

INTERNATIONAL COURT OF APPEAL (I.C.A.)

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

CASE

**Appeal by the Royal Automobile Club Motor Sports Association
on behalf of its licence-holder West McLaren Mercedes
against decision N° 33 of the Stewards of the Meeting
dated 26 March 2000
Brazilian Grand Prix (Interlagos) - 26 March 2000**

Hearing of Monday 3 April 2000 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, composed of Mr Philippe ROBERTI de WINGHE (Belgium), elected President, Mr Pedro ROMERO (Spain), Mr Reginald REDMOND (Ireland), Mr H.L. DUIJM (Netherlands) and Mr José MACEDO e CUNHA (Portugal),

Meeting in Paris on Monday 3 April 2000 at the headquarters of the Fédération Internationale de l'Automobile, 8 place de la Concorde, 75008 Paris,

Ruling on the appeal brought by the Royal Automobile Club Motor Sports Association on behalf of its licence-holder West McLaren Mercedes, against decision N° 33 of the Stewards of the Meeting made on 26 March 2000 – Brazilian Grand Prix (Interlagos) - 26 March 2000.

Having heard:

- ◆ for the appellant, Mr Martin WHITMARSH, Managing Director of McLaren International Limited, Mr Timothy MURNANE, Head of Legal Affairs TAG McLaren Group, assisted by Mr Terry LANKSHEAR, Secretary General of the Royal Automobile Club Motor Sports Association;
- ◆ for the FIA, Mr de CONINCK, Secretary General of the FIA (Sport);

Having heard the witnesses, Mr David COULTHARD, Driver for West McLaren Mercedes; Mr Charlie WHITING, Manager of the FIA Formula One Technical Department; and Mr Jo BAUER, FIA Technical Delegate,

Having acknowledged that the procedure was in order and the appeal admissible, the rights of each of the parties having been duly examined, both in the proceedings which preceded the hearing and during the hearing itself, the appellant, the FIA and the witnesses having provided all the detailed explanations requested from them during the hearing and having received answer, with the help of a simultaneous translation system which was recognised as satisfactory by the parties,

Having watched a video cassette produced by the appellant and taken note of the technical drawings,

WHEREAS at the end of the Brazilian Grand Prix a technical report was drawn up by Mr Jo BAUER on 26 March 2000 at 19:55 showing that the distance between the

reference plane and the step plane was only 43 mm instead of 50 mm as required by Article 3.12.1 of the FIA Formula One Technical Regulations, whereas a tolerance of only ± 5 mm is authorised in accordance with Article 3.12.6, and that consequently, the car examined was not in conformity with the prescriptions referred to above,

WHEREAS following this report, at 20:55 on the same day, the Stewards of the Meeting, having heard both the representatives of the appellant and the FIA Technical Delegate, decided that car N° 2 (driven by David Coulthard) was not in conformity with the Formula One Technical Regulations and that car N° 2 must therefore be excluded from the race,

WHEREAS an appeal was brought against this decision, in accordance with the rules and within the given time limit, this appeal being submitted today to the appreciation of the International Court of Appeal; consequently, it must be decided, on the basis of the explanations and documents provided, whether or not the car in question is in conformity, according to the terms of the technical report and those adopted by the Panel of the Stewards of the Meeting,

WHEREAS first of all it must be borne in mind that it has been confirmed, both in the appellant's statement of appeal and in the statements made by the parties during the hearing, that the measurements were carried out in the proper fashion and in the presence of both parties; that it is certain that the height measured between the reference plane and the step plane was 43 mm, whereas it should have been 50 mm, in accordance with Articles 3.7 and 3.12.1 of the Formula One Technical Regulations, with a tolerance of ± 5 mm, in conformity with Article 3.12.6 of the same Technical Regulations which reads as follows: "*To help overcome any possible manufacturing problems, a tolerance of ± 5 mm is permissible across these surfaces.*",

