule 28.2.

### Appeal 87

A boat must sail a changed course when it is signalled by the race committee.

### Appeal 94

A boat may not be penalized for failing to sail the course without a hearing arising from a protest by the Race Committee, the Jury, or another competitor.

### Appeal 107

A protest for failing to sail the course is invalid if the boat does not inform the other boat before she finishes or at the first reasonable opportunity after finishing. If a protest is found to be invalid, the hearing shall be closed. A protest committee should not deny a boat a re-opening of a hearing without a hearing to determine whether she has met the requirements for a re-opening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

**Rule 29.1, Individual Recall**

Appeal 97

A race committee must be properly organised to fulfil its responsibilities and keep records accordingly. In making a decision on redress for a boat scored OCS, a protest committee must consider the division of responsibilities between the competitor and the race committee. When the facts of this situation are not conclusive, a protest committee should resolve the matter in favour of the competitor.

**Rule 30.1, I Flag Rule**

Appeal 60

Oral instructions given at a skippers' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

Appeal 97

A race committee must be properly organised to fulfil its responsibilities and keep records accordingly. In making a decision on redress for a boat scored OCS, a protest committee must consider the division of responsibilities between the competitor and the race committee. When the facts of this situation are not conclusive, a protest committee should resolve the matter in favour of the competitor.

**Rule 31, Touching a Mark**

Appeal 35

A leeward boat may be required to leave *room* at a starting mark when a windward boat is unable to respond to a change of course by the leeward boat without contacting the mark.

Appeal 112

When a boat meets the definition Finish, a race committee shall score her in her finishing position. If a boat touches a mark at the finish line the race committee may protest her for the breach of rule 31.

**Rule 32.1, Shortening or Abandoning After the Start**

Appeal 48

A race may not be abandoned after one boat has finished without considering the consequences to all other boats in the race.

Appeal 59

Observations on protest procedure and shortening course.

**Rule 33, Changing the Next Leg of the Course**

Appeal 87

A boat must sail a changed course when it is signalled by the race committee.

**Rule 35, Time Limit and Scores**

Appeal 42

A protest committee shall interpret defective sailing instructions in the most equitable manner for all boats competing.

**PART 4 – OTHER REQUIREMENTS WHEN RACING****Rule 41, Outside Help**

Appeal 76

Radio Communications do not necessarily constitute outside help, but a boat which engages in them does so at some peril.

**Rule 42.1(a), Propulsion, Basic Rule**

Appeal 68

When running an engine to charge batteries is permitted by the sailing instructions, a boat must take positive action to prevent her propeller from turning.

**Rule 42.2(c) Propulsion, Prohibited Actions**

Appeal 110

Ooching: sudden forward body movements, stopped abruptly, is a prohibited action, even when passing over the waves generated by a passing vessel.

**Rule 44.1, Taking a Penalty**

Appeal 24

A boat that breaks a rule of Part 2 and causes serious damage to another boat must not only retire but must also stand by to afford assistance to the endangered boat without waiting for a request to do so.

**Rule 44.2, One-Turn and Two-Turns Penalties**

Appeal 40

A right-of-way boat is disqualified when she does not attempt to avoid contact and causes damage to a give-way boat. Penalty turns must be taken one immediately after the other.

## Appeal 89

A boat that broke a rule of part 2 is not subject to further penalty if she exonerated herself under rule 44.2.

## Appeal 112

When a boat meets the definition Finish, a race committee shall score her in her finishing position. If a boat touches a mark at the finish line the race committee may protest her for the breach of rule 31.

## **PART 5 - PROTESTS, REDRESS, HEARINGS, MISCONDUCT AND APPEALS**

### **Section A: Protests; Redress; Rule 69 Action**

#### **Rule 60.1(a), Right to Protest; Right to Request Redress or Rule 69 Action**

## Appeal 11

A boat that breaks a rule while *racing* but continues to race may protest over a later incident, even though she is disqualified in the first incident.

## Appeal 19

A boat greater than 6 metres in length intending to protest because of an incident of which she is aware shall hail, 'Protest,' and conspicuously display a red flag at the first reasonable opportunity for each.

#### **Rule 60.1(b), Right to Protest; Right to Request Redress or Rule 69 Action**

## Appeal 44

A boat may only appeal a decision of a protest committee when she was a *party* to the hearing. A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own decision, not the action of the race committee, made her finishing position significantly worse.

#### **Rule 60.2(a), Right to Protest; Right to Request Redress or Rule 69 Action**

## Appeal 29 (now ISAF Case 39)

Except when it receives a report of a breach of a class rule or of rule 43 from an equipment inspector or a measurer for an event, a race committee is not required to protest a boat. The primary responsibility for enforcing the rules lies with the competitor.

Appeal 112  
When a boat meets the definition Finish, a race committee shall score her in her finishing position. If a boat touches a mark at the finish line the race committee may protest her for the breach of rule 31.

**Rule 60.3(a), Right to Protest; Right to Request Redress or Rule 69 Action**

## Appeal 107

A protest for failing to sail the course is invalid if the boat does not inform the other boat before she finishes or at the first reasonable opportunity after finishing. If a protest is found to be invalid, the hearing shall be closed. A protest committee should not deny a boat a re-opening of a hearing without a hearing to determine whether she has met the requirements for a re-opening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

**Rule 60.3(b), Right to Protest; Right to Request Redress or Rule 69 Action**

## Appeal 44

A boat may only appeal a decision of a protest committee when she was a *party* to the hearing. A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own decision, not the action of the race committee, made her finishing position significantly worse.

**Rule 61.1(a), Protest Requirements; Informing the Protestee**

## Appeal 15

A boat intending to protest must hail, 'Protest,' at the first reasonable opportunity, but failure of her hail to be heard does not invalidate her protest. The fact that a protestee did not know she was being protested is not, by itself, grounds for not hearing a protest.

If a party to the hearing does not attend the hearing, the protest committee may nevertheless decide the protest. If the party was unavoidably absent the committee may reopen the hearing.

## Appeal 19

A boat greater than 6 metres in length intending to protest because of an incident of which she is aware shall hail, 'Protest,' and conspicuously display a red flag at the first reasonable opportunity for each.

## Appeal 59

Observations on protest procedure and shortening course.

## Appeal 63

For boats greater in length than 6 metres, a protest flag must be perceived to be a red flag (i.e. red material of rectangular, triangular or swallow-tail shape conspicuously displayed). The flag must be displayed at the first reasonable opportunity. For a fully-crewed boat, compelling evidence would be required to justify display within minutes, rather than seconds of an incident. Failure to observe these requirements will render a protest invalid.

**Appeal 88**

It is not reasonable to stow a protest flag where it cannot be displayed at the first reasonable opportunity.

**Appeal 103**

A protest flag shall be flown at the first reasonable opportunity. Neither the proximity of other boats nor sailing short-handed provides relief from this requirement.

**Appeal 106**

A boat intending to protest shall inform the other boat at the first reasonable opportunity. Where a protest flag is required, she shall conspicuously display a red flag at the first reasonable opportunity. The Sail Canada prescription to rule R2.1 permits the further appeal of a decision of an association appeals committee to Sail Canada. The parties to the hearing have the right to be present if a protest committee reconvenes to take new evidence to draw a diagram of the incident or to provide new facts.

**Appeal 107**

A protest for failing to sail the course is invalid if the boat does not inform the other boat before she finishes or at the first reasonable opportunity after finishing. If a protest is found to be invalid, the hearing shall be closed. A protest committee should not deny a boat a re-opening of a hearing without a hearing to determine whether she has met the requirements for a re-opening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

**Rule 61.2, Protest Contents****Appeal 94**

A boat may not be penalized for failing to sail the course without a hearing arising from a protest by the Race Committee, the Jury, or another competitor.

**Appeal 101**

A protest shall identify the incident, including where and when it occurred. The hearing may proceed only if all requirements have been met and the protest is valid; if not, it shall be closed. A decision of a provincial sailing association appeals committee may be appealed to Sail Canada.

**Rule 61.3, Protest Time Limit****Appeal 45**

A protest committee may extend the protest time limit when the protestor is not aware of the facts justifying the protest until after the race. Class restrictions on eligibility of helmsman for certain class-sanctioned events apply only to those specific events. They do not apply to other open events.

## Rule 62, Redress

### Appeal 21

Boats shall sail the course prescribed by the sailing instructions but, whatever may be implied from the sailing instructions, they shall finish in accordance with the definition, "Finish".

### Appeal 32 (now ISAF Case 68)

The failure of a race committee to discover that a rating certificate is invalid does not entitle a boat to redress. A boat that may have broken a *rule* and that continues to race retains her rights under the racing rules, including her rights under the rules of Part 2 and her rights to protest and appeal, even if she is later disqualified.

### Appeal 33

When conducting a race, the race committee must satisfy both the visual and sound signal requirements of the race signals section of the rules.

### Appeal 37

A boat may leave on either side a mark that does not begin, bound or end the leg she is on. A starting mark has no required side once a boat has started. A finish mark has no required side until the final leg.

### Appeal 41

A shifting of a rounding mark due to inclement weather is not necessarily grounds for redress.

### Appeal 42

A protest committee shall interpret defective sailing instructions in the most equitable manner for all boats competing.

### Appeal 44

A boat may only appeal a decision of a protest committee when she was a *party* to the hearing. A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own decision, not the action of the race committee, made her score significantly worse.

### Appeal 48

A race may not be abandoned after one boat has finished without considering the consequences to all other boats in the race.

### Appeal 53

A race committee that failed to remedy the displacement of a mark made the finishing positions of a class significantly worse when boats rounded different marks.

#### Appeal 57

A boat must finish in accordance with the definition. Competitors who have retired from a series are no longer interested parties because they have nothing to gain or lose by a protest committee decision.

#### Appeal 59

Observations on protest procedure and shortening course.

#### Appeal 60

Oral instructions given at a skippers' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

#### Appeal 69

When a protest committee has doubt in a measurement matter and refers it to the qualified authority for a ruling, it shall be bound by the interpretation of that authority even if the protest committee considers the interpretation to be unfair.

#### Appeal 72

Unless provision is made in the sailing instructions, breakdown of a chartered boat does not provide grounds for consideration of redress.

#### Appeal 73

When poorly written sailing instructions make competitors' scores in a race or series significantly worse, the protest committee shall resolve the matter as fairly as possible for all competitors.

#### Appeal 74

Sailing instructions should be written and courses designated to ensure that there is clear distinction between rounding and passing marks. A protest decision and hearing must be limited to a particular incident that has been described in the protest. Without a hearing a boat may not be penalized for failing to sail the course.

#### Appeal 79

The starting signals displayed by the race committee determine the starting times of a race not the scheduled times published in the sailing instructions. No hearing is required to correct an obvious scoring error. Boats affected may request redress.

#### Appeal 80

Decisions taken by an appeals committee in disregard of the procedures laid down in the rules are null and void and are set aside.

#### Appeal 94

A boat may not be penalized for failing to sail the course without a hearing arising from a protest by the Race Committee, the Jury, or another competitor.

#### Appeal 97

A race committee must be properly organised to fulfil its responsibilities and keep records accordingly. In making a decision on redress for a boat scored OCS, a protest committee must consider the division of responsibilities between the competitor and the race committee. When the facts of this situation are not conclusive, a protest committee should resolve the matter in favour of the competitor.

#### Appeal 109

A boat that cannot be identified, although it may have broken a rule, cannot be penalized. Redress under rule 62.1(d) can only be granted when a boat has been penalized or a member of her has been subject to disciplinary action with respect to the incident.

### **Rule 63.1, Requirements for a Hearing**

#### Appeal 60

Oral instructions given at a skippers' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

#### Appeal 74

A protest decision and hearing must be limited to a particular incident that has been described in the protest. Without a hearing a boat may not be penalized for failing to sail the course.

#### Appeal 79

No hearing is required to correct an obvious scoring error. Boats affected may request redress.

#### Appeal 89

An appeal that demonstrates that only one of several protests in an incident need be valid for a hearing to proceed.

#### Appeal 94

A boat may not be penalized for failing to sail the course without a hearing arising from a protest by the Race Committee, the Jury, or another competitor.

#### Appeal 112

When a boat meets the definition Finish, a race committee shall score her in her finishing position. If a boat touches a mark at the finish line the race committee may protest her for the breach of rule 31.

### **Rule 63.2, Time and Place of the Hearing; Time for Parties to Prepare**

#### Appeal 28

Failure to hear protests in accordance with rule 63 and the recommendations of Appendix M may render a protest committee's decisions invalid. A protest committee may conduct a hearing in the absence of a party who has been informed of the time of the hearing but chooses not to attend.

#### Appeal 59

Observations on protest procedure and shortening course.

#### Appeal 94

A boat may not be penalized for failing to sail the course without a hearing arising from a protest by the Race Committee, the Jury, or another competitor.

#### Appeal 99

A protest committee may proceed with a hearing, even if a party to the hearing is not present, providing that the parties have been properly notified of the time and place of the hearing. A hearing may be reopened if new evidence becomes available within a reasonable time. The testimony that would have been given by a party that failed to attend the hearing does not qualify as new evidence.

### **Rule 63.3, Right to be Present**

#### Appeal 15

A boat intending to protest must hail, 'Protest,' at the first reasonable opportunity, but failure of her hail to be heard does not invalidate her protest. The fact that a protestee did not know she was being protested is not, by itself, grounds for not hearing a protest.

If a party to the hearing does not attend the hearing, the protest committee may nevertheless decide the protest. If the party was unavoidably absent the committee may reopen the hearing.

#### Appeal 28

Failure to hear protests in accordance with rule 63 and the recommendations of Appendix M may render a protest committee's decisions invalid. A protest committee may conduct a hearing in the absence of a party who has been informed of the time of the hearing but chooses not to attend.

#### Appeal 99

A protest committee may proceed with a hearing, even if a party to the hearing is not present, providing that the parties have been properly notified of the time and place of the hearing. A hearing may be reopened if new evidence becomes available within a reasonable time.

The testimony that would have been given by a party that failed to attend the hearing does not qualify as new evidence.

#### Appeal 106

A boat intending to protest shall inform the other boat at the first reasonable opportunity. Where a protest flag is required, she shall conspicuously display a red flag at the first reasonable opportunity. The Sail Canada prescription to rule R2.1 permits the further appeal of a decision of an association appeals committee to Sail Canada. The parties to the hearing have the right to be present if a protest committee reconvenes to take new evidence to draw a diagram of the incident or to provide new facts.

#### **Rule 63.4, Interested Party**

#### Appeal 57

Competitors who have retired from a series are no longer interested parties because they have nothing to gain or lose by a protest committee decision.

#### **Rule 63.5, Validity of the Protest or Request for Redress**

#### Appeal 19

A boat greater than 6 metres in length intending to protest because of an incident of which she is aware, shall hail, 'Protest,' and conspicuously display a red flag at the first reasonable opportunity for each.

#### Appeal 63

For boats greater in length than 6 metres, a protest flag must be perceived to be a red flag (i.e. red material of rectangular, triangular or swallow-tail shape conspicuously displayed). The flag must be displayed at the first reasonable opportunity. For a fully-crewed boat, compelling evidence would be required to justify display within minutes, rather than seconds of an incident. Failure to observe these requirements will render a protest invalid.

#### Appeal 101

A protest shall identify the incident, including where and when it occurred. The hearing may proceed only if all requirements have been met and the protest is valid; if not, it shall be closed. A decision of a provincial sailing association appeals committee may be appealed to Sail Canada.

#### Appeal 103

A protest flag shall be flown at the first reasonable opportunity. Neither the proximity of other boats nor sailing short-handed provides relief from this requirement.

#### Appeal 107

A protest for failing to sail the course is invalid if the boat does not inform the other boat before she finishes or at the first reasonable opportunity after finishing. If a protest is found to be

invalid, the hearing shall be closed. A protest committee should not deny a boat a re-opening of a hearing without a hearing to determine whether she has met the requirements for a re-opening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

### **Rule 63.6, Taking Evidence and Finding Facts**

#### Appeal 30

A protest committee may not deny the right to call witnesses.

#### Appeal 59

Observations on protest procedure and shortening course.

#### Appeal 75

A protest committee must arrive at a single set of facts in a single incident.

#### Appeal 100

A party to a hearing may not appeal the facts found. A protest committee may choose to reschedule a hearing when it considers it to be warranted by the need to collect evidence. Appendix M's recommendations to protest committees are advisory only. A protest committee's refusal to accept written evidence is not an error.

#### Appeal 106

A boat intending to protest shall inform the other boat at the first reasonable opportunity. Where a protest flag is required, she shall conspicuously display a red flag at the first reasonable opportunity. The Sail Canada prescription to rule F2.1 permits the further appeal of a decision of an association appeals committee to Sail Canada. The parties to the hearing have the right to be present if a protest committee reconvenes to take new evidence to draw a diagram of the incident or to provide new facts.

### **Rule 63.7, Conflict Between the Notice of Race and the Sailing Instructions**

#### Appeal 108

When the scoring provisions of rule A2 are changed then the NOR and SIs should both specify that change to avoid a conflict between the documents. The Organizing Authority and the Race Committee must make every effort to avoid such conflict. Should such a conflict occur, the OA or the RC must address it by means of a timely amendment.

**Rule 64.1, Penalties and Exoneration**

Appeal 109

A boat that cannot be identified, although it may have broken a rule, cannot be penalized. Redress under rule 62.1(d) can only be granted when a boat has been penalized or a member of her has been subject to disciplinary action with respect to the incident.

**Rule 64.1(a), Penalties and Exoneration**

Appeal 82

An Interpretation of the starting area.

**Rule 64.1(c), Penalties and exoneration**

Appeal 66

When a boat breaking a rule has compelled another boat to break a rule the other boat shall be exonerated.

Appeal 22

A boat compelled to break a rule because of another boat's breach of a rule shall be exonerated.

Appeal 31

An intervening boat that is compelled to break a rule by the actions of a boat that was required to keep clear shall be exonerated.

Appeal 35

A boat that is wrongfully compelled to touch a mark by the actions of another boat breaking a rule of part 2 shall be exonerated for breaking rule 31.

Appeal 47

An intervening boat is exonerated for breaking rule 11 when a boat to windward of her breaks rule 11 and thus prevents the intervening boat from keeping clear.

Appeal 70

A boat clear ahead is an obstruction to a boat overtaking her from clear astern when the boat clear astern requires *room* from another boat to pass to leeward of the first boat.

Appeal 89

When approaching the starting line prior to the starting signal, a boat clear astern may establish an overlap between boats clear ahead when at that moment there is *room* for her to do so and if she allows the windward boat *room* to keep clear. Thereafter she must keep clear of the leeward boat and the windward boat must give her *room* to do so. The leeward boat may not cause contact if it can be reasonably avoided.

#### Appeal 92

A boat is not required to anticipate that another boat will break a rule. In a changing situation, a newly obligated boat is entitled to time for a response.

### **Rule 64.2, Decisions on Redress**

#### Appeal 21

Boats shall sail the course prescribed by the sailing instructions but, whatever may be implied from the sailing instructions, they shall finish in accordance with the definition of finishing.

#### Appeal 33

When conducting a race, the race committee must satisfy both the visual and sound signal requirements of the race signals section of the rules.

#### Appeal 37

A boat may leave on either side a mark that does not begin, bound or end the leg she is on. A starting mark has no required side once a boat has started. A finish mark has no required side until the final leg.

#### Appeal 44

A boat may only appeal a decision of a protest committee when she was a *party* to the protest. A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own decision, not the action of the race committee, made her finishing position significantly worse.

#### Appeal 48

A race may not be abandoned after one boat has finished without considering the consequences to all other boats in the race.

#### Appeal 53

A race committee that failed to remedy the displacement of a mark made the finishing positions of a class significantly worse when boats rounded different marks.

#### Appeal 74

Sailing instructions should be written and courses designated to ensure that there is clear distinction between rounding and passing marks. A protest decision and hearing must be limited to a particular incident that has been described in the protest. Without a hearing a boat may not be penalized for failing to sail the course.

**Rule 64.3, Decisions on Measurement Protests**

## Appeal 95

A matter may not be referred to a National Authority for appeal unless it has been the subject of a protest hearing, in which the appellant was a party. Administrative appeals within the context of class rules, or a measurement or performance handicap system, are within the purview of the organization issuing the certificate.

**Rule 64.3(b), Decisions on Measurement Protests**

## Appeal 20

A boat's owner shall ensure that the boat is maintained to comply with her class rules, and that her measurement or rating certificate, if any, remains valid.

## Appeal 65

When a protest committee is in doubt about the meaning of a measurement rule and refers its question to the authority responsible for interpreting the rule, it shall be bound by that decision.

## Appeal 69

When a protest committee has doubt in a measurement matter and refers it to the qualified authority for a ruling, it shall be bound by the interpretation of that authority even if the protest committee considers the interpretation to be unfair.

**Rule 65, Informing the Parties and Others**

## Appeal 16

When protests from two boats are filed concerning the same incident, the protest committee shall proceed to hear the two protests as one, even if one of the protests is invalid. A counter-protest is not necessary.

## Appeal 107

A protest for failing to sail the course is invalid if the boat does not inform the other boat before she finishes or at the first reasonable opportunity after finishing. If a protest is found to be invalid, the hearing shall be closed. A protest committee should not deny a boat a re-opening of a hearing without a hearing to determine whether she has met the requirements for a re-opening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

### **Rule 66, Reopening a Hearing**

#### Appeal 16

When protests from two boats are filed, concerning the same incident, the protest committee shall proceed to hear the two protests as one, even if one of the protests is invalid.

A counter-protest is not necessary.

#### Appeal 99

A protest committee may proceed with a hearing, even if a party to the hearing is not present, providing that the parties have been properly notified of the time and place of the hearing.

A hearing may be reopened if new evidence becomes available within a reasonable time.

The testimony that would have been given by a party that failed to attend the hearing does not qualify as new evidence.

#### Appeal 107

A protest for failing to sail the course is invalid if the boat does not inform the other boat before she finishes or at the first reasonable opportunity after finishing. If a protest is found to be invalid, the hearing shall be closed. A protest committee should not deny a boat a re-opening of a hearing without a hearing to determine whether she has met the requirements for a re-opening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

### **Rule 69, Allegations of Gross Misconduct**

#### Appeal 58

An application of rule 69.

#### Appeal 102

A boat that meets the requirements for entry in a race, and sails in or near the racing area, and participates in a race is racing from her preparatory signal until she finishes or retires from the race. The Racing Rules of Sailing apply to such boats. She does not have the option to claim that that the Racing Rules do not apply to her.

The boat's sole responsibility to decide to participate in a race does not include the right to choose whether or not to be governed by the rules once she participates in the race.

By participating in a race, competitors are governed by the Racing Rules of Sailing, including action by a protest committee under rule 69.

### **Rule 70.1, Appeals and Requests to a National Authority**

#### Appeal 44

A boat may appeal a decision of a protest committee only when she was a *party* to the hearing.

A boat that decides not to start or not to continue in a race because of an apparently incorrect

action by the race committee is not entitled to redress because her own decision, not the action of the race committee, made her finishing position significantly worse.

#### Appeal 57

A boat must finish in accordance with the definition. Competitors who have retired from a series are no longer interested parties because they have nothing to gain or lose by a protest committee decision.

#### Appeal 80

Decisions taken by an appeals committee in disregard of the procedures laid down in the rules are null and void and are set aside.

#### Appeal 95

A matter may not be referred to a National Authority for appeal unless it has been the subject of a protest hearing in which the appellant was a party. Administrative appeals within the context of class rules, or a measurement or performance handicap system, are within the purview of the organization issuing the certificate.

#### Appeal 100

A party to a hearing may not appeal the facts found. A protest committee may choose to reschedule a hearing when it considers it to be warranted by the need to collect evidence. Appendix M's recommendations to protest committees are advisory only. A protest committee's refusal to accept written evidence is not an error.

#### Appeal 101

A protest shall identify the incident, including where and when it occurred. The hearing may proceed only if all requirements have been met and the protest is valid; if not, it shall be closed. A decision of a provincial sailing association appeals committee may be appealed to Sail Canada.

### **Rule 70.2, Appeals and Requests to a National Authority**

#### Appeal 50

*An example of a request for confirmation:* A boat that is not handled in a seamanlike way cannot use this as an excuse for breaking rule 18.4. When an inside overlapped right-of-way boat must gybe at a mark to sail her proper course, until she gybes she shall sail no farther from the mark than needed to sail that course.

#### Appeal 51

*An example of a request for confirmation:* A boat is on port or starboard tack corresponding to her windward side. A boat that inadvertently tacks onto port tack ahead of a starboard-tack boat cannot claim that she is an obstruction to avoid breaking rule 10.

**Appeal 69**

*An example of a request for confirmation:* When a protest committee has doubt in a measurement matter and refers it to the qualified authority for a ruling, it shall be bound by the interpretation of that authority even if the protest committee considers the interpretation to be unfair.

**Appeal 79**

*An example of a request for confirmation:* The starting signals displayed by the race committee determine the starting times of a race; not the scheduled times published in the sailing instructions. No hearing is required to correct an obvious scoring error. Boats affected may request redress.

**Appeal 105**

There is no proper course after the finish. If an outside right-of-way boat has fulfilled her obligations under rule 18, then an inside give-way boat is required to keep clear. A boat that has not cleared the finishing line and marks is racing and subject to the rules of Sections A, B, and C of Part 2.

**Rule 70.5, Appeals and Requests to a National Authority****Appeal 23**

Sailing Instructions may not permit the protest committee to deny competitors the right of appeal unless the requirements of rule 70.5 have been met.

**Rule 75, Entering a Race****Appeal 102**

A boat that meets the requirements for entry in a race, and sails in or near the racing area, and participates in a race is racing from her preparatory signal until she finishes or retires from the race. The Racing Rules of Sailing apply to such boats. She does not have the option to claim that that the Racing Rules do not apply to her.

The boat's sole responsibility to decide to participate in a race does not include the right to choose whether or not to be governed by the rules once she participates in the race.

By participating in a race, competitors are governed by the Racing Rules of Sailing, including action by a protest committee under rule 69.

**Rule 78.1, Compliance with Class Rules; Certificates****Appeal 20**

A boat's owner shall ensure that the boat is maintained to comply with her class rules, and that her measurement or rating certificate, if any, remains valid.

#### Appeal 65

When a protest committee is in doubt about the meaning of a measurement rule and refers its question to the authority responsible for interpreting the rule, it shall be bound by that decision.

### **Rule 85, Governing Rules**

#### Appeal 45

A protest committee may extend the protest time limit when the protestor is not aware of the facts justifying the protest until after the race. Class restrictions on eligibility of helmsman for certain class-sanctioned events apply only to those specific events. They do not apply to other open events.

### **Rule 86.1, Changes to the Racing Rules**

#### Appeal 21

Boats shall sail the course prescribed by the sailing instructions but, whatever may be implied from the sailing instructions, they shall finish in accordance with the definition of finishing.

#### Appeal 30

Rules shall not be changed unless permitted in the rule itself or as in rule 86.1. Verbal instructions shall not alter rules unless permitted by the sailing instructions. A protest committee may not deny the right to call witnesses.

### **Rule 90.2, Sailing Instructions**

#### Appeal 30

Rules shall not be changed unless permitted in the rule itself or as in rule 86.1. Verbal instructions shall not alter rules unless permitted by the sailing instructions. A protest committee may not deny the right to call witnesses.

### **Rule 90.2(c), Changes to Sailing Instructions**

#### Appeal 60

Oral instructions given at a skippers' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

### **Rule 90.3, Scoring**

#### Appeal 108

When the scoring provisions of Rule A2 are changed then the NOR and SIs should both specify that change to avoid a conflict between the documents. The Organizing Authority and the Race Committee must make every effort to avoid such conflict. Should such a conflict occur, the OA or the RC must address it by means of a timely amendment.

## **APPENDIX A**

### **Rule A2, Series Scores**

#### Appeal 108

When the scoring provisions of rule A2 are changed then the NOR and SIs should both specify that change to avoid a conflict between the documents. The Organizing Authority and the Race Committee must make every effort to avoid such conflict. Should such a conflict occur, the OA or the RC must address it by means of a timely amendment.

### **Rule A5, Scores Determined by the Race Committee**

#### Appeal 79

The starting signals displayed by the race committee determine the starting times of a race; not the scheduled times published in the sailing instructions. No hearing is required to correct an obvious scoring error. Boats affected may request redress.

#### Appeal 112

When a boat meets the definition Finish, a race committee shall score her in her finishing position. If a boat touches a mark at the finish line the race committee may protest her for the breach of rule 31.

### **Rule A8, Series Ties**

#### Appeal 108

When the scoring provisions of rule A2 are changed then the NOR and SIs should both specify that change to avoid a conflict between the documents. The Organizing Authority and the Race Committee must make every effort to avoid such conflict. Should such a conflict occur, the OA or the RC must address it by means of a timely amendment.

### **Rule A10, Guidance on Redress**

#### Appeal 73

When poorly written sailing instructions make competitors' scores in a race or series significantly worse, the protest committee shall resolve the matter as fairly as possible for all competitors.

## APPENDIX J

### Rule A2, Series Scores

#### Appeal 108

When the scoring provisions of rule A2 are changed then the NOR and SIs should both specify that change to avoid a conflict between the documents. The Organizing Authority and the Race Committee must make every effort to avoid such conflict. Should such a conflict occur, the OA or the RC must address it by means of a timely amendment.

## APPENDIX L

### L12, Change of the Next Leg of the Course

#### Appeal 87

A boat must sail a changed course when it is signalled by the race committee.

## APPENDIX M

#### Appeal 28

Failure to hear protests in accordance with rule 63 and the recommendations of Appendix M may render a protest committee's decisions invalid. A protest committee may conduct a hearing in the absence of a party who has been informed of the time of the hearing but chooses not to attend.

#### Appeal 59

Observations on protest procedure and shortening course.

### M3.2, Taking of Evidence

#### Appeal 100

A party to a hearing may not appeal the facts found. A protest committee may choose to reschedule a hearing when it considers it to be warranted by the need to collect evidence. Appendix M's recommendations to protest committees are advisory only. A protest committee's refusal to accept written evidence is not an error.

### M4.1, Reopening a Hearing (rule 66)

#### Appeal 107

A protest for failing to sail the course is invalid if the boat does not inform the other boat before she finishes or at the first reasonable opportunity after finishing. If a protest is found to be invalid, the hearing shall be closed. A protest committee should not deny a boat a re-opening of a hearing without a hearing to determine whether she has met the requirements for a re-

opening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

## **APPENDIX R, Procedures for Appeals and Requests**

### Appeal 5

Facts found by a protest committee are not subject to appeal.

### Appeal 64

A right-of-way boat shall not alter course directly at (i.e. shall not 'hunt') a give-way boat unless she gives her *room* to keep clear. If the right-of-way boat so alters course, the give-way boat is protected by rule 16.

### Appeal 80

Decisions taken by an appeals committee in disregard of the procedures laid down in the rules are null and void and are set aside.

### Appeal 101

A protest shall identify the incident, including where and when it occurred. The hearing may proceed only if all requirements have been met and the protest is valid; if not, it shall be closed. A decision of a provincial sailing association appeals committee may be appealed to Sail Canada.

## **R2, SUBMISSION OF DOCUMENTS**

### Appeal 107

A protest for failing to sail the course is invalid if the boat does not inform the other boat before she finishes or at the first reasonable opportunity after finishing. If a protest is found to be invalid, the hearing shall be closed. A protest committee should not deny a boat a re-opening of a hearing without a hearing to determine whether she has met the requirements for a re-opening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

## **R3, Responsibilities of National Authority and Protest Committee**

### Appeal 98

A party to a hearing is entitled to receive, in writing, the facts found, the applicable rules, the decision, the reasons for it, and any other penalties imposed or redress given, provided she asks for it in writing from the protest committee within seven days of being informed of the decision. Failure to provide this information to a party is a procedural error on the part of the protest committee, and is subject to appeal, even though the party to the hearing is unable to provide the appeals committee with a copy of the protest committee's decision.

**R5, Inadequate Facts; Reopening**

## Appeal 16

When protests from two boats are filed concerning the same incident, the protest committee shall proceed to hear the two protests as one, even if one of the protests is invalid.

A counter-protest is not necessary.

## Appeal 54

A leeward boat which establishes an overlap more than two boat lengths to leeward and maintains that overlap is not restricted to sailing no higher than her proper course.

## Appeal 104

Both the diagram and written facts are facts found by the protest committee. Neither takes precedence over the other. Rule F5 gives a national authority the authority to require the protest committee to provide revised or additional facts that resolve the conflict.

## Appeal 111

A windward boat shall keep clear of a leeward boat. A leeward boat does not break rule 16.1 when she gives the other boat room to keep clear when changing course.

**The International Regulations for Preventing Collisions at Sea**

## Appeal 27 (Now ISAF Case 38)

The International Regulations for Preventing Collisions at Sea (IRPCAS) are intended to ensure the safety of vessels at sea by precluding situations that might lead to collisions. When the IRPCAS right-of-way rules replace the rules of Part 2, they effectively prohibit a right-of-way boat from changing course towards the boat obligated to keep clear when she is close to that boat.

### Labels Used for Boats in Diagrams

A, B, C, etc.	Any boat, or
A	Boat clear ahead
B	Boat clear astern
I	Inside boat
L	Leeward boat
M	Middle or intervening boat
O	Outside boat
P	Port tack boat
S	Starboard tack boat
W	Windward boat

Combinations of these letters are also used, such as SL for Starboard Leeward.

## SECTION 2: SAIL CANADA APPEALS

APPEAL 1  
DELETED

APPEAL 2

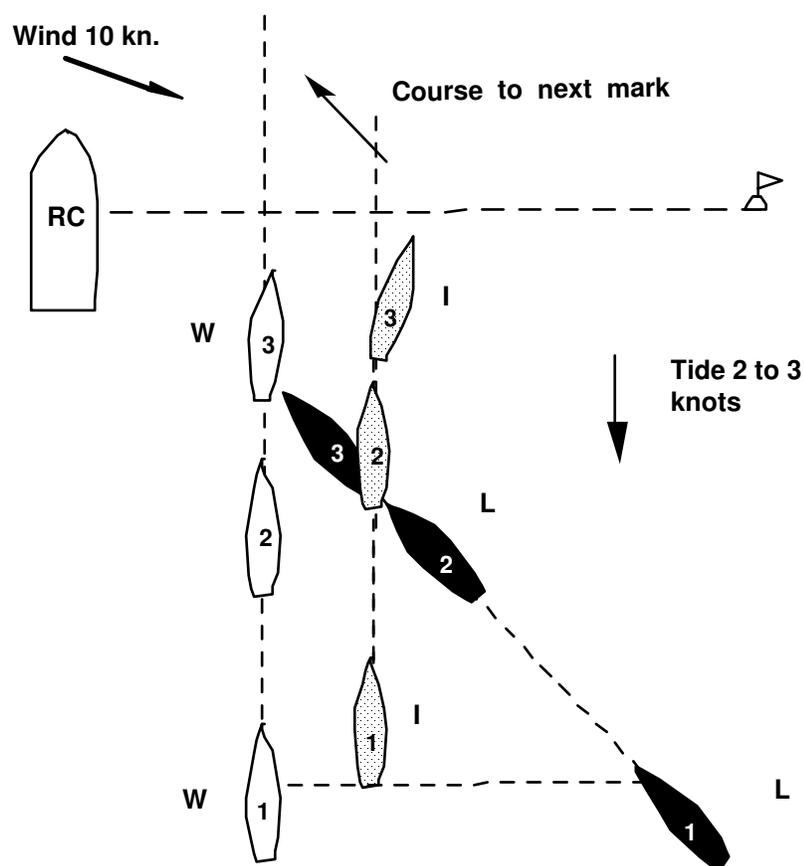
**Rule 11, On the Same Tack, Overlapped**

**Rule 14, Avoiding Contact**

**Rule 15, Acquiring Right of Way**

**Preamble to Section C – AT MARKS AND OBSTRUCTIONS**

*When approaching the starting line to start, windward boats shall keep clear and shall not force their way between leeward boats and a starting race committee boat.*



## Summary of the Facts

In the minute before the starting signal, three 30 ft boats, L, I and W were approaching the starting line to start. There was a tide setting across the line and the boats were approaching the line at between 2 and 3 knots. L had been holding a steady converging course from much more than two boat lengths to leeward of I and W. I and W were sailing courses parallel to the race committee starting vessel which was 90 ft. long.

