

**DECISION OF THE INTERNATIONAL TENNIS FEDERATION
PURSUANT TO ARTICLE 8.1.4 OF THE 2019 TENNIS ANTI-DOPING PROGRAMME**

I. Introduction

1. The International Tennis Federation (the **ITF**) is the international governing body for the sport of tennis. Further to its obligations as a signatory to the World Anti-Doping Code (the **Code**) and its responsibilities as custodian of the sport, the ITF has issued the 2019 Tennis Anti-Doping Programme (the **TADP** or the **Programme**), which sets out Code-compliant anti-doping rules applicable to ATP-ranked players and other players competing in '**Covered Events**' (as defined in TADP Article 1.10).¹
2. Robert Farah (the **Player**) is a 33-year-old professional tennis player from Colombia. His career-high singles ranking is 163 and his current doubles ranking is 1. By signing an ATP entry form for 2019, and by virtue of his subsequent participation in '**Covered Events**' in 2019, the Player became bound by and required to comply with the 2019 TADP.
3. The ITF has charged the Player with the commission of an anti-doping rule violation under Article 2.1 of the TADP, and has proposed resolution of the matter in line with its analysis of the degree of fault that the Player bears for that violation. The Player has admitted the anti-doping rule violation charged and agreed to the outcome proposed. The ITF therefore issues this decision further to TADP Article 8.1.4, which provides: '**In the event that [...] the Participant admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by the ITF [...], a hearing before the Independent Tribunal shall not be required. Instead the ITF shall promptly issue a decision confirming [...] the commission of the Anti-Doping Rule Violation(s) and the imposition of the specified Consequences (including, if applicable, a justification for why the maximum potential sanction was not imposed) [...]**'.

II. The Player's commission of an anti-doping rule violation

4. On 17 October 2019, the Player was not competing. As a member of the ITF's International Registered Testing Pool, however, he had provided the ITF with information about his whereabouts while out of competition, so that he could be found for testing. IDTM (the company that collects samples for analysis under the Programme) sent a doping control officer to the address the Player had provided for that day (his mother's house in Cali, Columbia) to collect a urine sample from him for analysis under the Programme. The sample the Player provided was given reference number 3143779 and was split into an A sample and a B sample, which were sealed in tamper-evident bottles and transported to the WADA-accredited laboratory in Montreal (the **Laboratory**) for analysis.
5. The Laboratory detected boldenone in sample A3143779 at an estimated concentration of 1.2 ng/mL, as well as a metabolite of boldenone at an estimated concentration of 1.8 ng/mL. Boldenone is listed in section S1.1b of the 2019 WADA Prohibited List as an anabolic steroid that is banned at all times. However, boldenone is produced endogenously. Its presence in a sample is only prohibited when it is exogenous, as determined (for example) by gas chromatography combustion isotope ratio mass spectrometry (**GC-C-IRMS**) testing. WADA Technical Document TD2019IRMS requires any laboratory that finds boldenone or boldenone metabolites in a sample at concentrations '**between 5 ng/mL and 30 ng/mL**' to conduct '**GC-C-IRMS analysis for these compounds [...] before reporting an Adverse Analytical Finding**'. It also

¹ Any term in this decision that begins with a capital letter and that is not otherwise defined in this decision has the meaning given to it in the Programme.

states that findings of boldenone or boldenone metabolites at concentrations below 5 ng/mL (adjusted for specific gravity, if necessary) 'should be reported as Atypical Findings unless the results of the GC/C/IRMS analysis, if performed (depending on the Laboratory's analytical capacity and following consultation with the Testing Authority), conclusively establish the exogenous origin of the substance' (in which case an Adverse Analytical Finding should be reported). The Laboratory therefore reported the results of analysis of sample A3143779 as an Atypical Finding and consulted the ITF, which asked the Laboratory to conduct GC/C/IRMS analysis on the sample to try to determine (notwithstanding the low concentrations) whether the boldenone and boldenone metabolites detected in the sample were endogenous or exogenous. The Laboratory was able to confirm that they were exogenous, and therefore reported the results as an Adverse Analytical Finding.

