CAS 2024/A/10298 International Tennis Integrity Agency v. Tara Moore
CAS 2024/A/10589 Tara Moore v. International Tennis Integrity Agency

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President:	Prof. Stefano Bastianon, Professor in Bergamo, Italy, and Attorney-at-Law in Busto Arsizio, Italy
Arbitrators:	Prof. Ulrich Haas, Professor in Zurich, Switzerland, and Attorney-at-Law in Hamburg, Germany
	Mr Jeffrey Benz, Attorney-at-Law and Barrister in London, United Kingdom

in the arbitration between

International Tennis Integrity Agency, London, United Kingdom

Represented by Ms Brianna Quinn, Mr Alasdair Muller, Bird & Bird LLP, and Mr Richard Liddell KC, Barrister, London, United Kingdom

Appellant in CAS 2024/A/10298
and Respondent in CAS 2024/A/10589

and

Tara Moore, London, United Kingdom

Represented by Mr Mike Morgan, Mr Tom Seamer and Mr Sam Comb, Morgan Sports Law, London, United Kingdom

Respondent in CAS 2024/A/10298
and Appellant in CAS 2024/A/10589

I. THE PARTIES

1. The International Tennis Integrity Agency (the "ITIA") is a non-profit organization under the laws of United Kingdom. Its registered seat is in London, United Kingdom. As the delegated third party of the International Tennis Federation ("ITF"), the ITIA is responsible for the management and administration of the Tennis Anti-Doping Program ("the "TADP").

2. Ms Tara Moore (the "Player") is a professional tennis player. She has achieved a career-high Women's Tennis Association ("WTA") singles ranking of 145 and doubles ranking of 77.

II. FACTUAL BACKGROUND

3. These are two appeals, each relating to the same set of facts and dealing with the same issues and involving the same Parties. Each appeal relates to the decision rendered by the Independent Tribunal dated 22 December 2023 (the "Appealed Decision") concerning the disciplinary charges brought by the ITIA against the Player for Anti-Doping Rule Violations ("ADRV") pursuant to Article 2.1 and Article 2.2 of the 2022 TADP as a result of the presence of two Prohibited Substances (boldenone and nandrolone) in an in-competition urine sample collected on 6 April 2022 at the WTA 250 Copa Colsanitas tournament in Bogotà, Colombia ("Copa Colsanitas tournament"). Each of the appeal was heard together and all are dealt with collectively in this one single majority Award.

4. Below is a summary of the relevant facts and allegations based on the Parties' written and oral submissions, pleadings and evidence adduced during these proceedings including at the remote hearing held on 13 and 14 March 2025. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments, and evidence submitted by the Parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.

A. Background Facts

5. The Player participated in the Copa Colsanitas tournament held in Bogotà, Colombia, between 4 and 10 April 2022.

6. During the tournament, the ITIA commissioned International Doping Tests & Management ("IDTM") to collect urine samples from certain players for testing under the TADP.

7. On 6 April 2022, the Player underwent such a test and provided a urine sample for doping control purposes.

8. On 10 May 2022, the accredited laboratory in Montréal ("Laboratory"), Canada, reported that it had detected nandrolone (nortestorenone) at a concentration of 12ng/mL, as well as two metabolites of nandrolone, namely, 19-norandrosterone (19-NA) at a concentration of 105 ng/mL and 19-noretiocholanolone (19-NE) at a concentration of 38ng/mL. The Laboratory also reported the presence of another anabolic steroid, boldenone, in the Player's A sample.

9. On 27 May 2022, the ITIA notified the Player that (a) she may have committed ADRVs under Article 2.1 and Article 2.2 of the TADP based on the presence in her A sample of both boldenone and nandrolone metabolites; and (b) she would be provisionally suspended with effect from 27 May 2022.

10. On 31 May 2022, the Player requested the analysis of the B sample.

11. On 20 June 2022, the Laboratory opened the B sample in the presence of the Player's nominated representative, Mr Paul Scott, and conducted the analysis of the B sample.

12. On 26 June 2022, the Laboratory reported that both boldenone and the two nandrolone metabolites had been identified in the B sample, confirming the adverse results in the A sample.

13. On 5 July 2022, the ITIA notified the Player of the B sample analysis and confirmed that she had been granted a two-week extension to provide her explanation.

14. On 15 July 2022, the Player provided her explanation and admitted the (inadvertent) commission of an ADRV given the presence of prohibited substances in her sample, but denied that she knowingly or intentionally used either boldenone or nandrolone and requested an extension of time until 20 August 2022 to provide an explanation for the ADRVs.

15. On 20 September 2022, the Player provided her explanation for the nandrolone ADRV and argued that (a) the Laboratory should not have reported an Adverse Analytical Finding ("AAF"); and (b) if the AAF was correctly reported, the nandrolone ADRV must have been caused by the consumption of beef, pork and/or pork offal which contained nandrolone.

16. On 13 January 2023, the ITIA formally charged the Player with ADRVs under Article 2.1 and Article 2.2 of the TADP, based on the presence of boldenone and nandrolone in her sample.

17. On 2 February 2023, the Player (a) admitted the ADRV in relation to the presence of boldenone in her sample but disputed the consequences; (b) maintained that the AAF for nandrolone should not have been reported; and (c) suggested that the ITIA should defer proceedings before the Independent Tribunal.

18. On 6 April 2023, the ITIA filed proceedings against the Player before the Independent Tribunal.

19. In her defense, the Player reiterated that (a) the AAF for nandrolone should not have been reported; and (b) in any event, the presence of both boldenone and nandrolone in her sample must have been caused by the consumption of beef and/or pork in Colombia, such as she bears no fault or negligence for any ADRV.

20. A hearing was held remotely on 14 and 15 December 2023.

B. The Appealed Decision and the Amended Appealed Decision

21. On 22 December 2023, the Independent Tribunal issued the Appealed Decision.

22. In summary, the Independent Tribunal concluded that:

(a) it is probable that the Player returned an AAF because she consumed contaminated meat;

(b) the Player did not intend to dope by consuming steroids;

(c) the Player does not bear any fault or negligence;

(d) accordingly, the results obtained between 7 April 2022 and the date of the Player's suspension must not be disqualified.

23. In finding in favour of the Player, the Independent Tribunal argued as follows:

(a) the scientific evidence submitted by the ITIA does not rule out that the cause of the AAF was that the Player ate contaminated meat;

(b) it is striking that 3 out 21 of the players tested during the Copa Colsanitas tournament tested positive for boldenone (nearly 15%), whereas the general figure for positive tests in WADA's published data is 0.03%;

(c) all three players have no other known link between themselves, other than that they were at the same tournament and at least two of them ate at the same places;

(d) the Player has gone as far as she reasonably could have done in establishing that boldenone and nandrolone were regularly used in Colombian meat production;

(e) the fact that the Player has clean doping records, and that she has not tested positive before and after the Copa Colsanitas tournament is also relevant;

(f) the fact that the Player's sample was contaminated with two steroids is neither a point for nor against her and it is appropriate to treat the issue of the two steroids in exactly the same way, given that:

(i) there is no doubt that nandrolone, as well as boldenone, is also used in Columbian meat production;

(ii) some of the meat the Player ate was contaminated in substantial quantities by boldenone;

(iii) it is therefore reasonable to assume that the meat came from a Columbian farmer or farmers who administered one steroid, and it is no great leap of logic to accept they probably used another (nandrolone) as well;

(g) having established that the Player has demonstrated, on a balance of probabilities, that the likely source of her AAF was contaminated meat, it is not necessary to establish whether the AAF for nandrolone has been correctly reported;

(h) in any case, the wording of the WADA Technical Document TD2021NA ("TD2021NA") provides two distinct bases for reporting an AAF, namely (i) where the concentration of above 15ng/mL or (ii) if the level of 19-norsteroids is less than or equal to 15 ng/mL and GC/C/IRMS results are consistent with an exogenous source;

(i) the Player bears no fault or negligence, given that the tennis authorities have not issued any warnings about the risks from eating contaminated meat at the time. Moreover, as the restaurant […] was actually recommended by the tournament authorities and several meals were consumed at the tournament venue, it is appropriate to argue that the Player ate food at a place which she had every reason to expect that it was safe to do so.

24. On 5 January 2024, the Player wrote to the Chair of the Independent Tribunal, requesting certain amendments be made to the Appealed Decision in order to correct what the Player termed "*minor (non-substantive) errors*". The Player's counsel requested certain redactions and corrections to spelling, but also amendments on (what the ITIA considered to be) more substantive issues.

25. On 9 January 2024, the ITIA confirmed that it had no objections to the redactions or corrections to spelling in the Decision, but that the Independent Tribunal should not entertain what was, essentially, an exercise in redrafting the Appealed Decision on certain points.

26. On 24 January 2024, the Chair of the Independent Tribunal approved the corrections suggested by the Player's counsel, on the basis that he considered "*these [to be] correctly called corrections as opposed to substantive changes hence the doctrine of* functus officio *is not engaged*" The Chair also stated a provisional view of the Independent Tribunal that the "*time for appealing should run from the date on which we issue the revised, rather than the original decision*".

27. On 1 February 2024, the Player submitted that the amended decision should not be considered to give rise to a new deadline to appeal and proposed drafting changes to reflect the points made in her prior email of 5 January 2024.

28. On 2 February 2024, the ITIA confirmed that (i) although it maintained its position that the amendments proposed were not "minor" or "immaterial"; and (ii) whilst it did not

accept that the re-issuing of the decision would not impact the deadline to appeal, in the spirit of cooperation and efficient resolution it did not intend to contest these points.

29. On 5 February 2024, the Independent Tribunal issued an amended version of the Appealed Decision.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

30. On 12 January 2024, pursuant to Articles R47 and R48 of the CAS Code of Sports-related Arbitration (the "CAS Code"), the ITIA filed a Statement of Appeal against the Athlete with respect to the decision rendered by the Independent Tribunal dated 22 December 2023. In its Statement of Appeal, the ITIA nominated Prof. Ulrich Haas as an arbitrator.

31. On 17 January 2024, the ITIA requested an extension of the deadline to file its Appeal Brief until 12 February 2024.

32. On 19 January 2024, the Athlete informed the CAS Court Office that the Parties were in discussion about the ITIA's time limit to file its Appeal Brief and therefore requested an extension of her time limit to comment on the ITIA's extension request until 24 January 2024. Moreover, the Athlete requested an extension of the time limit to nominate an arbitrator "*until 10 days after receipt of the Appeal Brief (whenever that may be)*".

33. On 22 January 2024, the CAS Court Office (a) informed the Parties that the Athlete's request for an extension of her time limit to comment on the ITIA's extension request until 24 January 2024 was granted; and (b) invited the ITIA to comment on the Athlete's request for an extension of the time limit to nominate an arbitrator.

34. On 24 January 2024, the Athlete wrote to the CAS Court Office that she did not object to the ITIA's requested extension of the time limit to file its Appeal Brief until 22 February 2024, whereas the ITIA informed the CAS Court Office that it did not object to the Player's request for an extension of the time limit to nominate an arbitrator "*until 10 days after receipt of the Appeal Brief (whenever that may be)*".

35. On 16 February 2024, the ITIA informed the CAS Court Office that the Parties have agreed a further short extension of the time limit for the ITIA to file its Appeal Brief until 29 February 2024.

36. On 29 February 2024, the ITIA filed its Appeal Brief.

37. On 7 March 2024, the Athlete nominated Mr Jeffrey Benz as an arbitrator.

38. On 22 March 2024, the Athlete requested an extension of the deadline to file her Answer until 8 May 2024 and the ITIA confirmed its agreement with the Athlete's request.

39. On 27 March 2024, the ITIA provided an amended version of exhibit DB66 to its Appeal Brief dated 29 February 2024.

40. On 4 April 2024, the Athlete informed the CAS Court Office that she did not object to the amended version of exhibit DB66 being added to the CAS file. However, the Athlete (a) requested that both the updated version of exhibit DB 66 and the "REDLINE" document which was provided by the ITIA were included in the CAS file; and (b) reserved her right to make submissions as to the weight to be attributed to the updated exhibit DB66.

41. On 29 April 2024, the Athlete requested an additional extension of the time limit to file her Answer until 19 June 2024 arguing, *inter alia*, that she has asked the ITIA to provide her with certain information ("Further Information") necessary for the preparation of her Answer and it seemed unlikely that the requested information would be provided in good time prior to 8 May 2024.

42. On 2 May 2024, the ITIA informed the CAS Court Office that it objected to an additional extension of the Athlete's time limit to file her Answer.

43. On 3 May 2024, the CAS Court office informed the Parties that the Deputy President of the CAS Appeals Arbitration Division has decided (a) to grant the Athlete an additional 7-day extension of the time limit to file her Answer in accordance with Article R32.2 of the CAS Code; and (b) to grant the Athlete an additional time limit to respond to the information requested once the information is provided by the ITIA.

44. On 13 May 2024, the ITIA informed the CAS Court Office that (a) the Player has requested, and the ITIA has accepted that the Athlete be permitted to file a single Answer, including any submissions concerning the Further Information seven days following her receipt of the Further Information.

45. On 21 May 2024, the ITIA provided the Athlete with the Further Information requested by the Athlete in her letter on 29 April 2024.

46. On 23 May 2024, the Athlete requested an extension of the time limit to file her Answer until 12 June 2024.

47. On 25 May 2024, the ITIA informed the CAS Court Office that it objected to the full extension requested by the Athlete, but it was prepared to agree to a more limited extension of time until 4 June 2024.

48. On 28 May 2024, the CAS Court Office informed the parties that the Deputy President of the CAS Appeals Arbitration Division has decided to grant the Athlete an extension of the time limit to file her Answer until 7 June 2024.

49. On 7 June 2024, the Athlete requested an extension of the time limit to file her Answer until 13 June 2024.

50. On the same date, the ITIA informed the CAS Court Office that "*the ITIA does not consent to Ms Moore's request but leaves it to the Panel to decide whether any further extension should be granted, and if so of what length*".

51. On 10 June 2024, the CAS Court Office informed the Parties that the Deputy President of the CAS Appeals Arbitration Division has decided to grant the Athlete a final extension of the time limit to file her Answer until 11 June 2024.

52. On 11 June 2024, the Athlete filed her Answer and Statement of Cross-Appeal and Appeal Brief in CAS 2024/A/10298 International Tennis Integrity Agency (ITIA) v. Tara Moore, the corrected version of which was filed on 14 June 2024. According to the Athlete the Statement of Cross-Appeal was filed "*on a precautionary basis and out of abundance of caution, to avoid any dispute as to what arguments can or cannot be made by Ms Moore's Answer to the ITIA's appeal in CAS 2024/A/10298*".

53. On 18 June 2024, the CAS Court Office informed the Parties that "*the procedure related to the appeal filed by Ms Moore against the International Tennis Integrity Agency (ITIA) with respect to the decision rendered by the Independent Tribunal on 2 December 2022, which Ms Moore has referred to as 'Cross-appeal', was docketed as CAS 2024/A/10589 Tara Moore v. International tennis Integrity Agency (ITIA) (CAS 2024/A/10589)*".

54. On 9 July 2024, the Athlete wrote to the CAS Court Office to reiterate that (a) the arguments raised in her Answer were legitimately and appropriately raised in response to the ITIA's appeal; (b) none of those arguments therefore needed to be raised by way of a Cross-Appeal; (c) her protective Cross-Appeal was not necessary.

55. However, should the Panel consider that a Cross-Appeal is necessary then, at its maximum possible scope, the Cross-Appeal could only be deemed to be required in respect of the Player's submissions (a) that there was no valid AAF for nandrolone, and (b) in relation to the alleged prejudice suffered by the Player. Accordingly, should the ITIA file an Answer to the Player's protective Cross-Appeal, any such Answer must be restricted to the two above-mentioned matters.

56. On 11 July 2024, the ITIA requested to be provided with (a) all webpages' hyperlinks contained in the Athlete's Answer and Cross-Appeal on which she intended to rely on; and (b) English translations of all such documents that were not in English language and to which the Athlete intended to rely on.

57. On 12 July 2024, the CAS Court Office invited the Athlete to comment on the ITIA's request and/or to produce the hyperlinks and the translated documents by 16 July 2024.

58. On the same date, the ITIA requested a further extension of the time limit to file its Answer until 28 July 2024.

59. On 15 July 2024, the Athlete informed the CAS Court Office that (a) she would provide pdf versions of the hyperlinks documents and translations of the relevant documents in English language as soon as possible; and (b) she objected to the ITIA's time limit extension request.

60. On 16 July 2024, the Athlete produced the requested hyperlinks and translations in English language.

61. On 17 July 2024, the CAS Court Office informed the Parties that the Deputy President of the CAS Appeals Arbitration Division has decided to grant the ITIA's request for an extension of the time limit in accordance with Article R32.2 of the CAS Code.

62. On 29 July 2024, the ITIA filed its Answer in CAS 2024/A/10589.

63. On the same date, the Athlete wrote to the CAS Court Office arguing, *inter alia*, "*that her appeal is not necessary and that the Appellant's Answer to the Respondent's appeal would be inadmissible and, therefore, request that the CAS refrains from providing the Appellant's Answer and associated evidence to the Panel*".

64. On 30 July 2024, the CAS Court Office informed the Parties that "*it was the Respondent's decision to file a genuine appeal against the Appellant on 12 June 2024. Article R55 of the CAS Code Sports-related Arbitration (the 'CAS Code') gives the Appellant the right to file an Answer to the Respondent's appeal. The CAS Court Office cannot identify any valid reason why the Appellant's Answer should be withheld and not brought to the Panel's attention when the entire case file in the above-mentioned matters is transferred to the Panel. Therefore, the Respondent request is hereby rejected*".

65. By the same letter, the Parties were invited to inform the CAS Court Office whether (a) they preferred a hearing to be held; and (b) they requested a Case Management Conference ("CMC") in order to discuss procedural issues, the preparation of the hearing (if any) and any issues related to the taking of evidence. Finally, the CAS Court, Office on behalf of the President of the CAS Appeals Arbitration Division, informed the Parties that the Panel appointed to decide the case was constituted as follows:

President:	Prof. Stefano Bastianon, Professor in Bergamo, Italy, and Attorney-at-Law in Busto Arsizio, Italy
Arbitrators:	Prof. Ulrich Haas, Professor in Zurich, Switzerland, and Attorney-at-law in Hamburg, Germany
	Mr Jeffrey Benz, Attorney-at-Law and Barrister in London, United Kingdom

66. On 5 August 2024, the Athlete informed the CAS Court Office that she requested both a remote hearing and a CMC. By contrast, the ITIA confirmed that it would prefer a hearing to be held, whereas it did not consider a CMC necessary.

67. On 4 September 2024, the CAS Court Office informed the Parties that the Panel had decided to hold a CMC on 17 September 2024, inviting the Parties to provide the CAS Court Office, by 11 September 2024, with (i) the names and email addresses of all persons who will be attending the CMC and (ii) the topics they considered necessary to discuss at the CMC.

68. On 11 September 2024, the Athlete informed the CAS Court Office that she intended to discuss the following issues at the CMC:

- whether the Athlete's (protective) Cross-Appeal was necessary;
- if the Athlete's Cross-Appeal was necessary, which of her arguments had to be raised via a Cross-Appeal;
- the Athlete's disclosure requests, namely:

"(a) confirm whether the third player at the Copa Colsanitas 2022 who provided a urine sample found to contain boldenone:

(i) Participated in the Copa Colsanitas prior to or after 20222; and

(ii) Has returned any other AAFs or ATFs for boldenone (aside from the ATF reported at Copa Colsanitas 2022).

(b) […];

- the Athlete's request to file written submissions and evidence in response to the ITIA's Answer in CAS 2024/A/10589 pursuant to Art. R56 of the CAS Code.

69. On the same date, the ITIA informed the CAS Court Office that:

(a) all of the arguments in the ITIA's Answer in CAS 2024/A/10589 were admissible for the reasons detailed in Section 2 of the ITIA's Answer;

(b) the Athlete's request that ITIA disclose further information on anti-doping controls conducted on another player was inappropriate and the information sought will not assist the Panel.

70. Moreover, the ITIA informed the CAS Court Office that it intended to discuss the following procedural issues:

- the date on which the final hearing will take place (and whether it was to be held remotely or in person);
- the date by which hearing bundles were to be produced;
- how the Parties will address the issue of translation of relevant witnesses' evidence into English.