The boats were overlapped before I and W reached the committee boat and L repeatedly hailed both boats to keep clear. Neither I nor W made any attempt to keep clear but held their courses until they became overlapped inside the committee boat. At position 2, the crew of I fended off L's bow so that they could pass ahead of her and cross the starting line. The crew of W then did the same. There was no damage. L protested both boats under rule 11.

The protest committee considered that rule 11 ceased to apply when W and I became overlapped on the committee boat and that W and I were entitled to room under rule 19.2(b) because the committee boat was also an obstruction. The protest committee dismissed the protest and disqualified L under rule 14 for not avoiding contact. L appealed.

## Decision

All three boats were approaching the starting line to start. The Preamble to Section C makes it clear that, in these circumstances, rules 18, 19 & 20 do not apply and neither I nor W were entitled to *mark-room*. The fact that I and W did not keep clear, but chose to sail between the committee boat and L, does not relieve them of their obligation to keep clear of L. L had been the right-of-way boat for more than a minute so that I and W had been initially given plenty of room to keep clear. L did not therefore break rule 15. Both I and W could easily have luffed to windward of the race committee vessel to keep clear but they made no attempt to do so. Both I and W therefore broke rule 11 and are disqualified.

At positions 2 and 3, L could have borne away to avoid contact first with I and, subsequently, with W. However, because there was no damage or injury, rule 14(b) applies and L is exonerated.

L's appeal is upheld. L is re-instated in her finishing position and I and W are disqualified.

## APPEAL 3

### Introduction, Terminology: Definition of 'Boat'

*The word "boat" in the rules means a sailboat and the crew on board.*

### Question

While rounding a leeward mark, a crew member in an International 14 hiked out and his head touched the flag on the mark. The boat retired (pre-1969 rules). Following the race, the

question was raised whether the crew member was included in the word "boat" in rule 31. No protest was lodged and the yacht club that organized the race submitted the question for interpretation under rule 70.4.

### Decision

The word "boat" in the rules means a sailboat and the crew on board.

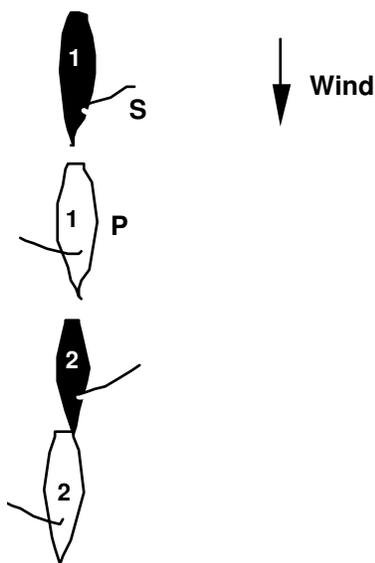
## APPEAL 4

### Rule 2, Fair Sailing

### Rule 10, On Opposite Tacks

### Rule 14, Avoiding Contact

*When a right-of-way boat touches a keep clear boat that is not keeping clear without causing damage or injury she does not break rule 2 and she shall be exonerated for breaking rule 14.*



### Summary of the Facts

On a run in a light wind, S overtook P from clear astern. S hailed "Starboard" twice in time to allow P to alter course to keep clear. P did not alter course and S held her course. Contact occurred between the bow of S and the stern of P with no damage resulting. The protest committee disqualified S under rule 2. S appealed.

### Decision

S' appeal is upheld and S is reinstated in her finishing position. P broke rule 10 and is disqualified. There was nothing unfair in S holding her course and clearly rule 2 does not apply. Also, because there was no damage or injury, rule 14(b) applies and S is exonerated for having contact with P.

## APPEAL 5

### **Definitions, Keep Clear**

### **Rule 13, While Tacking**

### **Rule 70.1, Appeals and Requests to a National Authority**

*Facts found by a protest committee are not subject to appeal.*

### **Summary of the Facts**

A, B and C, in that order and within a boat length of each other, rounded a leeward mark to be left to port. The next leg was to windward. A rounded a little wide, headed high and lost some way. B and C quickly overtook her. B attempted to bear away below A and her bow collided with A's rudder. B retired. A tacked on to starboard but had not completed her tack before C had to tack to avoid contact with her. The protest committee found as a fact that the contact between A and B was not sufficiently hard to cause A to change tacks. The protest committee disqualified A under rules 13 and 14. A appealed on the basis that the contact with B caused A to change tacks.

### **Decision**

A's appeal is dismissed. A broke rules 13 and 14 when she did not *keep clear* of C while she was tacking, and contact with B did not cause A to change tacks. Rule 14(b) exonerates B for having contact with A. Under rule 70.1, facts found by the protest committee are not subject to appeal.

## APPEAL 6

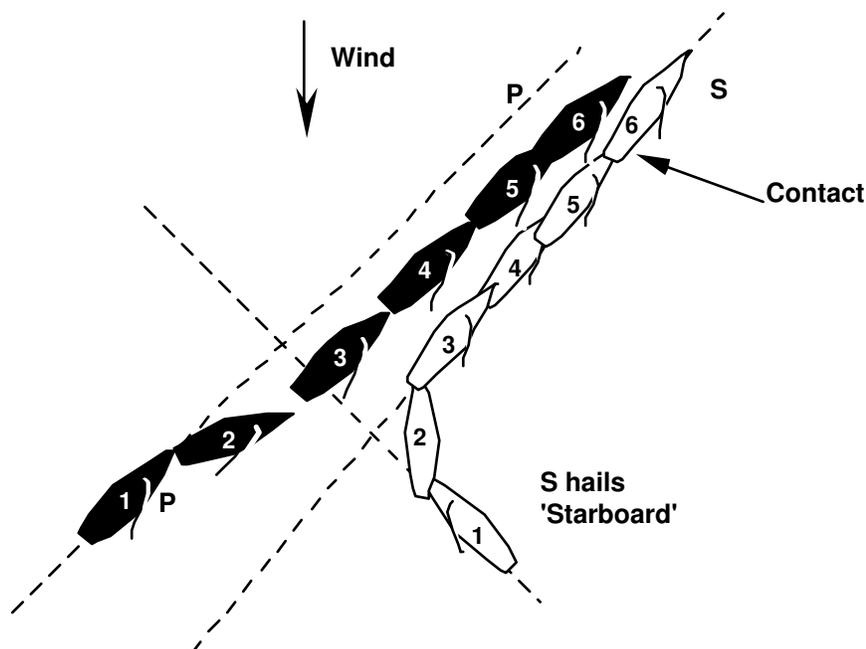
### **Rule 10, On Opposite Tacks**

### **Rule 14(b), Avoiding Contact**

### **Rule 16.2, Changing Course**

*A hail of 'Starboard' by a boat does not alter the respective rights or obligations of either a right-of-way boat or a keep clear boat. A starboard-tack boat that tacks after a port-tack boat has borne away to pass astern of her does not necessarily break a rule.*

S on starboard tack and P on port tack were on a collision course on a windward leg. S hailed, "Starboard" when some distance from P. P eased sheets and began to bear away to pass astern of S. S then tacked onto port. P hardened up, became overlapped on S to windward, and sailed parallel to S for four or five boat lengths before contacting S who did not alter course after tacking onto port. No damage occurred to either boat. P protested S under rule 16 and S protested P under rule 11. The protest committee upheld both protests. It disqualified P for breaking rule 11 and S for tacking into P's path after hailing, "Starboard". S appealed.



### Decision

One question for interpretation is whether the hail of "Starboard" by S altered the respective rights and obligations of S and P. It was not a hail required by the racing rules and is therefore no more than a seamanlike warning to P of the presence of a right-of-way boat. As such, it was not a declaration of intent and the hail by S in no way altered the obligations of P or the right of S to tack subject to rule 13. S did not break rule 13, and as leeward boat was justified in expecting windward boat P to keep clear. The leeward boat S was also subject to rule 14, but there was no damage or injury, and so S is exonerated under rule 14(b).

When P bore away to position 2 to pass astern of S, S became subject to rule 16.2. Although P immediately changed course as a result of S altering course to tack, P did not need to do so. Had P held her course at 2 she would have continued to *keep clear* by passing astern of S. Thus, S did not break rule 16.2 when she altered course and changed tacks.

S' appeal is upheld; S is to be reinstated in her finishing position. The protest committee was correct in disqualifying P for breaking rule 11.

See also ISAF Case 6.

**APPEAL 7**  
*Adopted by ISAF as CASE 25 \**

**Definition, Mark room**

**Rule 11, On the Same Tack, Overlapped**

**Rule 14, Avoiding Contact**

**Rule 16.1, Changing Course**

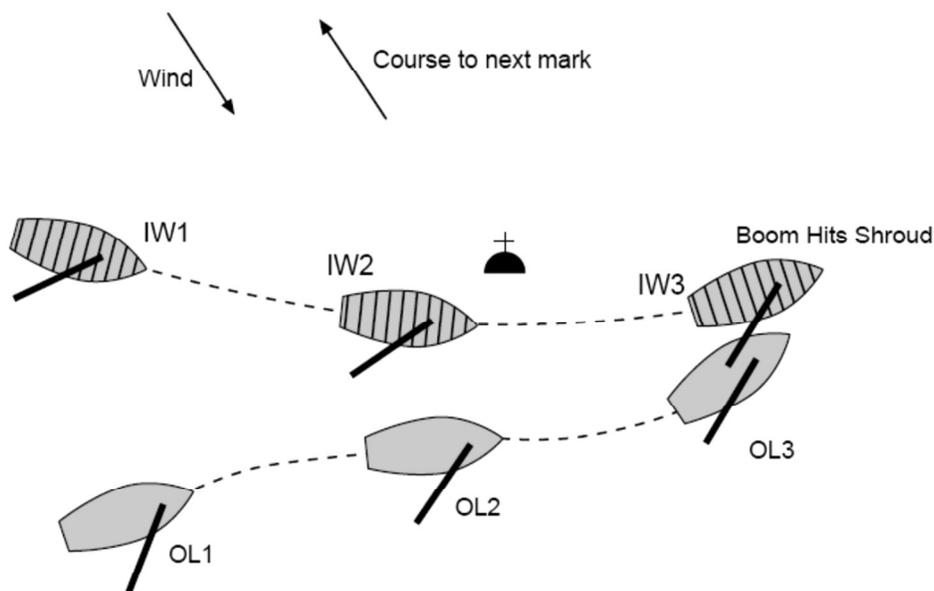
**Rule 18.2(b), Mark-Room: Giving Mark-Room**

**Rule 21(a) Exoneration**

*When an inside overlapped windward boat that is entitled to mark-room takes more space than she is entitled to, she must keep clear of the outside leeward boat, and the outside boat may luff provided that she gives the inside boat room to keep clear.*

**Summary of the Facts**

Two 15-foot (4.5 m) dinghies, IW and OL, were approaching a leeward port-hand mark. The next leg was a beat to windward. IW established an inside overlap on OL well before the boats reached the zone, and OL gave IW space to sail to the mark and to round the mark onto a close-hauled course. After IW passed the mark, OL began to luff to her course to the next mark. IW was slower in heading up, and her boom, still well out, touched OL's helmsman and shrouds. At the time of the contact IW was a hull length from the mark and over 45 degrees below close-hauled. No damage or injury occurred. IW protested OL under rule 18.2(b), and OL protested IW under rule 11.



The protest committee decided that, because IW did not promptly head up to a close-hauled course after sailing to the mark, she took more space than she was entitled to under rule 18.2(b). IW did not deny this but attributed it to her boom-end mainsheet rig as compared to the centre-lead rig used by OL.

The protest committee dismissed IW's protest, upheld OL's, and disqualified IW for breaking rule 11. IW appealed.

### **Decision**

IW's proper course was to sail close to the mark, and the course change necessary to sail the course was to round up to a close-hauled course. Therefore, rule 18.2(b) required OL to give IW room to sail to the mark and room to round it onto a close-hauled course, leaving it on the required side. Clearly, between positions 1 and 2 OL gave IW room to sail to the mark and between positions 2 and 3 room to round the mark onto a close-hauled course. Therefore, OL did not break rule 18.2(b).

When OL luffed between positions 2 and 3, IW was required by rule 11 to keep clear of OL, and OL was required by rule 16.1 to give her room to do so. OL luffed approximately 30 degrees while moving forward two hull lengths. Even with a boom-end mainsheet rig, a boat sailed in a seamanlike way can turn through 30 degrees and trim her mainsail appropriately while moving forward two hull lengths. Therefore, OL gave IW room to keep clear and OL did not break rule 16.1.

OL could easily have avoided contact with IW, and so OL broke rule 14. However, she is exonerated for doing so because neither boat was damaged, nor was there any injury (see rule 14(b)).

IW sailed a hull length away from the mark on a course over 45 degrees below close-hauled and, as a result, took much more space than rule 18.2(b) entitled her to take. Throughout the incident IW was required by rule 11 to keep clear of OL. Shortly before the contact, IW broke rule 11 by failing to keep clear. IW is not exonerated under rule 21(a) for breaking rule 11 because when she did so she was sailing well to leeward of the mark-room to which she was entitled under rule 18.2(b).

It was possible for IW to have avoided the contact, and therefore IW also broke rule 14. However, because IW was entitled to room under rule 16.1 and the contact resulted in neither damage nor injury, she too is exonerated for breaking rule 14.

IW's appeal is dismissed. The protest committee's decision to disqualify IW under rule 11 is upheld.

\* ISAF recognizes Cases as authoritative interpretations and explanations of the rules.

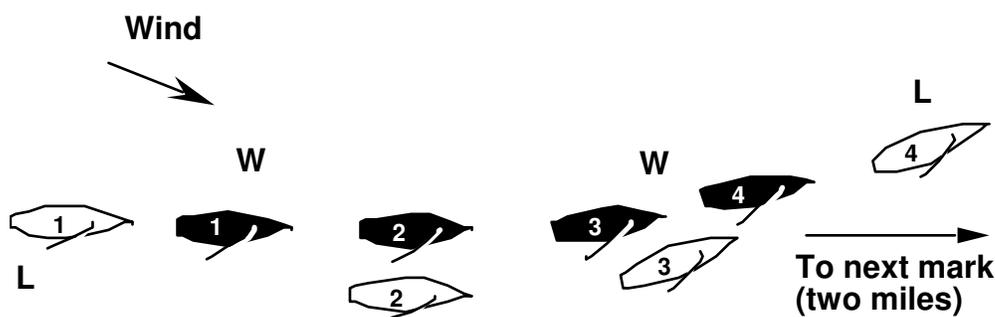
## APPEAL 8

### Definitions, Proper Course

#### Rule 15, Acquiring Right of Way

#### Rule 17, On the Same Tack; Proper Course

*A boat's proper course is a course she would sail to finish as soon as possible.*



### Summary of the Facts

On a downwind leg, about two miles from the next mark L (a Whitby 45) established a leeward overlap on W (a 6 metre), from clear astern. L was less than two of her hull lengths from W. Both boats were sailing the same course parallel to each other and about one boat length apart for some time. L then altered course to windward when partially ahead but still overlapped. L hailed "Coming up to my proper course" and W replied "You have no right to luff." W was forced to luff to stay clear of L and protested L under rule 17. The course sailed by L after her alteration to windward at position 3, was higher than her course before she bore away to pass to leeward of W at position 1. However, boats sailing in the same class as L, to windward and astern of W, were sailing faster due to a wind shift and L's change of course at position 3 was made to reach the new wind as soon as possible. The protest committee dismissed the protest of W based on a conclusion that the course sailed by L was a proper course. W appealed.

### Decision

W's appeal is dismissed. When L established a leeward overlap from clear astern, W became bound by rule 11 to keep clear of L. At the same time, L was bound by rule 15 to initially give W room to keep clear. Thereafter, L was justified in changing course provided that: (i) she did not sail above her proper course; and (ii) whenever she changed her course she gave W room to keep clear under rule 16. The protest committee dismissed W's protest on the ground that L did not, during the overlap, sail above her proper course. This is a conclusion, and subject to appeal. The facts on which it is based are not subject to appeal. These facts are that the course sailed by L was dictated by tactical considerations relating to competing boats to windward.

Although there may be more than one proper course at any given time, a course must be justifiable on the basis of finishing as quickly as possible. It is clear that if L had not luffed at position 3, other boats in her class could have finished sooner than her. Her luff at position 3

was therefore onto a proper course dictated by the consideration of finishing as soon as possible.

## APPEAL 9

### Definitions, *Racing*

### Definitions, *Finishing*

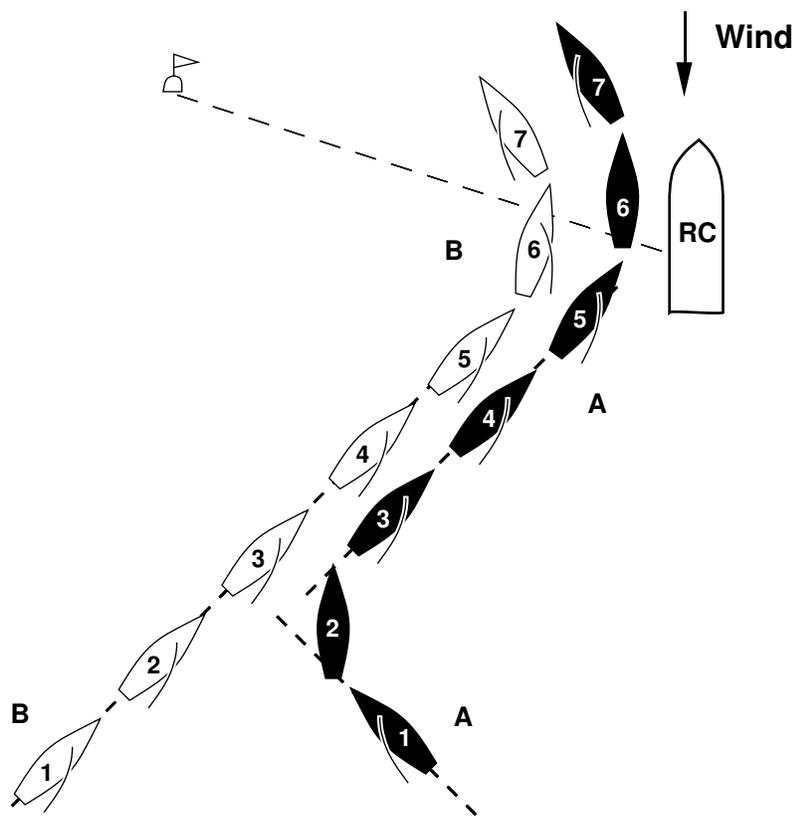
### Preamble to Part 2

### Rule 13, While Tacking

### Rule 24.1, Interfering With Another Boat

*A boat is racing and remains subject to the rules of Part 2 until she has cleared the finishing line and finishing marks. She is subject to a penalty if she breaks a rule while racing and may be disqualified under rule 24.1 if, after she clears the finishing line and marks, she interferes with a boat that is still racing.*

### Summary of the Facts



Two boats, A on starboard and B on port, were beating to the finishing line. The race committee boat end of the line was favoured. As soon as A could lay the race committee boat, she tacked onto port. A crossed the finishing line first and immediately tacked onto starboard, without hailing, to avoid contact with the race committee boat. It was uncertain whether A's stern was on the course side or on the finish side of the finishing line when A passed through head to

wind but as B crossed the finishing line, she had to tack to avoid contact with A who had not completed her tack. B protested and A was disqualified for breaking rule 13. A appealed on the grounds that she was no longer racing.

### **Decision**

The Preamble to Part 2 specifies that the rules of Part 2 apply to boats sailing in or near the racing area that intend to race, are racing or have been racing. The rules of Part 2 therefore applied to A throughout the incident. In addition, under the definition of *racing*, A was racing until she had finished and cleared the finishing line and finishing marks. A was in close proximity to the finishing line and the committee boat, which is a finishing mark. She therefore had not cleared the finishing line and finishing marks when she passed through head to wind. A was still racing, broke rule 13 and was properly disqualified.

The basis for A's appeal was that she had finished and was therefore no longer racing. However, even if A had cleared the finishing line and finishing marks and, under the definition, was no longer racing, she would still be subject to the rules of Part 2 if she interfered with another boat that was still racing and A could therefore be subject to a penalty under rule 24.1. In this particular case, even if A had cleared the finishing line and marks at position 6 before she passed through head to wind, she certainly interfered with B because B had to alter course to avoid A before B cleared the finishing line and while B was therefore still racing. In either case, A would be penalised under rule 13 in the first circumstance as decided by the protest committee or under rule 24.1 if the second circumstance had happened. A's appeal is dismissed.

**APPEAL 10  
DELETED**

**APPEAL 11**

### **Rule 60.1, Right to Protest**

*A boat that breaks a rule while racing but continues to race may protest over a later incident, even though she is disqualified in the first incident.*

### **Summary of the Facts**

W and L became involved in a rule 10 incident. L, the port tack boat, did not take a penalty. Later in the same race W was to windward of L on the same tack and failed to keep clear of L. W did not take a penalty. Both boats protested. L was disqualified for the first incident under rule 10. W was disqualified for the second incident under rule 11. W appealed the second decision because of the disqualification of L for the prior incident.

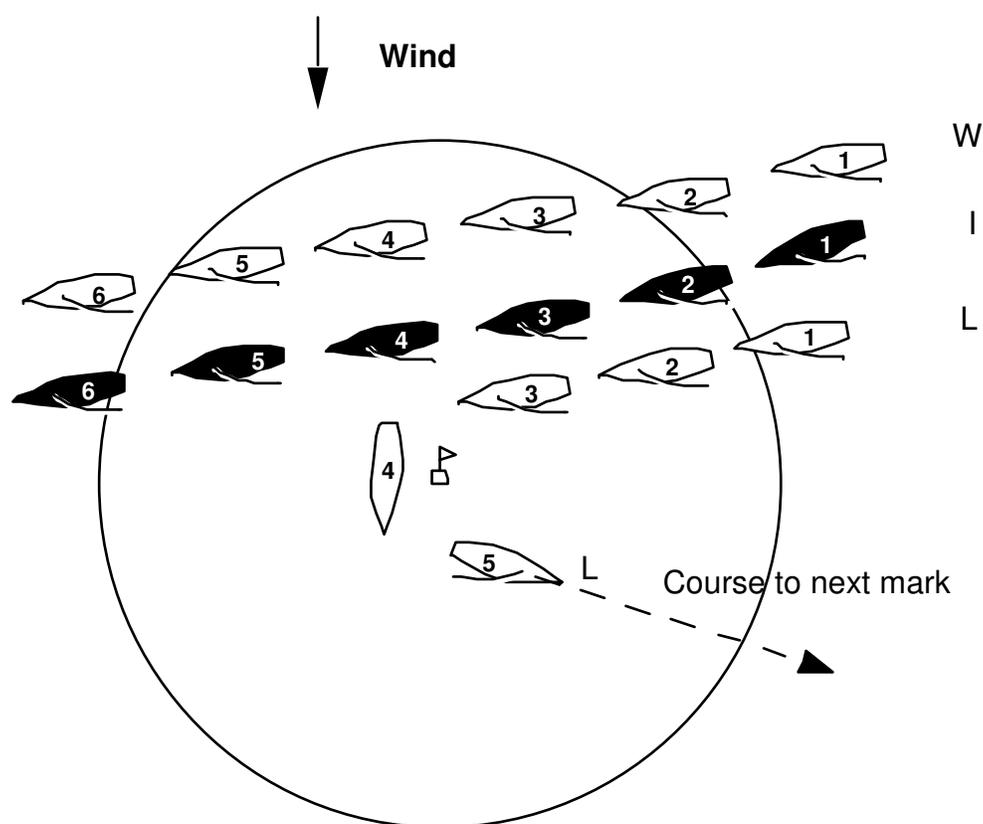
## Decision

W's appeal is dismissed. Rule 60.1 applied. When L did not take a penalty after the first incident, and continued to race, she retained all her rights under the rules.

### APPEAL 12

#### Rule 11, On the Same Tack, Overlapped Rule 18.4, Gybing

*Until an inside right-of-way boat reaches the point in rounding a mark where her proper course is to gybe and she does so, an outside overlapped boat must keep clear under rules 11 and 18.2(a). Rule 18.4 then requires that the inside right-of-way boat shall sail no further from the mark than needed to sail her proper course.*



#### Summary of the Facts

Two boats L and I were close reaching on starboard tack toward the gybing mark which was not a gate mark. W had sailed high early in the leg, and was reaching down on the mark on starboard tack. L and I gained inside overlaps on W near the mark. Wind velocity was 15 knots gusting to 25. I began to furl her headsail 150 yards from the mark in preparation for gybing.

L called for *mark-room*, received it, and gybed to round the mark. I hailed W for *mark-room* and was given it. Because of the gusty wind, a wet foredeck and a foredeck crew who had injured an arm earlier in the race, I was not ready to gybe after L did so. I carried on, broad-reaching to blanket the headsail, and kept asking the foredeck hand if he was ready to gybe, feeling it would be unsafe to gybe until he was ready. During this time W kept hailing I to gybe to her *proper course*. I did not gybe until she was much farther from the mark than needed to allow her to gybe to her *proper course*. By the time I gybed, thus allowing W to gybe, several other boats astern had gybed around the mark and passed both I and W. W protested. I was disqualified under rule 18.4 and appealed.

### **Decision**

I's appeal is dismissed. I was entitled to mark-room under rule 18.2(a) and was given it. Since it was not a gate mark rule 18.4 applied. I broke rule 18.4 by sailing farther from the mark than needed before she gybed to sail her *proper course*.

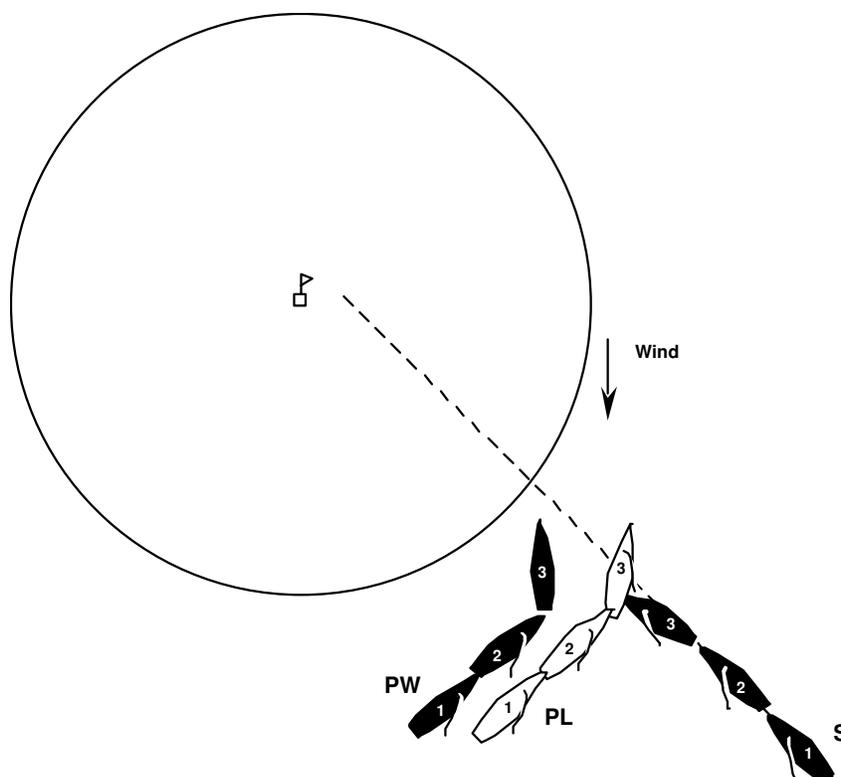
## **APPEAL 13**

### **Rule 14, Avoiding Contact**

*When a right-of-way boat makes a reasonable attempt to avoid contact, she shall not be penalised under rule 14 even if her attempt is unsuccessful and the contact results in damage.*

### **Summary of the Facts**

PL and PW were approaching a windward mark on port tack. PL was sailing slowly and PW was overlapped on her windward quarter. S, sailing fast, was approaching the mark on the starboard-tack lay-line, hailing "Starboard." When S was about one boat length from PL, PL hailed PW for room to tack and PW immediately responded. PL then started to luff. When S saw that PL was not going to keep clear she bore away to attempt to avoid a collision. However, PL was still on port tack when S's bow collided with the starboard quarter of PL causing damage to both PL and S. The protest committee penalised both boats, PL for breaking rule 10 and S for breaking rule 14. S appealed.



### Decision

S's appeal is upheld. PL failed to keep clear of S. PL broke rules 10 and 14 and was correctly disqualified.

When it became clear that PL was not keeping clear, S was required by rule 14 to avoid contact with PL, if reasonably possible. S did attempt to avoid contact by bearing away at the last moment. While her attempt was not successful, S complied with rule 14. The collision and resulting damage was caused by PL who did not hail PW under rule 20.1 soon enough for room to tack. S did not break rule 14 and her disqualification by the protest committee under this rule is reversed.

### APPEAL 14

#### Definitions, *Keep Clear*

#### Rule 11, *On the Same Tack, Overlapped*

#### Rule 14, *Avoiding Contact*

#### Rule 16, *Changing Course*

*When a windward boat overtakes a leeward boat so close to windward that the leeward boat cannot change course without immediately making contact with the windward boat, the windward boat has not kept clear and breaks rule 11.*

### Summary of the Facts

On a downwind leg W was overtaking L. W made her overlap very close to windward of L. L luffed slightly but W was so close to windward that there was immediate contact with L. The contact was minor and no damage was done. W protested L under rules 14 and 16. L was disqualified under rule 16 for not allowing W room to keep clear and under rule 14 for failing to avoid contact. L appealed.

### Decision

L's appeal is upheld. L was a leeward right-of-way boat and W was required to keep clear under rule 11. Because W made her overlap so close to windward of L, L was not able to change her course without immediately making contact with W and, under the definition of *keep clear*, even if L had not luffed W did not keep clear and broke rule 11. Because there was no damage, rule 14(b) applied and L is exonerated for breaking rule 14. W is disqualified for breaking rules 11 and 14.

## APPEAL 15

### Rule 61, Protest Requirements

### Rule 63, Hearings

### Rule 63.3(b), Right to Be Present

*A boat intending to protest must hail "Protest" at the first reasonable opportunity, but failure of her hail to be heard does not invalidate her protest. The fact that a protestee did not know she was being protested is not, by itself, grounds for not hearing a protest.*

*If a party to the hearing does not attend the hearing, the protest committee may nevertheless decide the protest. If the party was unavoidably absent the committee may reopen the hearing.*

### Summary of the Facts

S protested P when P, ahead and to leeward of S, tacked on to port and tried to cross S. The protest committee waited one and one half hours for P to appear, and then heard the protest in P's absence. S gave evidence that she hailed P as P was tacking onto port; S hailed her again after the tack was completed, was forced head to wind to avoid contact with P, hailed P that she was protesting and displayed a protest flag immediately. The protest committee disqualified P under rule 10.

P appealed on the following grounds:

- 1) A protest flag was not displayed conspicuously by S.
- 2) The protest committee did not advise P that she had been protested or of the hearing, although the helmsman of P was at his nearby club and could have been reached by telephone.

- 3) P was not advised of the decision except by the notation 'DSQ after protest' in the race results.
- 4) No foul was committed because P returned to starboard tack before S got near her.

### **Decision**

The fourth ground of appeal by P relates to the facts found and is inadmissible under rule 70.1. The committee is satisfied that S complied with rule 61.1 and the protest committee complied with rule 63.

In her comments to the appeals committee, P admitted that S shouted "Protest" at the time of the incident. The red flag on the red-hulled S was not seen by P but was seen by the race committee at the finish. The sailing instructions clearly provided that protests would be heard at the host club as soon as possible after the boats finished. P returned to her own club after the race and made no attempt to determine whether a protest had in fact been filed. The protest committee waited for one and a half hours for P to appear and was under no onus to pursue P to have her attend the scheduled protest meeting and certainly not beyond the confines of the host club.

When a protestee fails to attend a protest meeting she is sufficiently advised of the decision if the race results note her as 'DSQ after protest.' A copy of the protest and decision shall be provided on request under rule 65.2.

P's appeal is dismissed.

## **APPEAL 16**

### **Rule 65.1, Informing the Parties and Others**

### **Rule 66, Reopening a Hearing**

### **Appendix R – Rule R5, Inadequate Facts; Reopening**

*When protests from two boats are filed concerning the same incident, the protest committee shall proceed to hear the two protests as one, even if one of the protests is invalid. A counter-protest is not necessary.*

### **Summary of the Facts**

W and L were match racing under non-umpired conditions. Prior to the start both boats were sailing away from the start line on port tack with W close astern of L. W was sailing faster and higher on the wind and established an overlap to windward of L. L luffed head to wind, the two boats collided gently and W tacked. W protested L. L appeared to stop racing but subsequently continued to race. L filed an invalid protest stating that she intended to tack, luffed slowly head to wind, then fell back onto port tack after the collision.

In the face of conflicting evidence, the only fact that the protest committee established was that a windward-leeward situation existed at the time of contact. W was disqualified under rules 11 and 14. W appealed the decision under rule 16, and also on the question of the validity of the counter-protest of L because L failed to fly a protest flag.

### **Initial Findings of the Appeals Committee**

The protest committee had not clearly established all the facts of the incident with respect to the application of rule 16. Under rule 65.1, the protest committee is required to state fully the facts and the grounds on which its decision is based. Under rule R5, the protest committee was therefore directed to re-hear the protest to rectify an incomplete statement of facts.

### **Findings of the Re-hearing of the Protest**

The protest committee did not establish any new facts at the re-hearing and, in particular, it did not resolve the facts that applied with regard to the speed of L's luff before contact occurred.

### **Decision**

At its original hearing and in the correspondence associated with the preparation of the appeal, the protest committee was aware that the outcome of the protest could depend on whether L's luff was carried out in accordance with rule 16.

Under rules 63.6 and 65.1 it is the specific responsibility of the protest committee, however difficult this may be, to make a decision on what facts apply, not to refer its indecision on facts to the appeals committee.

In both its first and second hearings the protest committee did not establish that L luffed other than slowly. W did not convince the protest committee at either hearing that L made a sudden luff. In the absence of any statement of facts to the contrary by the protest committee, it is reasonable to conclude that L's luff did not break rule 16, and that the contact occurred with W because W did not take proper action to keep clear.

The protest committee heard and acted on W's protest which they found conformed to all the requirements of rule 61. One, and only one, properly filed protest is required for any incident to require a protest committee to hold a hearing on that incident, irrespective of how many boats are involved. Rule 64.1(a) requires that, when the protest committee decides that any boat that is a party to a protest hearing has broken a rule, it shall disqualify her unless some other penalty applies.

W's appeal is dismissed and her disqualification under rules 11 and 14 is upheld.

## APPEAL 17

### **Rule 10, On Opposite Tacks**

### **Rule 14, Avoiding Contact**

*In a port-starboard incident, when a protest committee finds that S had reasonable doubt that P could keep clear and S alters course to avoid contact, S shall not be penalised if she makes a reasonable attempt to avoid contact, even if this attempt is not successful.*

### **Summary of the Facts**

Two boats were beating to windward and P attempted to pass ahead of S. S bore away but contact occurred between the bow of S and the starboard quarter of P. P withdrew from the race but protested S under rule 14(b) claiming damage resulted from the collision. The protest committee dismissed P's protest because S attempted to avoid contact. P appealed.

### **Decision**

P's appeal is dismissed. P broke rule 10. S thought that P was crossing her she but made a reasonable attempt to avoid contact by changing course as soon as she realised that P was not keeping clear. Therefore, rule 14(a) applied and S did not break rule 14. See also ISAF Case 26.

## APPEAL 18

### **Rule 13, While Tacking**

### **Rule 15, Acquiring Right of Way**

*A boat is no longer subject to rule 13 after she completes her tack and is on a close-hauled course.*

### **Summary of the Facts**

L tacked from port onto starboard in the lee of W, who was already on starboard and was approaching the finishing line. W did not alter course during the tacking manoeuvre of L. Both boats sailed side by side for a couple of boat lengths. Contact then occurred between W's sail and L's helmsman in a gust. L hailed W of her intention to protest and W made two full turns under rule 44.1. After the race, W protested L for tacking too close and failing to keep clear under rule 13. The protest committee dismissed the protest of W, finding that L's tack had been completed before the incident. W appealed.

### **Decision**

The appeal of W is dismissed. L discharged her obligation under rules 13 and 15. After L's tack was completed, W was required to keep clear under rule 11. This W failed to do, but took her two-turn penalty under rule 44.1.

