

UIM Appeal Board

**Decision**

Concerning the Appeal of  
H.E. Sheikh Hassan Bin Jabor Al Thani

- Protestor -

against

the Race Jury Decision from 12<sup>th</sup> November 2005 at Doha not to uphold his protest against boat No. 1 and boat No. 90 and to impose a yellow card and a long lap penalty against boat No. 90

On the basis of the documents, the UIM Appeal Boards session from 05.12.2005 at Schipohl which was attended by the body:

Kimon Papchrisoptoulos, Chairman  
Harry Fabritius, Member  
Andrew Norton, Member

the Protestor and Appellant

H.E. Sheikh Hassan Bin Jabor Al Thani,  
Matteo Nicolini

further Parties

Cato Stromberg, Team Manager of boat no. 1

in attendance

Sami Abu Shaikha

the UIM Appeal Board decided:

***The appeal is upheld in so far that Team Qatar 96 was penalised; the yellow card and the long lap penalty imposed by the race jury are withdrawn.***

***The further appeal is not upheld.***

***50% of the appeal- and protest fees will be reimbursed to Team Qatar 96.***

**Grounds**

**I.**

Boat no. 1 had qualified as first, no. 77 as second, no. 96 as third and no. 90 as fourth boat in the first starting row. The boats started accordingly heading on almost parallel courses towards the first right hand turning buoy.

Near the starting line boat no 90 which was to the left of boat no 96 and driving at approximately the same speed and course, came so close to it that a gentle collision happened but which caused no damage to either of the boats. The boats had not yet reached full racing speed. The parties agree that a dangerous situation was not created.

At the very beginning of the start a comfortable distance in between boat no. 1 and boat no 77 was established.

From the starting line the course of boat no. 1 described at least a continuous and gentle left hand turn. They intended to achieve a better angle for the right hand turn of the first buoys. Driving such a course the team of boat no. 1 took into account that they would cross the course of most of the other competitors unless these would also alter their course to the left. Due to this manoeuvre the gap between boat no. 1 and boats no. 77 and no. 96 became continuously smaller, but boat no 1 was clearly ahead of the two boats.

In the first seconds after the start, boat no. 1 had best acceleration and was therefore the fastest boat. If boat no.1 had remained the fastest boat the danger of a collision would not have occurred. Then the propellers of boat no. 96, which was at that moment very close to boat no.90 on her port side and boat no. 77 on her starboard side, gripped and boat no 96 accelerated much better than all the other competitors. Within a few seconds she left boats no 77 and boat no 90 clearly behind her, became even faster than boat no 1 and therefore found herself in serious danger of a collision with boat no 1 which still was still tracking left. Therefore the angle in between the courses of both boats was at that moment considerably acute. Estimating that angle on the basis of the video footage can not be precise but it looked like possibly 45 degrees.

Finally boat no 96 collided with the starboard side of its bow with the port side of the stern of boat no. 1 and flipped. At that time the two boats were already on nearly parallel courses because boat no 1 started turning right in the last moment before the collision and because boat no 96 had started turning left a little earlier.

The collision can be understood as the result of the continuous left hand curve of boat no. 1, in addition with the sudden increase of acceleration of boat no. 96, the slight and too late manoeuvre of boat no. 96 to the left, the too late manoeuvre of boat no 1 to the right and the fact, that boat no. 96 backed off her throttles too late.

Due to the colliding courses of these two boats, boat no 77 had no chance to avoid the rooster tail of either one or the other boat and therefore its bow lifted off for a considerable period and it almost flipped as well.

The Protestor stated that from his point of view and due to the considerable angle in between the two boats when the danger of collision occurred first boat no. 1 suddenly crossed his course and that a sudden or considerable left hand turn was made by boat no. 1 shortly prior to the collision. He states, that the drivers of boat no 1 must have seen boat no. 96 before and that they must have turned left with the intention to block the faster boat no. 96.

The Protester stated further more that he did not turn earlier or stronger left, because then he considered a high likeability of colliding with boat no. 90 which had , a few seconds before, been very close to his port side on a parallel course. Backing off more to avoid the collision would have lead to a flipping of boat 96 as well because then he would have driven directly into the wake and rooster tail of boat no. 1.