71. On 17 September 2024, a CMC was held remotely to discuss the following procedural issues:

(a) necessity of the Athlete's Cross-Appeal;

(b) scope and admissibility of ITIA's Answer in CAS 2024/A/10589 and second round of written submissions;

(c) the Athlete's request for the production of documents;

(d) hearing date, modus and timetable;

(e) submission of hearing bundle;

(f) translation of witness evidence and translation during the hearing;

(g) transcript of the hearing and timeframe for the drafting and finalization of the agreed version of the transcript.

72. At the outset of the CMC, the Panel informed the Parties that it did not wish to discuss the necessity of the Athlete's Cross-Appeal at the CMC, given that this was a procedural issue. Once the Cross-Appeal had been filed, the Panel's duty was to decide whether to uphold it or dismiss it. Whether the Athlete's Cross-Appeal was necessary or not, will, therefore, be decided by the Panel in the final Award.

73. Following the CMC, on 17 September 2024, the CAS Court Office, on behalf of the Panel, informed the Parties as follows:

"*1. As an initial matter, all submissions shall remain on file. The reasons will be given by the Panel in the final Award;*

2. Based on the parties' submissions at today's CMC, the Respondent is hereby granted a three-week time-limit to file written submissions on the Appellant's Answer in CAS 2024/A/10589;

3. As regards the Respondent's request for the production of documents, the request is granted in relation to the "third player" issue and rejected in relation to the "Prof. Ayotte" issue. The panel will give reasons for its decision in the final Award. The Panel considers that all issues related to the Respondent's request for the production of documents have been dealt with, unless the parties state otherwise; and

4. The hearing will be held remotely.

5. In addition, the parties are requested to provide the CAS Court Office, by 31 October 2024, with the following information:

- *Multiple series of two consecutive days on which the parties are available for a hearing;*

- *The parties are requested to liaise with each other and submit a joint hearing schedule and their joint agreement with regard to simultaneous and/or consecutive translations; and*

- *A single pdf file, indexed to each exhibit starting on the first page, constituting the Parties' joint bundle of evidence.*

6. Finally, a transcript of the hearing is not required".

74. On 25 September 2024, the ITIA responded to Ms Moore's request for information regarding the "third player" as follows:

"*2.1. the player in question has participated in other editions of the Copa Colsanitas tournament besides the Event, and*

2.2 the player in question has not returned any AAF's or ATF's for boldenone (aside from the ATF reported at the Event).

For the avoidance of any doubt, the player in question did not return an AAF or ATF for nandrolone at the Event".

75. On 4 October 2024, the Athlete informed the CAS Court Office that (a) the Parties would be available for the hearing on 17 and 18 December 2024; and (b) the Parties have agreed an extension of the Athlete's deadline to file written submissions in response to the ITIA's Answer in CAS 2024/A/10589 until 4 November 2024.

76. On 7 October 2024, the CAS Court Office informed the Parties that the Panel was not available for a hearing on 17 and 18 December 2024 and, accordingly, invited the Parties to propose alternative dates. Moreover, the ITIA was invited to confirm its consent to the Athlete's extension request.

77. On the same date, the ITIA confirmed its agreement to the Athlete's request to extend the deadline to file written submissions in response to the ITIA's Answer in CAS 2024/A/10589 until 4 November 2024.

78. On 24 October 2024, the Athlete informed the CAS Court Office that the Parties were continuing their discussions with a view to ascertaining dates for a remote hearing and requested a further extension of her deadline to file written submissions in response to the ITIA's Answer in CAS 2024/A/10589 until 13 December 2024.

79. On 25 October 2024, the ITIA informed the CAS Court Office that it objected to the Athlete's request to extend her deadline to file written submissions in response to the ITIA's Answer in CAS 2024/A/10589 until 13 December 2024.

80. On 27 October 2024, the Athlete wrote to the CAS Court Office to comment on the ITIA's letter of 25 October 2024.

81. On 28 October 2024, the CAS Court Office informed the Parties that the Panel has decided to grant the Athlete's time limit extension request in accordance with Article R32.2 of the CAS Code and invited the ITIA to comment on the Athlete' letter of 27 October 2024 by 1 November 2024.

82. On 31 October 2024, the ITIA filed its comments on the Athlete's letter of 27 October 2024 and confirmed its availability on 17-18 February 2025 and 27-28 February 2025 for a hearing. By contrast, the Athlete requested an extension of the time limit to provide the CAS Court Office with her availability until 14 November 2024.

83. On 1 November 2024, the CAS Court Office invited the Athlete to inform it about her availability on the dates proposed by the ITIA for a hearing by 5 November 2025.

84. On 5 November 2024, the Athlete informed the CAS Court Office about her availability to attend a hearing on 17-18 February 2025. However, the Athlete clarified that one of her expert witnesses (Dr Diederik Smit) was not available to attend a hearing on 27-28 February 2025. Accordingly, if the ITIA wanted to cross-examine Dr Diederik Smit, the dates of 27-28 February 2025 would not be an available hearing window.

85. On 7 November 2024, the CAS Court Office invited the ITIA to inform it, by 11 November 2024, whether it intended to cross-examine Dr. Diederik Smit at the hearing.

86. On the same date, the ITIA informed the CAS Court Office that it wished to cross-examine Dr Smit and that, therefore, its preference was for the hearing to be held on 17-18 February 2025.

87. On 13 November 2024, the CAS Court Office informed the Parties that the Panel was available for a hearing on 4-5 March 2025 and invited them to confirm whether they would be available on those dates by 20 November 2024.

88. On 20 November 2024, the ITIA informed the CAS Court Office that its legal counsel was not available on 4-5 March 2025 "*due to hearings that were scheduled in advance of receiving the Panel's proposed dates and which cannot be rescheduled*"; whereas the Athlete confirmed that she, her witnesses and her counsel were available on those dates.

89. On 28 November 2024, the CAS Court Office informed the Parties that their responses did not assist the Panel in finding two consecutive days for the hearing and that the Panel was not willing to sit on non-consecutive days. Accordingly, the CAS Court Office, on behalf of the Panel, requested the Parties to provide it, by 3 December 2024, with multiple series of two consecutive days on which they are available for a hearing in the period between 3 February 2025 and 28 March 2025. Failing that, the Panel would held a CMC shortly.

90. On 4 December 2024, based on the Parties' availabilities, the CAS Court Office, on behalf of the Panel, informed the Parties that the hearing would be held by videoconference on 13 and 14 March 2025.

91. On 5 December 2024, the Athlete requested an extension of the time limit to file her written submissions in response to the ITIA's Answer in CAS 2024/A/10589 until 17 January 2025.

92. On 6 December 2024, the CAS Court Office invited the ITIA to comment on the Athlete's time limit extension request by 9 December 2024.

93. On 9 December 2024, the ITIA informed the CAS Court Office that it objected to the Athlete's extension request but was willing to accept an extension until 20 December 2024.

94. On 11 December 2024, the CAS Court Office informed the Parties that the Panel has decided to grant the Athlete an extension of the time limit to file her written submissions in response to the ITIA's Answer in CAS 2024/A/10589 until 20 December 2024.

95. On 20 December 2024, the Athlete filed her Reply.

96. On 16 January 2025, the Athlete signed the Order of Procedure.

97. On 20 January 2025, the ITIA signed the Order of Procedure.

98. On 14 February 2025 and 20 February 2025, the ITIA filed the Parties' joint bundle of evidence.

99. On 14 February 2025, the ITIA also wrote to the CAS Court Office arguing that it did not expect that Ms Moore's Reply would contain renewed submissions of a confidential case supporting her interpretation of TD2021NA and the ITIA's alleged refusal to obtain information from WADA on this matter. Accordingly, the ITIA requested the Panel to take whatever action it deemed necessary to resolve this issue prior to the hearing.

100. On 5 March 2025, the CAS Court Office, on behalf of the Panel, informed the Parties as follows:

> "*The Panel has decided to hold two hot tub sessions. Accordingly, the Parties are requested to provide the CAS Court Office with a joint hearing schedule (including the time for witnesses and hot tub sessions)* ***by 10 March 2025****.*
>
> *The Parties are also invited to provide the CAS Court Office,* ***within the same time limit****, with a bullet point document incorporating a summary of the matters on which the experts agree and disagree.*
>
> *As regards the issue relating to the alleged case supporting the Respondent's interpretation of TD2021NA, the Respondent is kindly invited to comment on this issue by 10 March 2025*".

101. On 5 March 2025, the ITIA submitted the decision issued by the Independent Tribunal in respect of the tennis player Mr Nicolas Zanellato.

102. On 7 March 2025, the Athlete filed a document detailing the start time of Mr Nicolas Zanellato's match on the day he provided the sample and the duration of that match.

103. On 11 March 2025, the Athlete informed the CAS Court Office that "*Ms Moore does not seek any procedural order from the Panel against the ITIA*" in relation to the issue relating to the alleged case supporting the Athlete's interpretation of TD2021NA.

104. On 12 March 2025, the Athlete filed a new document to be added to the case file. The ITIA did not object to it being admitted to the case file

105. On 13 and 14 March 2025, a hearing was held by video-conference (via Cisco Webex).

106. In addition to the Panel and Mr Björn Hessert (CAS Counsel), the following persons attended the hearing:

- For the ITIA:

  - Mr Richard Liddell KC (Counsel)
  - Ms Brianna Quinn (Counsel)
  - Mr Alasdair Muller (Counsel)
  - Mr Ben Rutherford (Senior Director, Legal, ITIA)
  - Ms Katy Stirling (Legal Counsel, ITIA)
  - Ms Nicole Sapstead (Senior Director for Anti-Doping, ITIA)
  - Ms Karen Moorhouse (CEO, ITIA)
  - Mr Adrian Bassett (Director of Communications, ITIA)
  - Prof. Christiane Ayotte (Expert witness)
  - Prof. Martial Saugy (Expert witness)
  - Prof. Bruno Le Bizec (Expert witness)
  - Dr Maria Antonia Serna Valencia (Witness)
  - Dr Carlos Enrique Rendon (Witness)

- For the Athlete:

  - Ms Tara Moore (Athlete)
  - Mr Mike Morgan (Counsel)
  - Mr Tom Seamer (Counsel)
  - Mr Sam Comb (Counsel)
  - Mr Daren Austin (Expert witness)
  - A. (Witness)
  - B. (Witness)
  - Ms Gina García Martínez (Witness)
  - C. (Witness)
  - D. (Witness)
  - E. (Witness)
  - Dr Diederik Smit (Expert witness)

- Observer:

  - Dr Stuart Miller (International Tennis Federation)
  - Ms Rachel Newnham

- Interpreters:

  - Ms Mariana Asminian
  - Ms Rocio (Chio) Jiménez

107. At the outset of the hearing, the Parties confirmed that they had no objection to the appointment of the Panel.

108. During the hearing, the Parties were given full opportunity to present their case, submit their arguments and submissions, and answer the questions posed by the Panel. The Parties and the Panel had the opportunity to examine and cross-examine the Athlete as well as the witnesses and the experts, who were informed by the President of the Panel to tell the truth subject to sanction of perjury under Swiss law.

109. After the Parties' final arguments, the Parties' counsels confirmed that they were satisfied with the hearing and that their right to be heard had been fully respected.

IV. SUBMISSION OF THE PARTIES

A. The ITIA

110. In its Appeal Brief in CAS 2024/A/10298 the ITIA requested the following reliefs:

"*8.1.1 confirm the Player has committed an ADRV pursuant to TADP Articles 2.1 (presence) and 2.2. (use) as a result of the presence of a Prohibited Substance (nandrolone) in her urine sample collected in-Competition on 6 April 2022;*

8.1.2 sanction the Player's ADRV and impose a period of ineligibility of four years, in accordance with TADP Article 10.2.1 (to be credited with the period of the Provisional Suspension already served by the Player in accordance with TADP Article 10.13.2);

8.1.3 disqualify the results obtained by the Player the date of sample collection (i.e., 6 April 2022) until the CAS's determination of this appeal pursuant to TADP Articles 9.1 and 10.10, with all resulting consequences, including forfeiture of any medals, titles, ranking points, and prize money;

8.1.4 alternatively, impose such other sanctions as the CAS Panel considers appropriate; and

8.1.5 award the ITIA a significant contribution to its legal costs and expenses incurred in relation to these proceedings, in accordance with CAS Code Article R65.3".

111. In its Answer in CAS 2024/A/10589 the ITIA requested the following reliefs:

"*8.1.1. dismiss Ms Moore's Cross-Appeal in its entirety, including all prayers for relief requested by Ms Moore;*

8.1.2. uphold the ITIA's Appeal; and

8.1.3. grant the relief requested within the ITIA's Appeal Brief in proceedings CAS 2024/A/10298".

112. In support of its requests for relief in CAS 2024/A/10298 and CAS 2024/A/10589 the ITIA relied on the following main arguments:

(a) The ITIA's appeal concerns both nandrolone and boldenone and the ITIA's focus on the nandrolone ADRV in its Appeal Brief by no means equates to an acceptance that the Independent Tribunal's approach to the presence of boldenone in the Player's sample was correct, nor does it mean that the ITIA - let alone the Panel - is somehow bound by findings made by the Independent Tribunal in relation to boldenone.

(b) In its Appeal Brief the ITIA addressed only the Independent Tribunal's findings in relation to nandrolone for reasons of procedural economy. In particular, ITIA argued that:

(i) as per the TADP, the Player's two ADRVs are to be considered together as one single first ADRV;

(ii) it is the Player's burden to prove that a meat contamination scenario is more likely than not to have occurred; however, the Player's AAF for nandrolone, with metabolites at a concentration of 105ng/mL, cannot give rise to a conceivable contamination scenario;

(iii) notwithstanding the fact that the Player ate a number of her meals with other players, and that it is likely many players at the Copa Colsanitas tournament also ate at the tournament venues (and at other restaurants in Bogota), none of the 20 other players tested at the tournament tested positive for nandrolone.

(c) The ITIA did not appeal the Appealed Decision in relation to Ms Gatica because she is in any case serving a sanction for other serious integrity – match-fixing – breaches.

(d) The Player's challenge to the validity of the nandrolone AAF must be made by way of Cross-Appeal (or abandoned), given that:

(i) the Independent Tribunal upheld the alleged ADRV for nandrolone, but found the Player had consumed contaminated meat and therefore bore no fault or negligence;

(ii) the ITIA has not appealed the finding by the Independent Tribunal that the Player committed an ADRV due to the presence of nandrolone in her urine sample;

(iii) thus, to the extent the Player seeks to have the nandrolone result entirely dismissed "*either due to prejudice or because no ADRV has been established*", she is required to appeal that element of the Appealed Decision so that it did not become final and binding.

(e) The ITIA can address anything in the Athlete's Answer and Cross-Appeal Brief that goes to her request that the nandrolone ADRV be dismissed, including the possibility of the source of nandrolone in her sample being contaminated meat.

(f) The nandrolone ADRV has been established by the ITIA in full compliance with the TADP and the relevant WADA technical document. In particular, the ITIA argues that:

(i) Article 2.1. TADP provides that "*the presence of a Prohibited Substance or any its Metabolites or Markers in Player's Sample*" constitutes an ADRV;

(ii) Article 2.1.2 TADP provides that sufficient proof of a violation of Article 2.1. is established if the "*analysis of the Player's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers in the Player's A Sample*";

(iii) both conditions are met in the present case;

(iv) the same facts that prove the presence violation demonstrate that the Player must have used nandrolone prior to the sample collection on 6 April 2022;

(v) the TD2021NA makes it clear that GC-C-IRMS testing is not necessary for an AAF to be reported for nandrolone in concentrations exceeding 15 ng/mL. To the extent that any such testing is done, it is superfluous and irrelevant to the reporting requirements for the AAF;

(vi) the purpose of the TD2021NA is to put in place a system of procedures by which laboratories can confirm the exogenous nature of nandrolone in a sample. While positive GC-C-IRMS are necessary to prove that nandrolone is exogenous in samples below 15 ng/mL and in pregnant females, they are completely unnecessary where the concentration of nandrolone cannot physically be endogenous (as is the case for 105 ng/mL of 19-NA metabolites). They may, as in this case, be used by anti-doping laboratories to gain more information about carbon isotopic profiles of doping preparations, but this does not mean they can invalidate the clearly exogenous nature of 15 ng/mL or more of nandrolone in a sample that all testing under the TD2021NA is aimed at discerning;

(vii) there is no expert evidence on file that endogenous nandrolone has been detected in men and women in concentration exceeding 15 ng/mL and the 1988 Study referred to by the Player is "*old and never confirmed*". Moreover, the concentrations measured in that study were of all nandrolone metabolites (not just 19-NA, which is the subject of TD2021NA); and those measurements were obtained using a technique developed by the authors of the study, rather than GC-MS analysis which was already the recognized standard at that time (and continues to be now);

(viii) the ITIA is not aware of any case where:

- an athlete's urine sample was analyzed by a WADA-accredited laboratory and determined to contain 19-NA at a concentration of greater than 15 ng/ml;
- the laboratory performed a GC-C-IRMS analysis on the sample, which failed to confirm that the 19-NA was of an exogenous origin; and
- the NADO with results management authority did not pursue the case against the athlete, allegedly on the basis that there had been no validly reported AAF for nandrolone;

(ix) the Use violation does not stand or fall depending on what happens to the Presence violation. Indeed, the comment to Article 2.2 of the World Anti-Doping Code (the "WADA Code") provides that "[*i]t has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the Comment to Article 3.2, unlike the proof required to establish an anti-doping rule violation under Article 2.1, Use or Attempted Use may also be established by other reliable means [including] other analytical information which does not otherwise satisfy all the requirements to establish "Presence" of a Prohibited Substance under Article 2.1*".

(g) The Independent Tribunal made errors of fact and law in the Appealed Decision. In particular, the ITIA argues that:

(i) under Article 10.2.1 TADP there is no need for a panel to decide if the Player had deliberately doped or there is an innocent explanation. Rather, the panel must determine whether the Player has rebutted the presumption of intentional use and, save in very exceptional circumstances, this will require cogent evidence of the source of the relevant substance;

(ii) the TADP does not require the ITIA to "*rule out an innocent explanation*", it requires the Player to establish one; moreover, in the event that the probabilities "*either way are neither proved nor disproved by the scientific studies or by the expert evidence adduced*" then the Player has, unless there are exceptionally compelling factual elements on file, failed to establish such an innocent explanation.

(h) The Player has suffered no prejudice in preparing her defence and must meet the usual burden and standard of proof for the meat contamination scenario. In particular, the ITIA argues that:

(i) the Player's submissions on the ITIA's resources are dramatic and misplaced. The ITIA does not dispute that the Player may have found herself in a difficult financial position following her ADRV and when she could not play tennis. But neither does this mean that the ITIA has unlimited resources nor that it could somehow be expected to act on her behalf without even being asked;

(ii) the ITIA cannot afford to spend its limited resources (which are required to sustain all of its anti-doping and corruption staff and activities – including testing, investigations, education, results management and legal proceedings, office rental, travel etc. – for an entire year covering over 1,000 professional tennis tournaments) on sending a legal team to Colombia or to pay for private investigators;

(iii) the ITIA did not "*vehemently object*" to the Player's requests for extensions. By contrast, at the point those extensions began to near almost three months, it objected to further delays;

(iv) there is no evidence that is allegedly "*under the control of the ITIA*" that the Player could not herself have gained access to, either directly or by way of request and the ITIA fails to see what it could have been expected to do that the Player has not already done. Moreover, neither in the results management proceedings, nor during the first instance proceedings, nor in these proceedings, the Player asked the ITIA for something that the ITIA refused to provide, with the exception of information from WADA that she could and should have requested herself, and sensitive health related information about another player that the ITIA obviously cannot disclose;

(v) despite the Player's pleas as to an "*inequality of arms*", she has retained some of the best anti-doping lawyers in the world, has submitted an extensive Answer and Cross-Appeal Brief extending to 130 pages together with 6.253 pages of accompanying exhibits. Accordingly, if the Panel considers (as the ITIA does) that the Player has not been able to present sufficient evidence to support a nandrolone meat contamination scenario, this should not lead the Panel to conclude that the Player's ability to defend herself has been in some way prejudiced. It is, rather, further support for the ITIA's position that nandrolone contaminated meat in Colombia is a far-fetched scenario that is at odds with reality.