## APPEAL 19

### **Rule 60.1(a), Right to Protest**

### **Rule 61.1(a), Protest requirements**

### **Rule 63.5, Validity of the Protest or Request for Redress**

*A boat greater than 6 metres in length intending to protest because of an incident of which she is aware shall hail, 'Protest,' and conspicuously display a red flag at the first reasonable opportunity for each.*

### **Summary of the Facts**

In a race for cruising class boats greater than 6 metres in length, A and S were on starboard-tack with A about 3 to 4 boat lengths directly ahead of S. P on port-tack caused S to alter course to avoid a collision. S displayed a protest flag. Subsequently S dropped out of the race and did not file a protest. After finishing, A advised the race committee that she had observed the incident and had seen S's protest flag but did not fly a protest flag herself.

After reaching harbour A attempted to file a written protest with a member of the race committee but this was refused. A's skipper contacted the chairman of the race committee the following week and, after investigation, the chairman decided to hold a hearing. At the hearing P was disqualified for failing to keep clear of S. P appealed.

### **Decision**

Rule 61.1(a) requires that a boat intending to protest because of an incident that she is aware of shall hail 'Protest' and conspicuously display a red flag at the first reasonable opportunity for each. She shall display the flag either until she finishes or retires. As a witness to the incident, A had knowledge of the facts but failed to comply with rule 61.1(a).

The race committee acted incorrectly in originally refusing to accept the protest on the grounds that A did not fly a protest flag. The protest committee should have convened a hearing at which time the protest would have been found to be invalid, and the protest would have been refused. The meeting subsequently convened by the race committee chairman erred in not declaring the protest invalid. The appeal of P is upheld and her disqualification set aside.

## APPEAL 20

### **Rule 64.3(b), Decisions on Protests Concerning Class Rules**

### **Rule 78.1, Compliance with Class Rules; Certificates**

*A boat's owner shall ensure that the boat is maintained to comply with her class rules, and that her measurement or rating certificate, if any, remains valid.*

### Summary of the Facts

In a class regatta a protest was lodged which claimed that A's keel had been modified without written permission of the Class Specifications and Technical Committee as required by the class rules.

At the protest hearing the owner admitted that the keel had been modified and that he had not obtained written permission before altering his boat. The protest committee upheld the protest under rule 78.1 and class rule 1.4 which states 'Owners and builders shall consult with the Class Association Specifications and Technical Committee for a written ruling before attempting any forms of construction or modifications which might affect the boats basic speed'. A was disqualified.

A appealed on the grounds that

- i. class rule 1.4 was not broken;
- ii. there was no Technical and Specifications Committee from whom to obtain a written ruling; and
- iii. the alleged infraction was not seen by the protestors or by the protest committee.

### Decision

The appeal is dismissed. The protest committee properly interpreted class rule 1.4. With regard to the grounds (i) and (iii) for the appeal, the owner admitted that the keel has been modified and the required permission had not been obtained. The nature of the modification was not in dispute and the protest committee had no doubts about the matter. It was therefore unnecessary for the modifications to be inspected or the matter referred to any other authority. With regard to ground (ii) for the appeal, A produced no evidence to show that he had been unable to obtain written permission from the class association before making the alterations.

## APPEAL 21

### Definitions, Finishing

#### Rule 64.2, Decisions on Redress

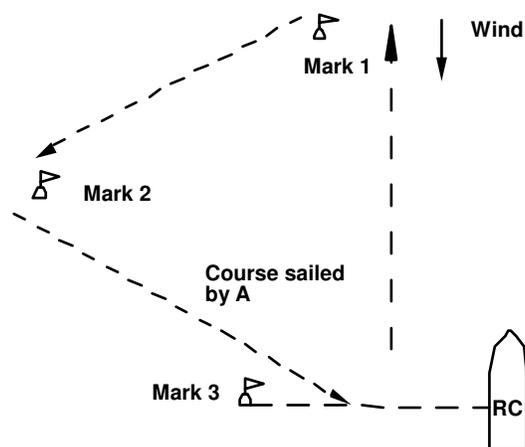
#### Rule 86.1(a), Changes to the Racing Rules

*Boats shall sail the course prescribed by the sailing instructions but, whatever may be implied from the sailing instructions, they shall finish in accordance with the definition of finishing.*

### Summary of the Facts

The sailing instructions specified a course, twice around a triangle, 1, 2, 3, leaving all marks to port. A and some other boats crossed the finishing line as shown in the diagram, while other boats crossed the finishing line in the opposite direction having first rounded the finishing mark

to port. The race committee scored A as DNF. A requested redress claiming she had finished properly and the race committee had erred in scoring her DNF. The protest committee denied her request on the grounds that rules 28.1 and 28.2 applied. A appealed.



## Decision

Rule 86.1(a) states that the sailing instructions shall not alter definitions and hence the definition of finishing always applies. The appeal is upheld and the disqualification of A and the other boats that crossed the finishing line in accordance with the definition of finishing is set aside.

## APPEAL 22

### Rule 12, On the Same Tack, Not Overlapped

### Rule 16.1, Changing Course

### Rule 20.1, Room to Tack at an Obstruction: Hailing

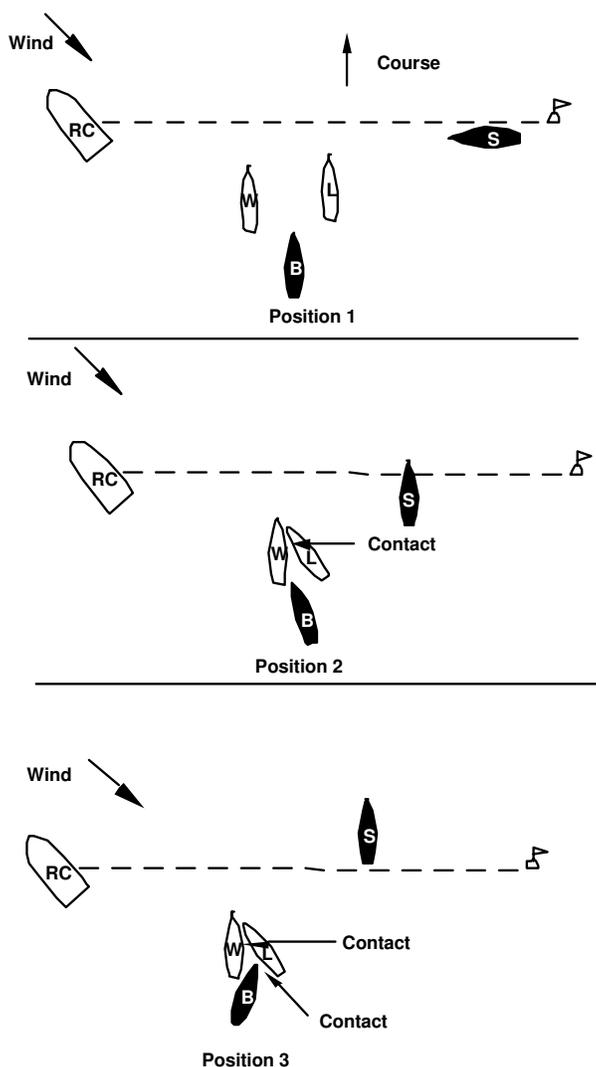
### Rule 64.1(a), Penalties and Exoneration

*When a right-of-way boat alters course, she shall give the other boat room to keep clear.  
A boat compelled to break a rule as a consequence of another boat breaking a rule shall be exonerated.*

## Summary of the Facts

L and W were parallel, close hauled on port tack nearing the starting line, with L slightly ahead. B was clear astern but sailing faster. B intended to start between L and W and there was room for her to do so. L suddenly luffed head to wind without hailing and struck W forward of the chain plates. W was not given room to keep clear. L protested W and B, claiming that the luff was required to avoid a boat that was approaching on starboard tack. When L luffed W, B was still clear astern. B luffed but not sufficiently to clear W. B's port bow struck W's starboard

quarter at the transom just after L hit W. B's bow then hit L's port side causing W and L to collide again. L protested W under rule 11. W protested L under rule 16 and B under rule 12. B protested W and L under rule 16. The protest committee disqualified L under rule 16 for failing to give W room to keep clear when L luffed suddenly and B under rule 12 for failing to keep clear of W who was clear ahead. L and B appealed.



## Decision

L's appeal is dismissed. L was correctly disqualified under rule 16 and 14. The testimony of L that she had to alter course suddenly to avoid a starboard tack boat would suggest that L failed to react in sufficient time to keep clear of S, and her failure to comply with rule 20.1 contributed to the collision with W. B made an effort to keep clear but was unable to do so through no fault of her own. B's appeal is upheld and her disqualification is set aside. B broke rule 12 as a direct

consequence of L breaking rule 16, and she is exonerated under rule 64.1(a).

### APPEAL 23

#### **Rule 70.1(a), Rule 70.5, Appeals and Requests to a National Authority**

*Sailing Instructions may not permit the protest committee to deny competitors the right of appeal unless the requirements of rule 70.5 have been met.*

#### **Summary of the Facts**

A protest occurred between A and B shortly after the start of a race. The protest committee found that A broke rule 16 and disqualified her. A appealed.

The sailing instructions stated that the decisions of the protest committee would be final and that there would be no appeal. An international jury was not present. The regatta organisers had not obtained the prior approval of the Sail Canada in accordance with rule 70.5 to allow the right of appeal to be denied.

#### **Decision**

Since there was not an international jury present, nor had the organising authority received permission from Sail Canada to deny the right of appeal under any of the conditions contained in rule 70.5, A had the right to appeal. The appeal was therefore valid and was accepted. After studying the facts of the protest, the appeals committee dismissed the appeal and upheld A's disqualification.

### APPEAL 24

#### **Rule 1.1, Helping Those in Danger**

#### **Rule 3, Acceptance of the Rules**

#### **Rule 10, On Opposite Tacks**

#### **Rule 44.1(b), Taking a Penalty**

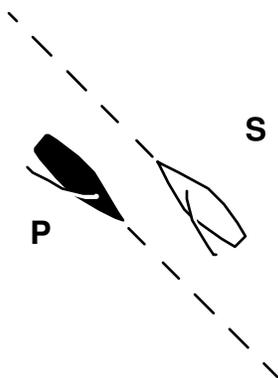
*A boat that breaks a rule of Part 2 and causes serious damage to another boat must not only retire but must also stand by to afford assistance to the endangered boat without waiting for a request to do so.*

#### **Summary of the Facts**

Two boats were on approximately parallel courses, sailing in opposite directions with S close-hauled on starboard tack and P running on port tack. The wind was light but occasionally gusted to 15 mph. The two boats were passing each other, about half a boat length apart when a gust suddenly increased the angle of heel of S. Although both boats took evasive action, the

masts collided and S was dismasted. Both boats protested. The protest committee disqualified P under rule 10 and noted that P should have stood by S to render assistance under rule 1.1. P's protest was dismissed because S did not change her course and P did not keep clear

P appealed the finding that she should have acted in accordance with rule 1.1 because S did not ask for assistance following the dismasting and also in the belief that retirement by P might violate the terms of her insurance.



### Decision

The appeal is dismissed and the decision disqualifying P is upheld. There was no question that P broke rule 10 in the dismasting of S and P should have retired immediately under rule 44.1(b) because she caused serious damage to S. P should also have established whether S was in need of assistance so that she could stand by her, if necessary. P clearly broke rule 1.1 and should not have continued to race. By entering the race, P bound herself to observe the racing rules under rule 3(b) and the terms of her insurance were irrelevant.

The incident happened when S's angle of heel altered but, because S did not change her course, she did not break rule 16. In addition, it was P's responsibility to keep clear under rule 10. Since neither boat anticipated the contact, it was not reasonably possible for S to avoid it and therefore S did not break rule 14.

P's appeal is dismissed. P broke rules 1.1, 10. Since she did not take the required penalty under 44.1(b), she and was properly disqualified.

## APPEAL 25

### Rule 28.1, Sailing the Course

*When a boat takes her own finishing position in conditions of reduced visibility, she shall use more than dead reckoning to prove that she has finished correctly. She needs to be able to positively identify and pass close by a finishing mark.*

### **Summary of the Facts**

In a long distance race foggy conditions and light winds prevailed, particularly near the finish. The sailing instructions required that boats identify themselves to the race committee on finishing. A claimed that she crossed the 600 ft. long finishing line which was marked at one end by a Government vessel and at the other by a navigational mark with an accompanying small observation vessel. A was not observed to finish by either of the above vessels. In the prevailing conditions the committee were able always to see most of the line. Furthermore, all the other finishers were identified aboard the Government vessel, which had two radar sets in continuous operation. A was recorded as DNF and she subsequently asked for redress. The crew of A did not claim to have seen either end of the finishing line but presented navigational evidence to show that they had crossed the line. The protest committee upheld the decision of the race committee. A appealed on the grounds that her navigational evidence proved that she must have finished correctly and that it is not mandatory that marks be seen.

### **Decision**

The appeal is dismissed. A was not observed to finish and did not identify herself to the race committee, as required by the sailing instructions.

## **APPEAL 26**

### **Definitions, Rule (d)**

*A boat may be disqualified for breaking a class rule which is in effect under the definition of Rule (d).*

### **Summary of the Facts**

A protested B at the start of the 4th race of a provincial Championship, claiming that the mainsail and jib used by B, in the 3rd, 4th (and 5th) races were unmeasured. The notice of race, which accompanied the entry form, stated that only class stamped sails would be allowed. The protest committee found that B had not complied with class rule 10.1, namely that 'The sails shall be constructed and measured in accordance with ISAF Sail Measurement Instructions'. B was disqualified from races 4 and 5. B appealed on the grounds that the Notice of Race was unclear, that the protest procedure was irregular and contrary to rule 63, and that the protest form used was irregular.

### **Decision**

The appeal is dismissed. The facts were never in dispute. B broke rule 10.1 of the class rules which are in effect under Rule (d), and was properly disqualified.

**APPEAL 27**  
**Adopted as ISAF CASE 38 \***

**International Regulations for Preventing Collisions at Sea**

*The International Regulations for Preventing Collisions at Sea (IRPCAS) are intended to ensure the safety of vessels at sea by precluding situations that might lead to collisions. When the IRPCAS right-of-way rules replace the rules of Part 2, they effectively prohibit a right-of-way boat from changing course towards the boat obligated to keep clear when she is close to that boat.*

**Summary of the Facts**

At about 0030, L and W were running on starboard tack on parallel courses about two hull lengths apart. W was to windward and clear astern of L and steadily closing up on her. The sailing instructions had, between sundown and sunrise, replaced the rules of Part 2 with the IRPCAS right-of-way rules. L changed course to starboard, forcing W to respond in order to avoid a collision. W protested L on the grounds that 'luffing was forbidden at night.' The protest committee upheld the protest under the IRPCAS, Part B, Section II, Rule 17. L appealed on the grounds that the protest committee had misapplied the relevant IRPCAS rules.

**Decision**

IRPCAS Rule 13(a) states that 'any vessel overtaking any other shall keep out of the way of the vessel being overtaken', and Rule 13(b) states, 'A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam, that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the stern light of that vessel but neither of her sidelights.' In the above case W was the overtaking vessel. Rule 13(d) states, 'Any subsequent alteration of the bearing between the two vessels shall not...relieve [the overtaking vessel] of the duty of keeping clear of the overtaken vessel until she is finally past and clear.'

The overtaken vessel, in this case L, has obligations towards the overtaking vessel. These are in Rule 17, which states in part, 'Where one of two vessels is to keep out of the way, the other shall keep her course and speed.' It is this rule that prohibits the racing manoeuvre known as 'luffing' while the boats are so close that L's luff forces W to change course to avoid contact. Therefore, L's appeal is dismissed and the protest committee's decision to penalize her is upheld.

\*ISAF recognizes Cases as authoritative interpretations and explanations of the rules.

## APPEAL 28

### **Rule 63, Hearings**

#### **Appendix M, Recommendations for Protest Committees**

*Failure to hear protests in accordance with rule 63 and the recommendations of Appendix M may render a protest committee's decisions invalid. A protest committee may conduct a hearing in the absence of a party who has been informed of the time of the hearing but chooses not to attend.*

#### **Summary of the Facts**

In a series comprising three consecutive races in one day, A was protested by B in the first race and by C in the third race. Both protests were heard at the completion of the series. The protest committee held a hearing and disqualified A in the first protest without notifying A that the hearing was taking place. When informed of the protest decision, A was told that, if he wished, he could present his evidence to the protest committee. This was done but without B being present or his evidence being reheard. The original decision of the protest committee was not changed. As he left his meeting with the protest committee on the first case, A was informed of the time and place of the protest hearing for the second protest. However, A left the area before the hearing. At this hearing A was disqualified. A appealed both disqualifications on the grounds that the protest committee had not conducted the hearings in accordance with rule 63.

#### **Decision**

In the first protest, A was not informed that the protest was being heard as required by rule 63.2. As the protest was not properly heard, the appeal of the first protest is upheld and the decision of the protest committee disqualifying A is put aside.

In the second protest, the protestee chose not to appear and the hearing was conducted in his absence as permitted by rule 63.3 (b). The appeal of the second protest is dismissed and the disqualification of A is upheld.

## Appeal 29

Adopted as ISAF CASE 39 \*

### **Sportsmanship and the Rules**

#### **Rule 60.2(a), Right to Protest; Right to Request Redress or Rule 69 Action**

*Except when it receives a report of a breach of a class rule or of rule 43 from an equipment inspector or a measurer for an event, a race committee is not required to protest a boat. The primary responsibility for enforcing the rules lies with the competitor.*

### Summary of the Facts

Throughout a five-race series, A competed with a crew of three. After the last race, B and others jointly protested A, alleging that she had broken a class rule that limited the crew to two. This was the first protest relating to the matter. It was refused because the hulls of the protesting boats were all over 6 m long, but none of the boats displayed a red flag. This decision was appealed on the grounds that the race committee ought, on its own initiative, to have protested A in all the races.

### Decision

As provided in rule 63.5, the protest was invalid because no red flag was displayed as required by rule 61.1(a). To uphold this appeal would amount to a conclusion that a race committee ought to know the class rules of each class, and that it then has an obligation to enforce them when members of the class themselves fail to do so. No such obligation is placed on a race committee. Furthermore, rule 60.2(a) is clearly discretionary, except when a race committee receives a report required by rule 43.1(c) or 78.3, which it had not. As stated in 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.' The primary responsibility for enforcing the rules therefore rests with the competitors.

The appeal is dismissed, and the decision of the protest committee is upheld.

\* ISAF recognizes Cases as authoritative interpretations and explanations of the rules.

## APPEAL 30

### Rule 63.6, Taking Evidence and Finding Facts

### Rule 86.1, Changes to the Racing Rules

### Rule 90.2, Sailing Instructions

*Rules shall not be changed unless permitted in the rule itself or as in rule 86.1.  
Verbal instructions shall not alter rules unless permitted by the sailing instructions.  
A protest committee may not deny the right to call witnesses.*

### Summary of the Facts

Contact occurred between A and B during a race. A was disqualified for breaking rule 18. At the skippers' meeting prior to the regatta, the race committee announced that 'for the sake of expediency, only the protest committee would be permitted to call witnesses'. At the protest hearing the protestor advised the protest committee that he wished to call witnesses to the incident but, in accordance with the announcement, was precluded from doing so by the race

committee. The protestor appealed this decision on the grounds that rule 63.6 allowed him to call witnesses to clarify the facts of the case.

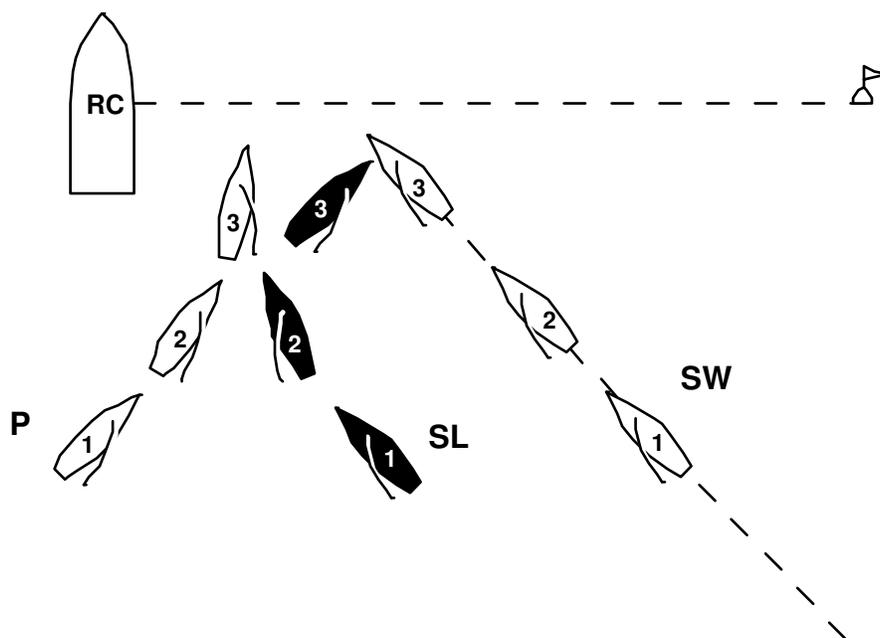
### Decision

The right to call witnesses in a hearing is a most fundamental right, the denial of which strikes at the basic principles of a full and fair hearing. Rule 63.6 states that ‘the protest committee shall take the evidence of the *parties* present at the hearing and of their witnesses...’ Under rule 90.2, this right cannot be altered or limited by a verbal announcement. The appeal is therefore upheld and the protest committee is directed to rehear this protest accordingly.

## APPEAL 31

### Rule 64.1(a), Penalties and Exoneration

*An intervening boat that is compelled to break a rule by the actions of a boat that was required to keep clear shall be exonerated.*



### Summary of the Facts

15 to 20 seconds before the start the boats were in positions 1. When P realised that she could not cross ahead of either SL or SW, she luffed. SL luffed to try to avoid P but contact occurred just after position 2 causing SL’s jib to back. This forced SL to tack. SL then contacted SW. P retired from the race and SW protested SL. SL was disqualified under rule 10. Further, the

committee considered that SL should have anticipated the impending problems, passed astern of P and protested her, thus avoiding the problems which arose between SL and SW. SL appealed on the grounds that it appeared to put the onus on the starboard-tack boat to keep clear.

### **Decision**

The appeal is upheld. The incident was caused by P sailing into an impossible position. SL had the right to sail as she did and took proper action to mitigate the effects of P's error in judgement. Although SL failed to release her jib quickly and tacked to port, this was caused by P, who properly retired. P compelled SL to break rule 10 or 13 in her contact with SW and under rule 64.1(a) she shall be exonerated.

## **APPEAL 32** **Adopted as CASE 68 \***

### **Definitions, Racing**

#### **Rule 62.1(a), Redress**

*The failure of a race committee to discover that a rating certificate is invalid does not entitle a boat to redress. A boat that may have broken a rule and that continues to race retains her rights under the racing rules, including her rights under the rules of Part 2 and her rights to protest and appeal, even if she is later disqualified.*

### **Summary of the Facts**

In a long distance race, boat A protested boat B under a rule of Part 2 and boat B was disqualified.

B requested redress. She stated that it had come to light in a protest hearing after an earlier race that A had failed to revalidate her rating certificate and therefore had been ineligible to enter the long distance race. B further claimed that since A was ineligible when she entered that race she was not racing in it; therefore B had no reason to take a penalty or retire, nor did A have the right to protest under rule 60.1.

The protest committee denied B's request for redress, stating that the invalidity of A's rating certificate did not change the fact that she was racing within the terms of the definition and so was entitled to her rights under the rules of Part 2 and her right to protest under rule 60.1. B appealed.

### **Decision**

B's appeal is dismissed. The failure of the race committee to discover the invalidity of A's rating

certificate and prevent her from racing was not an improper omission which worsened B's finishing place within the meaning of rule 62.1(a). Therefore, the protest committee properly denied B's request for redress. A was a boat 'intending to race' prior to her preparatory signal and a boat racing thereafter. The rules of Part 2 applied to her and to all other boats that were racing. The principles of sportsmanship require a boat to take a penalty when she realizes that she has broken a rule, but if she continues racing she retains her rights under the racing rules, including her rights under the rules of Part 2 and her rights to protest and appeal. The rules of Part 2 govern all boats that are racing, whether or not one of them is later disqualified for some reason.

\* ISAF recognizes Cases as authoritative interpretations and explanations of the rules.

### APPEAL 33

#### **Rule 62.1(a), Redress**

#### **Rule 64.2, Decisions on Redress**

#### **Race Signals**

*When conducting a race, the race committee must satisfy both the visual and sound signal requirements of the race signals section of the rules.*

#### **Summary of the Facts**

After the first leg of a race in very light winds had been completed, the race committee's lead boat made three sound signals from the vicinity of the second mark. At the same time the race committee boat, which had remained at the starting area, displayed Code Flag S and fired two guns. A heard the three sound signals, but not the guns, and assumed that the race had been abandoned. She returned directly to the committee boat and discovered that the race had not been abandoned, but only shortened. A requested redress from the race committee under rule 62.1(a). The protest committee considered A's request for redress under rule 64.2 and abandoned the race.

Another competitor, B, then requested redress from the race committee on this decision. The request for redress was dismissed. B appealed on the grounds that a sound signal merely serves to draw attention to a visual signal, and that the latter should override errors in sound-making procedure.

#### **Decision**

There was no doubt that A's finishing position in the race was made significantly worse by the action of the race committee lead boat. Three sound signals refer only to abandonment, when "N," "N over H" or "N over A" is displayed. A reasonably concluded that one of these abandonment signals had been displayed by the race committee. The race committee boat was

some distance away and flags were unlikely to be visible in the calm conditions prevailing. The Race Signal for abandonment requires both a visual and a sound signal. Two committee boats making two different sound signals constituted an improper action by the race committee under rule 62.1(a) that made the finishing position of some competitors significantly worse, through no fault of their own. B's appeal is dismissed.

## APPEAL 34

### Rule 1.1, Safety: Helping Those in Danger

*The requirement 'to give all possible help' demands a high standard of compliance and a boat may be required to render help or stand-by to do so, even though another competitor is already doing so.*

### Summary of the Facts

During an offshore race, four boats on starboard-tack were beating to windward in rough sea conditions with a strong wind. L ran aground and was dismasted when she was approximately 500 feet offshore. C retired from the race to give help to L. Two boats, A and B, who were nearby, did not stop racing. Neither A nor B saw the dismasting but shortly thereafter both boats saw the dismasted boat. A was 600 feet ahead of L, and 600 feet to weather. B was astern and well to weather of L.

A considered going to the assistance of the disabled boat; but when she noticed C going to assist L, A decided not to go to L's assistance. Water in the engine and no chart of the local area influenced this decision. B notified the Coast Guard by radio, and positioned a crewman on the leeward side to watch L. The Race Committee protested A and B for failing to give all possible help as required by rule 1. The protest committee dismissed the protest, stating that from the facts presented, there was reasonable doubt that either A or B was in a position to render assistance.

The Race Committee appealed this decision to the Pacific International Yachting Association (PIYA) on the grounds that both boats were in a position to render assistance and failed to do so as required by rule 1.

### Decision

The PIYA appeals committee decided that A and B broke rule 1. In her appeal papers, B stated that 'the navigator informed me approximately 8 minutes after the dismasting and, when L was well astern and to leeward, that L had asked if someone could help her, or words to that effect'.

B was therefore probably no more than 8 minutes sailing time from L when she knew of L's call for assistance. A was also within sight of the dismasted boat. The committee accepted B's statement that she did render assistance to L by relaying radio messages and stationing a man on the leeward side to observe her. It was found that A considered going to the assistance of L.

However, there is no dispute that neither A nor B made any effort to remain in the vicinity or to return to L.

The issue was whether, on these undisputed facts, A and B rendered 'all possible help'. The PIYA appeals committee concluded that in addition to what they did do, A and B could have closed with L and investigated her need for assistance. By not doing so, they failed to ascertain whether more assistance was possible and thereby failed to render 'all possible help'. They both therefore broke rule 1. The committee did not consider that their failure to do this was excused by the fact that C was going to the assistance of L. Possibly two or three boats could have succeeded in giving effective assistance where one could not. Nor did the committee consider A to be excused by possible water in her engine or lack of charts. She could have returned under sail and exercised caution with respect to the shore line.

The committee appreciated that A and B had to make a decision in a difficult situation. However, the possible grave consequences of one boat failing to investigate the distress call of another compel the committee to exact a very high standard of compliance with rule 1.1. Reference is also made to ISAF Case 20 where it was held that a boat in position to render assistance to another that might be in danger was bound to do so whether the assistance was requested or not.

The appeal is upheld by the PIYA appeals committee, and the decision of the protest committee dismissing the protest is reversed. A and B are disqualified for breaking rule 1.1. B appealed this decision.

The Sail Canada appeals committee agreed with the PIYA appeals committee and upheld the disqualification of A and B.

## APPEAL 35

**Rule 11, On the Same Tack, Overlapped**

**Rule 16.1, Changing Course**

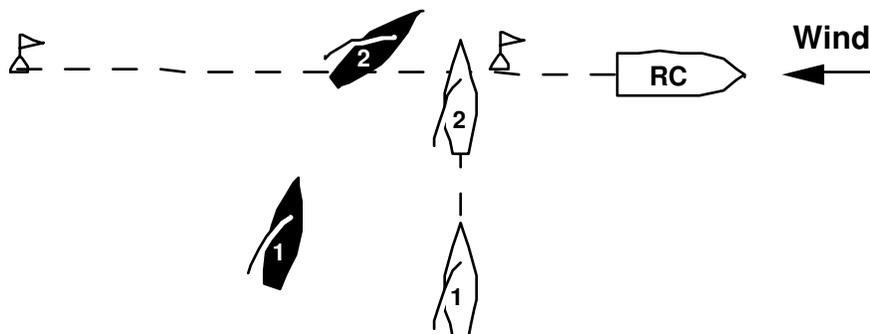
**Section C, Preamble, At Marks and Obstructions**

**Rule 31, Touching a Mark**

**Rule 64.1(a), Penalties and Exoneration**

*A leeward boat may be required to leave room at a starting mark when a windward boat is unable to respond to a change of course by the leeward boat without contacting the mark.*

*A boat that is wrongfully compelled to touch a mark by the actions of another boat breaking a rule of part 2 shall be exonerated for breaking rule 31.*



### Summary of the Facts

SL and SW were approaching the starting line to start, with SL sailing high of the beam reach course to the first mark. SW was to windward of SL and converging with her. SL crossed the starting line just after the starting signal, one boat length to leeward of the starting mark, with SW overlapping her to windward and with SW's bow overlapping the mark. SL then luffed above the course to the first mark. The bow of SW contacted SL about amidships and almost at right angles. SW was forced by the contact into the starting mark. Both boats protested. SW was disqualified under rule 11. SW appealed.

### Decision

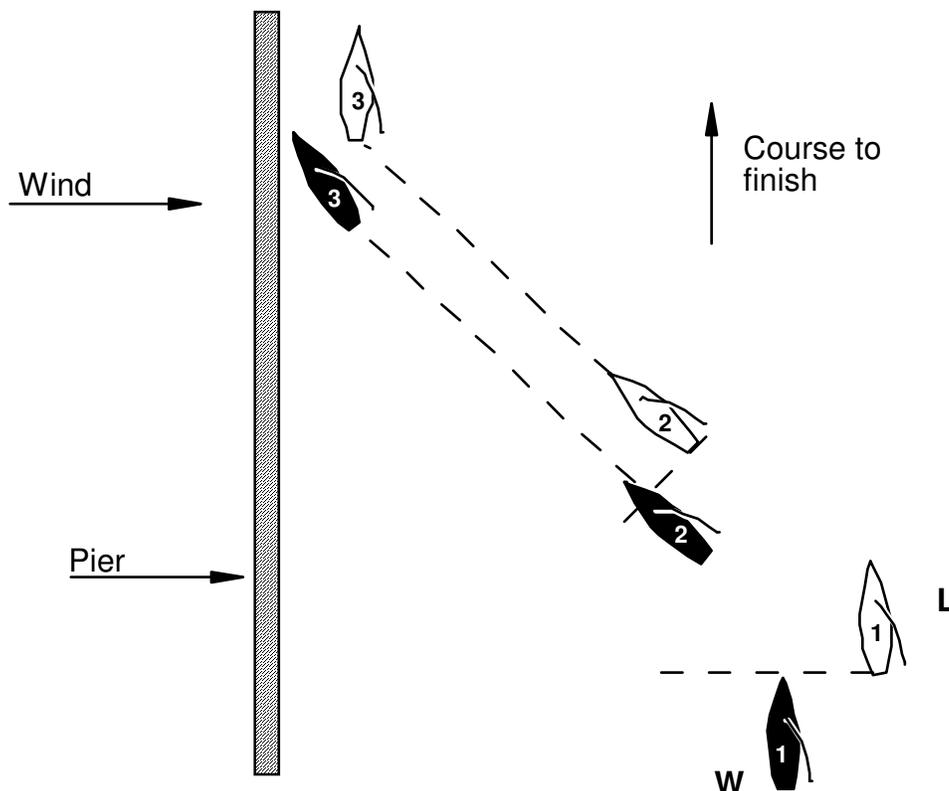
Under the preamble to Section C, SL was under no obligation to give SW, a windward boat, mark-room to pass to leeward of the starting mark. However, rule 16.1 required SL to give SW room to keep clear when SL changed course just prior to position 2. SL broke rule 16.1, by changing course when SW could no longer alter course without contacting the mark. Rule 16.1 required SL to give SW room to keep clear. Room is defined as "The space a boat needs in the existing conditions, including space to comply with her obligations under the rules of part 2 and rule 31, while manoeuvring promptly in a seamanlike way." It is not seamanlike to be forced to contact objects such as, in this case, a mark or its ground tackle, or both. SW protested SL for being wrongfully compelled to touch the mark and breaking rule 31. SL is disqualified and SW is exonerated under rule 64.1(a) for touching a mark. The appeal is upheld. SL is disqualified and SW is re-instated in her finishing position.

## APPEAL 36

### Rule 19.2 (b), Giving Room at an Obstruction.

#### Rule 21 (a), Exoneration

*Once an inside overlap on a continuing obstruction is established properly under rule 19.2(b), and until that overlap is broken, an inside boat retains her rights to room, regardless of any alterations of course by the other boat.*



### Summary of the Facts

W and L were close reaching on port tack. W was gradually overtaking L to windward. L headed up slowly resulting in both boats converging on a pier, which ran parallel to the course. W established an overlap on L at position 1, when the boats were several boat lengths distance from the pier. L luffed and continued to sail towards the pier until W hit the pier and then W's bow pulpit contacted the port end of L's stern pulpit. W was disqualified and appealed.

### Decision

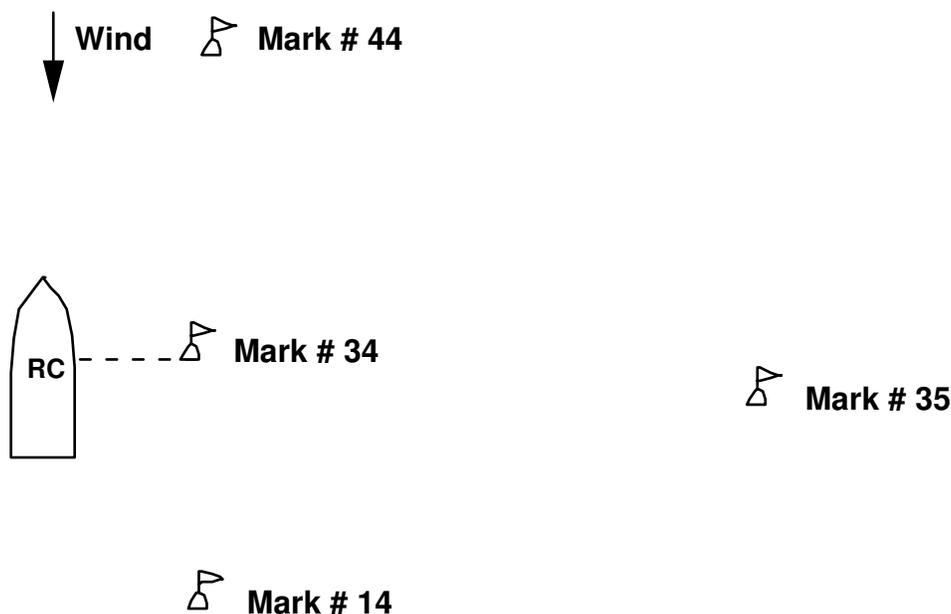
Rule 19 applies when boats are sailing close to a continuing obstruction. The pier was a continuing obstruction, and the boats were initially distant by several boat lengths from it at position 1 when W began to overtake L. There was room for W to establish an inside overlap on L and to pass in safety between L and the pier if L had held her course. At the time W established the overlap on L at position 1, L was able to give room and was obligated to do so under rule 19.2(b). However, when L luffed at position 1, she failed to give W room and broke rule 19.2(b). W broke rule 11 but is exonerated in accordance with rule 21(a) since L was required to give her room.