WHEREAS consequently, even if one takes up the appellant's explanations regarding his interpretation of the tolerance, the litigious height was 2 mm less than the height provided for in Articles 3.7 and 3.12.1 of the Formula One Technical Regulations, even taking into account the tolerance provided for in Article 3.12.6,

WHEREAS the International Court of Appeal must observe that the tolerance referred to in Article 3.12.6 is a manufacturing tolerance,

WHEREAS at this point, certain Articles of the Formula One Technical Regulations and Sporting Regulations applicable to this case should be mentioned:

- ◆ Article 2.4 of the Formula One Technical Regulations: **Compliance with the regulations:** "*Automobiles must comply with these regulations in their entirety at all times during an Event.*";

- ◆ Article 2.7 of the same Regulations: **Duty of competitor:** "*It is the duty of each competitor to satisfy the FIA technical delegate and the Stewards of the Meeting that his automobile complies with these regulations in their entirety at all times during an event.*";

- ◆ Article 7 of the Formula One Sporting Regulations: "*Competitors must ensure that their cars comply with the conditions of eligibility and safety throughout practice and the race.*".

WHEREAS the appellant, to maintain that he was not responsible for this non-conformity, claimed that this was a case of force majeure implicating the responsibility of the layout and profile of the circuit, on which there were several bumps including one in the last section of its straight,

WHEREAS he also claimed that the proof of his good faith was borne out by the fact that no observation had been made during the pre-race scrutineering concerning the height in question, and that he therefore sought a) the invalidation of the decision of the first judges and b) the indulgence of the Court for a difference in height for which he was not responsible,

WHEREAS this argument is hard to accept, because of the precise and necessarily demanding terms of the Regulations which must be observed at all times during the event, since all the competitors must be treated with the same severity in order to achieve the indisputable consistency of the results of the event,

WHEREAS, in this respect, it should be remembered that Article 3.12.5 of the Formula One Technical Regulations states: "*All parts lying on the reference and step planes, in addition to the transition between the two planes, must produce uniform, solid, hard, continuous, rigid (no degree of freedom in relation to the body/chassis unit), impervious surfaces under all circumstances.*",

WHEREAS Article 3.15 of the Technical Regulations states: "*Any specific part of the car influencing its aerodynamic performance ... must comply with the rules relating to*

bodywork, must be rigidly secured to the entirely sprung part of the car (rigidly secured means not having any degree of freedom), must remain immobile in relation to the sprung part of the car ...",

WHEREAS this Article reminds one, and rightly so, that there can be no rotation or the slightest reorientation of the parts concerned, and that every precaution must be taken by the competitor to avoid any incident or accident,

WHEREAS that being the case, the distance between the two planes referred to above must imperatively be 50 mm and under no circumstances may a tolerance be accepted other than that provided for in Article 3.12.6 of the Formula One Technical Regulations,

WHEREAS, in any case, it should be remembered that the tolerance must not be taken for a rule, which would on the contrary allow the most serious difficulties to arise if the calculations were made initially during the manufacture of the part according to this tolerance,

WHEREAS lastly the appellant cannot, in this case, claim force majeure resulting from the unevenness of the surface of the circuit or from the poor positioning of the kerbs,

WHEREAS all the competitors – including the appellant – had been subjected to the rigours of this circuit from the first practice session onwards, and that all steps could thus have been taken to make the necessary adjustments to the cars to allow them to cope with these difficulties, and that it had thus been possible to respect the imposed height between the two planes, which moreover the other entrants whose cars were scrutineered after the event appear to have done,

WHEREAS, in these conditions, regardless of the severity of its consequences, the decision that was taken should be confirmed,

ON THESE GROUNDS,

FINDING the appeal brought by West McLaren Mercedes admissible but judging it unfounded,

CONFIRMS in all its aspects the decision that was taken,

LEAVES it to the sporting authority to draw the conclusions from the present decision with regard to the classifications of the event,

SENTENCES West McLaren Mercedes to pay all the costs.

Made in Paris, 3 April 2000

THE PRESIDENT