

**Decision of the FEI Jumping Committee dated 13 June 2013 in the matter of the withdrawal of the German team during the Furusiyya FEI Nations Cup™ Jumping in St-Gallen (SUI)**

**I. Summary of the facts**

**1.** Due to heavy rain and difficult weather conditions in St-Gallen (prior to and during the Event), several meetings were held on 30 and 31 May 2013 with the Organising Committee ("OC"), the Ground Jury ("GJ"), the Chefs d'Equipe of the Furusiyya FEI Nations Cup™ Jumping and the FEI. Following a request from the eight Chefs d'Equipe, it was agreed by the Ground Jury, the OC and the FEI to make changes to the Event schedule, and in particular:

All eight Chefs d'Equipe signed an agreement (see attachment) that the Furusiyya FEI Nations Cup™ Jumping competition should be run with the following modifications due to the special weather circumstances in order to mitigate any risks to horse welfare and athlete safety:

- The Chefs d'Equipe would be allowed to change their declared horses and riders up to half an hour before start of the competition;
- The water jump would be replaced by another obstacle;
- The triple combination would be replaced by two double combinations;
- The obstacles would be moved following the first round either right or left.

**2.** All eight Chefs d'Equipe also agreed to cancel Competitions on Thursday 30 May 2013 and on Friday 31 May 2013 in order to keep the footing in good condition for the Furusiyya FEI Nations Cup™ Jumping Competition on Friday 31 May 2013.

**3.** In addition, during a meeting with all Chefs d'Equipe on Thursday 30 May 2013 Mr John Roche (FEI Director Jumping) made it clear to the German Chef d'Equipe that no team could obtain Furusiyya FEI Nations Cup™ Jumping points if the team did not take part in the Furusiyya FEI Nations Cup™ Jumping Competition and that in addition points would not be given if the team was eliminated in the first round.

**4.** On Friday 31 May 2013 the German Chef d'Equipe informed the OC (Mr Urs Schiendorfer) that the German team had no other choice but to withdraw from the Furusiyya FEI Nations Cup™ Jumping Competition as the owners of the German Team's horses were prohibiting their horses from participating in the Competition due to the weather conditions. The OC then informed the Ground Jury about such withdrawal.

5. The issue at stake pertains to the consequence(s), if any, of the withdrawal of the German team during the Furusiyya FEI Nations Cup™ Jumping in St-Gallen (SUI) and in particular in light of article 4 of the NC Rules.

## II. Applicable Rules

- Jumping Rules 24<sup>th</sup> edition, 1 January 2012, updates effective 1 January 2013 ("JRs"): Article 264.5.3
- Rules Furusiyya FEI Nations Cup™ Series, effective for season 2013, updated 15 May 2013 ("NC Rules"): Preamble and Article 4

## III. GER NF's opinion

6. In an email to Mr John Roche dated 3 June 2013 the German NF requested that the FEI consider the matter further and allow the German team to be eligible to earn points at its three remaining qualifying Competitions in an effort to qualify for the 2013 Furusiyya FEI Nations Cup™ Jumping Final, pointing out that Germany would have to win or place second in each of the three qualifiers to have a chance to qualify for the Final; the German NF therefore asked the FEI to find a solution that did not punish the German team (by not being able to qualify for the Final) because of a decision in favour of the welfare of its horses. The German NF based its request on the fact that it had sent a team to St-Gallen, one of its four selected Events to count for points, but the decision to withdraw from the Nations Cup Competition had been taken outside of the NF's control, which in the German NF's opinion caused a situation of force majeure.

7. In an additional email to Mr John Roche dated 10 June 2013 the German NF indicated that even if the FEI Jumping Committee were to share the view that circumstances of "force majeure" could apply in the case of Germany's withdrawal from the Competition and take the decision to allow the German team to collect points at its remaining three qualifying Events, this would, in the German NF's opinion, be of theoretical value only; in view of the scale of points that NFs could obtain at each Event, the German NF felt that it could not expect to qualify for the 2013 Final, even if Germany were to win each of its three remaining qualifiers.

The German NF considers that the FEI Nations Cup™ competition in St-Gallen was not a proper qualifying Competition for the Series due to the changes made to the format and the technical requirements; in the opinion of the German NF, the fact that the remainder of the Event was cancelled following the Competition supported its view that its horse owners/team had not over-reacted. It is not the German NF's intention to



challenge the decisions taken on the ground or the outcome of the Competition in St-Gallen. However, the German NF feels that its horse owners/team should not be punished for acting in true faith of the FEI Code of Conduct (Art. 3) by strictly applying the FEI Rules, as opposed to the FEI rules being amended during the Competition in St-Gallen.

The German NF recognises that it may not be possible for its team to be classified in 8<sup>th</sup> place or to obtain points in the FEI Nations Cup<sup>TM</sup> Competition at St-Gallen and proposes that the FEI, according to JRs Art. 249.8, give consideration to issuing a wild card to Germany for the 2013 Final. The German NF feels that this would respect both the other teams participating at St-Gallen and the German horse owners'/team's decision to withdraw from the Competition at that Event.