6. In accordance with TADP Article 7.3, the ITF referred the Adverse Analytical Finding reported by the Laboratory in respect of sample A3143779 to an independent Review Board. The Player did not have a therapeutic use exemption permitting use of boldenone, and the Review Board did not identify any departures from the sample collection procedures set out in the International Standard for Testing and Investigations or from the sample analysis procedures set out in the International Standard for Laboratories that could have caused the presence of boldenone and a boldenone metabolite in the sample. The independent Review Board therefore confirmed that the Player had a case to answer for breach of TADP Article 2.1.
7. Accordingly, on 11 January 2020 the ITF sent the Player a formal notice of charge, asserting that the presence of boldenone and a boldenone metabolite in his sample collected on 17 October 2019 constitutes an anti-doping rule violation under TADP Article 2.1.
8. On 25 January 2020, the Laboratory reported that analysis of sample B3143779 had detected the presence of exogenous boldenone and metabolite, i.e., it confirmed the Adverse Analytical Finding reported in respect of sample A3143779.
9. Given that boldenone is not classified as a Specified Substance under the TADP, the Player was subject to a mandatory provisional suspension under TADP Article 8.3.1, which came into effect on 21 January 2020.
10. TADP Article 2.1 is a strict liability offence that is established simply by proof that a prohibited substance was present in the Player's sample, i.e., the ITF does not have to prove how the substance got into the Player's system or that the Player took the substance intentionally (or even knowingly).
11. TADP Article 8.7.5 provides that '[s]ufficient proof of an Anti-Doping Rule Violation under Article 2.1 is established (a) by an Adverse Analytical Finding in respect of a Player's A Sample if [...] the Player's B Sample is analysed, and that analysis confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Player's A Sample [...]'. Furthermore, the Player accepts the accuracy of the Adverse Analytical Findings reported by the Laboratory, i.e., he accepts that exogenous boldenone and a metabolite of exogenous boldenone were present in his sample 3143779. He therefore admits that he has committed an anti-doping rule violation pursuant to TADP Article 2.1.
12. The question therefore becomes, what consequences apply under the Programme for this anti-doping rule violation (which is the Player's first doping violation)?

III. Consequences

III.A Period of Ineligibility

(i) TADP Article 10.2

13. TADP Article 10.2.1 mandates a four-year ban for a TADP Article 2.1 violation that is a first offence if it is 'intentional'. Where (as here) the prohibited substance in question is not a Specified Substance, the Player has the burden of proving (on the balance of probabilities²) that the violation was not 'intentional'. If the Player can do so, TADP Article 10.2.2 provides for a two-year period of ineligibility (subject to potential further mitigation). TADP Article 10.2.3 explains that in this context 'the term "intentional" is meant to identify those Participants who cheat. The term, therefore, requires that the Participant engaged in conduct that he/she knew constituted an Anti-Doping Rule Violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping Rule Violation and manifestly disregarded that risk'. In other words, he must have acted intentionally or recklessly. The jurisprudence is clear that what counts in this context is what the Player actually knew about the risks, not what he should have known.³
14. It is also clear from the jurisprudence that (save in the most exceptional of cases) the Player will not be able to establish a lack of intent without first proving, again on the balance of probabilities, how the boldenone got into his system.⁴ To meet this burden, it is not enough to prove that meat contamination is a possible source of the boldenone found in his sample, or even that it is the most likely of all possible sources identified. Instead, the Player must show that meat contamination is more likely than not to be the source of the boldenone.⁵ On the

² See TADP Article 8.6.2 ('Where this Programme places the burden of proof upon the Participant alleged to have committed an Anti-Doping Rule Violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability').