(i) The ITIA had no reason to warn players of risks associated with Colombian meat in advance of the Copa Colsanitas tournament, given that:

(i) nandrolone has never been found to have been present in an athlete's urine as a result of the consumption of contaminated meat. Nandrolone was not identified (whether as an AAF or an Atypical Finding ("ATF")) in any of the

doping control samples provided by the 20 other players who were tested during the Copa Colsanitas tournament nor in fact in any of the other 157 samples collected at the Copa Colsanitas tournament in the preceding ten years since 2012;

(ii) nandrolone cannot be considered a potential meat contaminant in Colombia whether in 2022 or today;

(iii) with respect to boldenone, at the time of the relevant tournament there had been one tennis decision (*Farah*) indicating that meat contamination could, possibly, produce extremely low levels of boldenone in an athlete's urine (5-6 times lower however than the Player's boldenone levels and almost a hundred times lower than her nandrolone levels);

(iv) there was no consensus – contrary to the situation for clenbuterol, ractopamine, zeranol, and zilpaterol in certain countries – that meat contamination was an issue in Colombia in general, let alone for boldenone or nandrolone specifically;

(v) in January 2022, following Mr Farah's indication to the ITIA that he was concerned about potentially contaminated meat in Colombia, the ITIA consulted with WADA, who informed the ITIA that it (and its Contaminants Working Group) was aware of some cases in which athletes had sought to argue that meat contamination was the source of their boldenone AAFs but that WADA was not intending to update its meat contamination stakeholder notice in relation to boldenone.

(j) The ITIA had no reason to instigate an investigation into the food supplied at the Copa Colsanitas tournament, given that:

(i) the sample provided by the Player during the Copa Colsanitas tournament returned AAFs for not one, but two, prohibited anabolic androgenic steroids. The Player's meat contamination scenario therefore rests on the presumption that either she ate a piece of meat that was contaminated with two different steroids; or she ate two or more pieces of meat that were contaminated with different steroids. However, both scenarios are exceptionally unlikely;

(ii) as far as nandrolone is concerned, there was and is no reason to believe that nandrolone meat contamination is a prevalent issue within Colombia, let alone that it could have caused 105 ng/mL of nandrolone metabolites to be present in an athlete's sample. There was, thus, no reason to contemplate that the source of the Player's two AAFs was meat contamination;

(iii) as far as boldenone is concerned it is incorrect to present the ATF returned by a third player at the tournament as a positive test, given that an ATF is not an AAF. Whereas the ITIA accepts that contaminated meat may cause very low concentrations of (exogenous) boldenone to be present in an athlete's sample

in Colombia, there was and is no basis to conclude that this is what occurred in the third athlete's sample collected during the Copa Colsanitas tournament;

(iv) two samples returned AAFs for boldenone at the Copa Colsanitas tournament, but one of those samples (the Player's) also contained 105 ng/mL of nandrolone. The ITIA fails to see how the existence of two positive urine samples that were clearly dissimilar in nature could have required it to conduct an investigation into the food supplied at the Event rather than to follow the usual results management process. Indeed, even if the two boldenone AAFs could be considered to have indicated a contamination issue during the tournament (*quod non*), the presence of high concentrations of nandrolone in the Player's sample clearly undermined the likelihood of any food contamination scenario;

(v) lastly, it is the Player's burden to prove that that scenario is more likely than not to have occurred. It was and is therefore the Player's responsibility to conduct all such investigations as she considered would assist her in seeking to discharge that burden – including any investigation into the food provided at the Event and/or those who supplied that food (which the Player had ample opportunity to do in the months following the tournament, having received the ITIA's Initial Notice on 27 May 2022, only seven weeks after she provided her anti-doping sample on 6 April 2022 and having apparently discerned where all of the meat came from by the time she submitted her response to the Initial Notice on 20 September 2022).

(k) The ITIA has conducted its own investigations into the possibility of nandrolone contaminated meat as the source of the Player's ADRV. In particular:

(i) on the ITIA's instruction Prof. le Bizec, Prof. Ayotte and Prof. Saugy have each conducted detailed examinations of the scientific (im)plausibility of the Player's explanations;

(ii) on the ITIA's instruction experienced veterinary zootechnicians in Colombia have been requested to confirm whether nandrolone is widely used in Colombia as well as other aspects of the situation on the ground in Colombia;

(iii) the ITIA has carefully considered the evidence relied upon by the Player, and in doing so found serious deficiencies;

(iv) the ITIA has considered the results of the Montreal laboratory's testing on a selection of samples of Colombian meat to determine whether those samples contained either boldenone or nandrolone and, if so, in amounts sufficient to cause positive anti- doping tests;

(v) in light of the above, it is factually wrong to suggest that the Player has been severely prejudiced in presenting her defense, given that she was able to commence her investigations in respect of her ADRV from (or shortly after)

27 May 2022, and by 20 September 2022 had been able to obtain the overwhelming majority of the factual evidence on which she now relies.

(l) It is wrong to suggest that as a result of (unfounded) allegations of prejudice, the charges against the Player must be dismissed or the Player need not prove the source of the nandrolone in her sample, given that:

(i) the Player's case differs materially from the cases (*Ulihrach v. ATP*, *CAS 2012/A/2922*, *CAS 2009/A/1782, CAS 2009/A/1985*) she cites in support of those propositions;

(ii) with respect to the principle of "*Beweisnotstand*", the recent decision of *UCI v Aerts* makes clear (with reference to the jurisprudence of the Swiss Federal Tribunal) that in a case where a party establishes the existence of serious evidentiary problems, the duty imposed on the party not bearing the onus of proof extends only to "*cooperate in the investigation and clarification of the facts of the case*". It does not "*lead to a re-allocation of the risk if a specific fact cannot be established. Instead, such risk will always remain with the party having the burden of proof*".

(m) The Player has not established that meat contamination is a plausible explanation for her ADRV. In particular:

(i) the Player has not established that nandrolone is used to any significant extent in Colombian farming, given that:

- only 26% of farmers interviewed in the context of the study conducted by Ms Gina Lorena García Martínez (the "Martínez Study") used anabolic steroids of any kind;

- based on the responses of the Colombian farmers interviewed, boldenone is apparently the most commonly used steroid;

- none of the farmers interviewed indicated that they used nandrolone;

- the Colombian Agricultural Institute ("CAI") had conducted no studies in relation to residues of nandrolone in Colombian cattle, which appears to indicate that it does not consider the levels of meat contaminated with nandrolone to be as significant as that contaminated with boldenone;

- according to Dr Serna Valencia, a Colombian veterinarian and zootechnician, "*in Colombia, nandrolone tends to be about 3.5 times more expensive than boldenone. Both products have the same effect on the animal once they have been administered, so it would make no sense for farmers to pay more money for nandrolone, since they would not gain any additional benefit from using it over boldenone, which is cheaper and more widely available. For this reason, in my experience, boldenone*

is the most commonly used steroid for cattle in Colombia whereas nandrolone is not so commonly used (if it is used at all)";

(ii) the Player has not established that meat contamination with nandrolone has ever been detected in Colombia, given that:

- the Player has not identified any studies demonstrating that nandrolone residues have ever been found in Colombian meat, and the ICA has conducted no such studies;

- Prof. Ayotte confirms that the Player's case is the first (and only) AAF for nandrolone out of 1,502 samples collected in Colombia and analyzed by the Montreal Laboratory since 2015;

- similarly, WADA has confirmed that there have been only two AAFs for nandrolone within the 7045 samples collected by the Colombian NADO (as the Testing Authority) since 2020;

- the statement from the Colombian Olympic Committee warning of potential contamination risks from Colombian meat refers only to boldenone, whereas the warnings from the ITF and WTA do not identify a specific risk in relation to nandrolone and the WADA Contaminants Group does not intend to implement any specific measures with respect to nandrolone as a potential meat contaminant;

(iii) the Player's assertions in relation to the use of nandrolone in cows in Colombia are exaggerated, given that:

- the reports of the Colombian Institute for Drug and Food Surveillance (INVIMA) submitted by the Player show that the detection of nandrolone in Colombian beef and pork is very rare (detected in only 13 of 2,050 (i.e., less than 1%) meat samples over the course of 5 years) and is not identified as a substance of specific concern to INVIMA. Moreover, the majority of the reports provide no indication as to what type of sample was tested (liver or muscle) making it inappropriate to extrapolate and rely on these findings;

- even if the findings could be relied upon to support Ms Moore's case in general, the maximum concentration of nandrolone detected in any of the Colombian samples was 5.9 mg/kg, i.e. at least 170 times less than the minimum concentration that Prof. Le Bizec and Dr Austin predict would have had to have been present in the meat consumed by Ms Moore at breakfast on 6 April 2022 in order to produce the 105 ng/mL of 19-NA detected in her sample provided later the same day (1 mg/kg on Dr Austin's calculation). Moreover, when taking into account the fact that 12 of the 13 instances in which nandrolone was detected by INVIMA were in pork samples (and thus comparing the maximum nandrolone concentration detected by INVIMA to the minimum concentration Prof.

Le Bizec and Dr Austin estimate would have needed to have been present in the pork Ms Moore ate for breakfast on 6 April 2022 [1.3 mg/kg on Dr Austin's calculation]), the figure rises to a multiple of 220;

- the most frequently detected steroid (and therefore presumably that most commonly used by Colombian farmers) was in fact 17 β-oestradiol (which Dr Serna Valencia notes is occasionally used to calm animals down (in addition to other veterinary uses such as for hormonal therapy in the treatment of reproductive disorders), and was found in 59 of 2,050 samples (i.e. 2.9%) of meat samples over the same five-year period;

(iv) the Player has not established that the suppliers of meat to the restaurants in which she ate use nandrolone. To the contrary,

- the Player's evidence, at its strongest, is that restaurants may believe that their suppliers source meat from some Colombian farmers who may use steroids to increase their animals' weight;

- the statement of D. (suppliers of pork to the […] restaurant at the […]) also makes no reference to the extent to which steroids are used by Colombian farmers, but merely confirms that they source meat from Colombia;

- although the statement of F. (the principal legal representative of the company responsible for operating […] restaurant) states "*in the processing of meat products, our meat suppliers use boldenone or nandrolone in the breeding and handling processes in beef or pork*", those suppliers are unnamed, and no corroborating statement has been provided by any supplier of […];

(v) the Player has not established that nandrolone is used on pigs, In particular,

- in their written witness statements A. and Ms García Martínez make no references to the use of any anabolic steroid in relation to pigs;

- to the contrary, Dr Serna Valencia explains in her witness statement that "*in my experience, steroids (when used) are employed in order to promote growth in bovine cattle, and are used much less (if at all) on other animals such as pigs, sheep or dairy cattle*";

(vi) the Player has not established that she ate uncastrated boar meat;

(vii) the Player has not established that Colombian farmers systematically disrespect withdrawal times by slaughtering animals close to the time of administration of the anabolic product. In particular:

- as is noted by Prof. Le Bizec in his report, whilst some farmers surveyed as part of the Martínez Study declared that they did not know the

withdrawal times for growth promoters such as boldenone, "*some farmers indicated a waiting time for Boldenone of 46 days (which is 16 days more than the recommended duration), and others stated a longer time or a shorter time (but without knowing by how much this time was shorter). In other words, farmers seem to be generally aware that there is a waiting time, but with a non-specific awareness of the duration of the delay, and certain farmers understand that the delay is much longer than it actually* is";

- Prof. Le Bizec also observes that "*steroids and the person-time required to inject them have a cost, and repeated injections into animals are only justified if there is a proven zootechnical effect. For example, an injection given two days before the animal is slaughtered [...] makes no sense, as the substance will not have had time to diffuse effectively into the animal's body and have the intended effect on the animal [...] In this case, the farmer would be spending money unnecessarily, as there would be no economic gain associated with a carcass that would not have higher economic value*";

- this is consistent with the evidence of Dr Serna Valencia, who states that (i) *"[a]dministering more nandrolone than is recommended, administering it more frequently than is recommended, or administering it closer to slaughter than recommended would, in each case, increase a farmer's costs (because in each case they would be using more nandrolone than necessary)*"; and (ii) "*there would be no benefit to administering nandrolone during the 30-day withdrawal period before an animal is slaughtered as the steroid would not have had sufficient time to have taken full effect and, in that sense, it would just mean that the nandrolone has been wasted*";

(viii) the Player has not established that the concentration of 105ng/mL of nandrolone could conceivably be the result of a meat contamination scenario. To the contrary:

- Prof. Le Bizec concludes that "*[h]aving considered the relevant materials and drawing on my own experience and expertise, I consider it extremely unlikely that the presence of 105ng/mL of 19-norandrosterone (as well as nortestosterone at 12ng/mL and 19-noretiocholanolone at 38ng/mL) can be explained by the consumption of meat from livestock having received ester(s) of the steroid nandrolone as a growth promoter*";

- Profs Ayotte and Saugy similarly conclude that "*a meat contamination scenario is not a plausible explanation for the concentration of 19-nortestosterone (12 ng/mL), 19-NA (105 ng/mL), 19-NE (38 ng/mL) measured in the Athlete's sample*" and that "*the intentional use of nandrolone cannot be ruled out on the basis of any of the evidence we have reviewed*";

(ix) the presence of both nandrolone and boldenone in the Player's sample makes her explanation even less plausible. In particular, if there were a common source of contamination, or a real likelihood of systematic nandrolone contamination, as the Player alleges, then one would also have expected other athletes to have returned an AAF for nandrolone. Instead, the Player was the only player at the Event to record an AAF for nandrolone and there is no indication from the WADA or Montreal laboratory statistics that nandrolone meat contamination could be considered a reasonable possibility in Colombia.

(n) The concentration of nandrolone in the Player's sample is too high for her to reasonably rely on CAS jurisprudence concerning contaminated meat and is at odds with the WADA Stakeholder Notice on Meat Contamination. In particular, the Player fails to consider that the concentration of 19-NA in her sample is well in excess of that ever accepted in any meat contamination scenario, as well as the limits specified in WADA's Stakeholder Notice on Contaminated Meat, which sets out presumptive scenarios in which meat contamination should be investigated.

(o) The presumption of intentional use of nandrolone cannot be rebutted on the basis of the evidence of Dr Diederik Smit who asserts, *inter alia*, that "*it would be illogical – in fact, useless – and unusual for a female athlete to use either (a) a single dose; or (b) occasional doses of nandrolone (or a nandrolone precursor) for performance enhancing purposes*"; and "*nandrolone is a relatively unpopular androgen amongst female athletes who are looking to obtain performance-enhancing effects*". In particular, according to Profs Ayotte and Saugy:

(i) "*it is impossible for Dr Smit, or us, to opine on the reasons that an athlete may have used a prohibited substance in the way he or she did*"; and

(ii) "*nandrolone can be used for a range of purposes, gaining and/or maintaining muscle mass, to speed up healing and recovery (e.g., to reduce the time in which an athlete will be fit to return to training and competition following an injury). Athletes (including female athletes) may wish to use nandrolone in this way (including by way of single or occasional doses, including in lower doses to avoid testing positive)*";

(iii) Profs Ayotte and Saugy also note that a number of female athletes have tested positive for nandrolone in recent years, including in sports that are not exclusively strength based. In particular, since 2016, seven female athletes (including Ms Moore), whose samples were analyzed by the Montreal laboratory have returned AAFs for nandrolone metabolites. Excluding the Player's results from that analysis:

- three of the remaining six athletes were middle to long-distance runners (i.e. competitors in aerobic sport); and

- three of the results also involved pseudo-endogenous preparations of nandrolone. Profs Ayotte and Saugy therefore observe that "*the IRMS*

values show that other athletes who used nandrolone for doping purposes returned results consistent with the Athlete's".

(p) There are no exceptional circumstances which would allow the Player to rebut the presumption of intent in the absence of source.

(q) A negative test on a hair sample does not demonstrate that the Player did not knowingly or intentionally consume nandrolone before she provided samples on 6 April 2022. Moreover, Prof. Kintz's hair analysis "*excludes only long-term abuse of a substance, whereas it says nothing about occasional use of nandrolone and/or use in microdoses*".

(r) The polygraph tests have limited utility and should therefore be given limited, if any, weight.

(s) The "dopey doper" scenario cannot be ruled out, given that (i) it is impossible for anyone "*to opine on the reasons that an athlete may have used a prohibited substance in the way he or she did*"; (ii) athletes, including female athletes, may wish to use nandrolone by way of single or occasional doses, including in lower doses to avoid testing positive; (iii) since 2016, seven female athletes (including the Player), whose samples were analysed by the Montréal laboratory have returned AAFs for nandrolone metabolites; accordingly, the Athlete's conclusion that nandrolone is a relatively unpopular androgen amongst female athletes is difficult to sustain.

B. The Athlete

113. In her Answer and Cross-Appeal Brief in CAS 2024/A/10298, the Athlete requested the following reliefs:

"*(a) dismiss the Appeal; dismiss the Nandrolone Result (either due to prejudice or because no ADRV has been established to the comfortable satisfaction of the Panel) and the ITIA's appeal;*

(b) or alternatively confirm that she bears No Fault or Negligence in respect of the Nandrolone Result, and thereby dismiss the ITIA's appeal;

(c) confirm (in either case) that no sanction is to be imposed; and

(d) order the ITIA to reimburse the legal costs and expenses incurred by her in relation to this matter".

114. The Athlete also requested the ITIA to:

"*(a) provide Ms Moore with a list of all anti-doping samples (urine and blood) collected from Ms Moore between 2017 and 2022 in the following format:*

Date of sample collection	***Type of sample collection (e.g. urine or blood)***	***In-Competition or Out-of Competition collection***	***Sample collection Authoity***	***Result***

(b) liaise with WADA to confirm how many times in the past 10 years an athlete has produced a nandrolone result in excess of 15ng/ml, but which was not treated as an anti-doping rule violation following the performance of an IRMS tests.

If the ITIA does not provide such disclosure voluntarily, the Player respectfully requests the Panel to order disclosure, pursuant to Article R44.3 of the CAS Code".

115. In support of her requests for relief, the Athlete relies on the following main arguments:

(a) The Player has filed the Statement of Cross-Appeal on a precautionary basis and out of abundance of caution, to avoid any dispute as to what arguments can or cannot be made in the Player's answer to the ITIA's appeal in CAS 2024/A/10298. In particular, the Player argues that:

(i) she does not consider that any arguments raised in her Answer are required to be raised by way of a cross-appeal, given that all of her arguments are raised in direct response to the ITIA's appeal;

(ii) in any case, even if any of her arguments do amount to a cross-appeal, it appears that it is not necessary for the Player to file a separate Statement of Appeal and Appeal Brief in accordance with the CAS Code and CAS case-law (CAS 2020/A/6695, 6700 & 7386).

(b) The following circumstances have affected the course of the Player's case:

(i) as a consequence of the alleged ADRV the Player lost 19 months of her career and was unable to make a living from tennis; […], and […] as she was not permitted to attend tournaments due to her suspension;

(ii) since her return to tennis on 2024, the Player has earned […] US Dollar;

(iii) the Copa Colsanitas tournament was a WTA event and, according to public records, the WTA operates on a budget in excess of 114,000,000 US Dollar;

(iv) the ITIA, which is prosecuting this case, acts on behalf of the WTA and, according to public records, the ITIA operates on an annual budget of 17,300,000 US Dollar;

(v) the Player agreed to every request for an extension of the time limit to file the Appeal Brief made by the ITIA. By contrast, despite the severe difficulties faced by the Player in collecting evidence, the ITIA vehemently objected to the Player's last three requests for more time.

(c) The Panel must not lose sight of the decision as regard boldenone, given that in its appeal the ITIA disputes only the nandrolone aspect of the Appealed Decision, and the ITIA did not appeal the decision made in Ms Gatica's case (i.e. the Player's co-respondent at first instance and one of the three players whose sample was found to contain boldenone at the Copa Colsanitas tournament).