The appeal upheld. L is disqualified and W is reinstated.

## APPEAL 37

**Rule 28.2, Sailing the Course****Rule 62.1(a), Redress****Rule 64.2, Decisions on Redress**

*A boat may leave on either side a mark that does not begin, bound or end the leg she is on. A starting mark has no required side once a boat has started. A finish mark has no required side until the final leg.*

**Summary of the Facts**

During an event, a notice posted on the designated official notice board at one of the clubs read, "Tornados shall sail the posted course twice". However, the copy of this notice posted at another club, where the Tornados were berthed, contained the following addition: "Also, if the start-finish line is set in the middle of the weather leg, (as was shown in the posted course diagram) it is not necessary or desirable to cross it except when actually starting or finishing". This was initialled by the class secretary who was the helmsman of boat A, with a notation that it was authorised by a member of the race committee. The course posted for the third race read, "44, 35, 14, 44, 14, twice around, with all marks to be left to starboard and with the start/finish between the RC boat and mark 34 in the middle of the weather leg." A sailed this course twice around. However, she left mark 34 to port between roundings of marks 14 and 44 on the second full weather leg. B protested A for not sailing the course.

The protest committee decided that the copy of the notice posted at the Tornados' club was improper, since the sailing instructions defined the official notice board as the one at the other club. Since A did not pass through the start/finish line on the second windward leg, she was disqualified under rule 28.1. A appealed.

## Decision

The appeal is upheld. The additional wording on the copy of the notice at the Tornado's club did not alter the posted course in any way. The notice on the official notice board defined the course with the start/finish line being between the RC boat and mark 34. Once the race was started, mark 34 ceased to have a required side until the final leg from mark 14 to the finish. A sailed the posted course, complying with rule 28.2. The race committee is directed to score her in her recorded finishing position.

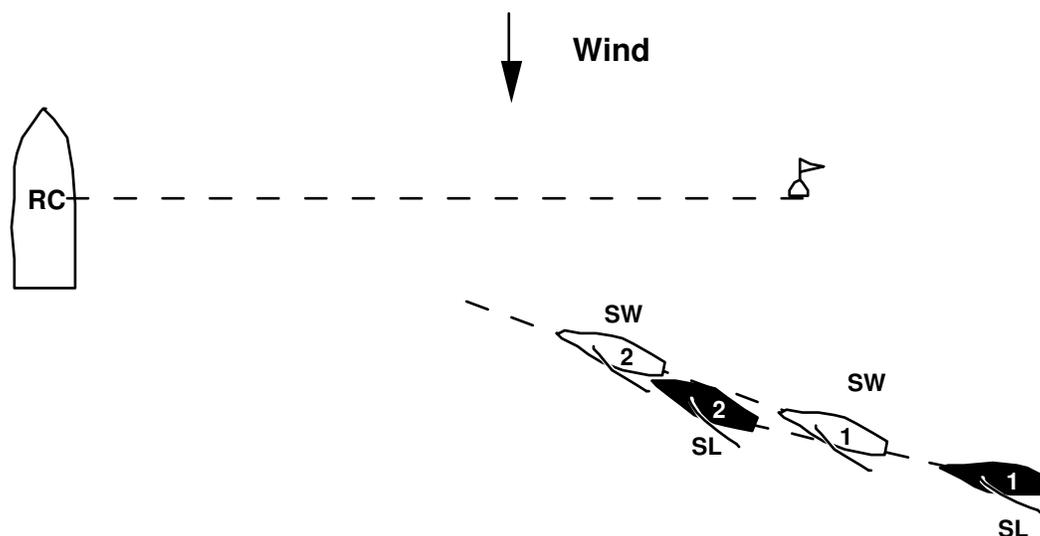
## APPEAL 38

### Rule 15, Acquiring Right of Way

*A boat need not anticipate a change in right-of-way.*

### Summary of the Facts

SW and SL were reaching on starboard tack and approaching the starting line to start. SL, who was moving faster than SW, hailed SW to 'Go up' when SW was three boat lengths ahead of her but, because SW did not respond, SL had to bear away before establishing a leeward overlap. Contact occurred almost immediately between SW and SL. The protest committee disqualified SL under rule 15 for not giving SW room to keep clear. SL appealed.



## Decision

The appeal of SL is dismissed. Rule 15 begins with 'When a boat acquires right-of-way...', thus this rule does not require a boat clear ahead to take any action until an overlap is established. In

this case SL expected SW to start to keep clear before the overlap was established. Rule 11 applies immediately upon establishment of the overlap, but rule 15 limits the actions of SL when the overlap is first established. SL broke rule 15 and was properly disqualified.

### APPEAL 39

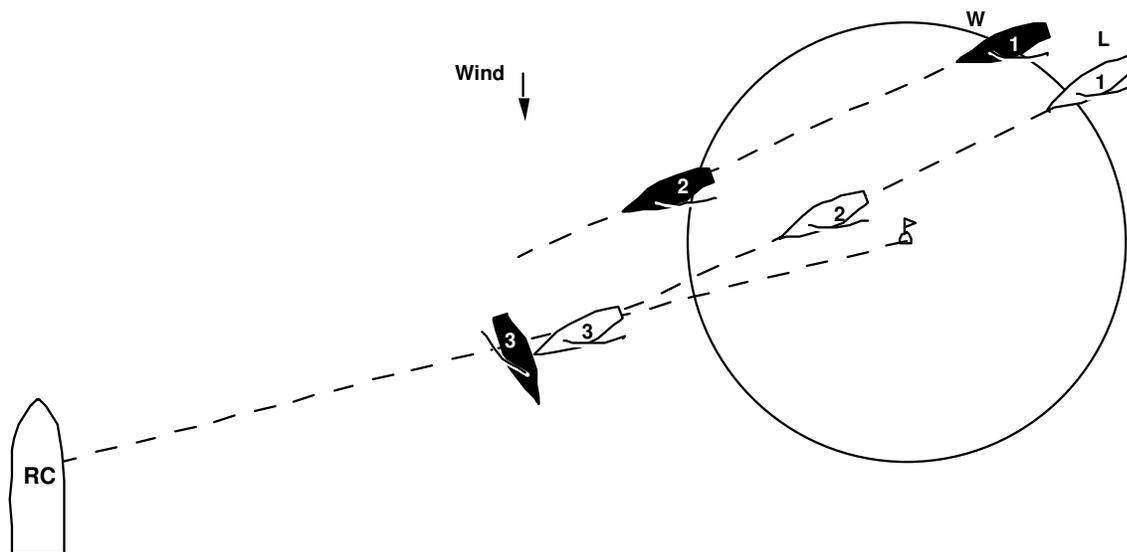
#### Rule 1.1, Helping Those in Danger

#### Rule 10, On Opposite Tacks

#### Rule 14, Avoiding Contact

#### Rule 16.1, Changing Course

*When a right of way boat changes course, she shall give the other boat room to keep clear.  
Notwithstanding the proximity of a race committee boat, a boat may be subject to disqualification for failing to help another boat in danger.*



#### Summary of the Facts

L and W were approaching the port end mark of the finishing line. The wind was gusting to 15 knots and both boats were on starboard tack, wind aft of the beam with W clear ahead. L established an overlap to leeward of W, before W reached the zone from the finishing mark, which was to be left to port. L hailed 'Overlap'. W altered course to windward, allowing L plenty of mark-room to pass the finishing mark on the required side. W drew clear ahead of L as L came abreast of the mark at position 2 and, at this moment, W was sailing a course approximately parallel to the finishing line. W carried on for approximately a boat length, bore away and suddenly gybed on to port and crossed the finishing line more or less at right angles. L passed close to the mark and proceeded on starboard tack in a straight line to cross the finishing line at an acute angle. When W on port tack was approximately halfway across the finishing line, the bow of L hit her amidships at right angles, resulting in a big hole on the port side of W. At this time L

had also crossed the finishing line. L made straight for the club without offering assistance to W. Both boats protested.

The protest committee disqualified L for breaking rules 17 and rule 1.1 and disqualified W for breaking rule 10. W appealed.

### **Decision**

The appeal is dismissed. Both boats are disqualified; however, W for breaking rules 10, 16.1, and 14, and L for breaking rule 1.1.

L became the right-of-way boat subject to rule 17 when she made a leeward overlap on W as the boats approached the mark. Rule 18.2(a) applied until both boats had passed the mark. However, W drew clear ahead of L as L passed the mark so that rule 17 no longer applied when L passed the mark. Rule 18 also ceased to apply at position 2.

At position 2, W was clear ahead, and had right-of-way under rule 12. However, when W bore away quickly and gybed into position 3 she broke rule 16.1. Furthermore, after her gybe she was required to keep clear of L under rule 10, and to avoid contact under rule 14. W broke rules 10, 16.1, and 14.

Although the collision resulted in damage, L did not break rule 14 because W's gybe was sudden and gave L no reasonable time to attempt to avoid the collision. However, L broke rule 1.1 when she failed to stand by W after the collision.

### **APPEAL 40**

**Rule 10,        On Opposite Tacks**  
**Rule 13,        While Tacking**  
**Rule 14,        Avoiding Contact**  
**Rule 44,        Penalties at the Time of the Incident**

*A right-of-way boat is disqualified when she does not attempt to avoid contact and causes damage to a give-way boat.*

*Penalty turns must be taken one immediately after the other.*

### **Summary of the Facts**

S and P were close-hauled and approaching each other on opposite tacks. S hailed "Starboard," and moments later as P was tacking from port to starboard, S collided with P causing damage. S protested. P thereafter completed one tack and one gybe, and sometime later a second tack and gybe. The protest committee found that S made no attempt to avoid contact with P and disqualified her for breaking rule 14. It also disqualified P because she failed to take the Two-Turns Penalty in accordance with rule 44.2. S appealed.

## Decision

The appeal is dismissed although the reason for P's disqualification is changed to breaking rule 10 for failing to keep clear of S. Since the penalties described in rule 44 are permissive, failure to execute them properly is not a breach of a rule *per se.*, but it does leave her open to a penalty for the breach of a rule of Part 2.

## APPEAL 41

### Rule 62.1(a), Redress

*The shifting of a rounding mark due to inclement weather is not necessarily grounds for redress.*

### Summary of the Facts

Boat A was sailing in a race where courses are signalled from the committee boat using mark numbers for club marks. The locations of these marks were shown on a chart in the clubhouse and a chart which formed part of the sailing instructions. Boat A sought redress saying her finishing position was made significantly worse in this race because mark 2 was some 200-250 yards south and 100-150 yards east of its charted position. Boat A said that on the reaching leg of the course she sailed a higher and slower course toward the charted position whereas other boats sailed a faster, lower course toward the mark itself. The protest committee conceded that mark 2 was out of its normal position as stated, but rejected the request for redress deciding that all boats were equally affected and A's score was not therefore made significantly worse. Boat A appealed.

## Decision

The appeal of Boat A is dismissed. In its combined official diagram and observations, the protest committee showed the length of this leg of the course as 0.82 miles and confirmed that the movement of the mark occurred due to high winds before the race started and that the mark did not move during the race. The appeals committee notes that the shifting of a mark due to high winds is not unusual, that there is no evidence that the mark was not visible and is satisfied that the protest committee was correct in finding that Boat A's score was not made significantly worse.

## APPEAL 42

### Rule 35, Time Limit and Scores

### Rule 62.1(a), Redress

### Rule 64.2, Decisions on Redress

*A protest committee shall interpret defective sailing instructions in the most equitable manner for all boats competing.*

## Summary of the Facts

The sailing instructions (SI's) defined the course as a standard Olympic course (triangle, windward, leeward, windward) except that the starting and finishing line was located at about the mid-point of the windward leg, and included the following provisions:

- (e) If no boat has completed the first lap within two hours, the race will finish when the first boat has completed one lap.
- (f) The race will be abandoned if no boat has completed two laps within three hours, etc...'

Boat A was competing in a club race in very light wind. No signal was given to shorten the course. Eight of 20 competing boats, including Boat A, dropped out. The rest of the fleet sailed one lap with the winner finishing 3 hours and 11 minutes after the race started. Boat A sought redress citing the SI's and rule 35 - and requested that the race be abandoned. Her request was rejected by the protest committee which found SI (e) applied and that SI (f) did not apply unless the leading boat finished one lap within 2 hours. Boat A appealed.

## Decision

Appeal upheld. The race committee is directed to consider the race as abandoned and it shall not be scored.

The SI's were seriously defective. A 'lap' was not defined nor is it a defined word in the rules. Instruction (e) was interpreted as meaning there was no time limit for a one lap race which exceeded two hours. The SI's are ambiguous and unclear but it is quite illogical to interpret them as meaning that a one lap race which took over 3 hours to sail should stand but that a two lap race of the same duration should not. Therefore it is found that instruction (f) overrides instruction (e).

**APPEAL 43  
DELETED**

**APPEAL 44**

**Rule 4, Decision to Race**

**Rule 60.3(b), Right to Protest**

**Rule 62.1(a), Redress**

**Rule 64.2, Decisions on Redress**

**Rule 70.1, Right of Appeal**

**Definition, Party**

*A boat may appeal a decision of a protest committee only when she was a party to the hearing. A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own decision, not the action of the race committee, made her score significantly worse.*

## Summary of the Facts

Following a general recall at the start of her class, Boat A did not start or, having started, withdrew from the race. She subsequently filed a protest asking for redress under rule 62.1(a) on grounds that her score in the race was made significantly worse by the race committee not following the general recall instructions, and that the SI's themselves were 'unfair' to her class. All other boats in her class started and finished and their times and finishing positions were taken by the race committee. The protest committee found that the SI's were confusing, resulting in a race that was unfair for at least three of the boats in that class, one of which was B. Feeling that it was impossible to make adjustments to elapsed times, the protest committee directed that the race for that class be abandoned.

B did not request redress from the protest committee's decision but appealed directly to Sail Canada. The grounds for B's appeal was that she was a boat affected by the decision of A's request for redress and that the protest committee abandoned the race without satisfying themselves by taking appropriate evidence that their actions would be equitable to all boats concerned.

## Decision

B was not a *party*, as defined in the rules, to A's request for redress and therefore had no right of appeal under rule 70.1. Her purported appeal is dismissed.

The Sail Canada Appeals Committee, however, makes the following observations:

- 1 B's proper recourse was to lodge a request for redress with the protest committee from its decision on A's request. After the protest committee had heard this request, refusal or dismissal of such a request would be subject to appeal under rule 70.1.
- 2 The protest committee erred in granting redress to A whose finishing position was made worse by her own voluntary decision not to race or continue racing, and not by any ambiguity in the sailing instructions or improper action by the race committee. Rule 4 therefore applied.
- 3 After finding that the race was unfair to B and at least two other boats, the protest committee itself could have called a hearing to consider redress under rule 60.3(b). In that case, B and the two other boats would have been made a *party* to the hearing. Only after taking evidence from all appropriate sources as required by rule 64.2, including that of B, other boats and of the race committee, could the protest committee consider abandoning the race.

**APPEAL 45****Rule 61.3, Protest Time Limit****Rule 85, Governing Rules****Definitions, Rule (d)**

*A protest committee may extend the protest time limit when the protestor is not aware of the facts justifying the protest until after the race.*

*Class restrictions on eligibility of helmsman for certain class-sanctioned events apply only to those specific events. They do not apply to other open events.*

**Summary of the Facts**

A club's open regatta was part of an area racing association's event governed by the association's general instructions. Boat A placed third in the race. After the race, boat B filed a protest but acknowledged that she had not displayed a protest flag, had not notified boat A, and had not filed her protest within the time limit. The protest alleged infringement of class rules because the helmsman of boat A was not a 'designated helmsman' for the association's events or for additional races constituting the fleet's season championship, a sanctioned event.

The protest was accepted under rules 61.1(a) and 61.3 because boat B stated that she was unaware that the helmsman of boat A was not a class member until after the race. An attempt to notify boat A by the protest committee failed and the protest was heard in her absence. A class official confirmed that boat A's helmsman was not a member of the class association although the owner/crew was a member. The fleet's season championship provided that association's races should be counted and required that the skipper be a member of the class association. The protest committee disqualified boat A. Boat A subsequently requested that the protest be re-opened. This was done and the original decision was confirmed. Boat A appealed citing the absence of protest flag and attempt to notify by boat B, late filing of the protest, failure to submit current class rules and failure to notify boat A of the hearing. Boat A also submitted that even if her position in this race should not be counted for the fleet's season championship, her third place finish should count in the club's open regatta.

**Decision**

The various procedural defects alleged by boat A are without merit because the protest committee accepted boat B's statement that she was not aware of the facts justifying the protest until after the race, and the protest committee extended the time limit for filing the protest for a proper reason. The initial protest hearing in the absence of boat A was justified under the SI's because boat A did not come to the host club after the race. In any event the hearing was re-opened and boat A was heard.

By the class rules the active skipper of each boat must be an active member of the class national association to meet eligibility requirements. All rules of the class apply to sanctioned events except that eligibility requirements do not apply to an open event. Class sanctioned events were defined as: A- the world championship, B- a championship of continental or national scope, or C- a district or regional championship. The subject regatta was an open event. The event was not a class-sanctioned event, a World, Continental or a National championship.

The fleet's season championship instructions should properly be applied to determine its own results but cannot and do not affect prizes or positions in an open event such as this one. The appeal of boat A is upheld in part and the decision of the protest committee is reversed. Boat A is re-instated to her finishing position in the regatta but her position is not to be counted in determining the fleet's season championship.

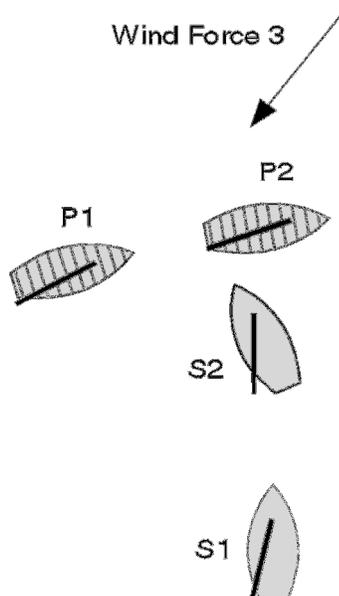
**APPEAL 46**  
**Adopted as ISAF CASE 50 \***

**Definitions, Keep Clear**

**Rule 10, On Opposite Tacks**

**Rule 14, Avoiding Contact**

*When a protest committee finds that in a port-starboard incident S did not change course and that there was not a genuine and reasonable apprehension of collision on the part of S, it should dismiss her protest. When the committee finds that S did change course and that there was reasonable doubt that P could have crossed ahead of S if S had not changed course, then P should be disqualified.*



## Summary of the Facts

On a windward leg, P met S and sailed a course to cross ahead of S. S bore away, displayed a protest flag, and hailed P her intent to protest. Both boats were identical 27-foot (8 m) keel boats, and the wind strength was Force 3.

S protested under rule 10, stating that she had to bear away to avoid colliding with P. The protest committee dismissed the protest by S, stating that: 'The need to change course could not be substantiated by the conflicting testimony of the two helmsmen.' S appealed.

## Decision

Rule 10 protests involving no contact are very common, and protest committees tend to handle them in very different ways. Some place an onus on the port-tack boat to prove conclusively that she would have cleared the starboard-tack boat, even when the latter's evidence is barely worthy of credence. No such onus appears in rule 10. Other protest committees are reluctant to allow any rule 10 protest in the absence of contact, unless the starboard-tack boat proves conclusively that contact would have occurred had she not changed course. Both approaches are incorrect.

S's diagram, later endorsed by the protest committee, shows that S bore away to avoid contact. P's diagram, which was not endorsed by the protest committee, showed a near miss if S did not bear away. P did not deny or confirm that S bore away but said that, if she did, it was unnecessary.

A starboard-tack boat in such circumstances need not hold her course so as to prove, by hitting the port-tack boat, that a collision was inevitable. Moreover, if she does so she will break rule 14. At a protest hearing, S must establish either that contact would have occurred if she had held her course, or that there was enough doubt that P could safely cross ahead to create a reasonable apprehension of contact on S's part and that it was unlikely that S would have 'no need to take avoiding action' (see the definition Keep Clear).

In her own defence, P must present adequate evidence to establish either that S did not change course or that P would have safely crossed ahead of S and that S had no need to take avoiding action. When, after considering all the evidence, a protest committee finds that S did not change course or that there was not a genuine and reasonable apprehension of collision on her part, it should dismiss her protest. When, however, it is satisfied that S did change course, that there was reasonable doubt that P could have crossed ahead, and that S was justified in taking avoiding action by bearing away, then P should be disqualified.

On the facts, as shown in the diagram and the report of the protest committee, the ability of P to cross ahead of S was doubtful at best. S's appeal is upheld, and P is disqualified.

\* ISAF recognizes Cases as authoritative interpretations and explanations of the rules.

**APPEAL 47****Rule 11, On the Same Tack, Overlapped  
Rule 64.1(a) - Penalties and Exoneration**

*An intervening boat is exonerated for breaking rule 11 when a boat to windward of her breaks rule 11 and thus prevents the intervening boat from keeping clear.*

**Summary of the Facts**

L, I and W were approaching the starting line, before the starting signal, overlapped on starboard-tack. L was prevented from heading as high as she wished by I and W. I protested W and W was disqualified under rule 11. L protested I under rule 11, and the protest was dismissed because the protest committee found that W had prevented I from responding to L's request for room. L appealed.

**Decision**

The appeal is dismissed. The protest committee was correct in disqualifying W for breaking rule 11 and, because W prevented I from keeping clear of L, I was correctly exonerated under rule 64.1(a).

**APPEAL 48****Rule 32.1, Abandoning after the Start  
Rule 62.1(a), Redress  
Rule 64.2, Decisions on Redress**

*A race may not be abandoned after one boat has finished without considering the consequences to all other boats in the race.*

**Summary of the Facts**

The second race of an annual regatta had been underway for some three hours by 7:30 PM. The wind had been calm for over half-an-hour. Approximately half the fleet had finished. The practice for this regatta is to appoint a judge to oversee and manage the operation. At this time the judge decided to abandon the race which he accomplished by sounding his horn several times and removing all signals. He, however, turned into the race committee his tally sheets which showed finishing times for seven boats and DNF against the other eight boats. He then left the area. On the following day, races three and four were sailed and total scores were calculated including the scores for race two. Prizes were awarded.

Some considerable time later the judge advised the race committee chairman that race two had been abandoned and was to be re-sailed. This was done and the scores were recalculated. Boat A sought redress from this action of the race committee under rule 62. The protest committee dismissed this request. Boat A appealed.

### **Decision**

The race was not abandoned in accordance with either the SI's or rule 32.1 nor was an equitable arrangement made under rule 64.2 with respect to any of the boats who had completed the race. The appeal is upheld and the race committee is directed to reinstate all boats which finished in the first sailing of the race. As there is no scoring system provided in the SI's the Low Point Scoring System applies. It is recommended that one place greater than that of the last finisher in race 2 be considered as an equitable arrangement for the remaining boats that were unable to finish race 2 when the judge left the finishing line.

## **APPEAL 49**

### **Rule 12, On the Same Tack, Not Overlapped**

### **Rule 13, While Tacking**

### **Rule 18.2(c), Giving Mark-Room**

*When two boats are on the same tack and the boat that is clear ahead tacks, rule 12 does not override the requirements of rule 13.*

### **Summary of the Facts**

At a leeward mark to be left to port, I was overlapped by O. Both boats were on port tack. During the rounding manoeuvre the overlap was broken and when both boats had passed the mark, I was just ahead and to leeward of O. I tacked immediately and O had to bear away sharply to avoid hitting her before she completed her tack onto starboard. The protest committee found I to be the boat holding right-of-way and disqualified O on the grounds that I was clear ahead and rule 12 applied. O appealed.

### **Decision**

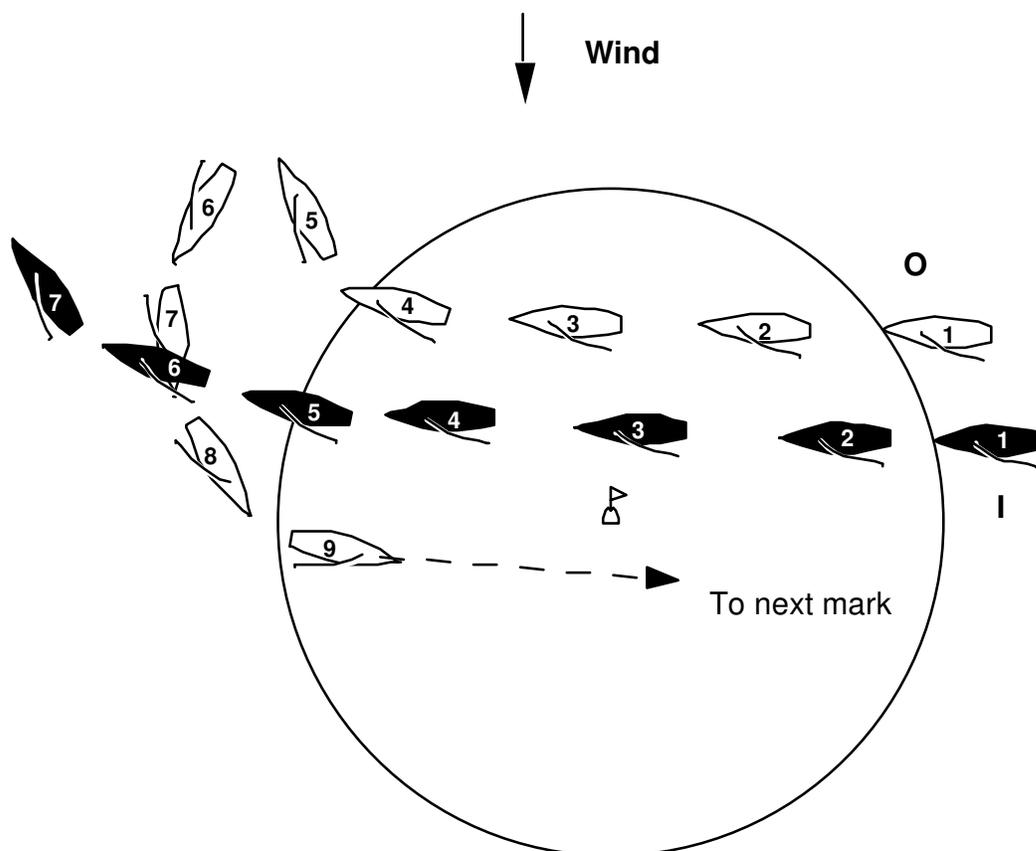
O was improperly disqualified. Once both boats had passed the mark, rule 18 ceased to apply and rule 12 became relevant. However, rule 12 ceased to apply as soon as I passed through head to wind, when rule 13 applied. I broke rule 13 because O had to change her course to avoid contact with I before I had completed her tack.

The appeal is upheld. O is reinstated and I is disqualified.

## APPEAL 50

**Rule 18.2, Giving Mark-Room****Rule 18.4, Gybing****Rule 70.2, Confirmation of a Protest Committee's Decision**

*A boat that is not handled in a seamanlike way cannot use this as an excuse for breaking rule 18.4. When an inside overlapped right-of-way boat must gybe at a mark to sail her proper course, until she gybes she shall sail no farther from the mark than needed to sail that course.*

**Summary of the Facts**

When approaching the gybe mark in a 20 knot wind, I established an inside overlap on O from clear astern. The two boats sailed past the mark, but I did not gybe. O then gybed to assume her course to the next mark. I luffed and then tacked to assume her course to the next mark. I protested O under rules 18.2(a).

The protest committee found that an overlap was properly established by I as she approached the gybe mark and that she was given room by O while passing the mark. When both boats had sailed at least three hull lengths beyond the mark, O gybed to assume her new course and I tacked in response. There was no contact. Applying rule 18.4, the protest committee ruled that

I was required to gybe to assume a proper course to the next mark so that she would pass no further from the mark than was required to sail that proper course. In addition, it ruled that O was within her rights to gybe and assume a proper course. I was disqualified.

The protest committee referred its decision to Sail Canada under rule 70.2, requesting clarification of two questions:

- a) Did O become the right-of-way boat?
- b) In the absence of contact, could O have been disqualified?

### **Decision**

O did not become the right-of-way boat. Rule 18.4 was correctly applied. I was the right-of-way boat but her right of way became subject to her obligation under rule 18.4 that she should pass no further from the mark than needed to sail her proper course on the leg to the next mark. In sailing well past the mark as she did, I broke rule 18.4 and caused O to have to sail past the mark. In the absence of contact, O could not have been disqualified. The decision of the protest committee, disqualifying I, is upheld.

## **APPEAL 51**

### **Rule 10, On Opposite Tacks**

### **Rule 13, While Tacking**

### **Definition, Obstruction**

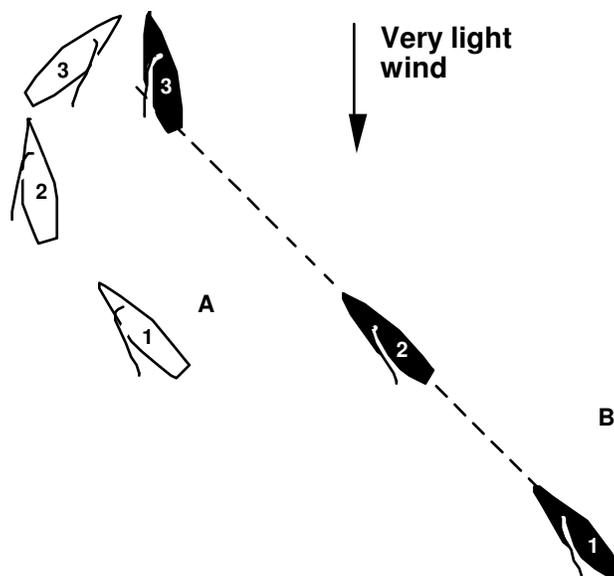
### **Rule 70.2, Confirmation of a protest committee's decision**

*A boat is on port or starboard tack corresponding to her windward side. A boat that inadvertently tacks onto port tack ahead of a starboard-tack boat cannot claim that she is an obstruction to avoid breaking rule 10.*

### **Summary of the Facts**

Boats A and B were close-hauled on starboard-tack in a very light wind. A was to leeward of B and clear ahead by a few boat lengths. A's wind died and she began a turn to starboard, continuing through 90° with A unable to steer in either direction. B, still moving ahead on starboard-tack, hailed 'Starboard'. A informed B of her plight. B altered course to starboard to avoid A. B protested A under rule 10. The protest committee found that A was an obstruction and that rule 10 did not apply, and dismissed the protest.

The protest committee referred its decision to Sail Canada under rule 70.2 for confirmation or correction of its interpretation of the rules.



### Decision

By definition a boat is on a tack corresponding to her windward side. A, having turned 90° through the wind from a close-hauled course on starboard tack, was on port tack but may still have been subject to rule 13. In either case she was required to keep clear of B, a boat on starboard tack.

Section C rules govern the rights of boats approaching an obstruction. However, A was not an obstruction to B under the next-to-last sentence of the definition because B was not required to keep clear of A and rule 22 did not apply. Thus the rules of Section C did not apply between A and B. Although the protest committee may have been sympathetic to the plight of A, it should have disqualified A when B protested. The decision of the protest committee is corrected and A is disqualified under rule 10.

### APPEAL 52

#### Rule 13, While Tacking

#### Rule 14, Avoiding Contact

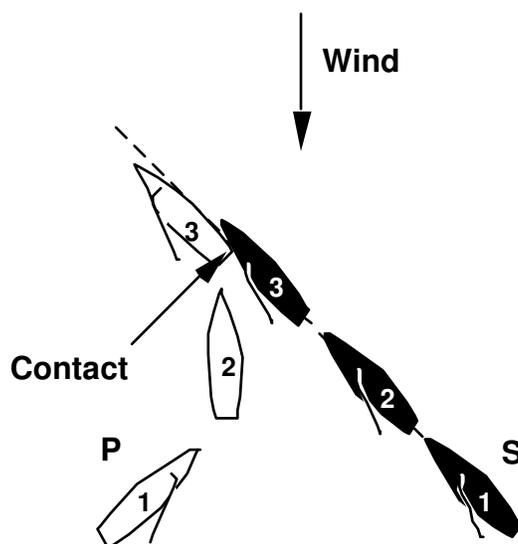
#### Rule 15, Acquiring the Right of Way

*A starboard-tack boat need not anticipate that a port-tack boat will tack so close to her that the tacking boat will not give her room to keep clear when the tack is completed.*

### Summary of the Facts

P and S were approaching each other close-hauled on a windward leg. S hailed 'Starboard' and P completed a tack onto a close-hauled course to leeward and so close to S that contact occurred

almost immediately despite S beginning to alter course to avoid contact. S protested. The protest committee found that S altered course slightly to avoid contact, but that contact occurred between P's starboard quarter and S's port bow. It also found that P's sail had filled before contact occurred. P was disqualified under rule 13. No damage occurred to either boat. P appealed on the grounds that she had completed her tack and that rule 11 applied before contact occurred. She also contended that the contact could have been avoided because S should have anticipated her manoeuvre and taken proper evasive action.



### Decision

Prior to and during P's tack, S was the right-of-way boat. Because P had completed her tack before contact occurred, rule 13 did not apply, but, when P acquired the right of way as a leeward boat under rule 11, she did not give S room to keep clear and P therefore broke rule 15. P's disqualification is upheld, but for breaking rule 15 rather than rule 13.

S was the right-of-way boat until P had completed her tack and, except as provided by rule 14, she was not required to anticipate that P, the give-way boat, would break rule 15. S was therefore not obliged to take evasive action before P's tack was completed. P's appeal is dismissed.

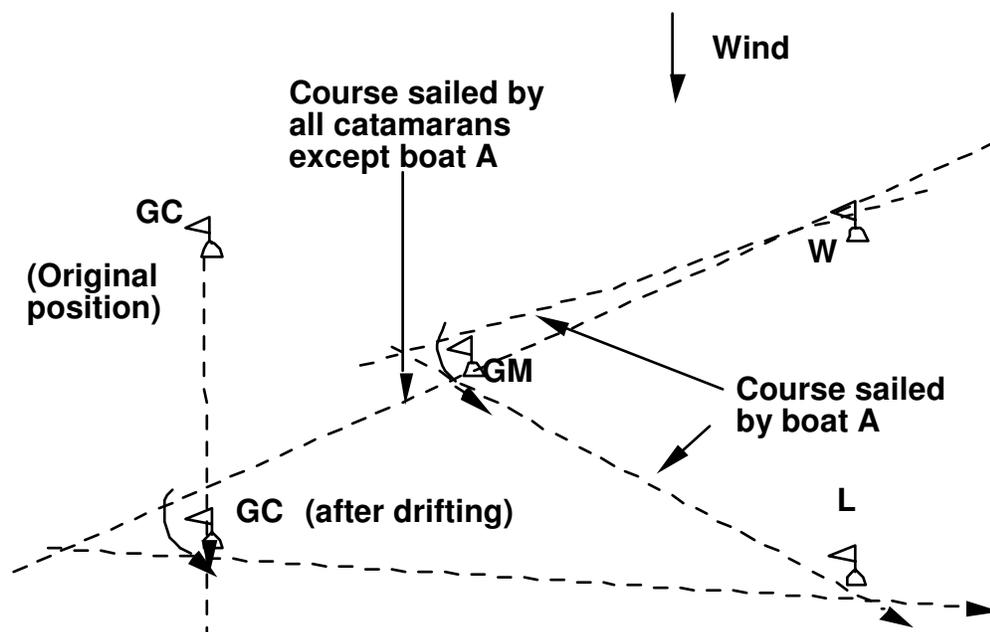
### APPEAL 53

#### Rule 28, Sailing the Course

#### Rule 62.1(a), Redress

#### Rule 64.2, Decisions on Redress

*A race committee that failed to remedy the displacement of a mark made the finishing positions of a class significantly worse when boats rounded different marks.*



### Summary of the Facts

During the last race of a series for catamarans, the gybe mark for the multi-hull course, GC, drifted downwind until it was to leeward of the gybe mark for the mono-hull course, GM.