³ ITF v Sharapova, Independent Tribunal decision dated 6 June 2016, para 68 ('It is clear from the wording of article 10.2.3 that whether conduct is intentional is to be judged on the actual knowledge of the player, not on the basis of what she ought to have known or understood. [...] The first element is based on knowledge, the second on manifest disregard of the known risk. The second element may involve considering what steps the player took or ought to have taken, but the first element depends on the actual knowledge of the player. [...]'), not challenged on appeal, Sharapova v ITF, CAS 2016/A/4643; UKAD v Normandale, NADP Tribunal decision dated 27 June 2019, para 23.

⁴ See eg Scott v ITF, CAS 2018/A/5768, para 142 ('unlike in the context of NSF or NF -proof of the source of the prohibited substance is not an absolute (although always an important) pre-condition of establishing lack of intent (see 2016/A/4534, CAS 2016/A/4676 and CAS 2017 / A/5178), and that only extremely rarely will an athlete be able to prove lack of intent without proof of source').

⁵ See eg WADA v FCF, Garcia and Castaneda, CAS 2017/A/5315 and CAS 2017/A/5316, para 142 ('In the present circumstances, submitting a copy of a menu, a letter of a cattle farmers' association and the reference to a previous case are for the Panel by far insufficient evidence to be satisfied, under balance of probabilities, that some meat consumed by the Athletes is the cause of the presence of boldenone and of metabolites of boldenone in the four Samples of the Athletes. Accordingly, the Athletes have not established, on the balance of probabilities, that the boldenone in their Samples was the result of the consumption of contaminated meat'); WADA v EGY-NADO & Elsalam, CAS 2016/A/4563, para 58 ('Based on the above considerations regarding the evidence presented by the Respondent in this matter [regarding the source of the prohibited substance being meat contamination], the Sole Arbitrator must conclude that the Athlete, based on a balance of probability standard, has not fulfilled her burden of proof to establish the origin of the prohibited substance Ractopamine in her system'); IAAF v Lawson, IAAF Disciplinary Tribunal decision dated 24 May 2019, para 97 ('The issue, the Tribunal reminds itself, is whether the Athlete has established meat contamination on the

other hand, the CAS has been clear that it is enough to prove that there is a 51% chance that meat contamination was the source.⁶

(ii) **How the boldenone got into the Player's system**

15. The Player has asserted that the boldenone found in his system came from beef that he ate the night before sample 3143779 was collected, which he says contained residue of boldenone injected into the cow as a growth promoter prior to slaughter. He insists that he did not intend to cheat, and that he did not engage in conduct that he knew constituted an anti-doping rule violation, nor did he know that there was a significant risk that eating the beef might constitute or result in an anti-doping rule violation.
16. The Player has provided the following evidence to support his contention of meat contamination as the source of his Adverse Analytical Finding:
 - 16.1 Urine samples were collected from him on 2 October and 7 October 2019, and upon analysis neither of them was found to contain either boldenone or its metabolites (or any other Prohibited Substance).
 - 16.2 Flight documentation, photographs and other evidence establish he was in Cali, Colombia, on 16 and 17 October 2019, and that he visited his mother there, who cooked a meal for him, his fiancée and a family friend on the evening of 16 October 2019.
 - 16.3 In a sworn statement, the Player's mother explains that: (i) on 15 October 2019 she went shopping at her local branch of a major supermarket chain in Colombia (the **Supermarket**) and purchased (among other things) approximately one kilogram of 'solomillo' (the cut of beef equivalent to the 'sirloin' in English); (ii) she marinated the beef with other ingredients before cooking it, and ate it together with the Player and his fiancée and a family friend at around 8:00 to 8:30 pm on 16 October 2019; and (iii) the Player consumed approximately 500 to 600 grams of the total meat prepared, with the rest being consumed by the other diners, and none left over.
 - 16.4 A senior manager of food acquisition for the Supermarket chain has provided a statement explaining that: (i) the Supermarket tracks customer purchases against the customer's identification card number; (ii) the system recorded the purchases made on 15 October 2019 by the Player's mother, which included the purchase of 1.006 kilograms of solomillo beef; (iii) the Supermarket also maintains records of the source and distribution of the meat products it sells; and (iv) the meat sold in October 2019 in the branch of the Supermarket from which the Player's mother purchased the solomillo