The Protester had the opinion that it was forbidden for boat no. 1 from the beginning of the start to alter her course to the left because this led to crossing the courses of the other competitors unless they altered their courses as well.

He asks for a penalty to be imposed against boat no. 1 and or for redress in view of the accident and the championship points.

The team manager of boat no.1 stated that she continuously and slightly turned left and did not suddenly hook to the left for the purpose of blocking boat no. 96. It was his understanding that boat no. 1 was forced to turn left to be able to round the first buoys and a straight course would have lead boat no.1 to the middle buoy and causing her to miss the first of the three buoys of the first turn.

## II.

Although boat no. 96 and boat no 1 infringed the rules these infringements where not due to impose a penalty. The collision can be rather described as a racing accident than as a result of dangerous or reckless driving. It was very difficult for both boats to prevent the collision, and in the case of boat no. 1 her infringement is judged to be less serious then the infringement of boat no. 96. Furthermore when comparing the actions of both boats boat no. 96's contribution is to be deemed more than boat no. 1's contribution because of various reasons. Finally the fact that boat no.1 intended to turn left and taking into account crossing the course of the other boats in front of their boats is not generally forbidden by the rules. Therefore it was not appropriate to penalise boat no 1.

The infringement of boat no. 96 was not serious enough to justify a penalty, especially when the fact is taken into consideration, that it resulted in an accident that led to 0 points in round 5 for boat 96.

To understand the situation and for the application of the rules the actions which resulted in the accident have to be split into to three different stages.

1. The first stage begins prior to the start and ends with the raising of the green flag.
2. The second stage starts with the raising of the green flag and ends at the time when boat 96 becomes faster than boat no. 1. It can be divided into two stages as well.
  - a. Stage a. Is the first few moments of the start when all boats were lined up according to the result of the pole position and it ends in the moment, when boat no. 1 had established higher speed than the other boats and had left them so far behind, that it could cross their courses without causing a collision with one of these boats.
  - b. Stage b. begins subsequently. It ends at the moment when boat no. 96 had established the same speed as boat no. 1 and begins to become faster than the latter.
3. The third stage lasts only a few seconds and is the period in which boat no. 96 is faster than boat no. 1.

In **stage no. 1** rule 860.33 applies but only until the start was finished. This is the moment when the officer raises the green flag. From this moment onwards the rules of the road i.e. rules 313 and the international regulations for preventing collisions at sea apply (see rule 313.01). This is the reason why boat no. 96 was not due a penalty for infringement of rule 860.33. The Race Jury penalized boat no. 96 for behaviour which resulted in the accident. This behaviour was committed in stage 3 and initiated in stage 2, but it had nothing to do with any action of boat 96 in stage 1. Therefore rule 860.33 does not apply for the accident.

In **stage no. 2 a.** rule 15 of the international regulations for preventing collisions at sea is to be applied. All boats were racing at that stage on almost parallel courses and at approximately the same speed. In this situation the boat that has the other on its starboard side has to give way to the other boat. That means that boat no. 1 which was in the right hand position had rights over all the other competitors if the possibility of a collision was going to occur. Of course boat no. 1 would then according to rule 17 of the international regulations for preventing collisions at sea have been obliged not to alter its course until the other boat would have completed its manoeuvre to prevent the collision. This is obviously an advantage of the first starting position and intended as such by the rules. Anyhow at that stage a danger of collision was not yet established and there was comfortable space between boat no. 1 and boat no 77 and no action in this stage would justify the imposing of a penalty.

The rules allowed boat no. 1 to continue turning left and to cross the

courses of the other boats in front of their bows in **stage no. 2. b.** as long as no danger of collision was created. No rule forbids such driving.

There is no specific rule in the offshore rulebook or the international regulation for preventing collisions at sea that in general forbids running a course that crosses the course of the other boats in front of their bows. Only rules 313.03 and rule 16 of the international regulations for preventing collisions at sea deal with this question. But these rules did not apply in this instance to boat no. 1 in this situation. These rules concern the situation when a danger of a collision has been established and a boat (boat A) that has to give way to another boat (boat B). Then boat A shall not cross the course of boat B in front of its bow.

In stage no. 2.b. boat no. 1 was already ahead of all the other boats so that there was no danger of collision.