The sailing instructions defined GC as being the more windward of the two gybe marks. All catamarans except boat A rounded GC in spite of its not being the more windward gybe mark. Boat A rounded GM only, finished first, and was thereafter protested by boat B under rule 28.1. The protest committee dismissed the protest and found that boat A and all the other catamarans which in rounding GC, had also left GM to port, had sailed the course in accordance with the sailing instructions. Boat B appealed this decision, arguing that the race committee failed to notify the boats of a change of course, and furthermore that the race for the mono-hull class, which was sailed after the multihulls, should be abandoned because the mono-hulls all rounded GM, the more windward mark.

### Decision

The appeal is upheld in part. The inaction of the race committee in failing to remedy the displacement of GC caused GC to cease to meet its description given in the SI's. The Race Committee's action made the scores of the catamaran class, significantly worse, under rule 62.1(a). Redress to the catamarans is that the race is abandoned under rule 64.2.

The finishing positions of the mono-hull class were not affected, as all boats sailed the same course. The results of the mono-hull race will stand.

## APPEAL 54

### Definitions, Proper Course

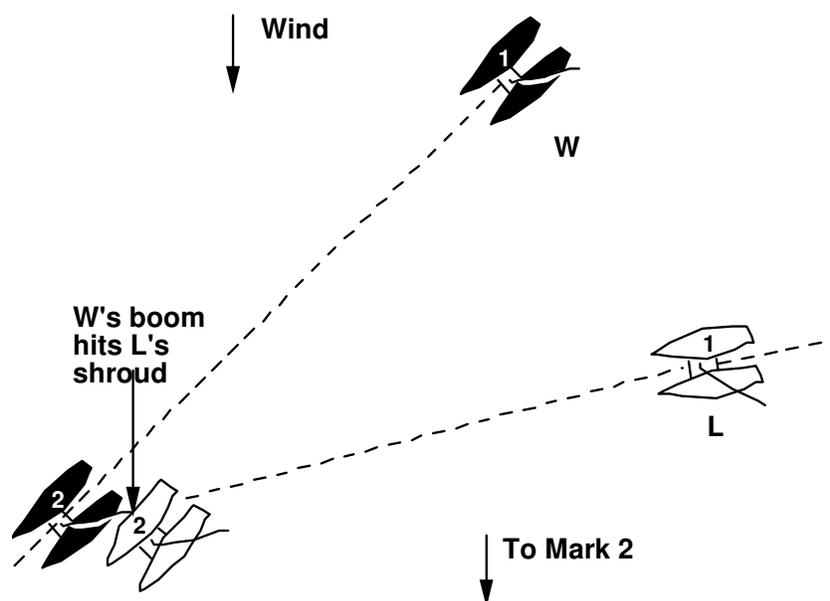
### Rule 11, On the Same Tack, Overlapped

### Rule 14, Avoiding Contact

### Rule 17, On the Same Tack; Proper Course

### Appendix R – Rule R5, Inadequate Facts

*A leeward boat which establishes an overlap more than two boat lengths to leeward and maintains that overlap is not restricted to sailing no higher than her proper course.*



### Summary of the Facts

Two catamarans were sailing on starboard tack in a light wind on a downwind leg. L was sailing on a beam reach which she considered the fastest downwind course, and was to leeward of W. W was sailing a course more downwind than L and was converging with L from windward. Both boats held their respective courses. L held her course until contact between the boats became imminent, when she bore away, but W's boom struck L's shroud.

The protest committee recorded only one fact, "that L was sailing above a normal course." The protest committee considered that L's normal course was a direct line to mark 2, which was almost a dead run, and disqualified L under rule 17. W was also disqualified under rule 14. L appealed.

### Decision

The protest committee declined repeated requests to supply particulars for the appeal. In particular, it was asked under rule R5 to provide an official diagram, and to comment on the contention of the appellant shown both on the protest form and detailed in the appeal, that:

- (i) W was overtaking L from clear astern; and
- (ii) L maintained a steady course without luffing during the development of the incident.

The protest committee did not supply the requested official diagram, considered (i) as being irrelevant and was unable to advise whether L luffed or not. In the absence of a diagram and meaningful comments, the facts presented on the protest form and supported by L's appeal are accepted.

The protest committee was remiss in not supplying the particulars required by Appendix F5 and erred in their interpretation of the rules. It is clear from the facts presented on the protest form, which were not contested by the protest committee, that L was maintaining a steady course without luffing. Also, L was sailing a proper course consistent with normal downwind sailing in catamarans and was never clear astern of W.

Rule 17 did not apply to L since she was overlapped with W while she was well over two boat lengths to leeward and therefore was never clear astern when the distance between the boats became two boat lengths apart. Also L is exonerated for breaking rule 14 because the established contact between the boats in the light wind did not result in damage or injury and therefore rule 14(b) applied.

L's appeal is upheld; she is to be reinstated in her finishing position. W is disqualified for breaking rule 11.

## APPEAL 55

### **Rule 10, Opposite Tacks**

### **Rule 14, Avoiding Contact**

### **Rule 16.1, Changing Course**

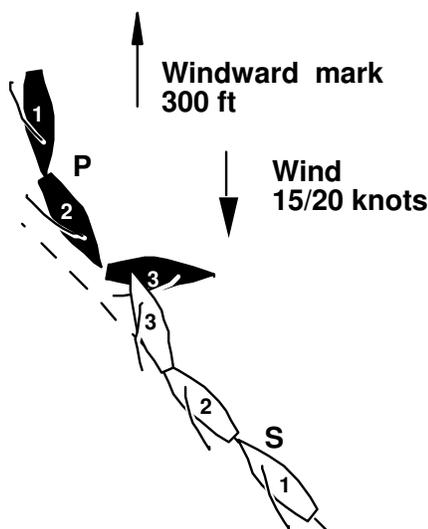
*A right-of-way boat must avoid contact with another boat whenever reasonably possible. When she has time and opportunity to avoid a boat that has already begun to act to keep clear but she alters course in a manner that does not give the give-way boat room to keep clear she breaks rule 16. When such action makes contact inevitable, she also may be penalized under rule 14 if damage results.*

### **Summary of the Facts**

A serious collision occurred between S and P resulting in the sinking of P. Both boats protested – S under rule 10 and P under rules 14 and 16. S was beating towards the windward mark. P was ahead of S, rounded the mark and gybed to port. At the time the boats noticed the potential for a collision they were approximately 300 feet downwind of the mark and 4 to 6 boat lengths apart. Sea conditions were rough (3 to 4 ft. seas) with a wind strength of 15 knots gusting to 20. S hailed 'Starboard' but her hail was not heard by P. P began to alter course across S's bow to pass her to windward when P was still 2 lengths from S. At that point P's course was already clearing or almost clearing S's course. S, not yet certain that P was keeping

clear, luffed to tack to avoid contact. There was now no way for P, who was continuing to luff across S's previous course, to keep clear. A serious collision resulted.

The protest committee found that P had broken rule 10 and disqualified her. It found that S did not break either rule 14 or 16 because her alteration of course was intended to avoid a collision with P, not to prevent P from keeping clear. It therefore dismissed P's protest against S. P appealed.



### Decision

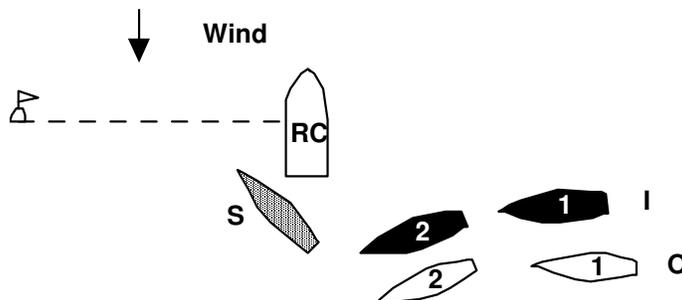
P was properly disqualified for breaking rule 10. In the prevailing conditions she should have acted sooner to keep clear. Once P started to luff across S's bow to pass her to windward, it should have been obvious to S that the only reasonable way to avoid contact with P was either to hold her course or, if she was uncertain that they would clear, to bear away slightly. S had both time and opportunity to do so. By luffing up to tack, S did not give P room to keep clear and broke rule 16. Her action also made avoidance of contact impossible and serious damage inevitable. S therefore broke rule 14.

P's appeal against her disqualification under rule 10 is dismissed. Her appeal against the dismissal of her protest against S is upheld. S is disqualified for breaking both rule 14 and rule 16.

## APPEAL 56

**Definitions, Obstruction****Rule 11, On the Same Tack, Overlapped****Rule 19.2, Giving Room at an Obstruction****Rule 21, Exoneration**

*A windward overlapped boat is entitled to room under rule 19.2(b) to pass to leeward of a right-of-way boat of which both must keep clear.*

**Summary of the Facts**

Approximately one half minute before the start, S, close hauled on starboard tack, was sailing slowly towards the race committee signal boat. I and O were sailing towards the starting line, both on a broad reach on starboard tack and as they approached S, O established a leeward overlap on I. I bore away to pass astern of S and O also bore away to avoid contact with I. No contact occurred. O protested I under rule 11. The protest committee upheld O's protest and disqualified I for breaking rule 11. I appealed.

**Decision**

S was an *obstruction* to I. Because O chose to pass S to leeward, rule 19.2(b) required O to give I *room* to also pass to leeward between S and O. Because rule 19.2(b) entitled I to such *room*, I is exonerated under rule 21 for breaking rule 11.

I's appeal is upheld. The protest committee's decision to disqualify I is reversed and the race committee is directed to award I her finishing position.

## APPEAL 57

**Definitions, Finish**

**Definitions, Interested Party**

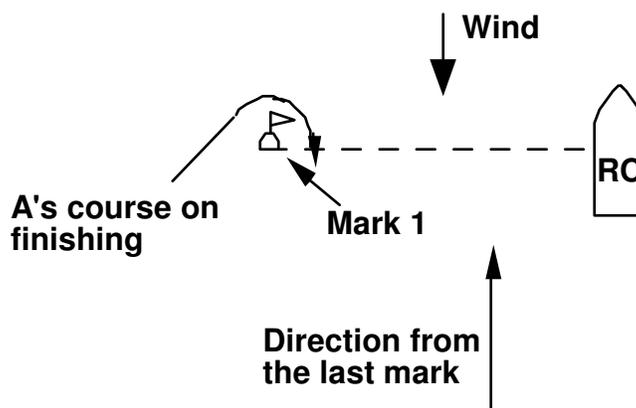
**Rule 62.1(a), Redress**

**Rule 63.4, Interested Party**

**Rule 70.1, Appeals and Requests to a National Authority**

*A boat must finish in accordance with the definition.*

*Competitors who have retired from a series are no longer interested parties because they have nothing to gain or lose by a protest committee decision.*



### Summary of the Facts

The course was signalled as a triangle, windward, leeward, windward with marks to starboard. When this course had been set on other occasions the race committee finish boat had been positioned on the port side of mark 1, but on this occasion it was positioned to starboard. A passed the finishing mark to starboard, as shown in the diagram, and sailed across the finishing line from the wrong direction. The race committee called her finish and recorded her time of crossing the finishing line. Another boat, B, protested that the race committee had erred in awarding a finishing position to A.

The protest committee held an open hearing with spectators, determined that A had not finished in accordance with the definition of finishing, and A was therefore scored as DNF. They further decided that A's score in the race was made significantly worse by the action of the race committee, and decided to cancel and re-sail the race. The race was re-sailed that same afternoon. After this decision was reached, a third boat, C, who was present as a spectator during the proceedings, filed a protest against the protest committee alleging that the hearing was invalid under rule 63.4 because two members of the committee were competitors who had retired from the series. C's protest was refused by the protest committee. C appealed.

## Decision

A competitor may not protest a race committee but may request redress (rule 62.1(a)). The protest committee treated B's action as such a request and held a hearing on it. C was a spectator at the hearing but not a party to it as defined in the rules and, accordingly, had no right of appeal (rule 70.1).

C's 'protest of the protest committee should also have been treated as a request for redress, in this case from the action of the protest committee, and should have been heard, not refused. C was an interested party (per the definition) in this case and could and did appeal that refusal. Although rule 70.2 allows the appeals committee to return the matter to the same or a different protest committee for a hearing, all the facts necessary to decide this appeal are available and are quite clear.

A did not finish in accordance with the definition of finishing and was correctly scored DNF by the race committee. If A's score was made worse, it was by her own actions, not by the actions of the race committee, and therefore rule 62.1(a) did not apply. The protest committee was therefore wrong to cancel the race. Competitors (in this instance, the two members of the protest committee) who have retired from a series are no longer interested parties because they have nothing to gain or lose by a protest committee's decision.

C's appeal is upheld. The race committee is directed to reinstate the results of the original race with A scored as DNF, and to expunge the results of the re-sailed race from the series.

## APPEAL 58

### Rule 69, Allegations of Gross Misconduct

*An application of rule 69.*

#### Summary of the Facts

After at least one general recall of the start, a competitor asked a race committee vessel at the port end of the line to move the port end mark. This request or demand was made at least three times and was accompanied by obscenities. The appellant then picked up and moved the mark. The race was started and completed. The race committee protested the appellant for his conduct. The protest committee treated the race committee's protest as a report and conducted a hearing under rule 69.2. It found the competitor's conduct was a gross breach of good manners and sportsmanship under rule 69.1(a). The competitor was disqualified from the entire series. A suspension from organised yacht racing for a period of one year was recommended to the national authority. The competitor appealed.

## Decision

Whether or not the competitor's conduct improved or was intended to improve the starting line, it was indeed a gross breach of good manners and sportsmanship. The competitor's appeal is denied; his disqualification from the entire series under rule 69 was appropriate.

The appeal is dismissed and the decision of the protest committee is upheld.

## APPEAL 59

**Rule 32, Shortening or Abandoning After the Start**

**Rule 28.2, Sailing the Course**

**Part 5, Protests, Redress, Hearings, Misconduct and Appeals**

**Rule 61.1(a)(3), Informing the Protestee**

**Rule 63.2, Time and Place of the Hearing; time for Parties to Prepare**

**Rule 63.6, Taking Evidence and Finding Facts**

**Rule 62.1(a), Redress**

**Appendix M, Recommendations for Protest Committees**

*Observations on protest procedure and shortening course.*

## Summary of the Facts

The specified course was twice around a triangle plus a windward leg. The course was shortened to finish at the end of the sixth leg. In accordance with the sailing instructions the finishing line was set 200 yards beyond the leeward mark. Boats passed on both sides of the leeward mark en route to the finish. The race committee recorded the finishing positions of all boats regardless of which side the leeward mark had been passed. Boat A protested boats B, C, D, E and "all other boats not sailing the course" for not passing the leeward mark to port. The protest committee disqualified the above four boats under rule 28.1 with a note that there were other boats but that it had no evidence as to their identity. Boat F, which had originally finished fifth, returned and passed the leeward mark to port, re-crossing the finishing line in 13th position. F sought redress from being recorded in 13th position, which was denied. F, D and E appealed.

All the appeals reported that the protest committee did not comply with the protest procedure required by the rules. A made no attempt to inform D and E of the protest as required by rule 61.1(a)(3), either before they finished or at the first reasonable opportunity after they finished, even though there was ample opportunity. This fact was not recorded by the protest committee. The hearing was held without D in attendance because she had not been informed that there was a hearing as required by rule 63.2. E had learned through another source that a hearing was beginning, but was refused a copy of the protest and was the right to ask questions as required by rule 63.6. D and E were informed the following day that they had been

disqualified without reasons being given, and were still denied a copy of the protest. F sought redress the following day when she found she had been recorded in 13th position. At the hearing she was informed that a previous protest had determined that the leeward mark was a mark of the course, but she was denied a copy of the protest.

### **Decision**

The above deficiencies in protest committee procedure have been included to emphasise the importance of following the procedures laid down in the rules of Part 5 as recommended in Appendix M. If there had been any doubt as to the outcome of these appeals, the protest committee would have been instructed to re-hear these protests following the correct procedures.

The sailing instructions stated in part:

SI 12. The finishing line shall be located ... approximately 200 yards beyond a mark of the course if the race is being shortened on that leg.

SI 22. A race may be terminated at any mark of the course: in this case, code flag 'S' will be hoisted with two sound signals when the leading boat is within 200 yards of the proposed new finishing line.

Rule 28.2 states that "A boat may leave on either side a mark that does not begin, bound or end the leg she is on." In this case the previous gybe mark began the leg and the finishing line ended it. There were no boundary marks specified. Therefore, there was no required side for the leeward mark. It was not made clear at what point the signal to shorten course had been made, except that it was before the leading boat had reached the leeward mark. The race committee should have ensured that the signal was made in sufficient time so that no boat's score in the race would be made significantly worse when the leeward mark ceased to have a required side.

All three appeals are upheld and the race committee is directed to reinstate B, C, D and E in the positions in which they crossed the finishing line and to reinstate F in her original finishing position of fifth place.

**APPEAL 60****Definitions, Start****Rule 30.1, I Flag Rule****Rule 62.1(a), Redress****Rule 63.1, Requirement for a Hearing****Rule 64.2, Decisions on Redress****Rule 90.2(c), Changes to Sailing Instructions****Appendix A – Rule A5, Scores Determined by the Race Committee**

*Oral instructions given at a skippers' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.*

**Summary of the Facts**

The sailing instructions stated that rule 30.1 applied. At the skippers' meeting before the event, the chairman of the race committee stated that the 'one minute rule' would apply to all starts. No amendments to the sailing instructions were posted.

Code flag 'I' was not displayed, but about 30 seconds before the start of the first race, the race committee hailed two boats, A and B, that they were over the line and were subject to the 'one minute rule.' Both boats hailed the race committee that the one minute rule did not apply but nonetheless each re-rounded the committee boat and then started as if rule 30.1 were in effect.

The posted results of the race disqualified A without a hearing. A protested claiming that she had started correctly and that she was wrongfully disqualified for not starting correctly. Both boats also requested redress under rule 62.1(a) claiming that rule 30.1 did not apply to the first start because flag 'I' was not displayed and that their finishing positions were made significantly worse by the hails of the race committee before the start.

The protest committee held a hearing. They verified that A had started correctly, but then dismissed A's protest, ruling that the protest had been filed late. The protest committee further ruled that the finishing position of B was not made significantly worse based on the verbal instructions of the race committee chairman at the skippers' meeting. Both boats appealed.

**Decision**

Rule 90.2(c) provides that oral instructions, if specifically permitted by the sailing instructions, may be given on the water; but in no circumstances are oral changes to the sailing instructions permitted ashore before a race. The oral instructions of the race committee chairman at the skippers' meeting did not alter or amend the written sailing instructions. A started correctly. Rule 63.1 protects A from being disqualified without a hearing. Her 'protest' was, in fact, a request for redress. It, like the requests for redress by both boats, was filed promptly after learning of their disqualifications from the posted results. The protest time limit should have been deemed to commence at that time.

A's appeal is upheld and the race committee is directed to reinstate A in her finishing position in the race. The race committee's hails about the 'one minute rule' before the start of the first race were an improper action and clearly made the finishing positions of both A and B significantly worse. The race committee should have taken action to request redress for the boats under rule 60.2(b). However, the race committee was unable to recommend any redress that would be equitable under rule 64.2, and therefore no further redress can be granted to A or B for the race committee's improper action.

## APPEAL 61

### Rule 10, On Opposite Tacks

*A give-way boat that cannot keep clear of a right-of-way boat because of rigging failure cannot be exonerated on this account for breaking a rule of Part 2.*

### Summary of the Facts

P was broad reaching on port tack and S on starboard tack. P's crew was repairing a broken diamond stay. S converged on a collision course and hailed "Starboard." P replied that she was unable to gybe. S had to alter course then gybe to avoid a collision. S protested. P was disqualified under rule 10. P appealed.

### Decision

P's decision in the circumstances to preserve her mast left her subject to protest for breaking rule 10. P's appeal is dismissed and the decision of the protest committee is upheld.

## APPEAL 62 DELETED

## APPEAL 63

### Rule 14, Avoiding Contact

### Rule 61.1, Protest Requirements; Informing the Protestee

### Rule 63.5, Validity of the Protest or Request for Redress

*For boats greater in length than 6 metres, a protest flag must be perceived to be a flag (i.e. red material of rectangular, triangular or swallow-tail shape conspicuously displayed.  
The flag must be displayed at the first reasonable opportunity. For a fully-crewed boat, compelling evidence would be required to justify display within minutes, rather than seconds of an incident. Failure to observe these requirements will render a protest invalid.*

### Summary of the Facts

There was contact between boats A and B in a J/24 class race while rounding the leeward mark. Boat A displayed her protest flag “within ten minutes of the incident”; B did not fly a flag, but placed a red hat in the rigging. The protest committee ruled that A did not display her flag at the first reasonable opportunity, and that the red hat on B did not constitute a flag. Both protests were ruled invalid. A appealed, maintaining that problems caused while clearing away the spinnaker had prevented faster action, and in any event, that the time taken was more like five minutes after the incident.

### Decision

A’s appeal is dismissed. The purpose of the display of a protest flag is to notify the boat being protested as soon as is reasonably possible after an incident. In her appeal, A stated that verbal notice was given of intention to protest immediately after the incident, but B claimed in her comments that she did not hear this hail. This is the reason why a visual signal is an essential condition of a valid protest. Rule 61.1(a) requires that the boat shall “conspicuously display a red flag at the first reasonable opportunity.” A J/24 with a crew of five would have to provide compelling reasons why her protest flag was not displayed within a very few seconds after an incident. A provided no such reasons; a five minute delay is completely unacceptable.

ISAF Case 72 also presents a discussion of the word ‘flag’. In the Introduction to the Rules, the last sentence under Terminology provides for a definition of what comprises a ‘protest flag’, based on the definitions of these words provided by Webster’s Dictionary and The Oxford Companion to Ships and the Sea, as follows:

“A piece of red material, varying in shape but including rectangular, triangular and swallow-tailed shapes, of a size that is clearly visible, attached at one edge to a staff, spar or rigging.”

## APPEAL 64

### Rule 10, On Opposite Tacks

### Rule 16.1, Changing Course

### Rule 70.6 Appeals

### Appendix R – Rule R5, Inadequate Facts; Reopening

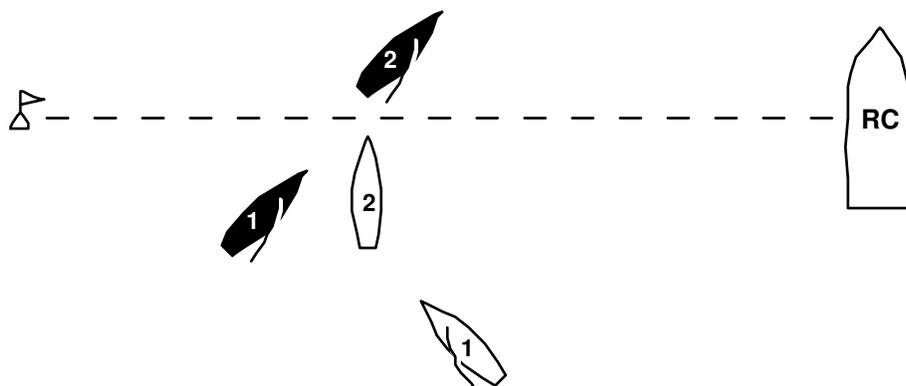
*A right-of-way boat shall not alter course directly at (i.e. shall not ‘hunt’)  
a give-way boat unless she gives her room to keep clear.*

*If the right-of-way boat so alters course, the give-way boat is protected by rule 16.1.*

### Summary of the Facts

S on starboard tack and P on port tack converged as they approached the finishing line. S hailed “Starboard” and P replied “Hold your course.” P continued on port-tack. S luffed head

to wind. P crossed ahead of S and finished. S, still head to wind, finished seconds later. S protested P under rule 10. The protest committee disqualified P under rule 10. P appealed.



### Decision

The protest committee found as facts, "S took evasive action in accordance with rule 14 with P on port-tack. Both boats were still racing."

The facts found are flawed in that they are insufficient to reach a decision, and the phrase "in accordance with rule 14," is a conclusion, not a fact. The protest committee did not respond under rule 70.6 and rule F5 with either a full statement of the facts found, or with an official diagram of the incident, but stated instead that they unanimously accepted the protestor's diagram and account of the incident as being correct. The diagram above is the relevant part of the protestor's diagram.

The diagram shows that P was keeping clear of S, had S not changed course, i.e. using common sailing parlance, S was 'hunting' P when she changed course between positions 1 and 2. As soon as S changed her course at position 1, P became protected by rule 16.1 which required that S shall not change her course without giving P room to keep clear. Even if it had been possible for S to have made contact with P at position 2, S would then have been disqualified for breaking rule 16.1, and rule 14.

Since P kept clear even though S changed course, no rules were broken. P's appeal is upheld. The decision of the protest committee is reversed; P is to be reinstated in her finishing position.

### APPEAL 65

#### Rule 78.1, Compliance with Class Rules; Certificates

#### Rule 64.3(b), Decisions on Protests Concerning Class Rules

*When a protest committee is in doubt about the meaning of a measurement rule and refers its question to the authority responsible for interpreting the rule, it shall be bound by that decision.*

### Summary of the Facts

Competitor A presented his sailboard and daggerboard for measurement at the prescribed measurement time before the regatta but did not have his mast measured.

After all five races of the regatta were completed A shortened his mast by cutting 5 to 6 cm. off it. He was protested and the protest committee referred the matter under rule 64.3(b) to the authority responsible for interpreting the rule to resolve such questions. The authority determined that A had sailed the regatta with an unmeasured mast which was too long. The protest committee disqualified A from all five races of these national championships.

The manufacturer of the sailboard appealed the decision of the protest/measurement committee and sent copies to the yachting press. The manufacturer was informed that it had no standing to appeal. A subsequently appealed.

### Decision

A's appeal is dismissed. The information supplied with the appeal confirmed that A sailed with an unmeasured mast and that competitor A cut it shorter after the regatta. Under rule 64.3(b) it was the responsibility of the protest committee to act on the finding of the measurement authority. The decision to disqualify A was correct.

## APPEAL 66

### Rule 11, On the Same Tack, Overlapped Rule 64.1(a), Penalties and Exoneration

*When protests occur in a group of boats in close proximity with each other, the protest committee should review the protest forms to see if the different incidents may be closely related and, if this is the case, the committee should hear the protests at a single hearing with all parties present.*

*When a boat breaking a rule has compelled another boat to break a rule, the other boat shall be exonerated.*

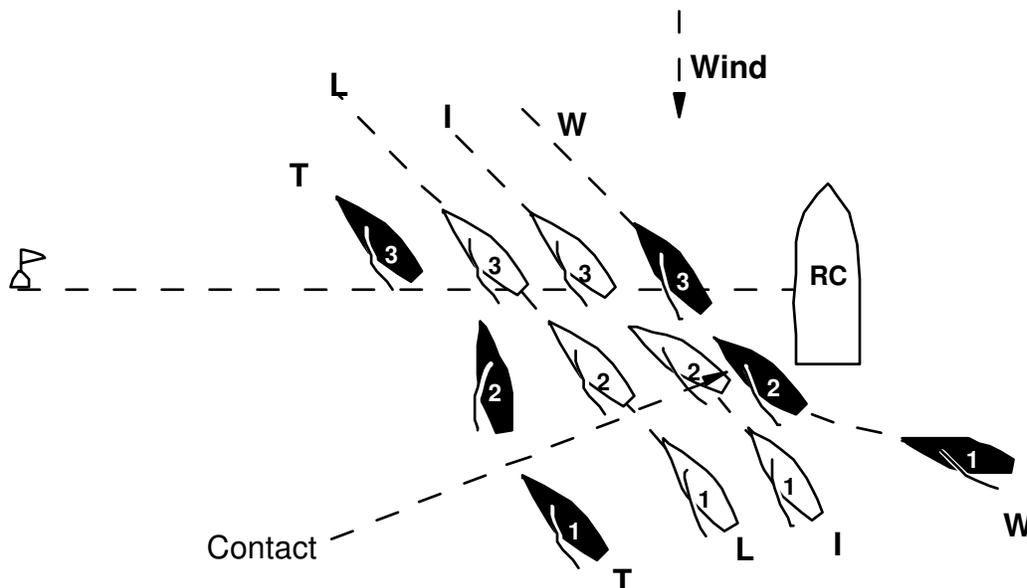
### Summary of the Facts

The protests resulted from an incident at the start of a race with a group of overlapping boats approaching and crossing the starting line in close proximity to one another as shown in the race committee's diagram.

Just prior to the starting signal, T hailed L to go up. As L responded she came in danger of collision with I and was forced to bear away. L protested I under rule 11. I also protested W, stating that she was approaching the starting line on a close-hauled course, and that W sailed between her and the starting mark without sufficient room to do so. Contact occurred between W and I which forced I below close-hauled and prevented I from responding to L's luff.

On the first protest of L against I, the protest committee disqualified I for not keeping clear of L because I did not satisfy the protest committee that she had complied with rule 11.

The second protest of I against W was considered as a separate incident by a different protest committee who decided not to hear the protest on the grounds that I had not complied with all of the requirements of rule 61.1(a). I appealed.



### Decision

The protest committee's diagram and I's protest show that this was one incident and the protests should have been heard together by one committee once L's protest was ruled valid. I was forced below close-hauled because W was in contact with her windward side and thus prevented her from keeping clear of L. I's appeal is upheld and W is disqualified under rule 11. I is exonerated under rule 64.1(c) for having been compelled by W to break rule 11 and the race committee is directed to reinstate I in her original finishing position.

### APPEAL 67

#### Definitions, Room

#### Rule 15, Acquiring Right of Way

*When a boat acquires right of way, she shall initially give the other boat room to keep clear.*

*Room depends on the existing wind and sea conditions.*

#### Summary of the Facts

A and B were both sailing close-hauled on port-tack with A just over one boat length to leeward and two and a half boat lengths ahead of B. The wind strength was more than 30 knots and the

seas were 4 to 5 feet high. A tacked to starboard. B attempted to keep clear but because of the proximity of the two boats when A tacked, B was unable to keep clear. The protest committee disqualified A under rule 15. A appealed.

### **Decision**

A's appeal is dismissed; the protest committee's decision to disqualify her is confirmed.

## **APPEAL 68**

### **Rule 42.1, Propulsion, Basic Rule**

*When running an engine to charge batteries is permitted by the sailing instructions, a boat must take positive action to prevent her propeller from turning.*

### **Summary of the Facts**

Just after the start, A observed that B had her engine running. A protested.

At the protest hearing, B admitted that her engine was running but claimed that the gear lever was in neutral and therefore that the propeller shaft was not turning.

For certain long distance or overnight races when battery drain may become a problem, the sailing instructions permit boats to run their engines provided that they take positive action, such as by placing a pair of vice-grips on the shaft, to ensure that the propeller shaft is not turning.

However, this was not a special overnight race and B took no positive action to ensure that her propeller shaft was not turning. B was disqualified under rule 42.1 because the protest committee was not satisfied that the propeller shaft was not turning. B appealed.

### **Decision**

B's appeal is dismissed. B was properly disqualified.

## **APPEAL 69**

### **Rule 62.1(a), Redress**

### **Rule 64.3(b), Decisions on Protests Concerning Class Rules**

### **Rule 70.2, Appeals and Requests to a National Authority**

*When a protest committee has doubt in a measurement matter and refers it to the qualified authority for a ruling, it shall be bound by the interpretation of that authority even if the protest committee considers the interpretation to be unfair.*

## **Summary of the Facts**

A and B competed in an open regatta on June 9, 1984. Each boat protested the other on the grounds that the other's rating certificate was invalid.

The protest committee determined that prior to May 19, each boat held a valid rating certificate of 28.9 issued by the Lake Ontario Racing Association (LORA). However, the LORA annual meeting in May 1984 approved the adoption of a new method of determining ratings and consequently LORA formally revoked the previous ratings of A and B and issued each boat with new LORA ratings of 30.0 on May 19 which were in force on June 9.

The owners of A and B disagreed with the method by which the new ratings were calculated and contended that their new rating certificates were invalid.

The protest committee was in doubt as to the interpretation of the measurement rules. The protest committee therefore deferred its decision on the protest and referred the matter to the LORA under rule 64.3 for LORA's comments.

The rating officer of LORA attended the reconvened protest hearing on June 21st and, as the qualified authority to rule on LORA ratings, reported that the ratings of the two boats on June 9 were 30.0. He also confirmed that on June 13th LORA had issued a revised certificate with a rating of 29.0 to A and on June 18th it had issued a revised certificate with a rating of 28.9 to B.

The protest committee reconvened the hearing on July 5 and decided that rule 62.1(a) applied and, acting under rule 64.3(b), directed the race committee to re-determine the results of the race using ratings of 28.9 for both A and B. The protest committee referred its decision to the Sail Canada appeals committee under rule 70.2 for confirmation or correction of its interpretation.

## **Decision**

Under rule 70.1(a) an appeals committee is restricted to ruling solely on a question of interpretation of the rules.

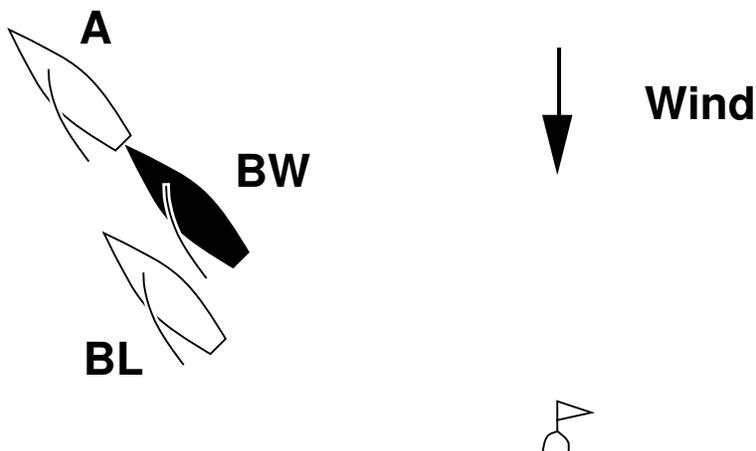
Because of its doubt regarding the boats' ratings as of June 9, the protest committee was correct in referring the matter to the LORA which was the authority qualified to resolve such questions. However, under rule 64.3 (b), the protest committee shall be bound by the reply of the authority. None of the criteria in rule 62 applied to this situation and the protest committee was not therefore empowered to give redress to A or B.

The decision of the protest committee is reversed and the race committee is instructed to recalculate A's and B's finishing positions in the race based on a LORA handicap rating of 30.0 which was their valid rating on the date of the regatta.

## APPEAL 70

**Definitions, Obstruction****Rule 12, On the Same Tack, Not Overlapped****Rule 19.2, Giving Room at an Obstruction****Rule 21, Exoneration**

*A boat clear ahead is an obstruction to a boat overtaking her from clear astern when the boat clear astern requires room from another boat to pass to leeward of the first boat.*

**Summary of the Facts**

A, BW and BL were close-hauled on the starboard tack. A was clear ahead of both BW and BL, who was overlapped to leeward of BW. BW was directly astern of A. BW and BL were overtaking A, and BW hailed BL for room to pass to leeward of A. BL did not bear away to give BW room and contact occurred between BW's bow and A's rudder.

The protest committee decided that BW was a windward boat and was obliged to keep clear of BL under rule 11. Further, under rule 12 BW was obliged to keep clear of A. The protest committee disqualified BW under rule 12. BW appealed.

**Decision**

BW was overtaking A from clear astern; therefore, A was a right-of-way boat with respect to BW under rule 12. A was therefore an obstruction to BW and, under rule 19.1, rule 19 applied. BL chose to pass to leeward of A; therefore BL was required under rule 19.2(b) to give BW room to pass to leeward of A, which she failed to do. Contact between BW and A was caused by the failure of BL to give BW *room*. BW is therefore exonerated under rule 21 for breaking rule 12. BW's appeal is upheld and BL is disqualified.