balance of probabilities, not whether meat contamination may possibly explain a Trenbolone positive'). The ITF respectfully disagrees with the analysis on this point by the FISA Doping Hearing Panel in FISA v Arriaga Gomez, FISA Anti-Doping Panel decision dated 22 June 2015, page 8 ('the athlete must show that the ingestion of meat was the only possible means of ingesting the boldenone, or that it is more probable than any other possible explanation. The Panel needs to be satisfied of this on the balance of probabilities and if it is only slightly more probable than other possible explanations, then the Athlete has met the burden and standard of proof required').

⁶ See ITF v Gasquet, CAS 2009/A/1926, para 31 ('[...] for the Panel to be satisfied that a means of ingestion is demonstrated on a balance of probability simply means, in percentage terms, that it is satisfied that there is a 51% chance of it having occurred. The Player thus only needs to show that one specific way of ingestion is marginally more likely than not to have occurred').

came from the Sinú meat processing plant in northern Colombia, and ultimately from one of 15 cattle ranches (which the manager listed by name) located in northern Colombia (the **15 Cattle Ranches**).

- 16.5 A senior official of the Colombian government responsible for agriculture and rural development provided a sworn statement confirming that: (i) the importation, distribution, sale and use of boldenone is permitted in Colombia; (ii) 59 products containing boldenone are commercially available in the country; (iii) boldenone is used in livestock farming as a growth promoter prior to slaughter; and (iv) 'some livestock farms in some of the regions [in which the 15 Cattle Ranches are located] have used boldenone in their cattle to increase their meat mass'.
- 16.6 A senior representative of a Colombian cattle trade and lobbying organisation has provided a sworn statement confirming that: (i) cattle farmers in Colombia (in particular, cattle farmers in the northern regions of Colombia) 'commonly use products containing boldenone to increase the mass of their cattle and accelerate the fattening process'; (ii) there were 600,000 purchases of boldenone for cattle farming in Colombia in 2019; (iii) the cattle slaughtered at the Sinú meat processing plant at the relevant time would have come from the 15 Cattle Ranches; and (iv) 'some of these cattle breeders [i.e., the cattle breeders on the 15 Cattle Ranches] [...] purchased and used products with active agents that contain boldenone in their livestock breeding and fattening processes'.
- 16.7 A cattle farmer in the municipality of San Martín, Cesar, northern Colombia (not one of the 15 Cattle Ranches, but in the same region) who has extensive experience of cattle-farming and who operates a significant cattle-farming operation has provided a sworn statement confirming that: (i) the distribution, sale and use of boldenone is authorised by the Colombian authorities to fatten cattle intended for human consumption; (ii) he has used boldenone (in accordance with all applicable regulations and veterinary guidelines) on his herd of 1,500 cattle for approximately 15 years; and (iii) he administers the boldenone by intramuscular injection into the cow's haunch.
- 16.8 Víctor Alberto Delgado Jaramillo, a Colombian lawyer, has provided a sworn statement that: (i) provides a list of the 59 products containing boldenone that are available for sale in Colombia; (ii) provides a copy of a regulation issued by the Colombian Ministry of Health on 2 May 2013 that establishes the maximum limits of residues of veterinarian medications in food products intended for human consumption and imposes consequences for individuals or companies that sell food products containing residues of any of the listed substances in concentrations higher than those permitted; (iii) notes that boldenone is not listed in that regulation, and so under Colombian law there is no legal mechanism to ensure that boldenone concentration levels in beef sold for human consumption remain below a certain level, and there are no consequences for individuals or companies that provide beef for human consumption that still contains boldenone residue; and (iv) provides a copy of a 2011 report by the European Commission of an audit conducted in Colombia 'to evaluate the monitoring of residues and contaminants in live animals and animal products, including controls on veterinary medicinal products', which report noted that (a) 'there is no legal basis to determine that a sample is non-compliant unless the substance has been prohibited in Colombia and consequently it is not illegal to place bovine meat containing residues of authorised medicines on the market'; and (b) '[t]he mission team noted for bovines that: [...] residues of authorised hormonal growth promotants have been found in recent years for inter alia zeranol, trenbolone and boldenone'.