#### **IV. The Decision**

**8.** The Jumping Committee has jurisdiction to decide on the issue at stake as the Preamble of the NC Rules state the following: *"These Rules must be read in conjunction with the FEI Statutes, the FEI General Regulations (GRs), the FEI Jumping Rules (JRs), and all other relevant FEI rules and regulations. In any unforeseen or exceptional circumstance which is not addressed by these Rules, it is the duty of the FEI Jumping Committee to interpret them and render a Decision in a manner compatible to the fullest extent possible with the other provisions of these Rules, the GRs and any other applicable rules of the FEI, as well as sporting spirit."*

**9.** In order to avoid any potential conflict of interest, the Jumping Committee agreed that the following members of the Jumping Committee should refrain from participating in the decision:

- Mr Marco Fuste (ESP): Reason: Chef d'Equipe of the Spanish Team, Division I of the Furusiyya FEI Nations Cup<sup>TM</sup> Jumping
- Mr Stephen Ellenbruch (GER): Reason: German nationality
- Mr Max Kühner (GER): Reason: German nationality

**10.** Therefore, the following members of the Jumping Committee decided on the issue at stake:

- Mr John Madden (USA)
- Mr Ian Allison (CAN)
- Mr Vladimir Platov (RUS)

**11.** The NC Rules state that *"Any NF that commits itself in writing to take part in the qualifying Competitions and any NF that qualifies for the Furusiyya FEI Nations Cup<sup>TM</sup> Final but does not respect its commitment to*

*take part at the Furusiyya FEI Nations Cup™ Final or in the qualifying Competitions for any reason, other than Force Majeure, loses its points for the entire season."*

**12.** First, the Jumping Committee fully supports the decisions taken on the ground during the Event as these decisions were all taken based on the conditions at the time and in full consultation with all Chefs d'Equipe, Ground Jury, the OC and the FEI.

**13.** While the NC Rules state that NFs must respect their written commitment to take part in the qualifying competitions, the Jumping Committee wishes to clarify that the intent of article 4 of the NC Rules was to prevent National Federations/Teams from not showing up at a given Event.

**14.** In the case at stake, the Jumping Committee is of the opinion that the German NF met its commitment by sending a team to participate at CSIO St-Gallen and in the Furusiyya FEI Nations Cup™ Jumping qualifying Competition. The riders and horses were present in St-Gallen, the German Chef d'Equipe attended the Chefs d'Equipe meetings and the German Chef d'Equipe made relevant decisions in St-Gallen, such as agreeing to modify the schedule of the Event and allowing the Chefs d'Equipe to change their declared horses and riders to accommodate to the weather conditions. In addition, the horses were presented at the horse inspection and the German team was declared to start in the Furusiyya FEI Nations Cup™ Competition, meaning that there was a clear intent to participate in the Competitions of the Event.

**15.** However, the decision not to participate in the Furusiyya FEI Nations Cup™ Jumping Competition was ultimately taken by the owners of the German team horses. Neither the German NF nor the FEI has the right or the authority to instruct owners on what they must do with their horses at an Event. Consequently, the German NF had no other choice but to accept the decision of the owners to withdraw their horses from the Event given the weather conditions. In this case, Art. 264.5.3 of the JRs applies in relation to a team not taking part in the Nations Cup competition (meaning that the OC had the right to deprive the German team of all prize money won at the Event, as well as to deprive them of their accommodation expenses). In this case, the OC did not exercise that right.

**16.** The Jumping Committee also considered the GER NF's emails mentioned above, but the Jumping Committee does not agree with the GER NF proposals. The Jumping Committee decides not to issue any wild card to the GER NF for the 2013 Furusiyya FEI Nations Cup™ Final, due to the fact that there is a specific qualification system for the Final outlined in the Furusiyya FEI Nations Cup™ rules which does not include a wild card.



**17.** Teams receive points in the Furusiyya FEI Nations Cup<sup>TM</sup> Competition according to their classification in the Competition. As the German team did not take part in the Furusiyya FEI Nations Cup<sup>TM</sup> Competition in St-Gallen they do not receive points from this competition.

**18.** However, as the German NF respected its commitment by sending a team to take part in the Furusiyya FEI Nations Cup<sup>TM</sup> Jumping Competition at CSIO St-Gallen and acted in good faith with respect to that obligation, and in view of the fact that a decision not to take part in the Furusiyya FEI Nations Cup<sup>TM</sup> Jumping competition was taken outside the control of the German NF, the German team shall be allowed to participate in its remaining three Furusiyya FEI Nations Cup<sup>TM</sup> Jumping qualifying competitions in an effort to try to qualify for the 2013 Furusiyya FEI Nations Cup<sup>TM</sup> Final.

Signature (On behalf of the full Jumping Committee):



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Mr John Madden  
Chair FEI Jumping Committee