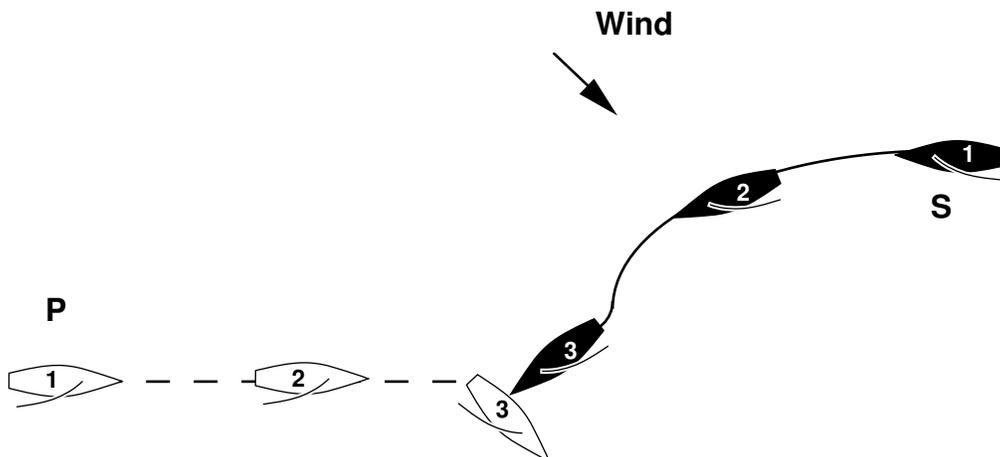
## APPEAL 71

### Rule 10, On Opposite Tacks

### Rule 14, Avoiding Contact

### Rule 16.1, Changing Course

*Both S and P are disqualified in a prestart incident when S continually changes course towards P which, because neither boat was keeping a look-out, results in contact and damage to P who did not take action to keep clear.*



### Summary of the Facts

About three minutes before their starting signal S and P were sailing in the starting area in a 10 knot wind. S and P collided violently. Both protested.

Neither boat saw the other until just before the collision occurred. S, sailing just off the wind, began to bear away in a steady turn approximately twenty seconds before the collision occurred. Witnesses were apprehensive of a collision about ten seconds before it occurred.

P held her course until the last few seconds, at which time S was on a beam reach. At this stage both boats attempted to avoid the collision – S luffed and P bore away; consequently, both boats' attempts to avoid collision were abortive. S's bow hit P's gunwale causing damage.

Shouting on both boats began about five seconds before the collision. S altered her helm, as she hailed, but P did not respond until a couple of seconds later.

P was disqualified for breaking rule 10. The protest committee decided that rule 14 did not apply because both boats made a reasonable attempt to avoid a collision. P appealed.

### Decision

In position 1 P was keeping clear of S. S then continually changed her course towards P.

With respect to S: All the time that S was changing her course, i.e. all the time she was not sailing in a straight line, S was required by rule 16.1 to give P room to keep clear. Until the boats were on a collision course they were keeping clear of each other and S's change in course did not break rule 16.1. However, as soon as S's change in course established a collision course with P, at position 2, S was required to take positive action to give P room to keep clear. However, S continued to change her course towards P after position 2, which did not give P room to keep clear and made the collision inevitable. That S did not see P is immaterial. S broke rule 16.1.

With respect to P: As soon as the two boats came onto a collision course at position 2, rule 10 required P to begin to take positive action to keep clear. However, because P was not keeping a proper look-out and did not see S, P did not then begin to keep clear but delayed any change in her course until after S's hail. When P did change course just before position 3, it was to try and minimise a collision which by then was unavoidable. P did not try to keep clear when required and therefore broke rule 10.

P's appeal is dismissed. Both boats are disqualified, S for breaking rule 16.1 and P for breaking rule 10. In addition, both boats also broke rule 14. Neither boat was keeping a proper look-out. This is unreasonable at any time – particularly in a starting area during the pre-start. Contact could clearly have been reasonably avoided had each boat been looking where she was going. Each boat was equally guilty of this omission and both therefore broke rule 14.

## APPEAL 72

### **Rule 62, Redress**

*Unless provision is made in the sailing instructions, breakdown of a chartered boat does not provide grounds for consideration of redress.*

### **Summary of the Facts**

A chartered boat failed to start a race within five minutes following the starting signal. The sailing instructions prescribed that 'a boat shall not start later than five minutes after her starting signal' and the boat was therefore scored as DNS. The boat was not in the starting area because of an equipment failure and she requested redress and asked for breakdown points. The sailing instructions contained no provision for break-down points for chartered boats and so the request for redress was denied.

The boat appealed on the grounds that the regatta organisers were responsible for the maintenance of chartered boats. Support for such grounds was the report that an earlier race had been postponed so that repairs on a boat might be completed by a regatta assistant.

### **Decision**

The sailing instructions made no provisions relieving charterers of the responsibility for the

maintenance of their boats. The race committee noted in their comments that postponement in a previous race cited by the appellant was in response to changes in wind direction and was not made to permit the completion of repairs to a competing boat. The entry form for the regatta included a waiver of liability signed by all participants, by which each entrant assumed sole responsibility for their boat. No distinction was made between charterers and those who competed in their own boat.

The appeal is dismissed.

**APPEAL 73  
DELETED, 2013**

**APPEAL 74**

**Rule 28.1, Sailing the Course**

**Rule 62.1(a), Redress**

**Rule 63.1, Requirement for a Hearing**

**Rule 64.2, Decisions on Redress**

*Sailing instructions should be written and courses designated to ensure that there is clear distinction between rounding and passing marks.*

*A protest decision and hearing must be limited to a particular incident that has been described in the protest. Without a hearing a boat may not be penalized for failing to sail the course.*

**Summary of the Facts**

The sailing instructions stated that 'course signals will be displayed from the committee boat by showing the numbers of the marks of the course in order. Numbers displayed on a green background are to be left to starboard; those on a red background are to be left to port'. A chart, the relevant part of which is illustrated, was also included with the sailing instructions.

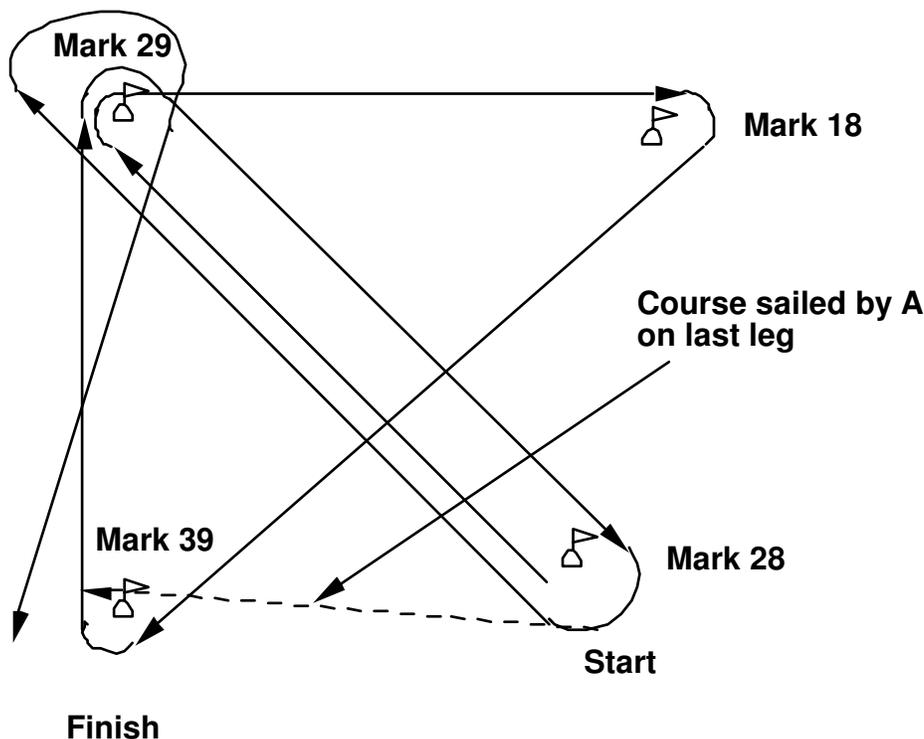
The committee boat was stationed at mark 28 for the start and signalled the following course: 29G, 18G, 39G, 29G, 28G, 29G, 39R

The majority of the fleet sailed the posted course making a 270 loop around mark 29 when it was the penultimate mark of the course. One boat, A, decided that 29G was a passing mark and, when lying in sixth position at mark 28, sailed directly from Mark 28 to the finishing line, leaving Mark 29 to starboard and crossing the finishing line in first position in her class. The race committee did not record A's finishing time but scored her as DNF.

A requested redress against her disqualification, maintaining that she had sailed the posted course. She argued that, if Mark 29 was to be rounded the Race Committee should have displayed 29R and not 29G. If mark 29 was a turning mark, the course would have required the

fleet to make a loop around mark 29. The protest committee refused redress and disqualified A, because she had not sailed the course which was intended by the race committee.

A appealed and with their comments the race committee asked for clarification of the meaning of 'rounding' and 'passing' marks.



### Decision

The race committee made three errors in the conduct of this race which were as follows:

a) Rounding and passing marks

Rule 28.1 requires that a string representing a boat's track when drawn taut touch only rounding marks. The race committee did not define whether the displayed course marks were rounding or passing marks, thus leaving the course designation ambiguous.

Ambiguities between rounding and passing marks may be eliminated in sailing instructions that read "numbers displayed on a green background are to be rounded to starboard; those ..."

b) 'Looping' Marks.

Race committees should never set courses so that the taut string in rule 28.1 crosses over itself at any rounding mark since this would put boats in the same or different races at unnecessary hazard with each other in their rounding manoeuvres.

c) Disqualifying a boat without a hearing

A crossed the finishing line in accordance with the definition of *finish* and the Race Committee scored her DNF without a hearing. This was an improper action under rule 62.1(a) since rule 63.1 does not permit the Race Committee to penalize a boat that fails to sail the course.

In the redress hearing the Protest Committee failed to address the improper action of the Race Committee, and they refused redress. This was an omission of the Protest Committee under rule 62.1(a).

The Protest Committee expanded the scope of the redress hearing to include the matter of whether A sailed the course properly. This action of the Protest Committee was contrary to ISAF Case 80, which finds that “a fundamental principle of protest hearing procedure is that a hearing must be limited to a particular ‘incident’, the term used in rule 61.2(b). Because A had not been protested for failing to sail the course, the hearing could not examine this incident, and she could not be penalized for breaking rule 28.1. This procedural error in the hearing and the resulting decision to disqualify A were improper actions of the Protest Committee under rule 62.1(a).

The appeal is upheld. A is to be reinstated in her finishing position and the results of the race are to be adjusted accordingly.

*Note: Revised following decision of Sail Canada Appeal 94 so that the penultimate paragraph of the Decision is consistent with ISAF Case 80.*

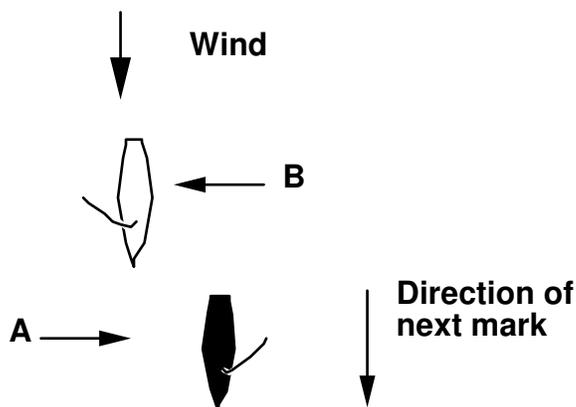
## APPEAL 75

### Rule 10, On Opposite Tacks

### Rule 14, Avoiding Contact

### Rule 63.6, Taking Evidence and Finding Facts

*A protest committee must arrive at a single set of facts in a single incident.*



### **Summary of the Facts**

Contact occurred between two boats on a downwind leg resulting in gelcoat damage and both boats protested. A's protest stated that she was on starboard tack and being overtaken by B who was on port and that B failed to keep clear. B's protest stated that both boats were on port tack, that B was clear ahead and that A was overtaking B to windward and did not keep clear.

To avoid having to reconcile the different descriptions, the protest committee ruled on each protest independently, disqualifying B in the first protest under rule 17 and A in the second protest under rule 11. B appealed.

In their comments on the appeal, the protest committee confirmed that a single incident had occurred and that the diagram of protest 1, shown above, represented the official diagram. The chairman of the protest committee also subsequently confirmed that the damage to the boats consisted of a scrape along the starboard quarter of A and gel coat damage to the port bow/pulpit area of B.

### **Decision**

The appeal is dismissed. Under rule 63.6, a protest committee shall establish the facts pertaining to an incident and only one set of facts can be established for one incident. The protest committee was correct in disqualifying B in protest 1 based on the facts they found and their official diagram, but this should have been under rule 10, not rule 17 because the boats were on opposite tacks. The protest committee was incorrect in considering protest 2 in isolation from protest 1. They were wrong to disqualify A since there was only one set of facts applicable to the incident. In addition, it is clear from the diagram that B, the give-way boat, ran into A causing damage. This was both unreasonable and totally unnecessary and B broke rule 14.

B is disqualified under rules 10 and 14 and A's disqualification is set aside.

## **APPEAL 76**

### **Rule 41, Outside Help**

*Radio communications do not necessarily constitute outside help,  
but a boat which engages in them does so at some peril.*

### **Summary of the Facts**

A and B were competing in a 68 mile race. B, reaching in a 16 knot breeze and clear weather was about 6 nautical miles from the mark ending the first leg when she was called on VHF channel 9, the working channel of the race committee, by a cruising boat C which had crossed the lake a few hours earlier and was 15 miles away from the course on which B, A and the other

boats were racing.

A general radio conversation between C and B, initiated by C, then ensued. C described the weather conditions during her crossing, her current local weather conditions and the public weather forecast which both boats had heard. A monitored the conversation and protested B for breaking class rules and rule 41.

The protest was dismissed. The protest committee found that the cruising class rules did not prohibit the use of VHF radio for the race and that the exchange of information regarding conditions at C's location was not of assistance to B.

A appealed. She alleged that B intended to receive information which may have helped her final position in the race. She further stated that 'the protest committee found as a fact that outside assistance was clearly solicited and obtained'.

### **Decision**

A boat breaks rule 41 when she receives outside help except in circumstances permitted in the rule. Information that is freely available to all boats, and unsolicited information from a disinterested source, which may be another boat in the same race, are permitted. ISAF Case 100 finds that an answer in reply to a specific question is advice and outside help. The fact that it is broadcast on a public frequency is irrelevant. Intent is not an element of rule 41.

In this appeal it was not established as fact that B asked for or received advice. An appellant also bears the onus of substantiating an objection to an appealed decision. Rule 70.1 restricts appeals to questions of interpretation, and appeal bodies are required to accept the facts found by the protest committee. The positions of B and C, the initiation of the radio call by C and the contents of the conversation were all facts found by the protest committee. The finding that the conversation was not of assistance to B was deduced from the facts and was a conclusion, not a finding of fact.

A conclusion may be appealed but an appeals committee may draw a different conclusion only when that of the protest committee is not supported by the facts it found or is based on an erroneous interpretation of a rule. In this appeal both committees properly interpreted the rule but came to different conclusions on the facts. The unequivocal 'not of assistance' conclusion of the protest committee was diametrically misrepresented by A in her appeal. The observations of the protest committee contradict A. They state that after hearing the parties and C they found that C's call was not pre-arranged and could not possibly have benefited B. In its observations to this committee, the protest committee indicates that the evidence was that B tried to steer the conversation to 'safe topics'.

Even radio transmissions freely available to all boats are quite capable of breaking rule 41 when advice is given in response to a specific question. Boats engaging in radio conversations while racing do so at their own peril in terms of rule 41. B would have been well advised to tell C immediately that she could not talk to her during the race. However it is for the protest

committee to decide each case on its merits and in this case the protest committee was definite in its decision that the VHF conversation was of no assistance to B.

The appeal is dismissed A's protest was properly dismissed.

Also see ISAF Case 100.

**APPEAL 77  
DELETED**

**APPEAL 78**

**Definitions, Racing**

**Preamble to Part 2, Application of the Rules between a Boat that is Racing and a Boat that has Finished.**

**Rule 10, On Opposite Tacks**

**Rule 16, Changing course**

**Rule 14, Avoiding Contact**

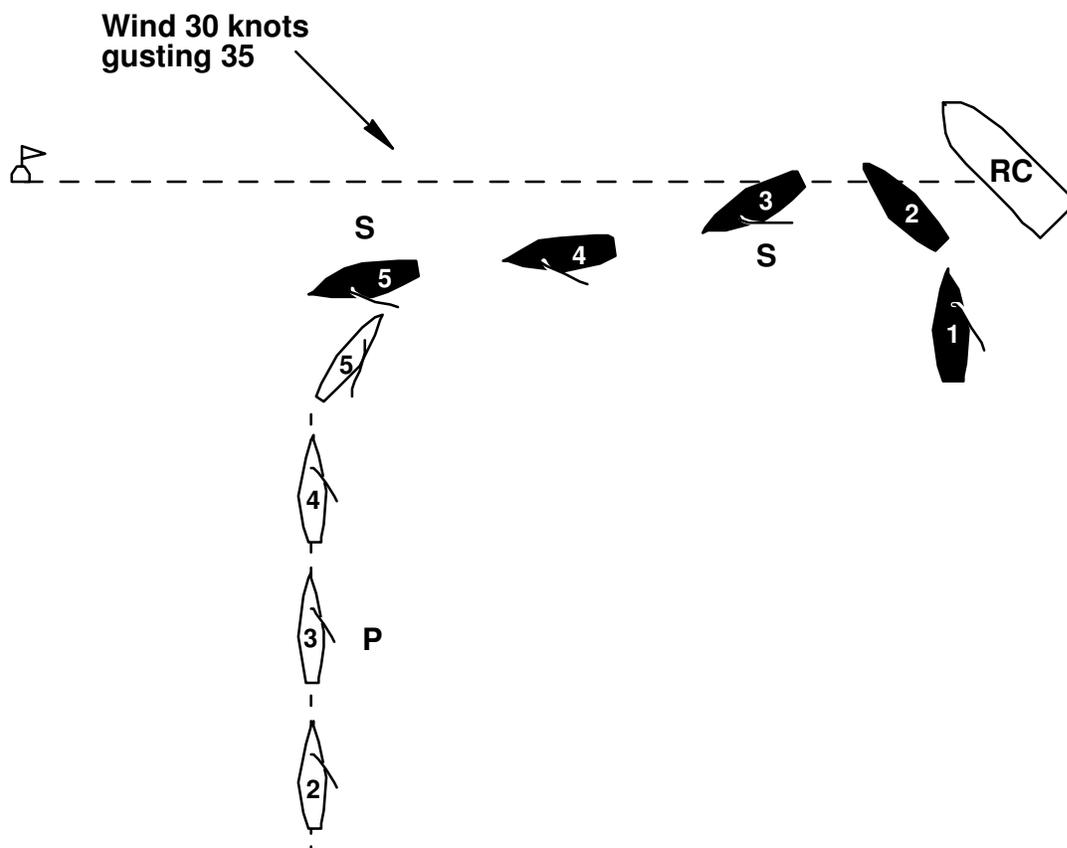
**Rule 24, Interfering with Another Boat**

*The rules of Part 2 apply between boats that are racing and boats that have finished racing but are still sailing in or near the racing area.*

**Summary of the Facts**

In winds of 30 knots, the finishing line was port tack favoured. S, a 35 foot boat, laid the committee boat on port tack, luffed across the finishing line, and tacked onto starboard to avoid the anchor line of the committee boat. S then fell back to the course side of the finishing line and continued on starboard tack. About one minute after she finished, S converged with P who was approaching the finishing line to finish on port tack.

P bore away to pass astern of S, but rounded up in a strong gust and collided with S. Both yachts protested. The protest committee found that S had not broken rule 24.1. The protest committee found that P had not kept clear of S and they disqualified P for breaking rule 10. P appealed.



### Decision

The preamble to Part 2 provides that the rules of Part 2 apply between boats that are sailing in or near the racing area and intend to race, are racing or have been racing. The rules of Part 2 therefore applied between S and P because, even though S had finished, because she was sailing in the racing area, and had been racing.

The official diagram is also part of the facts found by the protest committee. The diagram shows that, when the two boats came together, S was clear to leeward of the finishing line but had only sailed 2/3 of the length of the finishing line towards the pin. S had therefore not cleared the finishing marks – in this case, the pin- and was still sailing in the racing area. Under the definition of *racing*, S was therefore still racing.

Since S did not alter course to interfere with P either before or during the incident, S did not break rules 14(a), 16.2 or 24.2, or any other rule of Part 2. The appeal is dismissed. P was correctly disqualified by the protest committee for breaking rules 10 and 14.

See also ISAF Case 104.

**APPEAL 79****Rule 26, Starting Races****Rule 62.1(a), Redress****Rule 63.1, Requirement for a Hearing****Rule 70.2, Confirmation of Decision****Appendix A5, Scores Determined by the Race Committee**

*The starting signals displayed by the race committee determine the starting times of a race; not the scheduled times published in the sailing instructions. No hearing is required to correct an obvious scoring error. Boats affected may request redress.*

**Summary of the Facts**

In a multi-start regatta the start for the class in question was scheduled for 1155 but the overall starting sequence was running 5 minutes later than the posted times. The sound signals for the warning, preparatory and start for this class were made with the display of start flags 4, 5 & 6, respectively, in accordance with the sailing instructions.

All but one of the boats in this class started at 1155 on their preparatory sheets. Unfortunately, when the preliminary race results were calculated in the sailing office, the OCS notations were disregarded and the boats were scored in the positions in which they crossed the finishing line. These preliminary results were not posted on the official notice board but were made available to some of the fleet.

A protested under rule 26 and the sailing instructions, that all other boats had not started and that she was the only boat that had started and sailed the course in accordance with the sailing instructions.

The protest committee found that these facts were correct and that the on-the-water race records correctly noted the boats as OCS, which is a notation that the boats failed to start. The protest committee directed that the error in scoring be corrected accordingly.

B then requested redress on the basis that she had started at the published signal. The exception was boat A which started on the correct starting signal for her class. All boats other than A were scored OCS on the race committee's on-the-water record time of her start. No redress was granted since the records showed the B had crossed the starting line shortly after her preparatory signal was displayed and had not returned to start correctly after her starting signal.

C and D then requested that the protest be reopened on the basis that they had been disqualified by the protest committee without being present and that the race committee had made an error in not starting the race at the published time and that this error had made their finishing positions significantly worse.

The protest committee met to consider whether there were grounds under rule 66 for reopening the original hearing. The protest committee decided that there were no grounds and did not reopen the hearing. The protest committee referred its decision to the appeals committee under rule 70.2 for confirmation or correction of its decision.

### **Decision**

The race committee established and recorded that all boats in the race except A did not start after their starting signal. The protest committee acted correctly in directing that the scoring results be corrected for the error in not transcribing the OCS notations from the on-the-water record sheets. This was the correction of an error and was not a penalty imposed under rule 64.1. Rule 63.1, covering the requirement for a hearing does not apply when rule A5, failure to start or finish, applies.

The facts showed that the starting sequence was running 5 minutes later than the times published in the sailing instructions. However, this did not make the finishing positions of the premature starters significantly worse, because rule 26 makes it clear that times shall be taken from the visual signals.

It is the responsibility of each boat, particularly in a sequence of starts, to check the starting signals for her own start. The premature starters did not check for their starting signal (Division code flag) and if their finishing position was made significantly worse, it was by their own actions. The only recourse for a boat scored as DNS or OCS is a request for redress under rule 62.1(a) if it can be shown that the race committee made an error, which in this case, it did not.

The decision of the protest committee is confirmed.

## **APPEAL 80**

### **Rule 62.1(a), Redress**

### **Rule 70.1, Right of Appeal**

### **Appendix R, Appeal Procedures**

*Decisions taken by an appeals committee in disregard of the procedures laid down in the rules are null and void and are set aside.*

### **Summary of the Facts**

The race in question was one of a series for the organising club but was also a one-off for the local sailing association. The sailing instructions required that all club yachts competing in the series be scored under the PHRF handicap rating system. There was also a trophy in the local association race for yachts racing under the IMS rating system.

A, a club boat, paid the required entry fees for both the IMS division and, because she was a club boat competing in the club series, the PHRF division. Her intention to compete in both divisions of the race was made well known to the race committee before she submitted her entry form. The sailing instructions did not preclude a boat from entering both divisions and A's entry fees for both divisions were accepted by the race committee.

A won the IMS division but was not scored in the PHRF division, whereupon she submitted a timely request for redress under rule 62.1(a).

The protest committee found that boat A had not been scored in the PHRF division due to an error by the race committee and directed that the scoring be corrected. The race committee recalculated and published a listing of the corrected results.

Without informing the club protest committee, the local appeals committee elected to hear an appeal submitted by 3 boats that had also competed in the one-off race. None of the 3 boats submitting the appeal were parties to the protest heard by the club protest committee and, in addition, the appeals committee did not follow the appeal procedures required by rule 70.

The local appeals committee ruled that A was not eligible to be scored under PHRF in the one-off race and directed that the decision of the club protest committee be reversed and that the PHRF trophies that A had won be otherwise presented. A appealed.

### **Decision**

The three boats who submitted the appeal were not parties to A's protest and had no right of appeal. As stated in ISAF case 55, a boat has no right of appeal from a redress decision when she is not involved in the hearing. When she believes that her finishing position was made significantly worse by the arrangement reached in that decision she must herself request redress from that protest committee within the time limit laid down in the rules. If she is still dissatisfied and believes that the protest committee did not act in accordance with the rules, she may then appeal the result of that hearing.

None of the three boats followed this procedure and none of them had standing to appeal. The local appeals committee therefore had no jurisdiction to hear the appeal. The appeals committee also did not follow the procedures laid down in rule 70. The appeal papers show that the appeals committee proceeded without informing either boat A or the club protest committee that they were hearing an appeal. They did not obtain a complete copy of the protest, nor did they ask for the protest committee's comments on the appeal. Finally, the decision of the appeals committee was not based on the facts established by the protest committee.

The appeal is upheld. The decision and actions of the local appeals committee are therefore set aside and the decision of the club protest committee, that A be awarded her trophies in the PHRF and IMS fleets, is reinstated.

## APPEAL 81

### Rule 28, Sailing the Course

*An interpretation of the phrase: "a string representing a boat's track" in rule 28.2.*

#### Summary of the Facts

An evening race was started in extremely light conditions with the race committee boat marking the starboard end of the starting line.

Boat A started correctly and cleared the starting line. After she had sailed a short way up the course, the wind became even lighter and she drifted back across the starting line to its pre-start side. A light breeze then came in and she sailed up the course. However, she did not pass through the starting line again but left the RC boat to port. At this time the RC boat was still on station displaying a white flag, in accordance with the Sailing Instruction which read: 'The starting line shall be between the mast of a committee boat, flying a white flag, and the adjacent mark.'

The race committee protested that A had not sailed the course in accordance with rule 28.1. Their protest stated that a string representing her wake from the moment she started until she finished would, if pulled taut, lie on the starboard side of the starting committee boat. An independent protest committee dismissed the protest on the grounds that the starting committee boat ceased to have a required side for A once she had started correctly and cleared the starting line. The race committee appealed.

#### Decision

Under rule 28.1 and the sailing instructions, the starting committee boat was a mark of the course with a required side while she remained on station and displayed a white flag. A string representing A's wake, when drawn taut, lay on the wrong side of the starting committee boat and the course sailed by A therefore broke rule 28.2 (the 'string rule'). The appeal is upheld and the club is directed to disqualify A from this race. See also ISAF Case 90.

## APPEAL 82

### Rule 64.1, Penalties and Exoneration

*An interpretation of the starting area.*

#### Summary of the Facts

In a multi-class regatta paragraph 11.4 of the sailing instructions (SI's) read as follows: 'Boats whose preparatory signal has not been made shall keep clear of the starting area and of all boats

whose preparatory signal has been made.'

The Laser II class started ahead of the Laser class. After the Laser II preparatory signal, Lasers A, B, C and D were observed by the race committee to be in the vicinity of the starting line. The race committee entered a protest against them for breaking SI 11.4. The protest committee recorded the above statement of the race committee as 'facts found' and disqualified the four Lasers. The next day, A requested that the protest be re-opened on the basis that the starting area had not been adequately described in the sailing instructions. This request for re-opening was denied because there was no evidence that the protest committee made a significant error, nor was any material new evidence presented. A and B appealed.

### **Decision**

Because the SI's did not precisely define the 'starting area' and the 'facts found' recorded on the protest form amounted to a conclusion rather than facts as to the actual location of the boats in relation to the starting line, the appeals committee requested further information from the protest committee (as permitted by Appendix R5).

It was considered necessary to establish whether the protest form contained all the facts found or whether additional facts were found at the hearing that were not recorded. The chairman of the protest committee supplied a more detailed description of the facts found, taken from his notes of the hearing. These showed that two minutes before the start of the Laser II's, all four Lasers were on or within 3 boat lengths of the starting line.

Another member of the protest committee also supplied a separate set of notes taken at the hearing. This committee member's notes recorded the evidence presented at the hearing and confirmed the information supplied from the protest chairman's notes. These notes also gave a summary of the protest committee's discussion before reaching their decision.

These comments and notes by two members of the protest committee showed clearly that there were extensive 'facts found' during the hearing that had not been properly recorded on the protest form.

The notes show that all four Lasers were physically on or very close to the starting line after the Laser II's preparatory signal and that boat C was very close to weather of several Laser II's as they were manoeuvring for their start.

When announcing the protest committee's decision to the protestees, the comments of the chairman of the protest committee indicate that he emphasised to the protestees that whatever doubt there might be about the exact perimeter of the starting area, it would necessarily include the starting line and the area immediately about the RC boat.

The appeals committee is satisfied that the four Lasers broke SI 11.4 under any reasonable definition of a starting area and that boat C actually interfered with Laser II's. The appeal is dismissed.

**APPEAL 83**  
**Adopted by ISAF as CASE 87\***

**Definitions, Keel Clear**

**Rule 10, On Opposite Tacks**

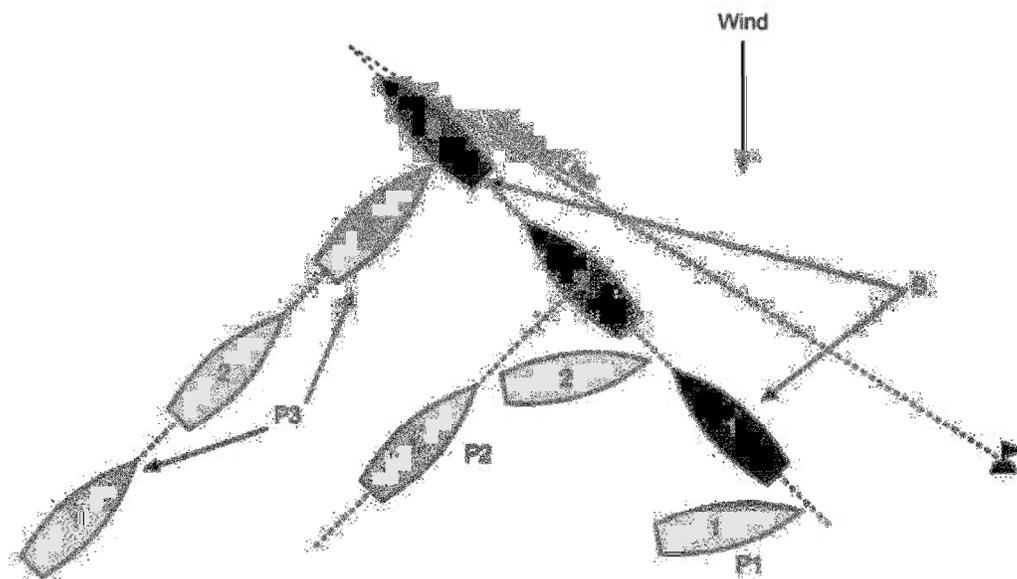
**Rule 14, Avoiding Contact**

*A right-of-way boat need not act to avoid contact until it is clear that the other boat is not keeping clear.*

**Summary of the Facts**

The angle of the starting line made it only just possible for a close-hauled boat on starboard tack to cross the line, and most boats approached on port tack. However, S approached on starboard tack from the right-hand end, continually hailing 'Starboard' to port-tack boats as they approached.

P1 and P2 bore off below S. P3, however, made no attempt to avoid S and struck her amidships at right angles, causing considerable damage. The protest committee disqualified both boats, P3 under rule 10 and S under rule 14. S appealed.



**Decision**

Rule 10 required P3 to keep clear of S. Rule 14 required each boat to avoid contact with the other boat if reasonably possible. In P3's case, rule 14's requirement to avoid contact with S was consistent with the broader requirement of rule 10 that she allow S to 'sail her course with no need to take avoiding action' (see the definition Keep Clear). P3 broke both rule 10 and rule 14.

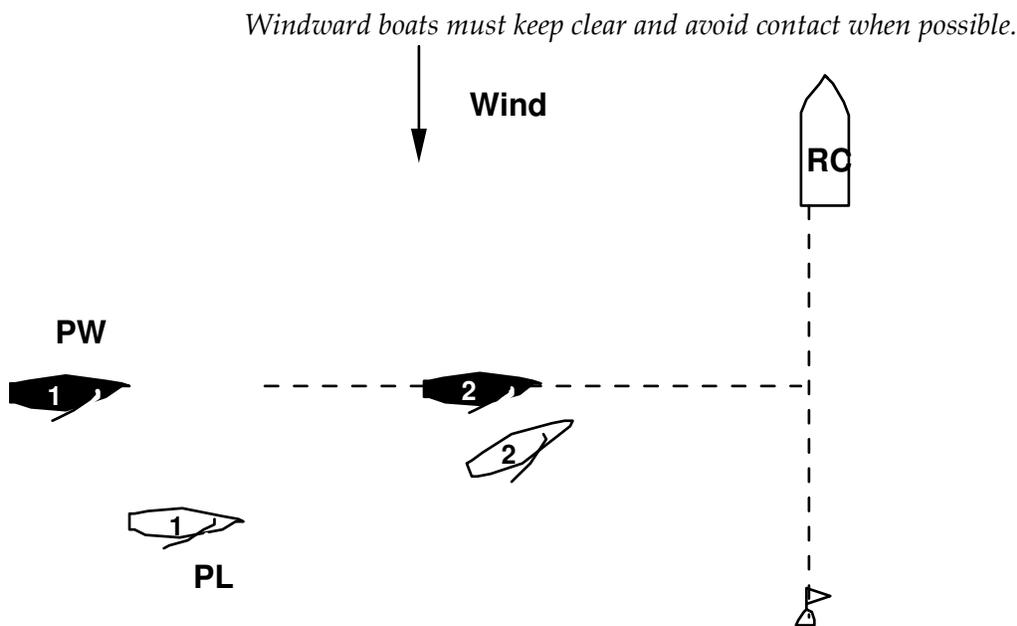
In S's case, while rule 10 required P3 to keep clear of her, at the same time S was required by

rule 14 to avoid contact if it was 'reasonably possible' to do so. However, rule 14(a) allowed S to sail her course in the expectation that P3 would keep clear as required, until such time as it became evident that P3 would not do so. In this case, the diagram shows that P3 could readily have borne off and avoided S from a position very close to S. For that reason, the time between the moment it became evident that P3 would not keep clear and the time of the collision was a very brief interval, so brief that it was impossible for S to avoid contact. Therefore, S did not break rule 14. S's appeal is upheld, and she is to be reinstated.

\*ISAF recognizes Cases as authoritative interpretations and explanations of the rules.

## APPEAL 84

### Rule 11, On the Same Tack, Overlapped Rule 14, Avoiding Contact



### Summary of the Facts

PW and PL were reaching on port tack for the finishing line. PW was carrying a spinnaker, while PL was sailing in a non-spinnaker division. PW was overtaking PL to windward. At position 1, PL began to luff slowly. PW had room to keep clear but she did not alter her course and her spinnaker contacted the PL's windward shroud, whereupon PL bore away and protested. There was no damage.

The protest committee disqualified PW under rule 11 and PL under rule 14. Both boats appealed.

## Decision

PW broke both rules 11 and 14 and was properly disqualified. Her appeal is denied. Rule 14(b) requires the right-of-way boat to be exonerated for a breach of rule 14 unless there is contact that causes damage or injury; therefore, PL's appeal is upheld and her disqualification is reversed.