- 16.9 Deyanira Barrera León, General Manager of the Colombian Agricultural Institute (the **ICA**), the entity responsible for agricultural health and food safety in Colombia, has provided a sworn statement confirming that although the Colombian government has implemented plans to monitor and control pathogens and residues of veterinary medications and chemical contaminants in meat products, and although the boldenone products available for sale in Colombia direct the user not to use the product on livestock within 30 days of slaughter, it 'may be possible that, even with the monitoring that the authorities conduct and the issuance of transversal protocols of good practices, some farmers do not comply with the withdrawal times (minimum of 30 days) before slaughter, creating the risk that meat with steroid residues reach the final consumer'.
- 16.10 Professor Gonzalo Diaz, Professor of Toxicology at the Department of Sciences for Animal Health, College of Veterinary Medicine, National University of Colombia, has provided an expert report explaining that: (i) a study conducted in 2015-2016 by the ICA and Colombia's National Food and Drug Surveillance Institute reported that samples from 25 of 111 cattle farms surveyed contained 'unacceptable' levels of boldenone (meaning more than 1 ng/mL); (ii) the results of that study 'clearly show the widespread use of boldenone in cattle and suggest the potential presence of this compound in Colombian beef'; (iii) 'contrary to the situation in first-world countries, in Colombia it is common not to follow the withdrawal time for veterinary drugs, therefore cattle could be sent to the slaughter house prior to the 30-day withdrawal [period specified by the drug instructions]'; (iv) it is characteristic of Colombian cattle farming to inject the anabolic agent into the haunch of the cow, corresponding to the muscles close to the 'solomillo' cut (rather than into the neck, as done in many other countries); (v) boldenone concentrations would be expected to be higher in the muscles close to the injection site, because boldenone will distribute preferentially into fat and fatty tissues such as muscle and as a result of passive diffusion mechanisms; and (vi) in his view, 'eating a normal portion of meat contaminated with steroids (for instance boldenone) can express itself in urine sample values consistent with what we see in this case'.
17. The ITF conducted its own review of open source material relating to the use of boldenone as a growth promoter for livestock in Colombia, and located a previous comment by Ms León, in November 2018, that no samples tested in Colombian slaughterhouses in 2015-2016 contained boldenone and that only two of 218 samples tested in Colombian slaughterhouses in 2016-2017 contained boldenone, which she said indicated 'that withdrawal times are being respected'.⁷ In addition, on 15 January 2020 the ICA issued a press release in which Ms León stated: 'It is important to clarify that the presence of Boldenone in cattle farms does not imply the presence of the substance in the meat for human consumption, if the withdrawal times established in the indications for the use of the products are applied. The withdrawal time for Boldenone is 30 days'.⁸ The ITF accepts that these statements are not inconsistent with the evidence that Ms León has provided in this matter, and do not establish that the meat eaten by the Player on 17 October 2019 could not have contained boldenone residue.

⁷ See ICA, *ICA works for the responsible use of Boldenone in the meat industry of the country*, 14 November 2018 (<https://www.ica.gov.co/noticias/ica-works-for-the-responsible-use-of-boldenone-in>).

⁸ See ICA, *ICA works with farmers for the responsible use of veterinary medicines in the country*, 15 January 2020 (<https://www.ica.gov.co/movil/noticias/12583.aspx>).