(d) There has not been a valid AAF for nandrolone. In particular, the Athlete argues that:

(i) in the case at hand, the sample was reported to contain 19-NA at a concentration greater than 15ng/mL. However, in seeking to provide further insights, the accredited laboratory in Montréal, Canada, went on to perform a GC-C-IRMS analysis on the sample;

(ii) the GC-C-IRMS analysis did not report the norsteroid as being of exogenous origin;

(iii) according to WADA's technical document TD2021NA GC-C-IRMS analysis is the only test which can establish whether a norsteroid is of exogenous origin;

(iv) accordingly, once a GC-C-IRMS analysis is performed which does not establish the norsteroid as being of exogenous origin, an AAF cannot be reported;

(v) the expert evidence from Profs. Ayotte and Saugy submitted by the ITIA must be rejected for the following reasons:

- Prof. Ayotte's evidence cannot be trusted;

- the issue to be determined is primarily a matter of law regarding the interpretation of applicable regulations. Regardless of the input of scientific experts, it is the correct legal interpretation which must be determined and applied;

- endogenous nandrolone has been detected in men and women in concentrations exceeding 15ng/mL;

- no exhaustive study has ever been conducted to map out all of the circumstances under which humans may produce endogenous nandrolone in concentrations exceeding 15ng/mL, it is, therefore, possible that the Player (and other humans) may experience some naturally occurring phenomenon that causes a spike in endogenous nandrolone;

(vi) to the extent that there is any ambiguity as to the approach to be taken under TD2021NA in such circumstances, that ambiguity in the rules must be interpreted *contra proferentem* and thus in the Player's favour;

(vii) the Player is aware of at least one previous (confidential) nandrolone case, in which an athlete's urine sample was analyzed by a WADA-accredited laboratory and determined to contain 19-NA at a concentration greater than 15 ng/mL; the laboratory performed a GC-C-IRMS analysis on the sample, which analysis failed to confirm that the 19-NA was of an exogenous origin; the NADO with results management authority did not pursue the case against the athlete, on the basis that there had been no validly reported AAF for nandrolone;

(viii) this case remains confidential, as no ADRV was deemed to have occurred. The Player sought to obtain evidence from those involved in that matter in order to confirm the facts of the case. However, the relevant individuals have declined to do so;

(ix) nevertheless, the Player notes that WADA is aware of that matter. The ITIA could, through WADA, obtain its own independent confirmation of the facts as set out in the present proceedings;

(x) in light of the above, the Player notes that her interpretation is not novel or unique, as the Technical Document has been interpreted in exactly the same way as the Player proposes by at least one National Anti-Doping Organization. Accordingly, it would be unfair to treat Ms Moore any differently. It is also unfair on the Player and other athletes that such outcomes are not made public (even if anonymized) as it results in information asymmetry, which puts athletes at a disadvantage, and it is unfair for the ITIA to seek to take advantage of such information asymmetry.

(e) The joint evidence of Profs Ayotte and Saugy must be disregarded (or at most given very little weight) by the Panel, given that:

(i) the WADA-accredited laboratory in Montréal was the laboratory which analyzed Ms Moore's Sample and reported the nandrolone result. Prof. Ayotte was (at all relevant times) the Director of the Montréal laboratory. Furthermore, Prof. Ayotte has confirmed that she "*personally reviewed and reported the results of the testing of [the Player's] A and B samples*". She thus is not independent as to whether her laboratory was right to report the

nandrolone result as an AAF (in other words, Prof. Ayotte cannot act as an independent expert in the defense of her own laboratory);

(ii) Prof. Ayotte's evidence must be treated with great caution, as she has previously materially misrepresented the evidential position against an athlete's interests. In particular:

- in CAS 2019/A/6313 the CAS Panel recorded that it was not "*entirely persuaded*" by Prof. Ayotte's evidence and went on to find that meat was the source and upheld the athlete's appeal;
- […];
- in spite of that fact, "*the ITIA and Prof. Ayotte failed to disclose that decision to Ms Moore following a request (from Ms Moore, on 28 November 2023) that they '[p]rovide any anti-doping decisions that [the ITIA] or Prof Ayotte are aware of (other than Lawson) in which Prof Ayotte has been held to have misrepresented matters or otherwise misled the tribunal (whether those decisions were interim or final, and whether such a finding was made at first instance, on appeal, or by the appeal tribunal in respect of the first instance proceedings)*'";
- to the contrary, "*Prof. Ayotte falsely asserted (by letter dated 5 December 2023) that she had 'not misrepresented matters or otherwise misled a tribunal and to the best of [her] knowledge there are no cases that [she] need[s] to disclose on the basis that (as per the request) a tribunal found that [she] misled them'. Evidently, that assertion was untrue*";
- Prof. Saugy was requested to cosign Prof. Ayotte's report "*in order to put to rest these types of comments*". In other words, it is apparent that Prof. Saugy was merely asked to confirm Prof. Ayotte's (already formed) opinion, in an attempt to protect the credibility of ITIA's expert evidence.

(f) At least as early as February 2020 (that being the date of the decision of the International Tennis Federation in the case of Robert Farah) Anti-Doping Organizations have been aware that steroids are administered to livestock intended for human consumption in Colombia and consumption of their meat can cause AAFs. Accordingly, as the body to which the ITF and WTA delegated their anti-doping responsibilities since 1 January 2022, ITIA must have known of the above-mentioned facts. Despite that, players (including Ms Moore and Ms Gática) received no warnings (from the ITIA, WTA, or any other body) regarding the anti-doping risk posed by Colombian meat prior to or during their competing in the Event, in Colombia. By contrast:

(i) following the Player, Ms Gática and Ms X's results, the ITIA published a warning to players in relation to the risk of testing positive for steroids as a result of consuming meat in Central and South America;

(ii) the ITIA is now providing training to tennis players in relation to the anti-doping risks posed by meat in Colombia. Specifically, the ITIA's anti-doping training module informs players that "*[t]here is evidence of banned steroids being used in meat production in [Mexico, Guatemala, Colombia and China]*". The training module goes on to advise tennis players to "*[a]sk the restaurant where the meat comes from (meat imported from outside of the region is generally safer). Eat in Restaurants that other players are using. Keep a record of receipts and take photos from the restaurant*";

(iii) had the ITIA or WTA provided its players with such a warning and/or trained them in relation to those risks prior to the Event, Ms Moore would not have eaten any meat whilst in Colombia;

(iv) in any case, having invited the Player and other athletes to participate in a country in which it is legal for farmers to use anabolic steroids on livestock destined for slaughter, and in which previous positive tests had occurred as a result of eating contaminated meat, and having failed to warn the Player and other athletes, the WTA, ITF and/or ITIA ought at the very least to have:

- retained samples of the meat provided to players at the (WTA) Event;
- taken photos of the food supplied at the (WTA) Event;
- kept purchase receipts of the meat supplied at the (WTA) Event;
- found out where the meat supplied at the (WTA) Event was procured from.

(g) Having discovered that three of the 21 samples collected at the Event contained steroids, the WTA and ITIA ought to have immediately investigated the food supplied at the Copa Colsanitas tournament and/or requisitioned food samples for analysis. If not in fairness to the players, then in accordance with its obligations "*to protect the health and rights of Players*" and/or to determine whether a violation of TADP Article 2.8 had been committed by tournament staff. In particular, if the WTA, ITF and/or ITIA had taken those measures, it is entirely possible that this case could have been resolved within weeks of it arising, given that, for instance;

(i) the Player could have obtained exculpatory evidence;

(ii) the ITIA might have discovered the cause of the positive tests; or

(iii) at the very least, the Player might have been able to narrow the scope of her investigations.

(h) Given the potentially career-ending consequences of an ADRV, it is vital that Anti-Doping Organizations strictly adhere to their own rules. In the case at hand, the failure to do so has materially prejudiced the Player's defense. Accordingly, the charges must be dismissed.

(i) Alternatively, the prejudice suffered by the Player must be mitigated by other means. In particular, the Panel should:

(i) accept at face value the Player's case as to the source of the Nandrolone Result;

(ii) waive, or at the very least lessen, the requirement to prove source as a pre-condition to a fault-based mitigation plea; or

(iii) further to the principle of "*Beweisnotstand*", require the ITIA to prove that meat consumed at the Copa Colsanitas tournament or elsewhere in Colombia could not have caused the positive test, or else conclude that the positive test was caused by contaminated meat.

(j) Nandrolone and boldenone are used legally in Colombian livestock industry and there are no maximum residue limits on the amount of nandrolone and boldenone in meat intended for human consumption. These circumstances have been confirmed by:

(i) a survey of professionals in the Colombian food industry (the "Martinez Study"), according to which 87.5% of commercial sector workers confirmed that Colombian farmers administer steroids to livestock, and a further 57% and 58% of academics and government sector workers, respectively, confirmed the same; nandrolone is one of the most widely used anabolic steroids in Colombian livestock farming;

(ii) a 2022 report from INVIMA, which states that INVIMA has concerns regarding the presence of nandrolone in Colombian beef; there is no "*Level of Action*" for nandrolone in beef – i.e. there is no concentration above which a nandrolone finding in beef will be deemed non-compliant with the applicable regulations; and nandrolone was found in Colombian beef in 2021;

(iii) a report by the European Commission which states, *inter alia*, that "*[w]ith regard to bovines, several hormonal growth promotants [sic] are authorised and used*"; "*numerous veterinary medicinal products containing pharmacologically active substances belonging to substance groups A3 and A4, i.e. boldenone, zeranol, nandrolone, testosterone, estradiol benzoate and 17-alpha methyltestosterone, are authorised for use as growth promoters in bovines in Colombia*"; "*there are no legally binding MRLs [maximum residue limits] for residues of authorised veterinary medicines in bovine tissues unless the pharmacologically active substance has been prohibited in Colombia*"; and "*it is not illegal to place bovine meat containing residues of authorized medicines on the market*",

(iv) witness evidence from B., a veterinarian and zootechnician, who works at a shop selling agricultural and veterinary products in […], which explains that:

- he sells anabolic steroids, including nandrolone, directly to Colombian livestock farmers;
- many Colombian livestock farmers use anabolic products as growth promoters;
- he has witnessed farmers administering nandrolone to their livestock;

(v) witness evidence from A., of the Veterinary Medicine and Zootechnics faculty at […], which explains that:

- anabolic steroids, including nandrolone, are widely used in the Colombian livestock industry, to accelerate the growth of livestock and maximize profits;

- he has personally administered anabolic products to cattle destined for human consumption;

- there are no effective restrictions on the purchase of anabolic steroids, such as nandrolone;

(vi) a witness statement from Ms Gina Lorena García Martínez, the author of the Martínez Study, which explains that nandrolone is "*purchased very easily without a veterinary prescription, despite being regulated products*";

(vii) evidence from Engormix, an online agricultural forum in which the use of anabolic steroids, including nandrolone, for livestock is regularly discussed by Colombian farmers.

(k) Against this, the ITIA argues that the Player has not established that Colombian farmers "*systematically (or even on the majority of occasions) disrespect withdrawal times*" and relies on the evidence of Prof. Le Bizec and Dr Serna Valencia in this regard. However, ITIA's argument fails to consider the following points:

(i) the Player does not need to establish that Colombian farmers disrespect withdrawal times on the majority of occasions, given that the evidence in this case must be assessed on an ex-post rather than ex-ante basis. It is plainly sufficient for Ms Moore to establish that many Colombian farmers routinely disrespect withdrawal times;

(ii) regarding Prof. Le Bizec's observation that some of the farmers surveyed in the Martínez Study reported that they believed the mandatory withdrawal periods to be longer than the official period of 30 days: (i) some farmers also believed that the relevant period was shorter than 30 days; and (ii) farmers are unlikely to admit to disrespecting the withdrawal period, given the implications that this has for consumers, the farmer and the meat industry;

(iii) Prof. Le Bizec's comments on the commercial sense of administering nandrolone within the withdrawal period are entirely inappropriate, given that

Prof. Le Bizec is a scientist and therefore he does not work in the Colombian livestock industry nor have any experience of it;

(iv) Dr Serna Valencia's evidence that using nandrolone indiscriminately would increase a farmer's costs and that there would be no benefit to administering nandrolone during the withdrawal period is irrelevant, because there is substantial evidence which shows that farmers do use nandrolone indiscriminately and within the withdrawal period (i.e., notwithstanding the cost/benefit analysis);

(v) Dr Serna Valencia's assertion that she would "*generally expect farmers to respect guidance on the use of nandrolone and, in particular, the recommended withdrawal times*" is clearly inconsistent with the significant body of evidence submitted by the Player and thus cannot be reflective of the whole Colombian livestock industry;

(vi) Prof. Le Bizec has repeatedly published papers on the frequency of nandrolone use as a growth promoter in meat producing animals.

(l) The ITIA has recognised the risks of meat contamination in Colombia. In particular:

(i) a statement by the Colombian Olympic Committee (a signatory to the WADA Code) to its athletes states (unofficial translation by the Athlete) that "*As Colombia is one of the few countries in the region that legally authorises the distribution of anabolic agents […] the [Colombian Olympic Committee] is obliged to warn and prevent athletes whether professional or amateur, to take the utmost care with food they consume in Colombia, especially with beef*";

(ii) at the time of sample collection, no such warning had been issued to tennis players by any tennis body. However, on 11 October 2022 (i.e. relatively shortly after learning of the Player, Ms Gatica and Ms X's results), the ITIA issued this warning: "*With a significant swing of events under way or on the horizon in Central and South America, the ITIA is warning players about the risks of meat contamination in the region. Steroids can sometimes be used to promote growth in cattle and other animals bred for meat in certain countries which if consumed, can show up in Anti-Doping tests. […] Players are being urged to understand the risks of eating meat in these regions during tournaments – and potentially seek other sources of protein where possible. If consuming meat, try to confirm where it comes from (US-sourced meat is generally safer), eat with other players and keep photos and receipts from all meals*";

(iii) similarly, in a leaflet issued on 6 January 2023 in respect of an upcoming tournament in Colombia, the WTA Tour warned: "*Banned steroids may be used in some meat production in this region. Eating contaminated meat could result in a positive anti-doping test. If possible, avoid beef, pork and lamb […]*";

(iv) further, the ITIA's anti-doping education module states, as of April 2024, that "*[t]here is evidence of banned steroids being used in meat production*" there.

(m) As regard the approach to be taken when assessing an athlete's case as to source, anti-doping cases are not to be determined on the basis of the scientific evidence alone and that other evidence (i.e. factual evidence), logic and common sense must be taken into account in coming to a conclusion as to the source of an AAF. Accordingly, the Panel must take a holistic approach by evaluating all the evidence and accounting for matters such as logic and commonsense when determining whether a validly reported AAF was caused by the consumption of contaminated meat.

(n) Moreover, the principle of "*Beweisnotstand*" must apply to the present case. As explained in CAS 2011/A/2384 & 2386, "*the exceptions concern cases in which a party is faced with a serious difficulty in discharging its burden of proof ("état de nécessité en matière de preuve", "Beweisnotstand"). A cause for the latter may be that the relevant information is in the hands or under the control of the contesting party and is not accessible to the party bearing the burden of proof (cf. ATF 117 Ib 197, 208 et seq.). Another reason may be that, by it [sic] very nature, the alleged fact cannot be proven by direct means. This is the case whenever a party needs to prove "negative facts*". Similarly, according to the Swiss Federal Tribunal, in cases of "*Beweisnotstand*", procedural fairness demands that the contesting party (here, the ITIA) must substantiate and explain in detail why it deems the facts submitted by the other party (here, the Player) to be wrong. In other words, a "duty of cooperation" arises, such that the contesting party (i.e. the ITIA) "*must cooperate in the investigation and clarification of the facts of the case" and "in assessing and determining whether or not a specific fact can be established, the court must take into account whether or not the contesting party has fulfilled its obligations of cooperation*" (CAS 2011/A/2384 & 2386, paras. 104 – 105).

(o) The Player ate Colombian beef and pork before providing the sample. In particular, a chronology of the Player's consumption of beef and pork between 31 March 2022 and the provision of the Sample at approximately 11:24 am on 6 April 2022 is set out below:

MEAL	LOCATION	BEEF AND PORK DISHES EATEN BY THE PLAYER
31 March - Dinner	[…]	The entirety of one steak and all but one piece of another steak (one steak was "Lomo" (c.250g), and the other was "Punta de Anca" (c.420g)164); one beef empanada (c.6g of beef per empanada); fried plantain with cheese and shredded beef (c.80g of beef).
1 April - Lunch	[…]	Chicharron (c.50g of pork).

2 April - Dinner	[…]	Likavitos (parmesan-breaded pork (c.350g of pork) stuffed with mushrooms, port wine sauce).
3 April - Lunch	[…]	Pasta with Bolognese sauce (c.60-220g of beef).
4 April - Lunch	[…]	Pasta with Bolognese sauce (c.60-220g of beef).
4 April - Dinner	[…]	Four portions of chilli dumplings (sixteen dumplings in total) comprised of c.20g of steamed (minced) beef per dumpling, chilli chimichurri and coriander; two portions of baozi (eight baozi in total), each comprised of steamed bao buns with c.20g of (minced) roast pork per bun and cinnamon; two portions of won tons (eight-won tons in total) each comprised of c.16g of (minced) pork per won ton; ramen batayaki, comprised of c.120g of grilled beef tenderloin.
5 April - Breakfast		One portion of baozi (four baozi in total), each comprised of steamed bao buns with c.20g of roast (minced) pork per bun and cinnamon; one portion of won tons (four-won tons in total), with each won ton comprised of c.16g of (minced) pork (both taken to-go the previous night).
5 April - Lunch	[…]	Pasta with Bolognese sauce (c.60-220g of beef).
5 April - Dinner	[…]	Three portions of chilli dumplings (twelve dumplings in total), with each dumpling containing c.20g of steamed (minced) beef.
6 April - Breakfast	[…]	Nasi goreng (fried rice with shrimp, kecap manis, egg, bacon (c.25g) and shrimp flakes) (taken to-go the previous night); one portion of chilli dumplings (four dumplings in total), with each dumpling containing c.20g of steamed (minced) beef (taken to-go the previous night); fried rice

		with ham (c.40 - 60g of pork173), egg and plantains

(p) There is evidence on file that establishes that the restaurants at which the Player ate beef and pork in Colombia, shortly prior to providing her sample, used Colombian meat. Moreover, the Player has submitted the following evidence regarding the presence of nandrolone in the meat served in certain of the restaurants she ate at prior to sample provision:

(i) a witness statement from F., who is the principal legal representative of […] (which is the company which operates […]), which states that (unofficial translation by the Athlete): "*our meat suppliers use boldenone or nandrolone in the breeding and handling processes in beef and pork (…) According to information obtained from our meat suppliers, there is a possibility that traces of boldenone or nandrolone may be detected in urine samples (…) as a result of the consumption of pork or beef products (…)*";

(ii) a witness statement from C., who works for the company which owns and manages the relevant branch of […], which states that: "*We are aware that livestock is often treated with boldenone and/or nandrolone by Colombian farmers, to increase the muscle mass of the animals, as it is legal for them to do so*".

(q) In light of the above, the Player has established that it is entirely plausible and, in all the circumstances of the case, more likely than not that she consumed meat that was contaminated with boldenone and nandrolone during the relevant period. In any case, the Player also argues that three samples collected at the Copa Colsanitas tournament from three players were found to contain the two most widely used steroids in the Colombian livestock industry. In particular, in addition to the Player:

(i) Ms Gática returned an AAF for boldenone and its metabolite, at similar concentrations to the Player, having also provided a urine sample on 6 April 2022;

(ii) Ms X (whose identity is unknown) provided a urine sample which was also found to contain boldenone. However, that was not reported as an AAF because the estimated boldenone concentration was below the reporting threshold;

(iii) accordingly, this striking coincidence makes it even more likely that the nandrolone AAF was caused by contaminated meat.

(r) According to two independent reports from Dr Daren Austin – an independent pharmacokinetics expert – the concentration of 19-NA reported in the sample (i.e. 105ng/mL) is consistent with meat contamination. In particular, Dr Austin concluded that "*the Nandrolone Result could have been caused by Ms Moore consuming meat from an animal which had been treated with nandrolone prior to*

slaughter". By contrast, the ITIA's opposite position based on the expert reports of Profs Le Bizec and Ayotte and Saugy is groundless, given that:

(i) Profs Ayotte and Saugy do not include a pharmacokinetic analysis of the type performed by Dr Austin;

(ii) Prof. Le Bizec considers the question of likelihoods as regards matters which do not relate to pharmacokinetics;

(iii) Prof. Le Bizec relies on an inappropriate and exaggerated comparison between the estimated meat steroid concentration required and the steroid concentration observed in meat in practice;

(iv) Prof. Le Bizec does not rely on the *Costain study*, despite that being the only study of steroid levels at known injection sites;

(v) Profs Ayotte and Saugy fail to acknowledge that pharmacokinetic estimations and observations may be considered consistent with each other when they fall within approximately an order of magnitude

(s) The alternative explanations can be ruled out. In particular:

(i) the Player's assertion that she has never intentionally or knowingly used nandrolone is confirmed by the results of a polygraph examination and the analysis of the Player's hair;

(ii) Dr Diederik Smit has confirmed that "*it would be illogical – in fact, useless – and unusual for a female athlete to use either (a) a single dose; or (b) occasional doses of nandrolone (or a nandrolone precursor) for performance enhancing purposes*";

(iii) the Player has provided numerous samples during her career and, prior to the present case, had never been notified of any Atypical Findings or AAFs and had never committed any ADRV;

(iv) none of the products used by the Player in the two weeks prior to sample collection are nandrolone products, as confirmed by Prof. Kintz.