**APPEAL 85  
DELETED**

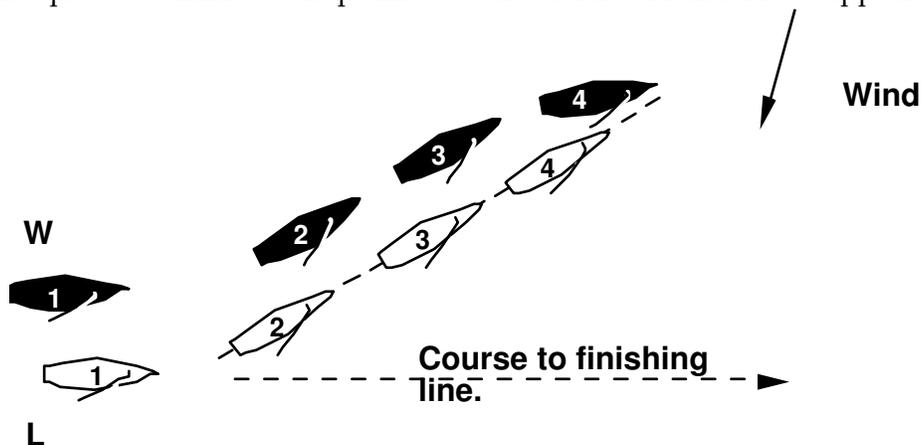
**APPEAL 86**

### **Rule 11, On the Same Tack, Overlapped Rule 14, Avoiding Contact**

*A windward boat shall keep clear and shall not bear away causing contact.*

#### **Summary of the Facts**

L and W were reaching on port tack for the finishing line. About half way down the leg, W became overlapped to windward of L who luffed slowly. W responded. L held a course above a direct course to the finishing line and W hailed L to sail a proper course. L continued to hold the same course. W then bore away and contact occurred. There was no damage. Both yachts protested. The protest committee disqualified W under rules 11 and 14. W appealed.



## Decision

The appeal is dismissed. W established a windward overlap from clear astern and never became clear ahead. Rule 17.1 did not therefore apply and L was under no obligation to sail a proper course. W was required to keep clear while the overlap continued which she did until

she bore away at position 4. W broke rules 11 and rule 14 and was properly disqualified.

## APPEAL 87

### **Race Signals, Changing the Next Leg**

#### **Rule 28, Sailing the Course**

#### **Rule 33, Changing the Next Leg of the Course**

#### **Appendix L12, SI Change of the Next Leg of the Course**

*A boat must sail a changed course when it is signalled by the race committee.*

### **Summary of the Facts**

Snipe A protested six other Snipes, alleging that they had not sailed the correct course. The protest committee established that the race committee signalled a change of course for all classes at a leeward mark. The Albacore, Europe, 470 and Snipe classes were all sailing the same course. The change of course was signalled by a RC boat that displayed two course boards, each marked with the compass course to the new mark, while making a succession of short sound signals in accordance with the sailing instructions.

The course change was signalled as the first Snipe approached the leeward mark at the end of its first triangle. At that time, the leading boats in the Albacore and 470 fleets were also approaching the leeward mark but, because of the effect of staggered starting times, these two classes were rounding this mark for the second time, prior to their last beat to the finishing line.

A did not sail the newly signalled course but, in company with two other Snipes, sailed to and rounded the original weather mark. The six Snipes that were protested by A sailed to and rounded the new weather mark.

The protest committee disqualified A and the other two Snipes that sailed to the old weather mark, under rule 28 for not sailing the correct course. After hearing the decision, A lodged a request that the protest be re-opened on the basis that Code Flag C was not displayed by the RC boat that signalled the change of course.

The protest committee found that this request contained no material new evidence. Furthermore, the protest committee found that the evidence established at the original hearing showed that the race committee had complied with the sailing instructions. The request for re-opening was refused. A appealed.

### **Decision**

There may have been some confusion as to whether code flag C was displayed by the RC boat or not. The only question is therefore whether the lack of display of a C flag - if indeed it was

lacking - made A's finishing position significantly worse under rule 62.1. It is clear from the text of the appellant's protest form that it did not.

The first paragraph of the original protest form reads: 'As the first place Snipe approached the leeward mark at the end of the first triangle, a change of course was being signalled for the final leg.'

It is clear that A knew that a change of course was being signalled. A's confusion arose because she assumed that the change of course signal applied only to the classes who were about to sail their final leg and did not apply to the Snipes, who were about to sail their second weather leg. A was mistaken in her assumption and her score was made worse by her own misunderstanding of rule 33. A's appeal is dismissed.

## APPEAL 88

### **Rule 61.1(a), Protest Requirements: Informing the Protestee**

*It is not reasonable to stow a protest flag where it cannot be displayed immediately.*

### **Summary of the Facts**

Just after the start in a race for cruising class boats greater than 6 metres in length, A on port tack was crossing B on starboard tack. B bore away and hailed 'Starboard' but did not fly a protest flag for approximately 5 minutes. A saw B's protest flag as the boats approached the first windward mark. B stated that the protest flag was stowed below and that the crew member who went to get it found that there was water on the cabin sole due to a leak from some plumbing repairs to a sink. The crew stopped the flow of water and pumped the bilge to check that no more water was coming into the boat before returning and displaying the protest flag. This accounted for the 5 minute delay in displaying the protest flag. The protest committee decided that the protest flag was flown at the first reasonable opportunity. They heard the protest and disqualified A under rule 10. A appealed.

### **Decision**

A delay of approximately 5 minutes in displaying a protest flag on a boat with a multiple crew and in no immediate peril of sinking does not comply with the requirement of rule 61.1(a) that the flag be conspicuously displayed at the first reasonable opportunity. After such a delay, the flag did not clearly relate to the earlier incident and was too late for A to comply with alternate penalty rule 44.2.

The requirement in rule 61.1(a) that a protest flag be flown at the first reasonable opportunity implies that the flag shall be immediately available for display. Stowing the protest flag below decks where it is not readily accessible makes it unlikely that the flag can be displayed at the first

reasonable opportunity. In a multiple-crewed boat, the crew member sent for the flag could easily have alerted other crew to the water problem while taking the few seconds needed to display the flag as a first priority. The appeal is upheld. The protest was invalid and A's disqualification is set aside.

### APPEAL 89

**Rule 11, On the Same Tack, Overlapped**

**Rule 14, Avoiding Contact**

**Rule 15, Acquiring Right of Way**

**Rule 16.1, Changing Course**

**Rule 19.2(b), Giving Room at an Obstruction**

**Rule 44.2, One-Turn and Two-Turns Penalties**

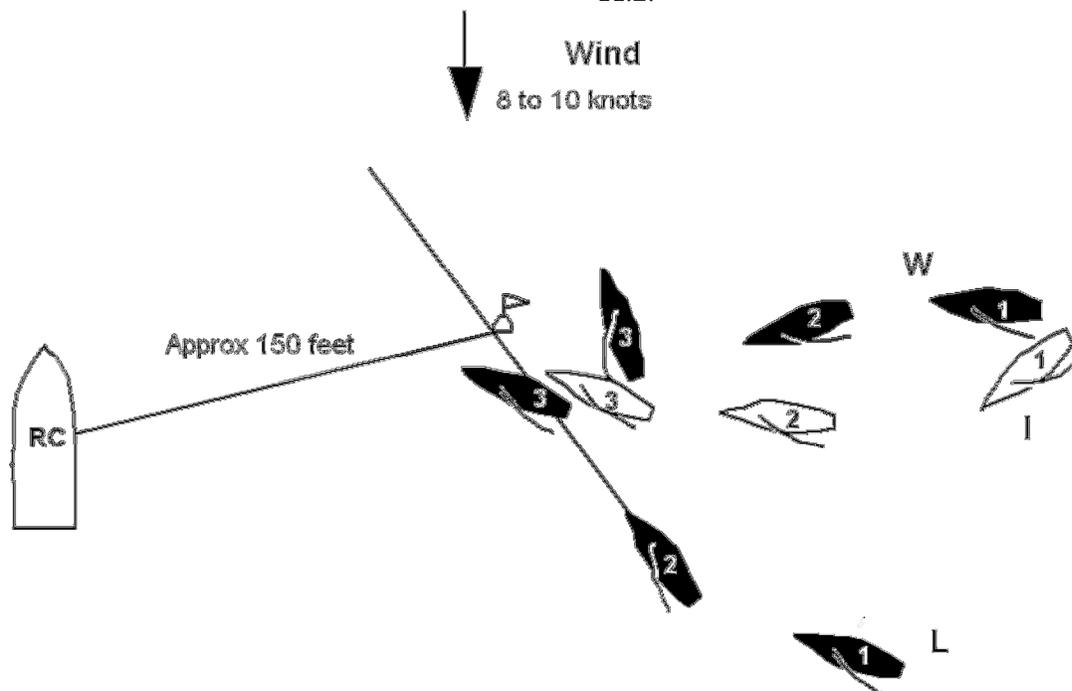
**Rule 61(a)(4), Informing the Protestee**

**Rule 63.1, Requirements for a Hearing**

**Rule 64.1(c), Penalties and Exoneration**

*When approaching the starting line prior to the starting signal, a boat clear astern may establish an overlap between boats clear ahead when at that moment there is room for her to do so and if she allows the windward boat room to keep clear. Thereafter she must keep clear of the leeward boat and the windward boat must give her room to do so. The leeward boat may not cause contact if it can be reasonably avoided.*

*A boat that broke a rule of part 2 is not subject to further penalty if she exonerated herself under rule 44.2.*



## Summary of the Facts

L and W approached the starting line prior to the starting signal reaching on starboard tack with L about 100 feet to leeward of W. I ducked W's stern and established an overlap 20 feet to leeward of and parallel with W. At that time L luffed to a close-hauled steady course toward I and W. L neared I who asked W for room to keep clear of L. W had become too close to I and could not give room. L bore away too late to avoid contact that caused damage to I. W then attempted to keep clear of I but her stern contacted I's windward side. W then took a Two-Turns Penalty. I protested L and W and L protested I. However, L did not hail "Protest" and did not display her protest flag for 2 ½ minutes after the incident. At that time L informed I of her intention to protest on Channel 72 in accordance with the Sailing Instructions. The Protest Committee heard the protests together. It disqualified I under rules 11 and 12 for failure to keep clear of L. I appealed, contesting the validity of L's protest and her own disqualification.

## Decision

Both boats' protests were valid. L's protest was valid under rule 61.1(a)(4). Since the incident resulted in damage that was obvious to the boats involved, L was not constrained to hail "protest" or display a red flag at the first reasonable opportunity for each.

When L first luffed to close-hauled and then held her course, I had ample room to keep clear and L did not break rule 16. When I established her leeward overlap on W she gave W room to keep clear and I did not break rule 15 or rule 19.2(b). I was required by rule 11 to keep clear of L. I broke rule 11 when she did not keep clear of L; however she is exonerated under rule 64.1(c) because W's breach of rule 11 by failing to keep clear of I, prevented I from keeping clear of L. L broke rule 14 by failing to avoid contact with I when it was reasonably possible to do so. I did not break rule 14 because neither her contact with L nor with W was avoidable by her.

The appeal of I is upheld. I's disqualification is reversed and she is awarded her finishing position. L is disqualified for breaking rule 14. W is not subject to further penalty because she exonerated herself under rule 44.2

## APPEAL 90

**Rule 12, On the Same Tack, Not Overlapped**

**Rule 13, While Tacking**

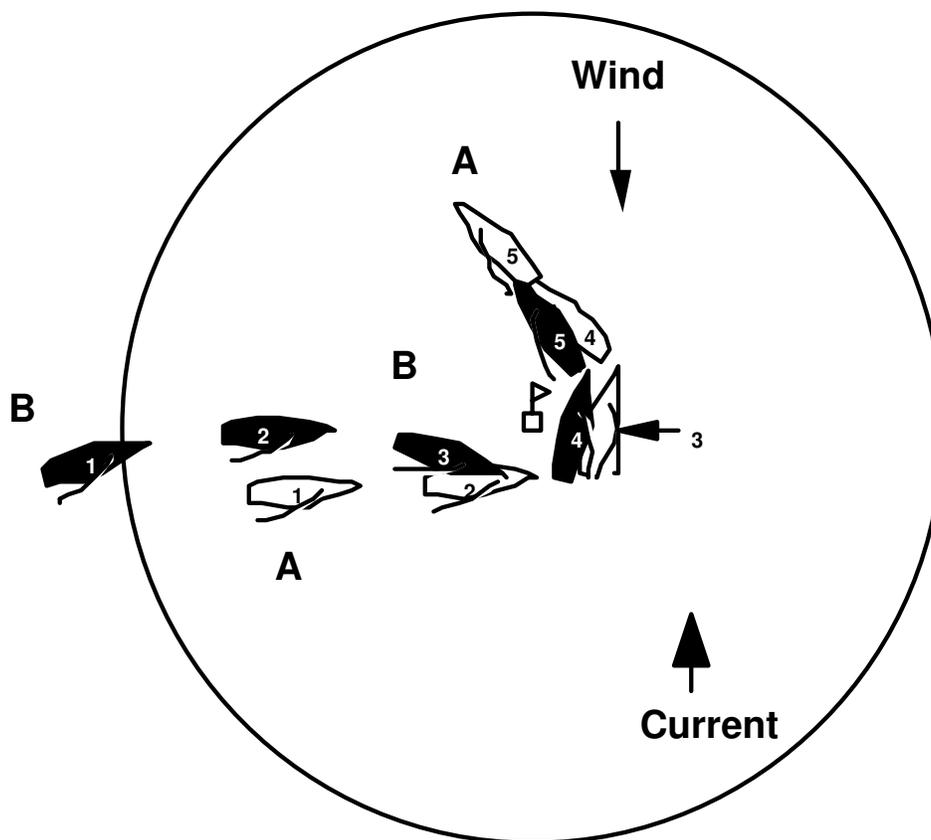
**Rule 14, Avoiding Contact**

**Rule 16.1, Changing Course**

**Rule 18.2 (b) and (c), Giving Mark-Room**

*When rounding a mark, a boat clear astern shall keep clear of a boat clear ahead. If the boat clear ahead passes through head to wind and is then keeping clear, the boat astern may not alter her course unless she*

*gives the other boat room to keep clear. Thereafter, when the boat astern passes through head to wind she shall herself keep clear of the boat ahead and, in particular, shall avoid contact with the other boat if this can reasonably be avoided.*



### Summary of the Facts

Both boats were close reaching towards a mark to be left to port. A was clear ahead of B by about one boat length when A entered the *zone*. When A reached position 3 she headed up in order to tack and B was clear astern. Between positions 3 and 4, A was tacking and B was heading up from a close reach towards head to wind.

At position 4, A had just assumed a close-hauled course on starboard tack and, at that moment, B was a few feet to leeward of her and, as B continued her turn through head to wind, B came onto a collision course with A, who was then on starboard tack.

At position 5, B had turned past head to wind but was not yet on a close-hauled course on starboard tack when contact occurred. The contact resulted in damage. The protest committee disqualified B under rule 13.

B appealed to Sail Canada. Sail Canada delegated the appeal to the PIYA Appeals Committee.

### **Decision of the PIYA Appeals Committee**

From the time the boats were in position 1 until they reached position 3, B was required by rule 12 and then by rule 18.2(b) to keep clear of A. She kept clear during that time and no rules were broken.

Between positions 3 and 4, A was tacking and B was heading up from a close reach to head to wind. As soon as A turned past head to wind, rule 13 applied and rule 18.2(c) indicated that 18.2(b) no longer applied. While rule 13 applied to A, B was the right-of-way boat and was subject to rule 16.1. Rule 16.1 applied to B's course change made between the time that A turned past head to wind and the time A assumed a close-hauled course on starboard tack at position 4. During that time B was required to give A room to keep clear, which she did.

At position 4, A had just assumed a close-hauled course on starboard tack and, at that moment, B was a few feet to leeward of her and, as B continued her turn through head to wind, B came onto a collision course with A, who was then the right-of-way, starboard tack boat.

At position 5, B had turned past head to wind but was not yet on a close-hauled course on starboard tack. Hence, at position 5, when contact occurred rule 13 required B to keep clear of A, which she did not do. B broke rule 13 at position 5.

The contact resulted in damage. B could have avoided that damage either by stopping her turn at position 4 and passing astern of A or by keeping clear while completing her tack into the space available. She did neither. It was not reasonably possible for A to have avoided the contact when B continued her turn after position 4. Hence, B broke rule 14, and A did not.

The PIYA Appeals Committee upheld the protest committee's decision disqualifying B. However, it ruled that the disqualification of B is for breaking rules 13 and 14.

### **Decision of the Sail Canada Appeals Committee**

The decision of the PIYA Appeals Committee upholding the disqualification of B correctly applies the rules to the facts and is upheld. The appeal of B is dismissed.

**APPEAL 91  
DELETED**

## APPEAL 92

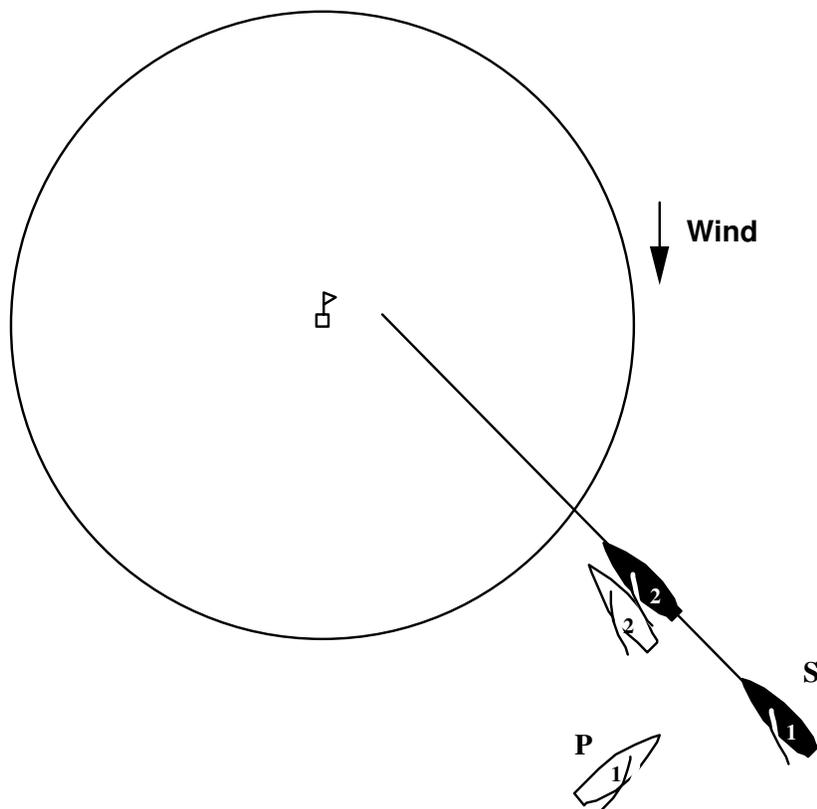
**Rule 11, On the Same Tack, Overlapped**

**Rule 14, Avoiding Contact**

**Rule 15, Acquiring Right of Way**

**Rule 64.1(a), Penalties and Exoneration**

*A boat is not required to anticipate that another boat will break a rule. In a changing situation, a newly obligated boat is entitled to time for a response.*



### Summary of the Facts

Two one-design boats, P and S were approaching a windward mark with S close-hauled on starboard-tack just above the starboard-tack lay line and P close-hauled on port-tack. P tacked to starboard and completed her tack outside the *zone*. Two seconds after P completed her tack, the two boats were in contact, side-by-side with both boats overlapped and S slightly bow-out on P. The Protest Committee disqualified S for breaking rule 11. S appealed. The Sail Canada Appeals Committee delegated the appeal to the Ontario Sailing Appeals Committee.

### Response of the OS Appeals Committee

The OS Appeals Committee referred to ISAF Case 27. S was obligated to keep clear under rule 11 once P had completed her tack but, under rule 15, was entitled initially to time to

respond. However, S was under no obligation to anticipate that, when P completed her tack and acquired the right-of-way, P would be so close to leeward of her that P could not comply with rule 15 and initially give S room to keep clear. Also, under rule 14, S did not need to act to avoid contact until it was clear that P was not giving the required room. S was travelling at 5 to 6 knots and contact occurred within 2 seconds. This showed that P broke rule 15. S did not break rule 14 because she could not avoid the contact that occurred within 2 seconds of the completion of P's tack. P, however, could have avoided contact with S had she either tacked further to leeward of S when she would have been able initially to give S room to keep clear or, alternately, if she had borne away to pass astern of S. P therefore broke rule 14.

The OS Appeals Committee found that P broke rules 15 and 14 and that S did not break rule 14. It upheld the appeal of S and directed that S be reinstated in the race and P be disqualified from that race.

This decision was published and sent to the parties on October 16, 2002. Sail Canada received a letter from P, dated January 21, 2003, appealing the decision of the OS Appeals Committee.

### **Decision of the Sail Canada Appeals Committee**

The appeal of P to this committee is invalid for the following reasons:

- The appeal was submitted 90-100 days after the OS appeal decision was issued. This does not fulfil the requirements of rule R2.1 or the Sail Canada prescription to that rule, which require such action be taken within 15 days.
- The letter of appeal is appealing the facts found by the protest committee and nothing else. The Sail Canada Appeals Committee considers that the protest committee's finding of facts was adequate and P's basis for appeal would therefore be invalid under rule F5.

In reviewing the file, the Sail Canada Appeals Committee confirms that the procedures followed by the OS Appeals committee were correct. The OSA decision to disqualify P and reinstate S in her finishing position was correct; however its decision is altered slightly to read:

The appeal is upheld. P broke rules 14 and 15. S broke rule 11 but is exonerated under rule 64.1(a). S did not break rule 14. P is disqualified and S is to be reinstated in her finishing position in the race. The appeal of P to Sail Canada is denied.

**APPEAL 93  
DELETED**

**APPEAL 94****Rule 28, Sailing the Course****Rule 61.2, Protest Contents****Rule 62.1(a), Redress****Rule 63.1, Requirement for a Hearing****Rule 63.2, Time and Place of the Hearing; Time for Parties to Prepare**

*A boat may not be penalized for failing to sail the course without a hearing arising from a protest by the Race Committee, the Protest Committee, or another competitor.*

**Summary of the Facts**

After all boats had finished in the first race in the series, the Race Committee took the fleet ashore and informed the competitors in an open meeting that 10 of the 17 boats competing had failed to sail the course properly under rule 28 and the Sailing Instructions. After discussion, the Race Committee scored those 10 boats DNF.

One of the 10 boats scored DNF requested redress on the basis that the Sailing Instructions were unclear as to the course to be sailed, constituting an improper action or omission of the Race Committee. The Protest Committee concluded that the protestor had “failed to completely read and understand the sailing instructions in their entirety,” and that “the race committee and sailing instructions were not to be held at fault for the protestor’s failure to properly sail the course as per the sailing instructions.” The request for redress was denied. The protestor appealed to the Sail Canada Appeals Committee.

**Decision**

Rule 63.1 does not permit assessing a penalty without a hearing to a boat that fails to sail the course. The Race Committee’s open meeting with competitors following the first race did not meet the requirements of either rule 61.2 or 63.2. No competitors filed protests against the 10 who failed to sail the course. Thus, when the Race Committee scored the 10 boats DNF, they broke rules 63.1 and A5, and so performed an improper action under rule 62.1(a). The Protest Committee failed to address this error.

That the Protest Committee did not support the protestor’s contention that the sailing instructions were unclear was irrelevant in the circumstances. According to ISAF Case 80, “because (a boat) had not been protested for failing to sail the course, she could not be penalized for that failure.”

The appeal is upheld. All 10 boats scored DNF in race 1 are to be reinstated in their finishing positions and the series is to be rescored.

**APPEAL 95****Rule 64.3, Decisions on Measurement Protests****Rule 70, Right of Appeal and Requests for Interpretation**

*A matter may not be referred to a National Authority for appeal unless it has been the subject of a protest hearing in which the appellant was a party.*

*Administrative appeals within the context of class rules, or a measurement or performance handicap system, are within the purview of the organization issuing the certificate*

**Summary of the Facts**

A cruiser-racer was assigned a performance handicap by a district PHRF handicapping committee. The owner was dissatisfied with the assigned handicap and appealed to the Central Council of the regional handicapping authority, as per the 'grievance' bylaws of the regional PHRF authority, of which the district was a member. The appeal was denied on the basis that the assigned handicap was appropriate. The owner then requested permission of the Central Council to make a further appeal to US PHRF, who required such permission to be granted before an appeal would be considered. The Central Council refused such permission, but did request that the district handicapping make a particular point of re-examining the appellant's boat's handicap at season's end, per usual practice.

The owner then appealed to Sail Canada, contending that the Central Committee was "denying due process by blocking an appeal to PHRF's senior-level rating appeals committee, the committee-of-record continent-wide for rating appeals under the PHRF Handicapping System." The appellant continued that, "This denial is procedurally improper, contravenes natural justice, and goes against the intent of the Sail Canada prescription to rule 64.3 regarding resolution of PHRF rating questions." The appellant also noted that the regional handicapping authority was a member of US PHRF.

**Decision**

Rule 70 provides for the appeal of a protest committee's interpretation of a *rule* or its procedures. The Definition *Rule* (d) in the Racing Rules of Sailing for a boat racing under a handicap or rating system considers the rules of that system 'class rules'. A National Authority may properly consider appeals of measurement protests. The appeal is denied since the matter at hand has not been the subject of a protest hearing as required by rule 70.

**APPEAL 96****DELETED**

## APPEAL 97

### Rule 29.1, Individual Recall

### Rule 30.1, I Flag Rule

### Rule 62.1(a), Redress

*A race committee must be properly organised to fulfil its responsibilities and keep records accordingly. In making a decision on redress for a boat scored OCS, a protest committee must consider the division of responsibilities between the competitor and the race committee. When the facts of this situation are not conclusive, a protest committee should resolve the matter in favour of the competitor.*

### Summary of the Facts

At the start of a race, an "I" flag was displayed as the preparatory signal. The race committee identified four boats on course side during the one minute before the starting signal. Flag "X" was displayed with one sound signal. The race committee recorded the numbers of the four boats. No members of the race committee, either on the signal boat or the pin boat, reported seeing any of the four boats return to start. The race committee scored all four boats as OCS.

Boat A requested redress stating that she realised she was over the starting line before the starting signal, bore away and exonerated herself by rounding the pin to start correctly.

### Facts Found and Decision of the Protest Committee

The protest committee found the following facts:

1. Boat A crossed the starting line before the starting signal.
2. Race committee signalled an individual recall. 'X' flag and 1 sound.
3. Boat A knew she was a premature starter and saw 'X'.
4. Race committee recorded her OCS. Race committee signal boat confirmed with pin and recorders that Boat A was OCS. No race committee member saw her round an end. She was scored OCS.

The protest committee made the following conclusions:

1. Boat A had not provided adequate evidence that she rounded an end and started.
2. There was no improper action or omission by the committee.

The protest committee denied the request for redress. Boat A appealed.

### Discussion of the Appeals Committee

In their official comments on the appeal, the chairman and a member of the protest committee and the PRO subsequently confirmed the following additional facts:

1. The race committee comprised the PRO, 2 recorders and a line judge on the signal boat and an operator and an observer on the pin boat "who was aware that he should watch the line".

2. Members of the race committee properly checked and recorded boats that were over at the starting signal. However, no member of the race committee was assigned the responsibility of checking and recording OCS boats to see if they returned to exonerate themselves and thereafter to start.
3. Two of the witnesses from other boats said that they each saw Boat A bear away after the starting signal and sail in the opposite direction toward the extension of the starting line.

The appeals committee notes the following with regard to the responsibilities of the parties.

1. When rules 29.1 and 30.1 are in effect, it is the responsibility of the race committee to check the line and its extensions before and at the starting signal and to signal and record any boats that are OCS.
2. When rules 29.1 and 30.1 are in effect, it is the responsibility of boats that are OCS to observe their recall signal and exonerate themselves under rule 30.1 before starting.
3. When rules 29.1 and 30.1 are in effect, it is the responsibility of the race committee to check the line and/or its extensions after the starting signal and to record if and when boats that are signalled OCS exonerate themselves and start correctly, finally removing flag "X" as appropriate under rule 29.1.

Boat A stated that she fulfilled her responsibility under 2) above. The race committee fulfilled its responsibility 1) above, but did not fulfil its responsibility 3). A statement by a competitor is normally accepted by a protest committee unless the committee has reason to believe that the competitor was mistaken.

It was the race committee's responsibility to check and record if Boat A exonerated herself and started correctly but the race committee was not organised to do this. The RC erred in not having someone assigned to watch the line and/or its extensions after the starting signal and to record if and when boats that were signalled OCS exonerated themselves and started correctly.

There is a considerable difference in the answer to the question "Did any OCS boats come back?" between: a) A collective "We did not see any boat come back"; and b) A personal "I observed the boat for a period of time after she was identified as OCS and she did not come back by crossing the extensions of the line"

The statement (or conclusion) in fact #3 that because "no race committee member saw Boat A round an end. She was scored OCS" is not conclusive because no member of the race committee was assigned to check and record if OCS boats rounded an end. The race committee therefore erred in its decision to score Boat A as OCS and the protest committee erred in both its conclusions and its decision.

When there is doubt that a race committee has properly fulfilled its obligations and this results in a penalty to a competitor, a protest committee should resolve the matter in favour of the competitor.

## Decision

The decision of the protest committee is reversed under rule 62.1(a), the request for redress by Boat A is upheld and the race committee is directed to score Boat A in her finishing position in the race. Since this was a qualifying regatta, the Organising Authority is directed to send the corrected scores to Sail Canada.

### APPEAL 98 DELETED 2013

### APPEAL 99

#### Rule 63.2, Time and Place of the Hearing

#### Rule 63.3, Right to be Present

#### Rule 66, Reopening a Hearing

#### Appendix M4.2, Reopening a hearing

*A protest committee may proceed with a hearing, even if a party to the hearing is not present, providing that the parties have been properly notified of the time and place of the hearing.*

*A hearing may be reopened if new evidence becomes available within a reasonable time. The testimony that would have been given by a party that failed to attend the hearing does not qualify as new evidence.*

#### Summary of the Facts

At or near the start of a race there was an incident between L and W in which contact with damage occurred. W protested L. The Notice of Protest was properly posted in accordance with the Sailing Instructions to inform the parties of the time and place of the hearing. After several attempts to contact L, she failed to attend the hearing. The protest was heard and the decision was to disqualify W for breaking rules 11 and 18.2(a) and to disqualify L for breaking rule 14.

Five days after the hearing L requested a reopening. L claimed she was not aware of the protest, returning after the race to her slip some distance from the regatta site, and was not notified of the hearing. Her 'new' evidence was that she disagreed with the facts found and the diagram, and presented her own. The protest committee denied her request to reopen. L appealed.

## Decision

Notwithstanding that the boats made contact on the water, by her own admission, L sailed directly to her berth, which was not the regatta site, after the race. When boats are in collision during a race and unless one boat retires in admission of breaking a rule, each boat should

assume that she will be a party to a protest hearing. The notice of the protest was properly posted to inform L of the time and place of her hearing. It is the competitor's responsibility to read the notice board. The protest committee is under no obligation to search for a party to a hearing. The hearing was properly convened, and L did not attend.

The request to reopen was e-mailed to the chairman of the protest committee several days after the event. The new evidence was nothing more than L's version of the facts. This is presumably, the same testimony she would have given if she had attended the hearing, and is therefore, not considered to be new. Appendix M4.2 describes new evidence and this does not qualify. The request to reopen was properly denied. The appeal is dismissed.

## APPEAL 100

### **Rule 63.6, Taking Evidence and Finding Facts**

### **Rule 70.1, Appeals; Confirmation or Correction of Decisions; Rule Interpretations**

### **Appendix M3.2, Take the Evidence**

*A party to a hearing may not appeal the facts found.*

*A protest committee may choose to reschedule a hearing when it considers it to be warranted by the need to collect evidence.*

*Appendix M's recommendations to protest committees are advisory only. A protest committee's refusal to accept written evidence is not an error.*

### **Summary of the Facts**

Two boats were approaching the starting line to start. W established an overlap on L 5 seconds before the starting signal. At that time there was no room for W to pass between L and the race committee boat. There was room for W to alter course to weather of the committee boat, but instead, W bore away and her bow collided with L, seven feet ahead of L's stern

W's witness to the protest was unable to attend the hearing, but the protest committee did not agree to change the date of the hearing. W's witness then submitted written evidence, which the protest committee refused to accept. The protest committee disqualified W under the preamble to Section C and for breaking rules 11 and 14.

W appealed to Sail Canada on the grounds that the protest committee had refused to accept written evidence from a witness unavoidably absent, and had made errors in the determination of facts. Sail Canada delegated the appeal to the Ontario Sailing Appeals Committee (OS).

### **Decision of the OS Appeals Committee**

The OS Appeals Committee dismissed the appeal on the basis that the protest committee's refusal to accept written testimony was consistent with Appendix M3.2 and rule 63.6, and because the

appellant was attempting to appeal facts found, contrary to rule 70.1.

W appealed the OS Appeals Committee's decision to Sail Canada on the grounds that the protest committee had refused to accept W's written evidence at the hearing without first asking the parties if there were objections. The protest committee also denied a request for rescheduling, to allow the missing witness to present evidence. W asked that the Sail Canada Appeals Committee direct that the hearing be reopened under an independent protest committee.

### **Decision of the Sail Canada Appeals Committee**

A protest committee may choose to reschedule a hearing when it considers it to be warranted by the need to collect evidence under rule 63.6, but is not otherwise obligated to do so. Appendix M3.2 advises that written evidence should only be accepted if all parties agree to forego their rights to question the witness. It is logical and implicit that the protest committee also agree to forego this opportunity, which was not the case here. That the parties did not have the opportunity to object is moot, since the protest committee refused the written evidence when first proposed.

The decision of the OS Appeals Committee is upheld. The protest committee made no procedural errors in refusing to accept written testimony. The appellant was attempting to appeal facts, contrary to RRS 70.1. W's appeal is denied.

## **APPEAL 101**

**Rule 61.2 (b), Protest Contents**

**Rule 63.5, Validity of the Protest**

**Rule 70, Appeals; Confirmation or Correction of Decisions; Rule Interpretations**

**Rule 71, Appeal Decisions**

**Sail Canada Prescriptions to Appendix R, Procedures for Appeals and Requests**

*A protest shall identify the incident, including where and when it occurred. The hearing may proceed only if all requirements have been met and the protest is valid; if not, it shall be closed.*

*A decision of a provincial sailing association appeals committee may be appealed to Sail Canada.*

### **Summary of the Facts**

W was running the starting line on starboard tack, prior to the start. L was on a converging course, hailing for W to go up. At about 20 seconds before the start the boats got as close as 3 to 5 feet. L bore away. W started to head up. L headed up again, and W headed up further until both boats went above close hauled and crossed the line. Both were scored OCS. They were at their closest 5 to 10 feet apart. L flew a protest flag and hailed "protest." L filed a protest based on the luff occurring approximately 20 seconds before the start.

The protest committee decided that there were two incidents: the first ending when L first bore away; the second starting when L headed up again. The protest committee found that the hail of protest and protest flag were not timely with respect to the first incident, but were timely with respect to the second. They found the protest invalid with respect to the first incident, but valid with respect to the second. The protest committee found that W had kept clear as required by rule 11 in the second incident, and disallowed L's protest.

L appealed to Sail Canada citing a number of grounds, including: that the protest committee erred in identifying two incidents; that the protest committee erred in its decisions with respect to validity of its declared 'first incident;' and that the protest committee erred in not disqualifying W for breaking rule 11 in the 'first incident.' L appealed "to overrule the Protest Committee and validate the protest of L and disqualify W from the race."

Sail Canada delegated the appeal to the Ontario Sailing Appeals Committee. Ontario Sailing returned the protest to the organizing authority to be reheard under a new protest committee chair, nominated by the Appeals Committee. The new hearing was required to determine whether there in fact was any incident where a valid protest had been filed, and whether there were any grounds for proceeding with a hearing where there was apparently no protest filed, and no other circumstances, such as serious damage or injury, which could justify holding a hearing in the absence of a valid protest.

L appealed to Sail Canada, citing disagreement with the decision to order a re-hearing of the protest. L asked Sail Canada to review the decision of Ontario Sailing and make a final ruling on the outcome of this protest.

## **Decision**

L protested one incident. The protest committee decided that there were two incidents: the first ending when L first bore away; the second incident starting when L headed up again. The protest committee refused the protest in the first incident as invalid, since the hail of the protest and the display of the protest flag were not timely.