18. The ITF consulted Professor Christiane Ayotte, Director of the Laboratory, who explained – consistent with the opinion she provided to the FISA Doping Hearing Panel in FISA v Arriaga Gomez⁹ – that:
- 18.1 the fact that the Player's samples collected on 2 and 7 October 2019 did not contain any boldenone or boldenone metabolites¹⁰ rules out the possibility that the source of the boldenone and boldenone metabolite in the sample collected on 17 October 2019 was an injection of boldenone undecyclenate (because such an injection on or after 7 October 2019 would have resulted in higher levels of boldenone and its metabolite than were found in the 17 October sample);
 - 18.2 other possible sources of boldenone are a pro-hormone (i.e., a supplement that contains anabolic steroid precursors), a contaminated supplement, or meat containing boldenone residue; and
 - 18.3 it is not possible to determine from the analytical results alone which of those possible sources was the source of the boldenone and boldenone metabolite found in the Player's sample 3143779 other than to say that the boldenone was not produced in the Player's body. Assuming that the Player ate 500 to 600 grams of meat that was contaminated with 5 ng/g of boldenone (i.e., he consumed a total of 2,500 to 3,000 ng of boldenone), that could result in the presence of boldenone and its metabolite in the Player's relatively concentrated urine sample 3143779 (specific gravity: 1.026) approximately eleven hours later.
19. Having reviewed the evidence provided by the Player, the ITF requested further information and documents from the Player, all of which was promptly provided. In particular, the Player provided a schedule detailing the supplements he was using between March and October 2019, and copies of the purchase receipts for those supplements. The supplements are 'off-the-shelf' supplements that are in many cases are 'Informed Sport' certified, none of them lists boldenone or any boldenone precursor as an ingredient, and the Player was tested ten times between March and October 2019, all of which tests were negative, which suggests that boldenone is unlikely to be an unlisted ingredient or contaminant of the supplements.
20. The ITF considered whether the lack of other reported boldenone positives from consumption of Colombian meat weighed against the Player's explanation. However, WADA TD2019MRPL only requires WADA-accredited laboratories to be able to detect and identify boldenone at concentrations of 5 ng/mL and above. Laboratories are encouraged to develop the ability to detect concentrations of boldenone below that level, but they do not have to do so in order to maintain WADA accreditation. Therefore, the ITF does not consider that the lack of other reported cases of boldenone positives from consumption of Colombian meat weighs heavily against the Player's explanation in this case.
21. Having carefully considered all of the above factors, the ITF accepts that the Player has established that it is at least 51% likely that the 500 to 600 grams of beef that he ate at his mother's house in Cali, Colombia, on 16 October 2019, approximately 11 hours prior to providing his urine sample on 17 October 2019, was the source of the very low concentrations of boldenone and its metabolite subsequently found in that sample.

⁹ FISA v Arriaga Gomez, FISA Anti-Doping Panel decision dated 22 June 2015.

¹⁰ Both samples were tested at the WADA-accredited laboratory in Beijing, China, which has a limit of detection of 1 ng/mL for boldenone.

22. In a sworn statement, the Player attested that he did not know that there was a risk that the meat cooked for him by his mother might contain boldenone. In particular, he swore that he never saw the statement released by the Colombian Olympic Committee in November 2018 regarding the widespread use of boldenone in cattle farming in Colombia, the possibility that meat from Colombian farms might contain boldenone, and the consequences that could apply for athletes subject to anti-doping rules.¹¹ Given that the Player does not live in Colombia, and spends most of the year travelling the globe on the professional tennis circuit, the ITF does not find that surprising.
23. As a result, the ITF accepts that the Player has shown that his ingestion of boldenone on 17 October 2019 was not intentional, in that he did not know that the beef that his mother cooked and served him that evening contained boldenone, and nor were there any red flags that meant he knew there was a risk that it might contain boldenone, and manifestly disregarded that risk. He has therefore established that he did not intend to cheat, and that his commission of the violation was not 'intentional', as that term is defined in TADP Article 10.2.3. Therefore, the applicable period of ineligibility is two years (see TADP Article 10.2.2), subject to elimination pursuant to TADP Article 10.4 or reduction pursuant to TADP Article 10.5.