(t) The Player did not know or suspect, and could not reasonably have known or suspected, that she had been eaten contaminated meat in Colombia in early April 2022. Accordingly, having established that contaminated meat was the source of the nandrolone result, the Player bears no fault or negligence for the ADRV, and period of ineligibility may be imposed.

116. In her Reply in CAS 2024/A/10589 the Athlete requested the following reliefs:

"*(a) uphold her cross-appeal under the reference CAS 2024/A/10589 and thus find that:*

(i) the Nadrolone Result is invalid, such that the case against her must be dismissed; and/or

(ii) Ms Moore's defence has been prejudiced such that the case against her must be dismissed;

(b) dismiss the ITIA's appeal under the reference CAS 2024/A/10298 and, thus, hold that Ms Moore bears No fault or Negligence for any ADRV;

(c) order the ITIA to bear any costs of the arbitration in both CAS 2024/A/10298 and CAS 2024/A/10589;

(d) order the ITIA to reimburse her legal costs end expenses incurred in connection with these proceedings".

117. In support of her request for reliefs, the Athlete basically relies on the same arguments put forward in her Answer and Cross-Appeal in CAS 2024/A/10298.

118. In particular, the Athlete reiterates that:

(i) the ITIA has not made any requests for relief in relation to the boldenone ADRV. Accordingly, the first instance panel's conclusions in relation to Ms Moore's boldenone ADRV (i.e. that the Boldenone ADRV was caused by the consumption of contaminated meat in Colombia) must stand and the Panel must not lose sight of this fact when considering the Nandrolone Result;

(ii) there has not been a valid AAF for nandrolone, given that the IRMS analysis is the only test which can conclusively establish whether a nor-steroid is of exogenous origin. In Ms Moore's case, such an analysis was performed on the sample and it failed to confirm that the 19-NA present was exogenous;

(iii) if the nandrolone AAF is invalid, the Use charge must be dismissed. Accordingly, where the only evidence on which an Anti-Doping Organisation relies in support of a Use charge is analytical evidence from a laboratory (i.e. an alleged positive test result), that analytical evidence must meet the same validity criteria which would apply if it were being relied on to support a Presence charge;

(iv) Ms Moore has suffered prejudice to her defence by the failings of the ITIA and/or WTA, given that had the ITIA/WTA warned Ms Moore of the anti-doping risk associated with meat consumption in Colombia, this case would never have arisen. Moreover, had the ITIA/WTA investigated the source of the meat supplied at the Event, Ms Moore would have had a far greater chance of obtaining (further) exculpatory evidence and of identifying the specific farm from which the contaminated meat came. Lastly, with respect to the principle of *Beweisnotstand*, Ms Moore accepts that it does not reverse the burden of proof per se but, as the CAS held in CAS 2011/A/2384 & 2386, "*in assessing and determining whether or not a specific fact can be established, the court must take into account whether or not the contesting party has fulfilled its obligations of cooperation*";

(v) Ms Moore's submissions based on the INVIMA reports are accurate and are not undermined by the additional INVIMA reports filed by the ITIA. In particular, the frequency of Nandrolone positives recorded by the INVIMA reports (even adopting all of the ITIA's assumptions) is notable, given that the INVIMA reports:

- correspond to a nandrolone finding in approximately 1 in every 150 beef and pork samples; and

- given that Colombia produced around 1.14 million tonnes of beef and pork meat in 2022, the presence of nandrolone in 1 in 150 samples suggests that Nandrolone would have been present in over 7,000 tonnes of Colombian meat produced in 2022;

(vi) with respect to the origin of the meat Ms Moore consumed, the meat suppliers are clear that it is impossible to work out the origin of the meat that they supplied to the restaurants in which Ms Moore ate, because they regularly buy from different market vendors; the market vendors do not specify which farm their meat comes from (which is unsurprising, as this might well not be known, or if known, is likely to vary from day to day); and the meat suppliers do not keep records of precisely which piece of meat they have supplied to each client. Accordingly, any further investigation would be futile. Moreover, even if the meat suppliers had been able to specify which farms supplied every piece of meat that they have ever supplied and to which restaurant they supplied each of those individual pieces of meat, that would not have assisted Ms Moore in identifying the farm from which each piece of meat that she ate originated because:

- the meat suppliers may have supplied, for example, multiple steaks from multiple farms to a particular restaurant on a particular day, such that it would be uncertain from which farm the steak eaten by Ms Moore originated, even if it could be guaranteed that she ate a steak that had been supplied that day; and

- restaurants have fridges/freezers, such that there is no guarantee that a piece of meat supplied on a particular day will have been served on a particular day. It is no doubt because of realities such as the foregoing that the jurisprudence is clear that an athlete need not trace back the meat they consumed to a particular farm;

(vii) intentional doping can be ruled out given the following evidence:

- a polygraph examination which concluded that the probabilities of Ms Moore lying that she has never intentionally or knowingly used nandrolone were less than 0.1% and 1% respectively;

- a hair analysis which rules out repetitive consumption of nandrolone by Ms Moore (such that any deliberate doping scenario is limited to one-off or occasional doses);

- the expert evidence of Dr Smit, who concluded that such intentional use of one-off or occasional doses of nandrolone would be illogical, useless and unusual; and

- Ms Moore's witness evidence and prior clean anti-doping record.

119. In addition to these arguments already dealt with in her Answer and Cross-Appeal in CAS 2024/10298, the Athlete argues that:

(a) as regard the ITIA's new witness evidence:

(i) Dr Carlos Enrique Rendón is not an independent witness and, on the contrary, his interests are significantly conflicted, as findings by the Panel regarding the use of anabolic steroids in Colombian pig farming could well be detrimental to the organisation (Colombian Association of Pig Farmers) of which he is a director and the industry (CERCAFE, an association of Colombian pig farmers) from which he earns his living. Accordingly, his evidence must be viewed with great caution and should be given little weight (if any). In any case, the substance of Dr Rendón evidence is highly speculative and unspecific;

(ii) Dr Serna Valencia accepts that:

- nandrolone may be a more effective growth promoter than boldenone;

- nandrolone use by pig farmers may explain why nandrolone has been detected in Colombian pork samples by INVIMA; and

- nandrolone is used in Colombian farming.

(iii) Dr Serna Valencia refers to evidence from "*one of my contacts*", without even identifying the individual; moreover, she underplays the issue of cattle smuggling in Colombia;

(b) as regard the consistency of nandrolone result with meat contamination:

(i) the experts for both Ms Moore and the ITIA broadly agree on the approximate nandrolone contamination levels that would have been required in the meat Ms Moore consumed at each meal (considered separately) in order to have caused the Nandrolone Result;

(ii) there is disagreement between the experts as to whether those required contamination levels are consistent with the contamination levels which may be observed in meat in practice. In particular, Ms Moore argues that:

- the *Debruyckere Study* forms the basis for the pharmacokinetic calculations performed by both Dr Austin and Prof. Le Bizec's to estimate the amount of nandrolone that Ms Moore would need to have

consumed during each meal (considered separately). Accordingly, in circumstances where there are very few studies into the levels of nandrolone found in contaminated meat; and the calculations performed by Dr Austin to determine that level for the *Debruyckere Study* samples were standard calculations of a type commonly performed in pharmacokinetic analyses, it is completely appropriate to rely upon the *Debruyckere Study* in the manner that Dr Austin has done. In this regard, it must be borne in mind that Dr Austin is an expert in pharmacokinetics and pharmacology, who can therefore be relied upon to identify when it is appropriate to perform such calculations and to perform them accurately;

- the *Costain Study* is the only study of steroid levels in meat taken from known injection sites. Dr Austin has considered and responded to ITIA's experts' criticisms in his third expert report and, having done so, has confirmed that none of the points raised alter his position regarding the *Costain Study*. Moreover, although the *Costain Study* relates to a different (albeit, similar) steroid to nandrolone, in circumstances where there is no other study of steroid levels at known injection sites, it is clearly appropriate to consider and rely on the results of the *Costain Study*;

- throughout these proceedings, Dr Austin has maintained that "*based on [his] experience of considering excretion studies and their results, when performing pharmacokinetic calculations using pre-existing study data to make predictions, any human study results which fall within approximately an order of magnitude of the theoretical range calculated may be deemed to be consistent with that range (given the variabilities associated with both pharmacokinetic calculations and excretion studies)*". Even if Profs. Ayotte, Saugy and Le Bizec, in their reports, have maintained their disagreement with Dr Austin's position, Dr Austin's evidence must be favoured over that of Profs. Ayotte, Saugy and Le Bizec, given that Dr Austin is an expert in pharmacokinetics (unlike the ITIA's experts) and an independent expert who is providing *pro bono* assistance;

- the "consistency issue" is of relevance when considering the scenario of the consumption of meat obtained neither from or proximal to a Nandrolone injection or implant site. In that scenario, the required meat contamination level (of as little as 1 mg/kg) is approximately one order of magnitude (i.e. approximately ten-times) different to the highest nandrolone concentration reported (in the few scientific studies on the topic) in a meat sample not taken from or proximal to an injection or implant site (being 0.054 mg/kg). Such a difference of approximately one order of magnitude between predictions based on pharmacokinetic calculations (being, here, the 1 mg/kg figure) and study results (being,

here, the 0.054 mg/kg) is, given the variabilities associated with both pharmacokinetic calculations and scientific studies, "*not a big deal*".

V. JURISDICTION OF THE CAS

120. Article R47.1 of the CAS Code provides as follows:

"*An appeal against the decision of a federation, association or sports-related body may be filed with the CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body*."

121. Article 13.2 of the TADP provides as follows:

"*The following decisions may be appealed (…): (…); a decision that an Anti-Doping Rule Violation has been committed; a decision imposing (or not imposing) Consequences for an Anti-Doping Rule Violation (…)*"

122. Article 13.2.1 of the TADP provides as follows:

"*In cases arising from participation in a Covered Event or in cases involving International-Level Players, the decision may be appealed exclusively to CAS*".

123. Article 13.2.3.1 of the TADP provides as follows:

"*In cases under Article 13.2.1, the following parties will have the right to appeal to the CAS:*

(a) the Player or other Person who is the subject of the decision being appealed;

(b) the other party to the case in which the decision was rendered;

(c) the ITIA (on behalf of the ITF);

(d) the NADO(s) of the Player's or other Person's country of residence or countries where the Player or other Person is a national or licence- holder;

(e) the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to (respectively) the Olympic Games or Paralympic Games, including decisions affecting eligibility for (respectively) the Olympic Games or Paralympic Games; and/or

(f) WADA".

124. The Panel notes that it is not disputed by the Parties that (i) the Player is an International-Level Player; (ii) the case arises from her participation in a Covered Event; and (iii) the ITIA and the Player are both parties with a right to appeal to CAS.

125. The Panel also notes that the jurisdiction of the CAS is not contested by the Parties and is confirmed by the signature of the Order of Procedure.

126. It follows that CAS has jurisdiction to adjudicate and decide on the present appeals.

VI. ADMISSIBILITY OF THE APPEALS

127. Article R49 of the CAS Code provides as follows:

"*In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against*."

128. Article 13.8.1.1 of the TADP provides as follows:

"*The deadline for filing an appeal to the CAS will be 21 days from the date of receipt of the reasoned decision in question by the appealing party. Where the appellant is a party other than the ITIA, to be a valid filing under this Article 13.8.1 a copy of the appeal must be filed on the same day with the ITIA*".

129. Article 13.9.4 of the TADP provides as follows:

"*Cross appeals and other subsequent appeals by any respondent named in cases brought to the CAS under this Programme are specifically permitted. Any party with a right to appeal under this Article 13 must file a cross appeal or subsequent appeal at the latest with its answer to the appeal*".

130. The Appealed Decision was issued on 22 December 2023 (and amended on 5 February 2024). The ITIA filed its Statement of Appeal on 12 January 2024, i.e. within the deadline of twenty-one days established by the TADP. On 29 February 2024, the ITIA filed its Appeal Brief, following the Player's agreement to, and the CAS Court Office confirmation of, an extension of the ITIA's deadline. The ITIA's Statement of Appeal also complied with the requirements of Articles R47 and R48 of the CAS Code, including the payment of the CAS Court Office fee. Moreover, the admissibility of the ITIA's appeal is not disputed by the Player.

131. The Player filed her Answer and Statement of Cross-Appeal on 12 June 2024 after being granted several extensions of the deadline. The Statement of Cross-Appeal also complied with the requirements of Articles R47 and R48 of the CAS Code, including the payment of the CAS Court Office fee. The admissibility of the Player's appeal is not disputed by the ITIA.

132. According to the Athlete the Statement of Cross-Appeal was filed "*on a precautionary basis and out of abundance of caution, to avoid any dispute as to what arguments can or cannot be made by Ms Moore's Answer to the ITIA's appeal in CAS 2024/A/10298*".

133. Whether something is necessary or not, is not for the Panel to decide. The Panel's mandate is to decide on legal terms, i.e. whether or not the cross-appeal is admissible and in case it is whether it succeeds on the merits. It is the panel's view that the appeal lodged by ITIA was against the Appealed Decision the subject matter of which was what consequences follow from a single ADRV (constituted of two AAF [nandrolone and boldenone]). By lodging the appeal, ITIA brought the whole matter in dispute (related to the two AAF) before the CAS. Contrary to what the ITIA argues, the finding of the Independent Tribunal in relation to the Nandrolone finding would not have become binding without the Athlete lodging a cross-appeal. Consequently, the Athlete could defend herself raising all the arguments in her Answer. Thus, the cross-appeal is not admissible, because of *lis pendens*. Since the appeal had as a consequence that the whole matter became pending before the CAS, the same matter (in total or in part) could no longer be lodged with the CAS by way of cross-appeal, given that a Party cannot make the identical matter in dispute pending twice.

134. It follows that the appeal lodged by the ITIA is admissible and the cross-appeal filed by Ms Moore is inadmissible.

VII. PRELIMINARY MATTERS

A. […]

135. […].

136. […].

137. […].

138. […].

B. The scope/admissibility of the ITIA's Answer in CAS 2024/A/10589

139. The Athlete argues that the ITIA's Answer should be restricted to responding to the matters raised by the Athlete in her Answer and Cross-Appeal under Chapter C (No valid AAF for nandrolone) and Chapter D (Prejudice). Accordingly, the sections of the ITIA's Answer that the Athlete does not object are Section 3 and Section 4. However, the Athlete notes that Sections 5 and 6 of the ITIA's Answer are entirely dedicated to the issue of whether meat was the source and whether the ADRV was intentional, despite that those issues form part of the Appeal the Athlete was responding to. Moreover, the ITIA has filed 127 new exhibits, the vast majority of which relate to the issue of whether meat was the source of the ADRV. Accordingly, the Athlete has requested the Panel to declare inadmissible, at least, (a) Sections 5 and 6 of the ITIA's Answer, (b) paras. 2.2 to 2.15, 4.13 to 4.13.2.3, 4.15 to 4.15.2.3, 7.4.3, 7.4.4 of the ITIA's Answer, and (c) the ITIA's exhibits DB75 – 81, 84 – 85, 92 – 196, 200 – 201 and the ITIA's authorities AB52, 63, 71-79. Lastly, the Athlete argues that, should any

part of the ITIA's Answer be deemed admissible, the Athlete should be granted a time-limit to file a Reply.

140. By contrast, the ITIA argues that the Athlete's Cross-Appeal raises substantial new arguments that are connected to the validity of the nandrolone ADRV and the alleged prejudice suffered by the Player. Accordingly, the ITIA argues that it is entitled to address anything in the Athlete's Answer and (Cross-)Appeal that goes to her request that the nandrolone ADRV be dismissed either due to prejudice or because no ADRV has been established. Finally, the ITIA disputes the Athlete's suggestion that she would be entitled to file a Reply to the ITIA's Answer.

141. The Panel notes that in their written submissions and during the CMC the Parties discussed the scope/admissibility of the ITIA's Answer in CAS 2024/A/10589 at length and the Athlete's right to file a response. Moreover, during the CMC the Parties shared the opinion that, should the Athlete be granted a time-limit to file a Reply to the ITIA's Answer, any dispute relating to the scope/admissibility of the ITIA's Answer would have been resolved.

142. In light of the above, at the end of the CMC the Panel decided to grant the Athlete a three-week time-limit to file written submissions on the ITIA's Answer in CAS 2024/A/10589. Accordingly, the Panel considers that a decision on the scope/admissibility of the ITIA's Answer is no longer necessary. This is all the more true considering that the Panel prior to closing the written submission phase in Article R56.1 of the CAS Code can always order a second round of written submissions.

VIII. APPLICABLE LAW

143. Article R58 of the CAS Code provides as follows:

144. "*The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.*"

145. Article 1.1.4 of the TADP provides as follows:

> "*This Programme must be interpreted in a manner that is consistent with the Code [i.e. the World Anti-Doping Code] and the International Standards (each as amended from time to time)*".

146. Article 1.1.5 of the TADP provides as follows:

> "*Subject to Article 1.1.4, this Programme is governed by English law*".

147. The Panel notes that the appeal is directed against the decision of the Independent Tribunal of 22 December 2023 which ruled on two ADRVs asserted against the Player under the TADP. The Player did not dispute that she is subject to and bound by the terms of the TADP.

148. Accordingly, as regard the substance, the Panel concludes that the "*applicable regulations*" for the purposes of Article R58 of the CAS Code are those of the 2022 TADP, being the edition in force at the time of the Player's violations, with English law applying subsidiarily. The Panel's conclusion is further supported by the fact that the applicable law is not disputed by the Parties.

149. As to the matters of procedural rules, those of the 2024 TADP and the CAS Code govern the present proceedings. In particular, the Panel notes that Article 1.5.1 of the TADP states that the 2022 TADP "*comes into full force and effect on 1 January 2022*", and the 2022 Prohibited List (reproduced at Appendix Three of the TADP) confirms that it "*shall come into effect on 1 January 2022*". While the 2024 TADP came "*into full force and effect on 1 January 2024 (the 'Effective Date'), replacing the Tennis Anti-Doping Programme that was in force prior to the Effective Date*", Article 1.5.2 of the TADP confirms that it "*does not apply retroactively to matters arising prior to the Effective Date*" but that "[*a]ny case that is pending as of the Effective Date [...] will be governed by the substantive anti- doping rules in effect at the time the alleged Anti-Doping Rule Violation occurred [...] but the procedural aspects of the case will be governed by this [2024] Programme*".

IX. RELEVANT TADP PROVISIONS

150. The following provisions of the TADP are material to the appeal:

(a) Article 2.1.1

"*It is each Player's personal duty to ensure that no Prohibited Substance enters their body. Players are responsible for any Prohibited Substance or any of its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary to demonstrate intent, Fault, Negligence, or knowing Use on the Player's part in order to establish an Article 2.1 Anti- Doping Rule Violation; nor is the Player's lack of intent, Fault, Negligence or knowledge a defence to an assertion that an Article 2.1 Anti-Doping Rule Violation has been committed".*

(b) Article 2.1.2

Sufficient proof of an Anti-Doping Rule Violation under Article 2.1 is established by any of the following: (a) the presence of a Prohibited Substance or its Metabolites or Markers in the Player's A Sample where (…) analysis of the Player's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Player's A Sample (…)".

(c) Article 2.2.1

"*It is each Player's personal duty to ensure that no Prohibited Substance enters their body and that no Prohibited Method is Used. Accordingly, it is not necessary to demonstrate intent, Fault, Negligence, or knowing Use on the Player's part in order to establish an Anti-Doping Rule Violation for Use of a Prohibited Substance or a Prohibited Method under Article 2.2; nor is the Player's lack of intent, Fault, Negligence or knowledge a defence to a charge that an Anti-Doping Rule Violation of Use has been committed under Article 2.2*".