Furthermore prior to situation no. 2. a. – when a danger of collision might have been established - boat no. 1 would have been considered as being boat B and not being boat A under rule 16 of the international regulations for preventing collisions at sea. This is because boat no. 1 would have prevailed over all the other boats as explained above and the other boats would have been obliged as being boat A not to cross the course of boat no. 1 in front of its bow.

Rules 313.02 and 17 of the international regulations for preventing collisions at sea that obliges boat B not to alter her course did not apply for boat no. 1 in stage 2.b as this rule only applies when the danger of a collision is established and such danger was not established in stage 2. b.. Even if in stage 2. a. such danger was established and boat no. 1 was obliged not to alter his course this obligation would have stopped in the beginning of stage 2. b. because due to the higher speed of boat no. 1 there was no longer a danger of collision.

A danger of collision was established in **stage no. 3** due to the fact that boat no 96 had accelerated very quickly and had become considerably faster the boat no. 1 and all other boats within a few seconds.

At that stage boat no. 1 infringed rule 313,02 and 17 of the international regulations for preventing collisions at sea because it still altered her course to the left.

The appeal board doubts, if boat no. 1 became aware of the change of situation from stage 2. b. to stage 3 because it was a very short time from the moment when boat no 96 became faster then boat no. 1 and therefore became the overtaking boat until the moment the collision happened. In addition boat no. 96 at the beginning of stage 3. was still clearly behind boat no. 1 and therefore not in a position to be clearly seen from the crew of boat no. 1. Therefore

the appeal board assumes in favour of boat no. 1 that they assumed themselves still being the fastest boat and that they followed their plan which was based on the situation of stage 2. b. to turn left an taking into account that it was safe to cross the course of the following but slower boats ahead of their bows.

The video documentation shows, that in the last moment before the collision, boat no. 1 turned right. The appeal board assumes that this was the moment, when boat no. 1 became aware of the situation.

Anyhow boat no. 96 infringed rule 313.05 and rule13 of the international regulations for preventing collisions at sea itself. From the beginning of stage 3. boat no. 96 was the overtaking boat and had to give way to boat no. 1. To prevent the collision at that stage it either had to turn hard left or had to back of. Both were possible but the appeal board assumes in favour of boat 96 that backing off would have exposed boat no. 96 to the serious danger of flipping as the Appellant claimed. The appeal board assumes as well in favour of boat no. 96 that from their point of view turning harder left was not possible without exposing themselves to a serious danger of a collision with boat no. 90. Boat no. 96 had accelerated so fast, that they did not become aware in that short period, that boat no 90 was already so far astern of boat no 96, that turning harder left was possible without the danger of a collision.

The collision might have been prevented , if boat no 96 had watched out for boat no. 1 before stage 3, realising the continuing increasing angle in between the courses of boat no. 1 and boat no. 96 and then to have manoeuvred accordingly. Due to the fact, that boat no. 96 did not do so, there was the impression, that in stage three boat no. 1 suddenly altered her course to the left. This impression was caused by the considerable angle in between the two boats. Shortly before the collision took place.

This is the speed in which things happened shortly after the start and especially the speed in which the situation changed from stage 2.b to stage 3. In comparing the contribution of the boats to the accident boat no. 96's contribution is to be deemed more considerable then boat no. 1's contribution because of various reasons. First of all, boat 96 had to give way to boat no. 1 because boat no. 96 was the overtaking boat. Boat no. 1 was ahead of no. 96 an

It was very difficult for both boats to prevent the collision. The latter therefore had a better overall view of the scene. At the very least, boat no. 96 had a better chance to prevent the collision then boat no. 1 had.

Both boats only infringed in stage 3 the rules as described above. The situation was generated that quick, that a fault can hardly be established for both boats.

As the rulebook does not foresee redress in such cases boat no 96 can not ask for redress. The fact, that the protest for has position called “redress” does not constitute a rule itself.

With regards to boat no 90 the appeal board finds an infringement of the starting procedure (rule 860.33). As the parties agree, that no danger was caused by boat no 90 and a penalty is not mandatory and the race jury had the same opinion, the appeal board does not see the necessity to penalise boat no. 90.

(Signatures of the appeal board members)