(iii) TADP Article 10.4

24. TADP Article 10.4 provides that if the Player establishes that he bears No Fault or Negligence for the presence of boldenone and its metabolite in his sample, the otherwise applicable period of ineligibility will be eliminated. No Fault or Negligence is defined in the TADP as '[t]he Player or other Person establishing that he/she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he/she had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule'.
25. The ITF has already accepted that the Player did not know that there was a risk that the meat cooked and served for him by his mother might contain boldenone (see para 23, above). In all of the circumstances of this case, it also accepts that the Player could not have reasonably known or suspected that, even with the exercise of utmost caution:
- 25.1 The ITF is not aware of any prior case in which it was accepted that boldenone found in an athlete's sample came from meat farmed in Colombia.¹²
- 25.2 In fact, the ITF is only aware of one prior case where it was accepted that boldenone found in an athlete's sample came from meat, and in that case the meat was farmed in Mexico.¹³
- 25.3 WADA has never issued any warning that meat farmed in Colombia might contain prohibited substances. In fact, the meat contamination notice issued by WADA in May

¹¹ Statement of the Colombian Olympic Committee, 7 November 2018 (<http://www.coc.org.co/all-news/comunicado-oficial-respecto-a-la-presencia-de-boldenona-en-la-carne-vacuna-en-colombia/>).

¹² This was contended in WADA v FCF, Garcia and Castaneda, CAS 2017/A/5315 and CAS 2017/A/5316, but the CAS panel found it not proven on the balance of probabilities (paras 139-142).

¹³ FISA v Arriaga Gomez, FISA Anti-Doping Panel decision dated 22 June 2015.

2019¹⁴ only refers to the possibility that meat farmed in Mexico, China, or Guatemala might contain clenbuterol. It also says that WADA will update the notice if other prohibited substances are identified as meat contaminants, and WADA has not (to date) added boldenone to the notice, whether from Colombian meat or otherwise.

- 25.4 As noted above, the Colombian Olympic Committee issued a warning to athletes in November 2018 regarding the widespread use of boldenone in cattle farming in Colombia, the possibility that meat from Colombian farms might contain boldenone, and the consequences that could apply for athletes subject to anti-doping rules (see para 22, above). However, the ICA issued a counter-statement the same month, asserting that ICA monitoring had found that no samples tested in Colombian slaughterhouses in 2015-2016 contained boldenone and that only two of 218 samples tested in Colombian slaughterhouses in 2016-2017 contained boldenone, which was said to indicate 'that withdrawal times are being respected' (see para 17, above). In any event, the ITF has accepted that the Player did not see the notice issued by the Colombian Olympic Committee, because he does not live in Colombia and is constantly travelling the globe on the professional tennis circuit. It does not consider that the duty of 'utmost caution' required him, before he ate the meat cooked for him by his mother, to check with the Colombian Olympic Committee (or anyone else) that eating the meat would not put him at risk of ingesting any prohibited substances.¹⁵
26. On that basis, the ITF accepts that the Player bears No Fault or Negligence for the presence of exogenous boldenone and boldenone metabolite in his sample 3143779. It notes that this finding is consistent with other decisions where meat was accepted as the source of the positive test.¹⁶
27. Following this finding of No Fault or Negligence:
- 27.1 TADP Article 10.4 provides that any otherwise applicable period of Ineligibility shall be eliminated entirely. Therefore, the Player's provisional suspension is lifted with immediate effect, and he will not serve any further period of Ineligibility for his violation. Instead the Player is eligible to resume competition with immediate effect.
- 27.2 TADP Article 10.7.4 provides that this anti-doping rule violation shall not be considered a prior anti-doping offence for purposes of Article 10.7.4, i.e., if the Player

¹⁴ WADA Stakeholder Notice regarding Meat Contamination, 30 May 2019 (https://www.wada-ama.org/sites/default/files/resources/files/2019-05-30-meat_contamination_notice_final.pdf).

¹⁵ See World Rugby v Perinchief, Board Judicial Committee decision dated 29 June 2015, paras 116-120, in particular para 118 ('The reality is that the AAF might have been the result of his consuming lasagne. To find that he departed from the standards of utmost caution when all around him were doing the same, is to impose upon him unrealistic and impracticable expectations').