(d) Article 2.2.2

"*It is necessary to demonstrate intent on the Player's part in order to establish an Anti-Doping Rule Violation of Attempted Use*".

(e) Article 3.1.1

"*The ITIA will have the burden of establishing that an Anti- Doping Rule Violation has occurred. The standard of proof will be whether the ITIA has established the commission of the Anti-Doping Rule Violation to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation that is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt.*

(f) Article 3.1.2

"*Where this Programme places the burden of proof on the Player or other Person alleged to have committed an Anti- Doping Rule Violation to rebut a presumption or establish specified facts or circumstances, (,,,) the standard of proof will be by a balance of probability*".

(g) Article 3.2

"*The following rules of proof apply in doping cases:*

3.2.1 Facts related to Anti-Doping Rule Violations may be established by any reliable means, including admissions.

3.2.2 Analytical methods or Decision Limits that have been approved by WADA after consultation within the relevant scientific community or that have been the subject of peer review will be presumed to be scientifically valid. Any Player or other Person seeking to challenge whether the conditions for such presumption have been met or to rebut the presumption must (as a condition precedent to any such challenge) first notify WADA and explain the basis for their position. The hearing panel, on its own initiative, may also inform WADA of any such challenge or attempt to rebut the presumption. Within ten days of WADA's receipt of such notice and the case file related to such challenge, WADA will also have the right to intervene as a party, appear as amicus curiae, or otherwise provide evidence in such proceeding. In cases before CAS, at WADA's request, the CAS panel will appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge.

3.2.3 Compliance with an International Standard (as opposed to an alternative standard, practice or procedure) will be sufficient to conclude that the procedures addressed by the International Standard were performed properly.

3.2.4 WADA-accredited laboratories and other laboratories approved by WADA are presumed to have conducted Sample analysis and custodial procedures in compliance with the ISL. The Player or other Person asserted to have committed an Anti-Doping Rule Violation may rebut this presumption by establishing that a departure from the ISL occurred that could reasonably have caused the Adverse Analytical Finding (or the factual basis for any other Anti-Doping Rule Violation asserted). Where the presumption is rebutted, the ITIA will have the burden of establishing that such departure did not cause the Adverse Analytical Finding (or the factual basis for such other Anti-Doping Rule Violation).

3.2.5 Departures from any other International Standard, or other anti-doping rule or policy set out in the Code or this Programme will not invalidate analytical results or other evidence of an Anti- Doping Rule Violation, and will not constitute a defence to an Anti-Doping Rule Violation; but if the Player or other Person establishes a departure from one of the specific International Standards listed below, and further establishes that that departure could reasonably have caused an Adverse Analytical Finding or Adverse Passport Finding or a Whereabouts Failure based on which an Anti-Doping Rule Violation is asserted, the ITIA will have the burden of establishing that such departure did not cause the Adverse Analytical Finding or the Whereabouts Failure:

3.2.5.1 A departure from the ISTI relating to Sample collection or Sample handling that could reasonably have caused the Adverse Analytical Finding based on which the Anti-Doping Rule Violation is asserted, in which case the ITIA will have the burden to establish that such departure did not cause the Adverse Analytical Finding.

3.2.5.2 A departure from the ISRM or ISTI relating to an Adverse Passport Finding that could reasonably have caused the Adverse Passport Finding based on which an Anti-Doping Rule Violation is asserted, in which case the ITIA will have the burden to establish that such departure did not cause the Adverse Passport Finding.

3.2.5.3 A departure from the ISRM relating to the requirement to provide notice to the Player of the B Sample opening that could reasonably have caused the Adverse Analytical Finding based on which the Anti-Doping Rule Violation is asserted, in which case the ITIA will have the burden to establish that such departure did not cause the Adverse Analytical Finding.

3.2.5.4 A departure from the ISRM relating to Player notification that could reasonably have caused a Whereabouts Failure based on which the Anti-Doping Rule Violation is asserted, in which case the ITIA will have the burden to establish that such departure did not cause the Whereabouts Failure".

(h) Article 10.1.1

"*Except as provided in Article 10.1.2, where a Player is found to have committed an Anti-Doping Rule Violation during or in connection with a Competition in an Event where the Player also participated in other Competitions, any individual results obtained by the Player in the other Competitions in that Event will be Disqualified, with all resulting consequences, including forfeiture of all medals, titles, ranking points and Prize Money*".

(i) Article 10.1.2

"*If the Player establishes that they bear No Fault or Negligence for the Anti-Doping Rule Violation in question, the Player's results obtained in the Competition(s) other than the Competition during or in connection with which the Anti-Doping Rule Violation occurred will not be Disqualified unless the ITIA establishes that the Player's results in the other Competition(s) were likely to have been affected by their Anti-Doping Rule Violation*".

(j) Article 10.2.1

"(…), the period of Ineligibility will be four years:

10.2.1.1 where the Anti-Doping Rule Violation does not involve a Specified Substance or a Specified Method, unless the Player or other Person establishes that the Anti-Doping Rule Violation was not intentional".

(k) Article 10.2.2

"*If Article 10.2.1 does not apply, then (…) the period of Ineligibility will be two years*".

(l) Article 10.2.3

"*As used in Article 10.2, the term 'intentional' is meant to identify those Players or other Persons who engage in conduct that they 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*".

(m) Article 10.5

"*If a Player or other Person establishes in an individual case that they bear No Fault or Negligence for the Anti-Doping Rule Violation, the otherwise applicable period of Ineligibility will be eliminated*".

(n) Appendix One – Definitions

"*No Fault or Negligence. The Player or other Person establishing that they did not know or suspect and could not reasonably have known or suspected even with the exercise of utmost caution, that they had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. Except in the case of a Protected Person or Recreational Athlete, for any violation of Article 2.1 the Player must also establish how the Prohibited Substance entered their system*".

(o) Article 10.10

"*Unless fairness requires otherwise, in addition to the Disqualification of results under Articles 9.1 and 10.1, any other results obtained by the Player in Competitions taking place in the period starting on the date the Sample in question was collected or other Anti-Doping Rule Violation occurred and ending on the commencement of any Provisional Suspension or Ineligibility period, will be Disqualified, with all of the resulting consequences, including forfeiture of any medals, titles, ranking points and Prize Money)*".

X. THE MERITS

151. In its Appeal Brief and Answer, the ITIA basically argues that (i) the nandrolone ADRV has been established in full compliance with the TADP and the relevant WADA technical document; and (ii) the Player has failed to satisfy the burden of proof required to establish that meat contamination is a plausible explanation for her ADRV.

152. By contrast, in her Answer and Cross-Appeal Brief and in her Reply the Player claims that (i) the nandrolone ADRV has not been established in compliance with the TADP and the relevant WADA technical document; (ii) alternatively, the charge based on nandrolone should be dismissed or mitigated by other means on the basis of the prejudice suffered by the Player in the preparation of her defence; and (iii) without prejudice to the above, she has established that the nandrolone ADRV was caused by her consumption of meat contaminated with nandrolone such that she bears no fault or negligence for the ADRV.

153. Then, in view of the Parties requests and submissions (both written and oral), the Panel must determine:

(A) whether the nandrolone ADRV has been established in full compliance with the TADP and the relevant WADA technical documents (the "Nandrolone ADRV");

(B) if so, whether the Player has suffered prejudice in the preparation of her defence and, if so, whether the charge must be dismissed, or the prejudice must be mitigated by other means (the "Prejudice");

(C) whether the Player has established that the nandrolone ADRV was caused by her consumption of meat contaminated with nandrolone such that she bears no fault or negligence for the ADRV (the "Meat contamination scenario");

(D) the sanction, if any, to be imposed on the Player (the "Sanction").

A. The Nandrolone ADRV

154. The ITIA basically argues that, according to the TD2021NA, a laboratory shall report an AAF for 19-NA where the estimated concentration of 19-NA is greater than

15ng/mL, without carrying out any GC-C-IRMS analysis. As the concentration of 19-NA detected in the Player's sample was 105ng/mL (i.e. seven times greater than the 15 ng/mL threshold), the AAF was correctly reported.

155. By contrast, the Player argues that "*IRMS analysis is the only test which can establish whether a nor-steroid is of exogenous origin*". Accordingly, once a GC-C-IRMS analysis is performed which does not establish the nor-steroid as being exogenous, an AAF cannot be reported, notwithstanding the fact that the estimated concentration of 19-NA is greater than 15 ng/mL.

156. Nandrolone is a non-Specified Prohibited Substance listed in section S1.1 (Anabolic Androgenic Steroids) of the 2022 WADA Prohibited List. As low levels of endogenously produced nandrolone can be found in human urine without the administration of a prohibited anabolic androgenic steroid, nandrolone is only prohibited when administered exogenously.

157. That said, the Panel notes that TD2022MRPL sets out the Minimum Reporting Level (MRL) for some non-threshold substances. The MRL for 19-NA and 19-NE is listed as 15 ng/mL. According to footnote (d) "[*t]his MRL corresponds to the concentration above which the finding shall be reported as AAF* ***without the need to conduct GC-C-IRMS analysis***" (emphasis added).

158. TD2021NA has been established to harmonize the Confirmation Procedure ("CP") for the analysis and reporting of findings for 19-norsteroids related to nandrolone by laboratories. According to TD2021NA "*the detection of the Use of nandrolone (19-nortestosterone) and other 19-norsteroids (e.g. 19-norandrostenedione, 19-norandrostenediol) is based primarily upon the identification of the main urinary Metabolite, 19-norandrosterone (19-NA). More than one Metabolite of administered 19-norsteroids may be detected in urine Samples and reported [e.g. 19-noretiocholanolone (19-NE)]; however, the identification of 19-NA, including the demonstration, when required, that the 19-NA is not of endogenous origin, is sufficient to report an Adverse Analytical Finding (AAF)*".

159. According to TD2021NA the CP for the analysis and reporting of findings for 19-norsteroids related to nandrolone by laboratories can be summarized in the following three steps:

(i) identification of nandrolone metabolites according to TD2022IDCR;

(ii) estimation of 19-NA (and if applicable 19-NE) concentration against a single calibration point at 15 ng/mL;

(iii) GC-C-IRMS analysis when the concentration is estimated below 15 ng/mL.

160. As regard the decision to proceed to the GC/C/IRMS analysis, TD2022NA provides as follows:

"*GC/C/IRMS analysis* ***is not necessary on Samples in which the*** *(SG-adjusted, if needed)* ***concentration of 19-NA is estimated above (>) 15 ng/mL*** *(except in cases of pregnancy) (…)*" (emphasis added);

"*GC/C/IRMS analysis is mandatory in cases of pregnancy, when the estimated 19-NA concentration is greater than (>) 15 ng/mL. However, the GC/C/IRMS analysis may also be performed to ascertain the endogenous origin of 19-NA when the estimated concentration of 19-NA in a urine Sample of a pregnant female is between 2.5 and 15 ng/mL*";

"*GC/C/IRMS analysis* ***is mandatory on Samples in which the concentration of 19-NA is estimated between 2.5 ng/mL and 15 ng/mL*** *except in case of pregnancy, or in the presence of THEN* (emphasis added);

"*GC/C/IRMS analysis* ***may be performed on Samples containing 19-NA at estimated concentrations lower than (<) 2.5 ng/mL***" (emphasis added).

161. The Panel considers the wording of TD2021NA to be clear and unambiguous in interpretation to the extent that it states that (i) "*GC/C/IRMS analysis* ***is not necessary on Samples in which the*** *(SG-adjusted, if needed)* ***concentration of 19-NA is estimated above (>) 15 ng/mL*** *(except in cases of pregnancy)" (emphasis added); and (ii) "GC/C/IRMS analysis* ***is mandatory on Samples in which the concentration of 19-NA is estimated between 2.5 ng/mL and 15 ng/mL*** *except in case of pregnancy, or in the presence of THEN*" (emphasis added).

162. This finding is also supported by footnote (d) of the TD2022MRPL which states that *"[t]his MRL [i.e. 15 ng/mL] corresponds to the concentration above which* ***the finding shall be reported as AAF without the need to conduct GC-C-IRMS analysis***" (emphasis added).

163. Accordingly, the Panel finds no real ambiguity in the wording and construction of the relevant provision at issue.

164. That said, the Panel considers all the Player's arguments unfounded.

165. As regard the Player's argument that where a sample has been reported to contain 19-NA at a concentration greater than 15ng/mL, but a GC-C-IRMS analysis has been performed which has not established the nor-steroid as being of exogenous origin no AAF can be reported, is not supported by any evidence, let alone the TD2021NA.

166. In the case at issue, Profs Ayotte and Saugy, who the Panel considers impartial and reliable, have explained that the GC-C-IRMS analysis conducted on the Player's sample "*was not done for the purposes of confirming the AAF since it was not required under the TD2021NA and TD2022MRPL (…). In this case, GC-C-IRMS analysis was conducted on the Athlete's sample solely to provide further insight into the finding of nandrolone and its metabolites. The Montréal laboratory systematically analysis (when technically possible) norsteroids findings in order to characterise the synthetic*

exogenous AAS [Anabolic Androgenic Steroid], which provides useful information in particular to follow up the nature of the prohibited substances available".

167. As regard the *contra proferentem* principle invoked by the Player, the Panel considers it irrelevant in the preset case given that it is the Panel's opinion that there is no real ambiguity in the construction of TD2021NA.

168. As regard the Player's argument that "*endogenous nandrolone has been detected in men and women in concentrations exceeding 15ng/mL*" the Panel notes that such an argument is based on the results of an old and never confirmed study in sharp contrast with the scientific consensus reflected in the TD2021NA.

169. In light of the above, since in the present case it is not disputed between the Parties either that the Player is not pregnant or that the estimated concentration of 19-NA in her sample is 105ng/mL (i.e. greater than 15 ng/mL), the Panel, by majority, considers that the AAF has been correctly and validly established and reported pursuant to TD2021NA.

170. Lastly, the Panel also notes on a subsidiary basis that Article 3.2.1 of the WADC provides that "*Analytical methods or Decision Limits approved by WADA after consultation within the relevant scientific community or which have been the subject of peer review are presumed to be scientifically valid. Any Athlete or other Person seeking to challenge whether the conditions for such presumption have been met or to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify WADA of the challenge and the basis of the challenge*".

171. Accordingly, if the Player had wanted to challenge the scientific validity of the TD2021NA, as a condition precedent to any such challenge, she would have had first notify WADA of the challenge and the basis of the challenge according to Article 3.2.1 of the WADC.

B. The Prejudice

172. The Player argues that acts and omission of the ITIA (and WTA) significantly hindered her ability to investigate the source of the AAF and to defend herself in these proceedings. In particular, the Player alleges that she has been materially prejudiced in her defence and denied access to potentially important exculpatory evidence. Accordingly, she asks the Panel either to automatically dismiss the charges or mitigate her prejudice by alternative means, namely accepting at face value the Player's case as to the source of nandrolone, and/or waiving, or at least lessening, the requirement to prove source as a pre-condition to a fault-based mitigation plea.

173. By contrast, the ITIA claims that (i) it was under no duty to take the steps suggested by the Player; (ii) the Player has suffered no prejudice in preparing her defence; and (iii) even if she had been prejudiced (*quod non*) the Panel should not mitigate that prejudice as requested by the Player.

174. Based on the evidence submitted by the Parties, the Panel notes that at the time of the Copa Colsanitas tournament, there had been only one tennis decision (in the case of Robert Farah) indicating that (i) in Colombia farmers commonly use products containing boldenone to increase the mass of their cattle and accelerate the fattening process; and (ii) meat contamination could produce very low levels of boldenone in an athlete's urine.

175. Moreover, it is not disputed by the Player that, at the time of the relevant facts,

(i) nandrolone has never been found to have been present in any athlete's urine as a result of the consumption of contaminated meat;

(ii) nandrolone was not identified (whether as an AAF or an ATF) in any of the doping control samples provided by the 20 other players who were tested during the Copa Colsanitas tournament, nor in any of the other 157 samples collected at the Copa Colsanitas in the preceding 10 years since 2012.

176. In addition, the ITIA has alleged, without being objected by the Player, that "*in January 2022, following Mr Farah's indication to the ITIA that he was concerned about the potential for contaminated meat in Colombia, the ITIA consulted with WADA, who informed the ITIA that it (and its Contaminants Working Group) was aware of some cases in which athletes had sought to argue that meat contamination was the source of their boldenone AAFs but that WADA was not intending to update its meat contamination stakeholder notice in relation to boldenone*".

177. In light of the above, the Panel does not see how this situation could create any obligation on ITIA (or the WTA) to warn the player against eating meat in Colombia prior to the Copa Colsanitas tournament.

178. The Player also alleges that, "*having discovered that three of the 21 samples collected at the Event contained steroids, the WTA and ITIA ought to have immediately investigated the food supplied at the event and/or requisitioned food samples for analysis*".

179. For the sake of clarity, the Panel first notes that only two athletes (the Player and Ms Gática) returned an AAF at the Copa Colsanitas tournament. By contrast, the "third player" who allegedly tested positive did not do so at all, given that such a third player returned an ATF for boldenone metabolites. As explained by Profs Ayotte and Saugy's report, in the case of that third player, "*[t]he origin of boldenone metabolite could not be determined since the level was too low for the GC-C-IRMS analysis [LOD at 0,5ng/mL] such level, an endogenous origin cannot be ruled out […]. Therefore, the player did not 'test positive' or return an AAF […]*".

180. Moreover, although both the Player and Ms Gática returned AAFs for boldenone at the Copa Colsanitas tournament, the Player's sample also contained 105ng/mL of nandrolone.

181. Accordingly, what the Player describes as a striking coincidence of three samples collected at the Copa Colsanitas tournament containing steroids, are in reality an Atypical Finding ("ATF"), an AAF for boldenone (Ms Gática) and an AAF for boldenone and nandrolone (the Player). Moreover, the Player was the only athlete at the Copa Colsanitas tournament to record an AAF for nandrolone.

182. The Panel also notes that the Player neither disputes the ITIA's argument that "*at no point during the results management process (or indeed since) did Ms Moore request that ITIA: (i) carry out into the possibility that food served at the Event may have been contaminated with boldenone and/or nandrolone; or (ii) provide her with details of relevant persons in order that she could do so herself*"; nor that "*having voluntarily undertaken her own investigations following receipt of the ITIA's Initial Notice of 27 May 2022, and after having requested several extensions of time, on 20 September 2022 Ms Moore set out – for the first time – her position that her two AAFs must have been caused by the consumption of meat whilst in Colombia*".

183. In light of all the above, the Panel is not prepared to conclude that Ms Gática's and the Player's positive urine samples, clearly different in nature, obligated the ITIA to conduct an investigation into "*the food supplied at the Event*", also considering that the Player's meat contamination theory is not based on her consumption of meat exclusively supplied by the tournament itself.

184. Accordingly, the Panel, by majority, concludes that the Player has suffered no prejudice by ITIA when preparing her defence that warrants to dismiss the charges or mitigate her prejudice by alternative means.

C. The Meat Contamination Scenario

185. According to the Player, the nandrolone ADRV was caused by her consumption of meat contaminated with nandrolone whilst at the Copa Colsanitas tournament. Based on the premise that her arguments must not be assessed on the basis of the scientific evidence alone, but also taking into account other factual evidence, logic and common sense to establish the source of nandrolone, the Player relies on the following main arguments;

(a) the Player's burden of proof must be assessed taking into account the "*Beweisnotstand*" principle;

(b) the Player ate Colombian beef and pork before providing the sample;

(c) the restaurants at which the player ate used Colombian beef and pork;

(d) nandrolone and boldenone are commonly and legally used in the Colombian livestock industry;

(e) there is evidence on file of the presence of nandrolone in the meat consumed by the Player and the estimated concentration of 19-NA in the Player's sample (i.e. 105ng/mL) is consistent with a meat contamination scenario.

186. In its Appeal Brief the ITIA argues that, according to a clear and consistent CAS jurisprudence, save in exceptional circumstances, an athlete cannot rebut the presumption of intentional use unless they first prove the source of the substance in their system. Even more so in the present arbitration proceedings where the source of the prohibited substance is put forward by the Player to prove both a lack of intent and no fault or negligence.

187. The ITIA does not dispute either the fact that the Player ate Colombian beef and pork before providing the sample, nor that the restaurants where the Player ate used Colombian beef and pork.