The protest committee decided L's hail of "protest" and display of the protest flag was timely for the second incident. However, L's protest form did not identify the second incident. Rule 61.2(b) requires that the written protest identify the incident, including where and when it occurred. Since the written protest referred only to the first incident, there was no valid protest on the second incident. When the protest committee considered whether W broke a rule in the second incident, it improperly expanded the hearing beyond the incident that was the subject of L's protest.

The appeal is upheld in part. The Sail Canada Prescription to Appendix R permits an appeal of the Ontario Sailing Appeals Committee's decision to Sail Canada. Their decision under rule 71.2 to return the protest for a new hearing on the second incident is subject to such appeal.

The Ontario Sailing Appeals Committee's decision is set aside, and no further action may be taken on the second incident. The Protest Committee's decision that the protest in the first incident is invalid is upheld.

## APPEAL 102

### **Basic Principle, Sportsmanship and the Rules**

#### **Rule 3, Acceptance of the Rules**

#### **Rule 4, Decision to Race**

#### **Part 2, Preamble**

#### **Rule 69, Allegations of Gross Misconduct**

#### **Rule 75, Entering a Race**

*A boat that meets the requirements for entry in a race, and sails in or near the racing area, and participates in a race is racing from her preparatory signal until she finishes or retires from the race.*

*The Racing Rules of Sailing apply to such boats.*

*She does not have the option to claim that that the Racing Rules do not apply to her.*

*The boat's sole responsibility to decide to participate in a race does not include the right to choose whether or not to be governed by the rules once she participates in the race.*

*By participating in a race, competitors are governed by the Racing Rules of Sailing, including action by a protest committee under rule 69.*

*A boat that breaks the rules over a protracted period commits a gross breach of the rules and shows bad manners and bad sportsmanship.*

### **Summary of the Facts:**

During three sailing seasons at her yacht club's weekly races, boat A entered the series, started and sailed in the races for a fleet of which she was not a member, rather than starting with her own fleet five minutes later. In the third season, two protests were filed against A under the Racing Rules of Sailing, Part 2. The protest committee found in both cases that A had been *racing*, and disqualified her for breaking rules of Part 2. Later that year, there was a further written complaint against A's skipper alleging abusive behaviour during other races in which she sailed in the wrong fleet. The protest committee conducted a hearing under rule 69 against A's skipper, alleging that by his actions constituted a gross breach of the rules, good manners, and sportsmanship. It found that the competitor had committed a gross breach of the rules, and had also shown bad manners and bad sportsmanship, all over a protracted period. It upheld the allegations under rule 69. It imposed penalties to the competitor and to the boat, disqualifying the boat from the races in question and excluding the competitor from all competition for which the yacht club is the Organising Authority, for a period of two years.

The competitor appealed using rule 70.1 of the Racing Rules of Sailing. The competitor argued that A was observing the government right-of-way rules, as was his right. He further argued that he had informed the club that he was no longer racing at the club, and therefore, he had no

undertaking to observe the Racing Rules of Sailing. Specifically, he was not obligated under rule 3(a) to be governed by the rules or by rule 3(b) to accept the penalties imposed and any other action taken under the *rules*. He further objected to the jurisdiction of the protest committee that convened the rule 69 hearing. He argued that they had ignored rule 4, which made the responsibility for a boat's decision to participate in a race or to continue racing hers alone. He appealed the findings of the rule 69 hearing as outside of the Protest Committee's jurisdiction, asking the Appeals Committee to find the decision to be null and void and *ultra vires*.

## Decision

A's actions directly contradict the assertion that she was not racing under the Racing Rules of Sailing. The boat took the decision under rule 4 to participate in the race, as evidenced by her own actions. Evidence of her participation under rule 3 is that she sailed in or near the racing area, she started races, often finished races, and claimed her rights under the racing rules when she met other boats competing in the races. A was *racing* from her preparatory signal until she finished or retired from each race. Her actions demonstrated that she was not a cruising yacht or a spectator boat who sailed into the racing area.

There is no contradiction between rule 4 which gives the responsibility for a boat's decision to participate in a race to the boat alone, and rule 3. The decision is observed through the boat's actions. Participation in a race is evident by the boat's actions, such as by starting races, sailing the course, rounding the marks, or finishing. Boats racing under the rules are entitled to proceed under the assumption that other boats that are participating in the race are also observing the Racing Rules of Sailing. The responsibility allotted in rule 4 is not a choice whether or not to observe the Racing Rules of Sailing.

The Racing Rules of Sailing did apply to Boat A.

Since the skipper of A had participated in the race under rule 3, he was a competitor in the sport of sailing. He was, therefore, governed by a body of rules that he was expected to follow and enforce under the Basic Principle, sportsmanship and the rules and rule 69. The protest committee did have the authority to convene the hearing under rule 69. The competitor's actions described in the written complaint did constitute a gross breach of good manners and sportsmanship. The competitor was properly found to be in breach of rule 69. The competitor was subject to penalty under rule 69. Rule 3(b) did, therefore obligate the competitor to accept the penalties imposed and other action taken under the rules, subject to the appeal process which he used

The appeal is dismissed. The protest committee did have the authority under the Racing Rules of Sailing to convene this hearing and to impose an appropriate penalty on the competitor. The decision of the protest committee and the penalties imposed are upheld.

**APPEAL 103****Rule 61.1(a), Informing the Protestee****Rule 63.5, Validity of the Protest or Request for Redress**

*A protest flag shall be flown at the first reasonable opportunity. Neither the proximity of other boats nor sailing short-handed provides relief from this requirement.*

**Summary of the Facts**

Three keelboats between 7 and 10 metres in length were rounding a mark in light airs. There was contact between the boats and the inside boat hailed "Protest." The inside boat (I) did not display a protest flag until approximately five minutes after the incident, and protested both outside boats. Both outside boats were disqualified under rule 18.

Both of the outside boats appealed in a common submission, on the basis that "I" had not flown her protest flag at the first reasonable opportunity. Having not heard "I's" hail and having not seen "I's" protest flag because of its late display, "O" claimed that she had been denied the opportunity to exonerate herself had she so desired. The second outside boat, "O2" was aware of the hail of protest.

The Protest Committee was the only participant to offer comments on the appeal stating the inside boat was short-handed and sailing through a mooring field, and the Protest Committee considered that the delayed display of the protest flag was reasonable in the circumstances.

**Decision**

Neither of I's protests against the outside boats met the requirements of rule 61.1.

ISAF Case 103 discusses the concept of 'seamanlike' as related to boat-handling and states that it "must be based on boat-handling that can reasonably be expected from a competent, but not expert crew of the appropriate number for the boat." It is reasonable to expect the same efficiency with respect to displaying a protest flag. The presence of other boats, whether underway or moored, is not reasonable grounds for a boat to delay displaying a flag; nor can she justify such delay because she chose to sail with fewer crew members

The appeal of the two outside boats is upheld. Both boats are to be reinstated in their finishing positions, and the results of the race are to be recalculated.

**APPEAL 104****Rule 10, On Opposite Tacks****Rule 13, While Tacking****Rule F5, Inadequate Facts; Reopening**

*Both the diagram and written facts are facts found by the protest committee. Neither takes precedence over the other. Rule R5 gives a national authority the authority to require the protest committee to provide revised or additional facts that resolve the conflict.*

**Summary of the Facts**

In Hobie 16's, S was close-hauled on starboard tack, approaching the windward mark at about ten boat lengths out. PO and PI were on port tack approaching the mark, tight to the mark, with PI closest to the mark and one-half boat length overlapped with PO from behind. At ten boat lengths from the mark S hailed, "Don't tack there". S altered course to avoid PO and PI. The Facts Found in writing indicate that when S altered course, PO and PI were tacking, while the Protest committee's official diagram shows that PI had passed head-to-wind while PO had not. The Protest committee upheld the protest and disqualified PO and PI under rule 13.

The next day PI requested to reopen the hearing under rule 66. She argued that photographic evidence given in the initial hearing demonstrates that the protest involved two separate incidents and should have been heard separately. The protest committee denied the request to reopen.

PI appealed to Sail Canada, pointing out that the protest committee's diagram shows that PI was head to wind at the time when S passed safely to leeward of her while sailing on or above a close-hauled course. She argued that the facts found do not support the conclusion that PI should be disqualified under rule 13 or any other rule. Sail Canada delegated the appeal to the Ontario Sailing Appeals Committee.

**Decision of the Ontario Sailing Appeals Committee**

The OS Appeals Committee noted that the words, "while they were tacking" in Fact 4 was a conclusion, not a fact, and used rule R5 to request that the protest committee provide an additional fact or facts related to what PO and PI were doing when S changed course. Following ISAF Case 104, they further asked the protest committee to provide revised or additional facts or a diagram, or both, to resolve the conflict between the protest committee's diagram which showed PI and PO on port tack and not beyond head-to-wind, and its conclusion that the boats were tacking when S changed course.

The protest committee provided the following revised and additional facts: "PO was on port and broke 10 when she luffed because S on starboard, bore away to avoid contact before PO had

passed head to wind. PI to windward of PO responded to PO's luff by luffing. However; PI continued luffing and passed head-to-wind, requiring S to further bear away to avoid her before she was on a close-hauled course on starboard, breaking rule 13." The protest committee also provided a revised diagram that was consistent with these facts.

The OS Appeals Committee denied the appeal, stating that the protest committee's revised facts support its conclusion that PI broke rule 13 and remains disqualified, and PO remains disqualified for breaking rule 10, not rule 13.

PI appealed this decision to Sail Canada. She argued that the OS Appeals Committee's request to the protest committee to, "provide revised (emphasis his) or additional facts and/or a diagram to resolve the conflict between the protest committee's diagram ... and its conclusion" was improper and introduced bias into the appeals process. He argued that after OS determined that "the words, 'while they were tacking', in Fact 4 was a conclusion, not a fact", there were no remaining conflicts in the facts. OS was therefore obligated to accept the facts found where there was no conflict between facts, leaving them only to request additional facts. PI also requested that if new evidence is presented, she be allowed to witness the presentation of the evidence and to question the presenter under rule 63.3 and 63.6.

#### **Decision of the Sail Canada Appeals Committee**

The decision of the protest committee contained a clear conflict between the written facts and the diagram. ISAF Case 104 confirms that both the diagram and written facts are facts found by the protest committee. Neither takes precedence over the other. It further confirms that rule R5 gives an appeals committee the authority to require the protest committee to provide revised or additional facts that resolve the conflict. The OS Appeals committee did just that. The protest committee's submission of amended facts upon request is entirely consistent with F5 and ISAF Case 104. They did not take new evidence to resolve the conflict between their written facts and the diagram. The appeal is denied for the reasons given by the OS Appeals Committee.

## APPEAL 105

### Definitions, Racing

#### Rule 10, On Opposite Tacks

#### Rule 18.2(a), Giving Mark-Room

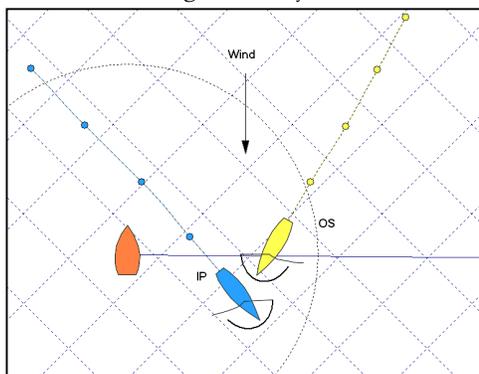
#### Rule 24.1, Interfering with Another Boat

#### Rule 70.2, Confirmation or Correction of Decisions

### Definitions, *Mark-Room*

### Definitions, *Racing*

*Room for a boat to leave a mark on the required side includes room to sail past a finishing mark until the boat has stopped racing. If an outside right-of-way boat has fulfilled her obligations under rule 18, then an inside give-way boat is required to keep clear and is not exonerated under rule 18.5. A boat that has not cleared the finishing line and marks is racing and subject to the rules of Sections A, B, and C of Part 2.*



### Summary of the Facts

Two Sharks, IP and OS, were finishing a race, downwind. IP, inside and on port tack, was within three boat lengths of the race committee boat. OS, outside on starboard tack, was on a converging course with IP. IP finished and cleared the finishing line inside the zone. OS altered course when on the finishing line to avoid contact with IP, after IP had finished. There was no contact.

### Decision of the Protest Committee

The protest committee dismissed OS's protest after finding the OS was required to give IP mark-room under rules 18.1 and 18.2(a), and that she did so.

OS appealed the decision on the basis that the protest committee had failed to apply rule 10, and had incorrectly applied rule 18.2, the definition of *mark-room*.

### Decision of the Sail Canada Appeals Committee

Throughout the incident, OS was on starboard tack and held right-of-way, but had obligations.

Rule 18.2(a) required her, as outside starboard boat, to give IP, the inside boat on port, *room* to sail to the *mark* (the finish boat) and then *room* leave the *mark* on the required side. OS fulfilled that obligation. IP took more room than necessary to leave the mark on the required size.

OS was only required to give IP *room* to leave the *mark* on the required side, of which there was more than ample, according to the official diagram. When OS on starboard had to alter course to avoid IP on port after IP finished, IP broke rule 10, by failing to keep clear of a starboard tack boat. Since OS fulfilled her obligations under rule 18.2(a), IP is not entitled to exoneration under rule 18.5.

The Protest Committee's facts found state that IP had cleared the finish line. IP had *finished* and left the finish line astern, but had not yet cleared the *marks*; therefore, she was still *racing* according to the definition, and subject to penalty under the rules of Sections A, B, or C of Part 2, rather than rule 23.1.

The appeal is upheld. IP is disqualified for breaking rule 10.

## Appeal 106

### Rule 61.1(a), Informing the Protestee

### Rule 63.3, Right to Be Present

### Rule 63.6, Taking Evidence and Finding facts

*A boat intending to protest shall inform the other boat at the first reasonable opportunity. Where a protest flag is required, she shall conspicuously display a red flag at the first reasonable opportunity. Sail Canada's prescription to rule R2.1 permits the further appeal of a decision of an association appeals committee to Sail Canada. The parties to the hearing have the right to be present if a protest committee reconvenes to take new evidence to draw a diagram of the incident or to provide new facts.*

### Summary of the Facts

An incident occurred between S close-hauled on starboard and P, close-hauled on port as S was about to round the windward mark. S hailed "protest" immediately. She then proceeded to pass the mark, sail to and round the offset mark, gybe, hoist a spinnaker then display a red protest flag. In the hearing the protest committee found as fact that it took 25 seconds to display the protest flag with the boats travelling at a speed of four knots.

The protest committee concluded that S did not display a red protest flag at the first reasonable opportunity as required by rule 61.1(a). They declared the protest invalid and closed the hearing.

S appealed the protest committee's decision to Sail Canada on the grounds that the protest committee erred in judging that 25 seconds was too long to display the protest flag, since the boat was in the process of rounding the mark and hoisting her spinnaker in close proximity of an overlapped boat. Sail Canada delegated the appeal to the Pacific International Yachting Association Appeals Committee.

### **Decision of the Pacific International Yachting Association Appeals Committee**

Under rule R3 the PIYA Appeals Committee requested that the protest committee provide them with an official diagram. The protest committee then drew a diagram without reopening the hearing.

The PIYA Appeals Committee estimated, on the basis of the diagram, that the time taken to display the protest flag was about 12 seconds, and not 25 seconds as written in the Facts Found. They further concluded that from the time the incident ended, S's crew of three would have been preoccupied with handling the boat, trimming sails, and preparing for and carrying out a spinnaker set and jib douse or furl. They cited US Sailing Appeal 82, which states, in part, "A boat is not obligated to give priority to displaying a protest flag at the cost of ... delaying a spinnaker set". The PIYA Appeals Committee upheld S's appeal and, under rule 71.2, directed the Protest Committee to convene and hear the protest.

P appealed the PIYA's decision to Sail Canada, arguing that the PIYA Appeals Committee disregarded facts found in the protest hearing and used new evidence to make their decision.

### **Decision of the Sail Canada Appeals Committee**

The Sail Canada prescription to rule R2.1 permits the further appeal of an association appeals committee's decision to Sail Canada. The PIYA's decision to uphold S's appeal and request a hearing may be appealed to Sail Canada.

The PIYA Appeals Committee acted within rule R3 to request an official diagram of the incident. In its comments to Sail Canada, the protest committee reported that it had consulted the club's race director when preparing the official diagram. This was a procedural error by the protest committee under rules 63.3 and 63.6, effectively taking new evidence and finding new facts in the absence of the parties.

The PIYA Appeals Committee found discrepancies between the facts found at the hearing and the diagram but did not request the Protest Committee to reopen the hearing to resolve the discrepancies under rule R5. ISAF Case 104 notes that both the diagram and the written facts are facts found by the protest committee. Neither takes precedence over the other.

The PIYA Appeals Committee erred in using the new facts found in the diagram to resolve the appeal.

To determine whether S displayed her protest flag “at the first reasonable opportunity”, as required by rule 61.1(a) the PIYA Appeals Committee relied on US Sailing Appeal 82 for interpretation but did not consider ISAF Cases or Sail Canada Appeals. SC Appeal 63 states that “A J-24 with a crew of five would have to provide compelling reasons why her protest flag was not displayed within a very few seconds after an incident”. In his submission to Sail Canada, the appellant argued that untying the flag affixed to the backstay during the mark rounding and spinnaker hoist would have detracted from the safe and efficient handling of S and was therefore not reasonable. The Protest Committee made no observation of any effect these manoeuvres might have had on the timeliness of display. If a crew of three was indeed inadequate, ISAF Case 103 discusses the concept of ‘seamanlike’ in the context of rounding a mark, stating that it “must be based on the boat-handling that can reasonably be expected from a competent, but not expert crew of the appropriate number for the boat.” The Sail Canada Appeals Committee considers that it is reasonable to expect the same efficiency with respect to displaying a protest flag.

The appeal is upheld. S did not display her protest flag at the first reasonable opportunity under rule 61.1(a). Her protest is invalid. The decision of the PIYA Appeals Committee to direct the Protest Committee to convene a hearing is put aside.

The ISAF Cases provide authoritative interpretations of the racing rules of sailing. Appeals published by member national authorities provide further guidance, but the appeals of the member national authority of the organizing authority stated in the notice of race and sailing instructions take precedence over appeals of any other member national authorities.

## APPEAL107

### **Rule 28, Sailing the Course**

#### **60.3(a), Right to Protest**

#### **61.1(a), Informing the Protestee**

#### **63.5, Validity of the Protest or Request for Redress**

#### **65.2, Informing the Parties and Others**

#### **66, Reopening a Hearing**

#### **M4.1, Reopening a Hearing**

#### **R 2.1, Submission of Documents**

*A protest for failing to sail the course is invalid if the boat does not inform the other boat before she finishes or at the first reasonable opportunity after finishing. If a protest is found to be invalid, the hearing shall be closed. A protest committee should not deny a boat a re-opening of a hearing without a hearing to determine whether she has met the requirements for a re-opening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.*

### **Summary of the Facts**

In a handicap fleet race A filed a protest against B, C, D, and E, alleging that they failed to round Mark 10 of the course, breaking rule 28. In the hearing the Protest Committee found that A did not display a protest flag or hail to inform the boats of the protest, or inform the boats before they finished or at the first reasonable opportunity after they finished, and so ruled the protest to be invalid. The protest committee then proceeded with a hearing, found as fact that B, C, and D failed to properly sail the course, and disqualified them from the race. E had withdrawn from the race. A requested a reopening of the hearing, but the protest committee denied her request. A requested the decision in writing, but the protest committee did not provide it.

A appealed the original decision on the grounds that the protest committee made a serious error in proceeding to find fact and make a decision on the invalid protest, in contravention of rule 63.5. They further appealed the protest committee's denial of a re-open of the hearing.

### **Decision**

The protest committee was correct in finding that A's protest was invalid. While rule 61.1(a)(3) did not require her to hail or display a red flag, she had not fulfilled her obligation to inform the boats before they finished or at the first reasonable opportunity after they finished. Having found the protest to be invalid, rule 63.5 required the protest committee to close the hearing. Rule 60.3(a) prohibits a protest committee from protesting a boat as a result of information arising from an invalid protest. The protest committee then made a serious error by using the information obtained from the invalid protest to proceed with a hearing and disqualify three boats.

The protest committee received a timely request to re-open the hearing under rule 66, but the request was refused. A requested a copy of this decision in writing two days later, but the protest committee did not provide it, making a procedural error under rule 65.2. Rule R 2.1 permitted the appellant to send a statement of the substance of her protest when the PC did not make it available to her.

The appeal is upheld for the reasons stated by the appellant. B, C, and D are to be reinstated in their finishing positions in the race.

**APPEAL 108****Introduction, Appendices****Rule 63.7, Conflict between the Notice of Race and the Sailing Instructions****Rule 90.3(a), Scoring****Rule A2, Series Scores****Rule A8, Series Ties****Rule J1.2(13), Notice of Race Contents**

*When the scoring provisions of rule A2 are changed then the NOR and SIs should both specify that change to avoid a conflict between the documents. The Organizing Authority and the Race Committee must make every effort to avoid such conflict. Should such a conflict occur, the OA or the RC must address it by means of a timely amendment.*

**Summary of the Facts**

At the Canadian J24 National Championships, Boat A requested redress, alleging a scoring error by the Race Committee (RC). The Notice of Race (NOR) for the event specified that there would be one discard after five races were completed and two discards after ten races were completed. The Sailing Instructions (SIs) only specified that there would be no discards when fewer than five races were completed. Ten races were sailed and the (RC) scored the event with two discards. In her request for redress, the appellant argued that there should only be one discard and that the event should be scored on that basis.

**Decision of the Protest Committee and Basis for Appeal**

The Protest Committee denied the request for redress on the basis that the specification for scoring after ten races in the NOR was complementary rather than being in conflict with the SIs. Boat A filed an appeal of the decision with Sail Canada.

The appellant provided a number of bases for her appeal. First, the appellant noted rules 90.3 and A2 required that the Sailing Instructions specify any variation from the default scoring system of RRS A2. The appellant found that there was no mention of the Notice of Race in the RRS with respect to scoring a series. Second, the appellant noted that the NOR specified the application of the International J24 Class Association (IJCA) Regatta Regulations, which required use of model NOR and SIs employing a single discard. Third, the appellant noted that the difference between scoring provisions in the NOR and the SIs implied that RC *intended* to change the scoring provisions for the event. Finally, the appellant noted that a radio broadcast of the RC's intent to score with two discards after ten races were completed constituted an amendment of the SIs in contravention of RRS 90.2(c).

In its comments on the appeal the Protest Committee (PC) noted the difference between the scoring provisions of the NOR and SIs, but argued that there was no conflict between the two with respect to drops, so that rule 63.7 did not come into effect. The PC added that conflict

alleged by the appellant was apparent from the time the SIs were available, and the appellant had taken no effort to address a question to the RC before racing started. The PC noted that the appellant's was the only request for redress and that other competitors had elected not to sail the final race due to the availability of a second discarded score. It was the PC's belief that rescoring the series would have adversely affected several boats. Finally, the PC noted Appendix J1.2(13) which called for publication of the scoring system in the NOR, where it differed from the provisions of Appendix A.

The RC commented that they consulted the PC Chair prior to the final day of racing to obtain the PC's interpretation of the scoring provisions. The PC Chair had felt that two drops were appropriate and the subsequent radio transmission by the RC to competitors was simply a confirmation for the competitors' information.

The appellant provided further comments following those of the Protest Committee and Race Committee, but did not introduce any new basis for appeal.

### **Decision of the Sail Canada Appeals Committee**

The Regatta Regulations of the IJCA set the requirements for World and Continental championship series. Paragraph 1.1 of the Regatta Regulations indicates that, "the same regulations may serve as guidelines for National Championships ..." Thus, although the NOR indicated that the "Regatta Regulations of the IJCA would apply," the Organizing Authority would not be in contravention of those regulations if they did not follow them, since they are only guidelines for a National Championship.

The Protest Committee found that the NOR and SIs were complementary. The Sail Canada Appeals Committee finds that the PC erred in this conclusion. The scoring provisions of each of the NOR and SIs must be read in their entirety. The NOR provides for two discards after ten races, and since the SIs are silent on the number of discards when there are more than five races, rule A2 "the total of her race scores excluding her worst score" applies; therefore, the NOR and the SIs are in conflict. Rule 63.7 makes provisions for resolution of such conflicts.

The appellant argues that any conflict between the NOR and SIs on scoring is moot since rules 90.3(a) and A2 make provision only for the SIs to change the default scoring provisions, and make no reference to the NOR. On the other hand, the Sail Canada Appeals Committee notes that Appendix J sets requirements for both the NOR and SIs, including an obligatory requirement for the definition of scoring systems for both the NOR (RRS J1.2(13)) and the SIs (RRS J2.1(9)). The Introduction to the RRS notes that, "When the rules in the Appendix apply, they take precedence over any conflicting rules in Parts 1-7 and the Definitions." The Introduction is a *rule* according to the Definitions; therefore, the requirements of Appendix J may over-ride RRS 90.3, making the NOR applicable to scoring. Thus, conflict between the NOR and the SIs is possible with respect to scoring.

The Sail Canada Appeals Committee also notes that whether the conflict between the scoring

provisions of the NOR and SIs was intentional or inadvertent is irrelevant to the Racing Rules of Sailing.

It would have been better had the Race Committee resolved the conflict between the scoring provisions of the NOR and SIs by means of an official notice during the course of the regatta; however, the Race Committee scored the ten-race regatta with two discards, and responded to questions from competitors on the topic informally, by radio. Failure to resolve the conflict between the NOR and SIs was an error of the Race Committee, although their action was guided by advice from the PC.

The appeal is upheld, but only in respect to the error made by both the RC and PC.

Rule 63.7 requires a protest committee to resolve conflict between the NOR and SIs in a manner “it believes will provide the fairest result for all boats affected.” In that the PC concluded there was no conflict between the NOR and SI, it is clear they did not apply the principles of rule 63.7.

The Sail Canada Appeals Committee examined the results of the regatta to determine the effects of the conflicting scoring provisions of the NOR and SIs. It finds that changing from a two discard to a one discard scoring system would affect the results for positions 1, 2, 3, 4, 6, and 7 in the regatta, with all other positions remaining unchanged.

Given the circumstances for this event and the effects on the results, the Sail Canada Appeals Committee considers that it would be fairest for all concerned if boats were awarded results based on the scoring system most favourable to them. Thus, the first seven positions in the regatta are to be scored as follows:

<u>Sail No.</u>	<u>Position</u>
Boat A	RDG (1st)
Boat B	RDG (1st)
Boat C	RDG (2nd)
Boat D	RDG (2nd)
Boat E	5th
Boat F	RDG (6th)
Boat G	RDG (6th)

Other scores are to remain unchanged.

In the event that any ties need to be broken, the Organizing Authority may apply rule A8 to the above list.

## Appeal 109

### Rule 2, Fair Sailing

### Rule 62.1(d), Redress

### Rule 64.1, Penalties and Exoneration

*A boat that cannot be identified, although it may have broken a rule, cannot be penalized.  
Redress under rule 62.1(d) can only be granted when a boat has been penalized or a member of her has been subject to disciplinary action with respect to the incident.*

#### Summary of the Facts:

At the start of a race in Optimist dinghies, W was on starboard tack with another boat one foot to leeward. The skipper of the boat to leeward grabbed W's leeward gunwale. W protested X, which W alleged was the boat to leeward, and requested redress, alleging that X had pushed W backwards.

The protest committee found as fact that a person had grabbed W's leeward gunwale, but was not satisfied that X was the boat whose skipper had done so. The protest committee dismissed W's protest against X and denied redress, since the conditions in rule 62.1(d) had not been met.

W appealed, claiming that the protest committee had failed to take into account all the evidence presented, including that of a witness. She claimed that the boat to leeward had been clearly identified, and therefore it must have been that boat that pushed her backwards. W claimed that the protest committee should have protested the boat that had grabbed her leeward gunwale for breaking rule 2.

#### Decision

W asked the appeals committee to logically conclude the identity of the leeward boat which had pushed W backwards. The protest committee commented that, had such conclusion been logically possible at the time of the protest, it would have done so. Under rule 70.1, a conclusion may be appealed but an appeals committee may draw a different conclusion only when the protest committee's conclusion is not supported by the facts it found or is based on an erroneous interpretation of a rule.

W's appeal is dismissed. The protest committee could not identify the boat that was to leeward of W and therefore no boat could be penalized under any rule. Because a boat had not been penalized under rule 2 or penalized or warned under rule 69, the protest committee correctly concluded that the conditions for redress in rule 62.1(d) had not been met. This condition for redress is unlike the condition in rule 62.1(b) where there is no requirement for a boat to have been penalized in order to award redress.

## APPEAL 110

### Rule 42.2(c), Propulsion Prohibited Actions

*Ooching: sudden forward body movements, stopped abruptly, is a prohibited action, even when passing over the waves generated by a passing vessel.*

### Summary of the Facts

X protested Y under rule 42.2(c) for ooching. X testified that she observed the crew of Y throwing their bodies forward and abruptly stopping, six times in a 15-second period. The protest committee found these actions to be facts, and disqualified Y under rule 42.2(c).

Y appealed, arguing that his crew's actions were torquing, permitted under ISAF interpretation of rule 42, OUCH 1. He agreed that the crew moved their body forward and aft to try to reduce their sailboat's excessive forward and aft movement in the water caused by the waves of a passing powerboat, but argued that the words, "stopped abruptly" did not exactly match what the crew did.

### Decision

Y's assertion that the crew's movements did not include stopping abruptly is arguing a fact. Rule 70.1 does not permit appeal of a protest committee's facts found.

The facts found describe body movements consistent with the prohibited action of ooching in rule 42.2(c): sudden forward body movement, stopped abruptly. There is no interpretation that would permit abrupt stopping in any water, including going through the wake of a passing vessel. The facts are not consistent with the ISAF interpretation, torquing, "repeated fore and aft rotating or rotating movements of the body," which does not include abrupt stopping.

The appeal is denied. The protest committee was correct in concluding that Y's crew's actions described in the facts found were ooching, breaking rule 42.2(c).

## APPEAL 111

**Rule 11**, On the same tack, overlapped

**Rule 14**, Avoiding Contact

**Rule 16**, Changing Course

**Rule R5**, Inadequate Facts; Reopening

*A windward boat shall keep clear of a leeward boat. A leeward boat does not break rule 16.1 when she gives the other boat room to keep clear when changing course.*

## Summary of the Facts

Before the starting signal W and L were overlapped, with W to windward and moving faster than L. After the start, L altered course to windward but did not pass head to wind. Contact occurred between L's mast and W's mainsail. The protest committee concluded that W failed to keep clear of L and broke rule 11. The protest committee also concluded that L did not give W room to keep clear and broke rule 16.1. Both boats were disqualified from the race.

W appealed the decision to Sail Canada on the grounds that the protest committee failed to apply the appropriate rules to the facts agreed upon by all parties. She argued that rule 11 was applied inappropriately, since L altered course without giving W room and opportunity to get clear. She further argued that the protest committee failed to apply rule 13 when L passed head to wind. She also noted the failure to apply rule 14, since L did not avoid contact with W.

## Decision

The appeal is upheld, in part.

W to windward was obligated to keep clear of L to leeward. Additional facts received by Sail Canada from the protest committee under rule R5 indicate that the overlap between the boats was established 10 seconds prior to the starting signal. The distance between the boats was twenty feet. With W moving faster than L, the boats were roughly bow-even at the start. L's alteration of course to windward occurred about five to seven seconds after the starting signal. When L fell into the wind shadow of W, L lost heel and her mast made contact with W's mainsail. W took no action to avoid contact. W broke rule 11 and rule 14.

Since L did not pass head to wind, she did not break rule 13. With the overlap established about 15 to 17 seconds prior to contact, with separation of 20 feet, L was giving W room to keep clear as she luffed, and did not break rule 16.1. L did not break rule 14 since it was not possible for her to act to avoid contact once it was clear that W was not keeping clear.

When there is contact between boats, a protest committee should find facts with regard to damage or injury; in its hearing of the protest, the protest committee did not do so. Although in its protest the appellant alleged damage to its mainsail, since L did not break rule 14, she is not penalized.

L's disqualification is reversed; she is to be reinstated in her finishing position. W's disqualification stands.

## Appeal 112

### Rules

#### Definitions, Finish

#### Rule 31, Touching a Mark

#### Rule 44. Penalties at the time of an incident

#### Rule 60.2, Right to Protest; Right to Request Redress

#### Rule 63, Hearing

#### Rule A5, Scores Determined by the Race Committee

*When a boat meets the definition Finish, a race committee shall score her in her finishing position. If a boat touches a mark at the finish line the race committee may protest her for the breach of rule 31.*

Sail Canada received a request for an interpretation of the rules, expressed as three scenarios with questions.

#### ASSUMPTIONS:

1. The boat does not take a penalty under rule 44.2, and the Scoring Penalty does not apply.
2. The boat is not protested by another boat for breaking rule 31.
3. The Race Committee observes the boat make contact with the finish mark.

#### Scenario 1:

The boat makes contact with the finish mark before finishing, but is not aware of the contact.

#### Questions:

- 1(a) The race committee shall score the boat DNF?
- 1(b) The race committee may score the boat DNF?
- 1(c) The race committee shall score the boat in its finishing position and may protest the boat for making contact with the mark?

#### Answers:

By the definition *finish*, a boat has not *finished* if one of the three exceptions in the definition applies: after crossing the finishing line she (a) takes a penalty under rule 44.2, (b) corrects an error under rule 28.2 made at the line, or (c) continues to sail the course. In addition, by the definition she is *racing* until she *finishes* and clears the finishing line and *marks* or retires...

1(a) False: Rule A5 does not permit a DNF score for a breach of rule 31

1(b) False. See answer to 1(a)

1(c) True: Once any part of the boat's hull or crew or equipment in normal position crosses the finishing line from the courses side, the boat has *finished*. Rule A5 does not permit the race committee to make the boat's score worse without a hearing if she touches a mark and breaks rule 31. Rule 60.2(a) permits a race committee to protest a boat for breaking rule 31 for touching the finish mark.

#### Scenario 2:

The boat finishes but before clearing the finish line and marks, the boat makes contact with the finish mark. The boat rounds the finish mark and finishes after making one gybe. The boat does not take a one turn penalty as per rule 44.2.

#### Questions

- 2(a) The race committee shall score the boat DNF?
- 2(b) The race committee may score the boat DNF?
- 2(c) The race committee shall score the boat in its finishing position after the second crossing of the finish line and may protest the boat for making contact with the mark?
- 2(d) The race committee shall score the boat in its finishing position after the second crossing of the finish line and shall protest the boat for making contact with the mark?

#### Answers

- 2(a) False: Rule A5 does not permit a DNF score for a breach of rule 31.
- 2(b) False: Rule A5 does not permit a DNF score for a breach of rule 31.
- 2(c) True: The definition *finish and racing* and rule 60.2 (a) apply. The race committee shall score her in her second finishing position. ISAF Q&A 2013-006 refers.
- 2(d) False: The race committee shall score the boat in its finishing position after the second (see answer above) crossing of the finish line. However; under rule 60.2 the race committee may protest the boat; it does not require them to do so.

#### Scenario 3:

Boat makes contact with the finish mark before finishing and the race committee scores the boat DNF. The boat does not take a one turn penalty. The boat requests redress alleging an incorrect score.

#### Questions

- 3(a) Would the protest committee uphold her request for redress, alleging an incorrect score?

3(b) The question regarding the contact of the finish mark may not be brought up in the protest hearing by the race committee, according to ISAF case 80?

#### Answers

3(a) Since the boat crossed the finish line as per the definition *Finish*, the race committee shall score her in her finishing position. Since it was an improper action under rule A5 for the Race Committee score the boat DNF (to make her score worse), the boat is entitled to redress under rule 62.1(a). The protest committee would reinstate the boat in its finish position.

3(b) The Race Committee may give evidence regarding the contact with the finish mark. However, in the absence of a valid protest against the boat for an alleged breach of rule 31, the protest committee may not consider that evidence in determining whether or not to grant redress. A fundamental principle of protest committee procedure is that a hearing must be limited to the particular 'incident' alleged in a protest (see rule 61.2(b)) or to the particular incident alleged to be 'an improper action or omission' in a request for redress under rule 62.1(a). See ISAF Case 80. Rules 60.2(a) and 60.3(a) would not permit the race committee or the protest committee to protest the boat for breaking rule 31 as a result of information arising from a request for redress.