¹⁶ See eg ISU v Park, ISU Disciplinary Commission decision dated 20 March 2017 (clenbuterol positive; athlete ate meat in China); FISA v Arriaga Gomez, FISA Anti-Doping Panel decision dated 22 June 2015 (boldenone positive; athlete ate meat in Mexico); World Rugby v Perinchief, World Rugby Judicial Committee decision dated 29 June 2015 (clenbuterol positive; athlete ate meat in Mexico); USADA v Cabada, USADA decision dated 2 February 2017 (clenbuterol positive; athlete ate meat in Mexico); BWF v Intanon, BWF Doping Hearing Panel decision dated 4 October 2019 (clenbuterol positive; athlete ate meat in Thailand); USADA v Grove, USADA decision dated 4 January 2019 (epitrenbolone positive; 90-year-old athlete ate meat in the USA) and ITF v Zacarias Valle, ITF decision dated 8 February 2019 (clenbuterol positive; athlete ate meat in Mexico).

commits a(nother) anti-doping rule violation, it shall be considered his first for sanctioning purposes.

III.B Disqualification of results

28. Sample 3143779 was collected out-of-competition, rather than during an event, and therefore there are no in-competition event results to be disqualified pursuant to TADP Article 9 and TADP Article 10.1.

29. TADP Article 10.8 states that results obtained 'from the date [...] [the] Anti-Doping Rule Violation occurred through to the start of any [...] Ineligibility period shall be disqualified [...] unless [...] fairness requires otherwise'. The ITF accepts that in this case fairness requires that the Player's results achieved in the period after sample 3143779 was collected on 17 October 2019 up until the date that he was provisionally suspended (21 January 2020) should not be disqualified, because:

29.1 the Player bears No Fault or Negligence for his violation; and

29.2 the estimated concentrations in the Player's sample collected were extremely low, there is no evidence that he ate contaminated meat subsequently, and a sample collected from the Player on 28 December 2019 tested negative for any prohibited substance, all of which indicates that there was no impact on his performances at subsequent events.¹⁷

III.C Costs

30. Each party shall bear its own costs of dealings with this matter.

III.D Publication

31. In accordance with TADP Article 8.8, this decision will be publicly reported by being posted on the ITF's website.

III.E Acceptance by the Player

32. The Player has accepted the above decision and has expressly waived his right to have the matter determined by the Independent Tribunal at a hearing.

33. The Player also waives any claim (in any forum) against the ITF of any kind relating to these proceedings, including (without limitation) in respect of the provisional suspension that he served as a result of his anti-doping rule violation.

IV. Rights of appeal

¹⁷ [UCI v Rasmussen](#), CAS 2011/A/2671, para 84 ('In this case, the Panel finds that fairness requires that no disqualification be imposed on the First Respondent with respect to the results obtained in the period between 28 April 2011, date of the third whereabouts failure, and 14 September 2001, date of the provisional suspension. In addition to the fact that Rasmussen was not responsible for the delay in the management of his case, the Panel finds it important to emphasize the circumstance that, as conceded by the UCI at the hearing, the First Respondent's competitive results after 28 April 2011 had not been affected by any doping practice, and were fairly obtained by Rasmussen. Therefore, the Panel sees no reason to disqualify them').

34. This decision constitutes the final decision of the ITF, resolving this matter pursuant to TADP Article 8.1.4.
35. Further to TADP Article 12.2.1, each of WADA and NADO Colombia (COLDEPORTES) has a right to appeal against this decision to the Court of Arbitration for Sport in Lausanne, Switzerland (**CAS**), in accordance with the procedure set out at TADP Article 12.6.
36. As part of this resolution of the matter, the Player has waived his right to appeal against or otherwise challenge any aspect of this decision, whether pursuant to TADP Article 12.2.1 or otherwise. However, if an appeal is filed with the CAS against this decision either by WADA or NADO Colombia (COLDEPORTES), the Player will be entitled (if so advised) to exercise his right of cross-appeal in accordance with TADP Article 12.6.3.

London, 10 February 2020