188. The Panel will therefore examine each of the other Athlete's arguments indicated above, i.e.:

(a) the Player's burden of proof taking into account the "*Beweisnotstand*" principle;

(b) nandrolone and boldenone are commonly and legally used in the Colombian livestock industry;

(c) is there evidence on file of the presence of nandrolone in the meat consumed by the Player; and

(d) the estimated concentration of 19-NA in the Player's sample (i.e. 105ng/mL) is consistent with a meat contamination scenario.

(a) The "Beweisnotstand" principle

The Parties' position

189. According to the Player the *Beweisnostand* principle must apply to her case, given that:

(i) the Player has the burden to prove the source of nandrolone, which requires her to prove a negative fact (i.e. that she was not doping);

(ii) the issue of meat contamination in Colombia is well-known and nandrolone is legally used in meat production in Colombia;

(iii) although aware of these circumstances, neither the WTA nor the ITIA warned the Player as to the risk of meat contamination in Colombia;

(iv) it is impossible for the Player to identify the precise piece of meat which caused her positive test;

(v) relevant information which may support the Player's case is in the possession or under the control of the WTA/ITIA;

(vi) the player's life, career and finance have been destroyed by this case and therefore the Player does not have the resources to do more than she already has.

190. Accordingly, the Player argues that the Panel should "*require the ITIA to prove that meat consumed at the Event or elsewhere in Colombia could not have caused the positive test, or else conclude that the positive test was caused by contaminated meat*".

191. By contrast, the ITIA claims that in a case where a party establishes the existence of serious evidentiary problems, the duty imposed on the party not bearing the onus of proofs extends only to cooperate in the investigation and clarification of the facts of the case, but it does not lead to a re-allocation of the risk if a specific fact cannot be established.

The Panel's position

192. The Panel, by majority, notes that in CAS 2011/A/2384 & 2386 the Panel observed that the exceptions to the usual burden of proof "*concern cases in which a party is faced with a serious difficulty in discharging its burden of proof ("état de nécessité en matière de preuve", "Beweisnotstand"). A cause for the latter may be that the relevant information is in the hands or under the control of the contesting party and is not accessible to the party bearing the burden of proof (cf. ATF 117 Ib 197, 208 et seq.). Another reason may be that, by its very nature, the alleged fact cannot be proven by direct means. This is the case whenever a party needs to prove "negative facts"*"".

193. According to the Swiss Federal Tribunal in such cases of "*Beweisnotstand*" principles of procedural fairness demand that the contesting party must substantiate and explain in detail why it deems the facts submitted by the other party to be wrong (ATF 106 II 29, 31 E. 2; ATF 95 II 231, 234; ATF 81 II 50, 54 E. 3; FT 5P.1/2007 E. 3.1; KuKO-ZGB/MARRO, 2012, Art. 8 no. 14; CPC-HALDY, 2011, Art. 55 no. 6).

194. The Swiss federal Tribunal has described in the following manner (ATF 119 II 305, 306 E. 1b) this obligation of the (contesting) party to cooperate in elucidating the facts of the case:

"*Dans une jurisprudence constante, le Tribunal fédéral a précisé que la règle de l'art. 8 CC s'applique en principe également lorsque la preuve porte sur des faits négatifs. Cette exigence est toutefois tempérée par les règles de la bonne foi qui obligent le défendeur à coopérer à la procédure probatoire, notamment en offrant la preuve du contraire (ATF 106 II 31 consid. 2 et les arrêts cités). L'obligation, faite à la partie adverse, de collaborer à l'administration de la preuve, même si elle découle du principe général de la bonne foi (art. 2 CC), est de nature procédurale et est donc exorbitante du droit fédéral – singulièrement de l'art. 8 CC –, car elle ne touche pas au fardeau de la preuve et n'implique nullement un renversement de celui-ci. C'est dans le cadre de l'appréciation des preuves que le juge se prononcera sur le résultat de la collaboration de la partie adverse ou qu'il tirera les conséquences d'un refus de collaborer à l'administration de la preuve*" (free translation: *In consistent case law, the Federal Tribunal has clarified that the rule in Art. 8 CC in principle also applies when the evidence concerns negative facts. However, this requirement is tempered by the rules of good faith, which oblige the defendant to cooperate in the evidentiary procedure, notably by offering counter-evidence (ATF 106 II 31 para. 2 and the decisions cited therein). The obligation imposed on the opposing party to collaborate in the taking of*

evidence, even though it derives from the general principle of good faith (Art. 2 CC), is procedural in nature and therefore goes beyond federal law—specifically Art. 8 CC—because it does not affect the burden of proof and in no way implies a reversal of it. It is in the context of the assessment of evidence that the judge will rule on the outcome of the opposing party's cooperation or will draw the consequences of a refusal to cooperate in the taking of evidence)

195. In its decision the Swiss Federal Tribunal makes it clear that difficulties in proving "negative facts" result in a duty of cooperation of the contesting party. The latter must cooperate in the investigation and clarification of the facts of the case. However, according to the Swiss Federal Tribunal the above difficulties do not lead to a re-allocation of the risk if a specific fact cannot be established. Instead, this risk will always remain with the party having the burden of proof.

196. In the case at hand the Panel can leave open the question whether the evidentiary problems alleged by the player are so exceptional and/or serious within the above meaning. Even if this were true, the Panel finds that the ITIA has discharged its duty of cooperation in establishing the facts and that, therefore, there is no room to apply a different or more lenient standards in favour of the Player in the context of the assessment of the evidence.

197. In particular, the Panel notes that:

(i) on the ITIA's instruction Profs Le Bizec, Ayotte and Saugy have each conducted detailed examinations of the scientific evidence submitted by the Player;

(ii) on the ITIA's instructions experienced veterinary zootechnicians in Colombia have been requested to confirm whether nandrolone is widely used in Colombia as well as other aspects of the situation on the ground in Colombia;

(iii) the ITIA has considered the results of the Montreal laboratory's testing on a selection of Colombian meat to determine whether those samples contained either boldenone or nandrolone and, if so, in amounts sufficient to cause positive anti-doping tests.

(b) Nandrolone and boldenone are commonly and legally used in the Colombian livestock industry

The Parties' position

198. To substantiate her position the Player relied on the following main evidence:

(i) the Martínez Study according to which "*87.5% of commercial sector workers confirmed that Colombian farmers administer steroids to livestock*" and "*nandrolone is one of the most widely used anabolic steroids in Colombian livestock farming*";

(ii) a 2022 INVIMA report according to which "*there is no concentration above which a nandrolone finding in beef will be deemed non-compliant with the applicable regulations*" and "*nandrolone was found in Colombian meet in 2021*";

(iii) the INVIMA annual reports on pork samples according to which the approximate percentage of pork samples containing nandrolone is 5% in relation to year 2019, 0.7% in relation to year 2020 and 3% in relation to year 2012;

(iv) a report by the European Commission according to which boldenone and nandrolone "*are authorised for use as growth promotes in bovines in Colombia*" and "*it is not illegal to place bovine meat containing residues of authorised medicines on the market*";

(v) B.'s statement according to which "*he sells anabolic steroids, including nandrolone, directly to Colombian livestock farmers*" many of whom "*use anabolic products as growth promoter*". Moreover, "*the minimum withdrawal periods imposed by law are often not adhered to*" ;

(vi) A.'s statement according to which "*he has personally administered anabolic products to cattle destined for human consumption*" and "*anabolic steroids, including nandrolone, are widely used in Colombian livestock industry*" In addition, he stated that farmers "*will typically administer the steroids themselves in an indiscriminate manner, in irregular (higher and more frequent) doses than is recommended and without respect for the withdrawal periods for each product*";

(vii) Ms Gina Lorena García Martínez's statement according to which nandrolone is "*purchased very easily without a veterinary prescription, despite being regulated products*". Moreover, the majority of farmers "*are unaware of the minimum withdrawal times for anabolic products*";

(viii) evidence from an online agricultural forum (Engormix) in which the use of anabolic steroids, including nandrolone, for livestock is regularly discussed among Colombian farmers

199. By contrast, the ITIA argues that the Player's assertions in relation to the use of nandrolone in cows and pigs in Colombia are exaggerated and do not fairly present the evidence on which she relies. The ITIA claims, *inter alia*, that:

(i) the INVIMA reports referred to by the Player show that "*the detection of nandrolone in Colombian beef and pork is very rare (detected in only 13 of 2,050 (i.e., less than 1%) meat samples over the course of 5 years, and is not identified as a substance of specific concern to INVIMA*"; moreover, the majority of the reports "*provide no indication as to what type of sample was tested (live or muscle) making it inappropriate to extrapolate and rely on these findings*";

(ii) nandrolone is not identified by INVIMA as a drug of specific concern in Colombian beef;

(iii) the INVIMA reports show that it is extremely rare for residues of nandrolone to be found in Colombian beef as it was identified in less than 0.1% of samples analysed by INVIMA over a five-year period;

(iv) according to Dr Serna Valencia's statement "*boldenone is the most commonly used steroid for cattle in Colombia whereas nandrolone is not so commonly used (if it is used at all*)", given that "*in Colombia nandrolone tends to be about 3.5 times more expensive than boldenone*";

(v) the INVIMA reports on the presence of nandrolone in Colombian pork show that only 1.96% of samples over five years contained nandrolone in extremely low levels;

(vi) according to Dr Rendón's written statement "*in the 20 years that I have spent working in the Colombian pig farming industry; I have never administered nandrolone to any of my pigs, nor I ever known it to be used by other farmers within the industry*";

(vii) even if all the meat that Ms Moore ate for breakfast on 6 April 2022 was contaminated with nandrolone at an average concentration equal to the highest level found in Colombian pork in INVIMA's studies across five years, she would have had to have eaten almost 30 Kgs of pork to produce the 105 ng/mL of 19-NA found in her sample.

The Panel's position

200. Having comprehensively analysed all the evidence presented by the Parties, the Panel, by majority, concludes that, on balance of probabilities, (i) boldenone is the most used steroid in the Colombian livestock industry; and (ii) nandrolone is rarely used in Colombia contrary to what has been alleged by the Player.

201. To support this conclusion, the Panel has duly taken into account the following circumstances and evidence submitted by the Parties:

(a) the Martinez Study, on which the Player bases much of her arguments, is of limited relevance given that: (i) it was drafted more than 10 years ago (i.e. 2 June 2014); (ii) it is a research report of the graduate work of a master's degree in Bioethics; (iii) it refers only to 66 surveys; (iv) of those surveys, only 23 were farmers; (v) out of 23 farmers, only 26% of them said that they use anabolic; (vi) none of the farmers said that they were using nandrolone; (vii) although nandrolone is mentioned by the government and academic institutions, they do not know which anabolic is the most used; (viii) veterinary stores and farmers indicate that the most used anabolic is boldenone uldecylinate followed by betaestradiol.

(b) the Colombian Institute of Agriculture and Fisheries (ICA) lists the veterinary substances registered and available for use in Colombia. Against 59 boldenone preparations available in Colombia, there are only 4 preparations available on the

market containing nandrolone. Moreover, out of the 4 nandrolone preparations available in Colombia, only one (Ganekyl) is actually used.

(c) nandrolone is not identified as a drug of specific concern in Colombian beef in the 2022 INVIMA report referred to by Ms Moore.

(d) the 2022 INVIMA report confirms that nandrolone was found only in 1 of 383 beef samples analysed by INVIMA (i.e. 0,25%).

(e) in general, the INVIMA reports show that is rare for residues of nandrolone to be found in Colombian beef as it was identified in less than 0,1% of samples over a 5-year period (2018 – 2022).

(f) Ms Moore failed to establish a link whether residues of nandrolone can be found in slaughtered cattle. This – primarily – depends on whether or not the withdrawal periods are observed before slaughtering the animal.

(g) Ms Moore did not submit any cogent evidence that farmers would, in principle, not observe the withdrawal periods. In this regard, the Panel observes that non-respect of the withdrawal periods cannot be followed by the statements of A., B. and Mr Martínez. As the ITIA rightly pointed out, an injection of nandrolone (which tends to be about 3.5 times more expensive than boldenone) into an animal shortly before the slaughtering would not make any economic sense. It would have no significant effect on muscle growth of the animal but merely constitute a waste of time and money for the farmers. Furthermore, there is no sufficient evidence that Colombian farmers commonly use higher dosage of nandrolone as recommended.

(h) At the hearing B. confirmed that "*the most sold product is boldenone*", whereas in her written statement Ms García Martínez acknowledged that "*boldenone is the anabolic steroid most commonly used by cattle farmers*" (at least in Villacencio).

(i) There is no direct evidence from Colombian farmers that they use nandrolone, let alone that it is widely and indiscriminately used.

(j) Dr Serna Valencia confirmed that in her view "*nandrolone is a steroid that (…) is only occasionally used in cattle in Colombia*".

(k) At the hearing A. affirmed that "*farmers use boldenone*". "*I do not use nandrolone*". "*I am talking about boldenone*". "*My experience is related to Boldenone*". He also confirmed that if a farmer has a choice between boldenone and nandrolone, "*the farmer is likely to use boldenone because it is much cheaper than nandrolone*". Accordingly, while in his written statement A. affirmed that "*anabolic steroids, including boldenone and nandrolone, are widely used in the Colombian livestock industry*", at the hearing he focused mainly, if not exclusively, on boldenone.

(l) At the hearing B. confirmed that in 2023 he sold about 100 bottles of boldenone of 500 ml each. By contrast, he said that in 2023 he sold only about 60 bottles of nandrolone. But he was not able to say how many of those bottles were of 100 ml or 10 ml. Accordingly, even assuming (*quod non*) that all the 60 bottles of nandrolone were of 100 ml each, the amount of boldenone sold by B. in 2023 is much greater (50.000 ml) than nandrolone (6.000 ml).

202. In light of the above, although the Panel cannot exclude the possibility that nandrolone is used in Colombia, it considers that it is unlikely that nandrolone is widely and indiscriminately used in Colombian livestock industry. Furthermore, the Panel deems it very unlikely that in case nandrolone is being used by farmers that they would not observe the minimum withdrawal time.

(c) There is evidence on file of the presence of nandrolone in the meat consumed by the Player and the estimated concentration of 19-NA in the Player's sample (i.e. 105ng/mL) is consistent with a meat contamination scenario

The Parties' position

203. To substantiate her position the Player relied on the following main evidence and arguments:

(i) F.'s (the principal legal representative of the company which operates the restaurant […]) written statement according to which "*our meat suppliers use boldenone or nandrolone in the breeding and handling processes in beef and pork*" and "*there is a possibility that traces of boldenone or nandrolone may be detected in urine samples … as a result of the consumption of pork and beef products*";

(ii) C.'s (employee at the company which manages the branch […]) written statement according to which he is aware that "*livestock is often treated with boldenone and/or nandrolone by Colombian farmers, to increase the muscle mass of the animals, as it is legal for them to do so*";

(iii) the Player cannot reasonably be required to establish that the precise farms which produced the meat supplied to each of the restaurants in which she ate used nandrolone, given that the traceability of meat in Colombia is problematic owing to widespread corruption and farmers are unlikely to admit to using anabolic products, although legal, as consumers will inevitably be concerned about such practices owing to the public health risks;

(iv) according to two reports from Dr Daren Austin, an independent pharmacokinetic expert, "*the Nandrolone Result could have been caused by Ms Moore consuming meat from an animal which had been treated with Nandrolone prior to slaughter*". In particular, Dr Daren Austin concluded that:

- if slaughter occurred within 14 days of the last Nandrolone injection to the animal and if the meat consumed was obtained from the site of that injection

or a site proximal to the injection site, then the meat consumed during each of the following meals would, considered separately, have caused the nandrolone result: dinner on 4 April 2022, breakfast on 5 April 2022, lunch on 5 April 2022, dinner on 5 April 2022, and breakfast on 6 April 2022;

- if slaughter occurred within 14 days of the last Nandrolone injection to the animal and if the meat consumed was not obtained from the site of that injection or a site proximal to the injection site, then it is pharmacokinetically possible that the beef or ham (alone) consumed during the breakfast on 6 April 2022 could have caused the nandrolone result;

- if the meat was obtained from the implant site, then the meat consumed during each of the following meals would, considered separately, have caused the nandrolone result: lunch on 3 April 2022, lunch on 4 April, dinner on 4 April, breakfast on 5 April, lunch on 5 April, dinner on 5 April, and breakfast on 6 April;

- if the meat was obtained from an animal treated with a subcutaneous nandrolone implant and contained the implant itself, then it is possible that the amount of nandrolone in the meat would have been even greater such as to rule in even earlier meals as being the cause of the nandrolone result;

- if multiple of the meat servings that Ms Moore consumed were contaminated with nandrolone, then the contamination levels required in each meal (to cause the nandrolone result) would be less, such as to potentially rule in earlier meals as being the cause of the nandrolone result.

204. By contrast, the ITIA argues that the Player has provided no evidence from the wholesale market suppliers themselves for the purposes of identifying the farms from which they source their meat or indicated that she has undertaken any such an investigation with those suppliers on her own part. Accordingly, no weight can be attributed to the Player's assertion that it is impossible to identify the farms or even a range of farms from which the meat that she ate in Colombia may have originated. Moreover, as regard F.'s statement (see § 188 (i) above), the ITIA notes that the restaurant […] is the restaurant in which the Player ate on the evening of 31 March 2022, i.e. six days before she provided her sample on 6 April 2022, "*and even Ms Moore's own expert does not consider that this meal could be the source of the 105 ng/mL of 19-NA in her sample*". Lastly, the ITIA relies on two experts' reports (one from Prof. Le Bizec, the other from Profs Ayotte and Saugy) according to which the presence of 105 ng/mL of 19-NA, as well as of 12 ng/mL of nortestorone and 38 ng/mL of 19-NE, in the Player's sample is non compatible with a meat contamination scenario.

205. Moreover, the experts of the Parties broadly agree on the approximate nandrolone contamination levels that would have been required in the meat Ms Moore consumed at each meal in order to have caused the nandrolone result as shown by the following table:

Date	**Meal**	**Approx. time**	**Dr Austin (mg/Kg)**	**Prof. Le Bizec (mg/Kg)**
5/4/2022	Lunch	13:00	17 - 350	43 - 120

5/4/2022	Dinner	19:00	15 - 31	20.7 - 24
6/4/2022	Breakfast	08:45	1 – 2 (only beef was contaminated 1.3 – 3.9 (only ham was contaminated) 3.2 – 6.2 (only bacon was contaminated)	1.40 – 2.19 (only beef was contaminated) 1.87 – 2.92 (only ham contaminated) 4.49 – 7.00 (only bacon was contaminated)

206. By contrast, the Parties' experts dispute as whether those required contamination levels are consistent with the contamination levels which may be observed in meat in practice. In particular, the Parties disagree as to whether:

(A) the *Debruyckere Study* can be relied upon on the basis for pharmacokinetic calculation and/or to provide an indication as to likely nandrolone concentrations in contaminated meat not obtained from an injection site;

(B) the *Costain Study* can be relied upon as an indicator of the likely levels of nandrolone which would be found in meat obtained from the site at which an animal has been injected with nandrolone, or a site proximal to the same;

(C) results that are within an order of magnitude of an estimate based on pharmacokinetic calculations can be considered consistent with that estimate.

(A) The Debruyckere Study

Ms Moore's position

207. Ms Moore's position on the *Debruyckere Study* can be summarised as follows:

(i) the *Debruyckere Study* is the best study for the purposes of assessing the nor-steroid doses the Athlete would need to have consumed during breakfast on 6 April and dinner on 5 April;

(ii) given the limited study data available in relation to oral contamination with nandrolone (in ester form or otherwise) the approach inspired by the *Debruyckere Study* is the most appropriate and reasonable approach to take;

(iii) the excretion rates seen following administration of 50 and 100 µg of nandrolone are 2.5µg/h and 4.7 µg/h. Thus, the ratio between the excretion rates observed is approximately 2:1, i.e. when the nandrolone dose was doubled the excretion rate also approximately doubled. Accordingly, it can be concluded that there is an acceptable level of proportionality in the *Debruyckere Study* results;

(iv) the lack of disclosure of the analytical standards' purity in the *Debruyckere Study* does not mean that those figures were not known to the study's authors. In any event:

- the relevant analytical standards were produced by a reputable company (Steraloids, Wilton, NH) whose analytical standards are regularly deemed suitable for analysis of the type performed in the *Debruyckere Study*; and

- the analytical standards were considered suitable by the study's authors (who presumably would have considered which standards to use in detail).

(v) the *Debruyckere Study* used β-glucuronidase enzymes from *Escherichiacoli* in the preparation of its urine sample (not *Helix pomatia digestive juice*), i.e. the same enzyme used to prepare Ms Moore's sample;

(vi) there are 12 samples analysed (one each) in the *Debruyckere Study*: accordingly, there is sufficient data to identify any variability or outliers that may exist;

(vii) the instrument used in the *Debruyckere Study* was reliable in the ng/mL range. As the sample result in the present proceedings is also in the ng/mL range, the Debruyckere Study is sufficiently sensitive and reliable to be relied upon;

(viii) there is no clear evidence that the *Debruyckere Study* attempted to detect esters, such that their non-detection may be meaningless;

(ix) the ITIA's expert relies on the *Debruyckere Study* in performing his calculations. Accordingly, ITIA expert's report provides support for the utilisation of the *Debruyckere Study.*

ITIA's position

208. By contrast, ITIA argues that:

(i) the *Debruyckere Study* is based on a quantitative method that was not thoroughly validated, given that:

- none of the analytical standards used were suitable for quantitative analysis;

- the urine samples were prepared using *Helix pomatia digestive juice* (that is a mixture of many enzymes) and therefore the concentrations measured cannot be compared to those obtained with a purified enzyme as it was done for the Athlete's sample.

(ii) the samples were analysed only once and none of the essential characteristics of a quantitative analysis were determined and provided. Moreover, the instrument used 30 years ago did not have the sensitivity of modern instruments;

(iii) the conclusions of the *Debruyckere* Study (that found positives in 2 out of the 5 staff members having consumed meat randomly purchased in Ghent) conflicts with the results of a study done in the same period by the Belgium doping control laboratory where 870 persons were tested for nandrolone and clostebol and only 2 bodybuilders tested positive for nandrolone;

(iv) the *Debruyckere Study* did not identify the esters which are contained in injectable preparations;

(v) the *Debruyckere Study* does not mention any concentration of nandrolone in meat. This is a calculation proposed by Dr Austin who, based on a 19-NA urinary concentration, deduced by his pharmacokinetic model what the concentration of nandrolone in meat would have been based on a consumption of 200g. The values indicated by Dr Austin therefore do not come directly from a publication but from a calculation committed only by Dr Austin;

(vi) in any event, from the *Debruyckere Study* the maximum concentration of 94 ng/mL was excreted 4,5 hours after the ingestion of 100 µg of nandrolone, while it was down to 2 ng/mL 18 hours later. The Player's dinner on the night of 5 April was composed of the same 12 dumpligs (240 g of beef): at the maximal average content of 150 ng/g the resulting dose would be 36 µg (21.6 µg to 58.3 µg) which could not be responsible for more that 1 ng/ml of the 105 ng/mL measured in the Athlete's sample provided 16 hours later;

(vii) the maximum value published by the *Haasnoot Study* provides the greatest guarantee as to the analytical aspects and therefore the robustness of the data produced. The latter, 0,0016 mg/Kg, is almost 1000 times lower that the value of 1 mg/Kg that is credible to explain a urinary concentration of 19-NA 105 ng/mL in the Athlete's urine.

(B) The Costain Study

Ms Moore's position

209. Ms Moore argues that:

(i) No study has reported nandrolone levels in meat samples taken from the site at which the animal was injected with nor-steroids, or a site proximal to that,

(ii) however, the *Costain Study* has reported the concentration of testosterone (another steroid) in approximately 300 g meat samples taken from the sites at which (live) calves had been injected with exogenous testosterone and the reported concentrations were between 0.2 – 2.8 mg/Kg. As nandrolone is a testosterone derivate and thus has a very similar structure to testosterone, it is reasonable to assume that the concentration of nandrolone at a nandrolone injection site will be similar to the concentrations reported in the *Costain Study*. Moreover, although it is correct that nandrolone phenylpropionate is a long-chain ester which is more comparable in length to boldenone undecylenate than testosterone propionate, long-chain esters are likely to remain in meat samples/injection sites at higher concentrations for longer than shorter-chain esters. Accordingly, using the Costin Study as a reference point could not lead to an overestimation of the potential nandrolone levels in meat, instead it could only lead to an underestimation;

(iii) therefore, if the meat consumed by Ms Moore was obtained from a site at which the animal was injected with nandrolone, or a site proximal to that, one would expect the meat to contain approximately 0.2 – 28 mg of nandrolone per kilogram of meat;

(iv) although it is correct that the sole presence of testosterone is insufficient evidence that the animal was treated with the steroid, it is not plausible that testosterone concentrations in meat as high as 28mg/Kg can be attributed solely to endogenous testosterone production. It follows that the relevant meat samples must have been obtained from animals treated with exogenous testosterone, as recognised by the *Costain Study* which distinguished those elevated testosterone concentrations from significantly lower concentrations which it considered represented endogenous testosterone only;

(v) the samples used in the *Costain Study* were meat samples from steroid injection sites as identified by a butcher. Thus, they are steroid contamination levels which were found in meat in practice.

ITIA's position

210. By contrast, ITIA argues that:

(i) The primary objective of the *Costain Study* was to develop an analytical method for the detection and identification of steroid residues in injection sites and to evaluate its performance, particularly in relation to the European Decision 2002/657. By contrast, at no point in their paper the authors stated an ambition to generate data on steroid concentration in the vicinity of a muscle injection site;

(ii) the *Costain Study* was not a controlled study, nor did it provide details of the dose and mode of administration of testosterone propionate, nor in relation to the time that elapsed between the administration of the substance and the slaughter of the animal.

(C) Results that are within an order of magnitude of an estimate based on pharmacokinetic calculations can be considered consistent with that estimate.

Ms Moore's position

211. Ms Moore argues that, based on excretion studies and their results, when performing pharmacokinetic calculations using pre-existing study data to make predictions, any human study results which fall within proximately an order of magnitude of the theoretical range calculated may be deemed to be consistent with that range, given the variabilities associated with both pharmacokinetic calculations and excretion studies.

212. Moreover, Ms Moore's expert (i.e. Dr Austin) is an independent expert on pharmacokinetics unlike ITIA's experts.

ITIA's position

213. According to ITIA, Dr Austin's conclusion that the Athlete's AAF for nandrolone could have been caused by her consuming contaminated meat containing approximately 120 µg of nandrolone at breakfast on 6 April 2022 does not take into account that this concentration is approximately ten times higher than 12 µg, i.e. the dose that would have been consumed had the pork or beef been contaminated at the concentration measured in the most boldenone-contaminated meat sample tested in the Montreal laboratory Study in 2022/2023.

214. Moreover, the concentration of 19-NA (and of nandrolone and its other metabolite 19-NE) in the Athlete's sample is not an estimate but was quantified accurately. Accordingly, any arguments about orders of magnitude are not applicable to this finding.

The Panel's position

215. There are two main points for the Panel to consider when dealing with the source of the prohibited substance; on one hand, the Panel has to decide whether to accept as more likely than not the explanation advanced by the Player that the presence of nandrolone in her system was caused by some contaminated meat she ate during the Copa Colsanitas tournament; on the other hand, the Panel has to decide whether to accept that this was the reason why her urine sample collected on 6 April 2022 contained 19-NA at a concentration of 105 ng/mL.

216. The Panel, by majority, notes that it is, in theory possible – but very unlikely – for it to accept the first point. However, the Panel rejects on a balance of probabilities the second point, i.e. that the consumption of contaminated meat caused the analytical finding. However, the Panel notes that the Player must establish the origin of the concentration of 19-NA in her system so that what might otherwise be an apparently plausible explanation of origin could be fatally undermined by scientific evidence. The above-mentioned two points are therefore intertwined, not independent (CAS 2017/A/5296, para. 34).

217. The Panel notes that the Player has failed to establish, on balance of probabilities, that the meat she ate was contaminated with nandrolone. In addition to what already observed in respect of the use of nandrolone in Colombian livestock industry (see paras. 200 ff above), the Panel has duly taken into account the following circumstances:

(a) The Player's sample did not test positive only for boldenone, but also for nandrolone at a very high concentration (105 ng/mL). This requires either that one serving of meat was contaminated by two substances, or that two (or more) separate servings of meat were contaminated by two separate substances in the same period of time. Although theoretically possible, this scenario appears to the Panel entirely unprecedented.

(b) In the absence of data on nandrolone residues in meat following its administration in animals, the Panel considers appropriate and reasonable to rely on the results from the Montreal laboratory's testing of meat samples collected in Colombia for boldenone residues primarily.

(c) According to WADA' statistics, not disputed by the Player, nandrolone is one of the top 5 steroids most frequently reported by WADA accredited laboratories for years. However, as regard samples collected in Colombia, the Player's sample is the only one of 1512 tested by the Montreal laboratory since 2015 which has been found to contain nandrolone metabolites.

(d) The Panel considers highly unlikely that the meat the Player ate was taken from the site of a nandrolone implant or that it contained the implant itself, given that: (i) there are no veterinary preparations for livestock approved in Colombia that combine together boldenone and nandrolone as active ingredients; (ii) there is no mention of veterinary preparations for nandrolone in the form of implants in Colombia; (iii) all 4 preparations based on nandrolone available in Colombia are oily solutions intended for deep intramuscular or subcutaneous injections. Accordingly, the likelihood of the Player having consumed a piece of meat containing an implant which itself contained residual traces of nandrolone is virtually nil.

(e) The Panel also considers very unlikely that the meat the Player ate contained the injection site or part of it. As the ITIA correctly pointed out, meat inspection at the slaughterhouse eliminates some traces of injections, which can lead to haematomas or even necrosis at the injection site, detectable by veterinary services and therefore eliminable from the carcass. Moreover, even assuming (*quod non*) that withdrawal periods are not followed in Colombia, the Panel has already observed that the use of nandrolone in Colombia is even rarer than the use of boldenone. Lastly, even in a scenario where all or part of the injection site remained in meat destined for mincing, the concentration of nandrolone in the final mince product would be significantly diluted since the injection site would be minced together with all the other meat from the same animal. By contrast, the concentration of nandrolone found the Player's sample is very high (105 ng/mL).

(f) With regard to the hypothesis that the Player ate meat taken from a location other than the injection site, the Panel notes that both Parties consider it possible that a concentration of 1 mg/Kg if consumed produces a urinary concentration of 19-NA of 105 ng/mL. That said, the Panel notes that according to the Parties' calculations, all the predicted concentrations are all higher than 1 mg/Kg which is 1000 times greater than the residual concentration of a steroid that one would expect to find in meat taken from a location other than the injection site which would be typically in the range of ng/g, i.e. a small fraction of a mg/kg. Furthermore, the Panel notes that the highest value reported in scientific studies relied on by the Player is 0,054 ng/kg.

(g) F. did not testify at the hearing; therefore, and absent any possibility to cross-examine or question the witness, the Panel did not consider his written statement previously submitted.

(h) C.'s evidence is not very reliable, given that at the hearing he said that his meat suppliers ([…] and […]) "*purchase [the meat] from the farmers directly*". This circumstance, however, is in sharp contrast with E.'s evidence, the owner of […]

(i.e. one of the […] restaurant's meat suppliers) who affirmed that "*we buy from various markets in Bogotà, Santander, and Tolima*" (written statement) and "*we buy from the slaughterhouses*" (hearing). In other words, E. never confirmed that "*they purchase [meat] from the farmers directly*" as stated by C. Furthermore, while at the beginning of his testimony C. stated that during his investigation, he had not been told the name of the alleged contaminant, he later, rather surprisingly, stated that he had been told that the alleged contaminant was nandrolone.

218. In conclusion, the Panel notes that the meat contamination scenario relied on by the Player is based on the following cumulative circumstances:

(i) the Player ate meat;

(ii) the meat was treated with nandrolone;

(iii) there were residues of nandrolone in the livestock when slaughtered;

(iv) the Player consumed meat taken from the part of the animal contaminated with nandrolone;

(v) from a pharmacokinetic aspect, the result of the Player's urine sample can be explained by consumption of contaminated meat.

219. As already explained (see para. 216 above), while the Panel accept that the Player ate meat during the Copa Colsanitas tournament in Bogotà, the actual and cumulative occurrence of all other circumstances relied on by the Player, although theoretically possible, does not appear, on balance of probabilities, more likely than not.

220. Moreover, the Panel notes that the Parties' experts come to opposing conclusions as to the consistency of the concentration of nandrolone found in the Player's sample with the meat contamination scenario.

221. That said, the Panel needs do no more than determine whether, through expert testimony adduced on her behalf, the Player has succeeded in proving, on balance of probabilities, that the concentration of nandrolone in her sample is consistent with the ingestion of contaminated meat. The Panel does not find Dr Austin's view more convincing than that of Profs. Ayotte, Saugy and Le Bizec. That being so, Dr Austin's testimony does not enable the Player to discharge the burden of proving that the contaminated meat she ate is the cause of the presence of nandrolone in her system, which lies upon her.

222. In light of the above, it is the Panel's opinion that the Player has not established, on balance of probabilities, that the meat contamination scenario is more likely than not.

D. The Sanction

223. Article 10.2.1 of the TADP provides that "*the period of Ineligibility will be four years*" in cases "*where the Anti-Doping Rule Violation does not involve a Specified Substance or a Specified Method, unless the Player or other Person establishes that the Anti-*

Doping Rule Violation was not intentional". By contrast, "*[i]f Article 10.2.1 does not apply, then (...) the period of Ineligibility will be two years*" (Article 10.2.2 of the TADP).

224. According to Article 10.2.3 of the TADP, "*as used in Article 10.2, the term 'intentional' is meant to identify those Players or other Persons who engage in conduct that they 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*".

225. Moreover, pursuant to Article 10.5 of the TADP "*[l]f a Player or other Person establishes in an individual case that they bear No Fault or Negligence for the Anti-Doping Rule Violation, the otherwise applicable period of Ineligibility will be eliminated*". According to Appendix One of the TADP, the "*No Fault or Negligence*" test is satisfied where "*[t]he Player or other Person establishing that they did not know or suspect and could not reasonably have known or suspected even with the exercise of utmost caution, that they had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. Except in the case of a Protected Person or Recreational Athlete, for any violation of Article 2.1* ***the Player must also establish how the Prohibited Substance entered their system***" (emphasis added).

226. That being so, the Panel notes that Player has requested to confirm that she bears no fault or negligence in respect of the nandrolone ADRV and thereby dismiss the ITIA' appeal with no sanction to be imposed on her. However, the conclusion reached by the Panel as to the meat contamination scenario (see para. 222 above) rules out any possibility for the Panel to conclude that the Player bears no fault or negligence.

227. On the other hand, the ITIA has requested to sanction the Player with a period of ineligibility of four years on the premise that she has failed to establish that the nandrolone ADRV was non-intentional; alternatively, to impose such other sanctions as the CAS Panel considers appropriate.

228. As a result of the ITIA's alternative submission, it is the Panel's opinion that it must decide whether in the case at hand the Player has established that the nandrolone ADRV was non-intentional, i.e. whether the Player did not engage in conduct that she knew constituted an ADRV or knew that there was a significant risk that the conduct might constitute or result in an ADRV and manifestly disregarded that risk.

229. The Panel endorses the CAS jurisprudence (CAS 2016/A/4534; CAS 2016/A/4676; CAS 2016/A/4919), which found that establishing the source of the prohibited substance in an athlete's sample is not mandated in order to prove an absence of intent. In particular, this Panel is impressed by the fact that the provisions of the TADP concerning "intent" do not mandatorily require to establish source, in direct contrast to the definition of "*No Fault or Negligence*", which expressly and specifically require to establish source.

230. The Panel, indeed, observes that it could be *de facto* difficult for an athlete to establish lack of intent to commit an anti-doping rule violation demonstrated by presence of a prohibited substance in his/her sample if he/she cannot even establish the source of such substance: proof of source would be an important, even critical, first step in any exculpation of intent, because intent, or its lack, are more easily demonstrated and/or verified with respect to an identified "route of ingestion". However, the Panel can envisage the possibility that it could be persuaded by other evidence, in particular reliable analytical evidence (e.g. samples collected shortly prior to the AAF, the presence of certain metabolites, etc.) that an athlete did not act intentionally. These situations are rare and have been described in CAS jurisprudence as the narrowest of corridors through which an athlete must pass to discharge the burden that he or she did not act intentionally (CAS 2017/A/5016 & 2017/A/5036).

231. The foregoing, in fact, does not mean that the Athlete can simply plead her lack of intent not corroborated by reliable evidence, to prove, by a balance of probability, that she did not engage in a conduct which she knew constituted an ADRV or knew that there was a significant risk that said conduct might constitute or result in an ADRV and manifestly disregarded that risk. The Panel repeats that the Athlete, even though not required to prove the source of the prohibited substance in the context of Article 10.2.1.1 TADP, has to prove, based on objective evidence, that specific circumstances exist that she did not intent to dope.

232. In this context, therefore, it is this Panel's opinion that, in order to disprove intent, an athlete may not merely speculate as to the possible existence of a number of conceivable explanations for the AAF (such as sabotage, manipulation, contamination, pollution, accidental use, etc.) and then further speculate as to which appears the most likely of those possibilities to conclude that such possibility excludes intent. There is in fact a wealth of CAS jurisprudence stating that a protestation of innocence, the lack of sporting incentive to dope, or mere speculation by an athlete as to what may have happened does not satisfy the required standard of proof (balance of probability) and that the mere allegation of a possible occurrence of a fact cannot amount to a demonstration that that fact did actually occur (CAS 2010/A/2268; CAS 2014/A/3820): unverified hypotheses are not sufficient (CAS 99/A/234-235). Instead, the CAS has been clear that an athlete has a stringent requirement to offer persuasive evidence that the explanation he offers for an AAF is more likely than not to be correct, by providing specific, objective and persuasive evidence of his submissions. In short, the Panel cannot base its decision on some speculative guess uncorroborated in any manner (CAS 2017/A/5016 & 2017/A/5036).

233. With this in mind, the Panel will assess whether the Player has proven such a lack of intent to the required standard of proof.

234. As already observed, the Athlete has submitted an explanation as to why the ADRV she has been charged with can only be found to be not intentional. She has explained that the prohibited substance must have entered her body due to consumption of contaminated meat that she ate during the Copa Colsanitas tournament. She has not brought forward any alternative explanation.

235. In particular, Ms Moore has expressly submitted that the nandrolone result cannot have been caused by consuming a contaminated medication or supplement, given that none of the products used by Ms Moore in the two weeks prior to sample collections contained nandrolone. These products were analysed by Prof. Kintz for the presence of nandrolone and 19-norsteroids and Prof. Kintz concluded that none of the products at issue contained nandrolone or 19-norsteroids.

236. The Athlete also argued that (i) her assertion that she has never intentionally or knowingly used nandrolone is confirmed by the results of a polygraph test; (ii) Ms Moore's hair analysis is inconsistent with repetitive consumption of nandrolone; (iii) it would be illogical – in fact useless – and unusual for a female athlete to use either a single dose or occasional doses of nandrolone for performance enhancing purposes; and (iv) Ms Moore has a prior clean anti-doping record.

237. By contrast, ITIA submitted that (i) polygraph tests have limited utility and should therefore be given limited, if any, weight; (ii) the absence of signals detected in the Athlete's hair leads only to the conclusion that she did not repeatedly administer nandrolone at a concentration detectable in her hair sample, but these results say nothing about occasional use of nandrolone and/or use in microdoses; (iii) nandrolone can be used for a range of purposes, gaining and/or maintaining muscle mass, to speed up heeling and recovery. Moreover, athletes may wish to use nandrolone in this way, including by way of single or occasional doses, including in lower doses to avoid testing positive; (iv) the Athlete's prior clean doping record does not demonstrate that she did not commit an ADRV on this occasion.

238. It is disputed whether polygraph tests are admissible. The SFT so far has assessed this question only in light of criminal proceedings and considered polygraph test to be inadmissible or mere statements (see e.g. SFT 6B_663/2011 para 1.3; SFT 6B_708/2009 para 1.6; SFT 109 Ia 273 para 7; CAS 1999/A/246, para 9; CAS 1996/A/157, para. 14; CAS OG 00/006, para 40d; CAS 2008/A/1515, para 119; CAS 2017/A/4954; CAS 2017/A/5954). Whether such jurisprudence can be transposed to displinary proceedings before an arbitral tribunal, appears unresolved. This is all the more true considering that Article 3.2 TADP provides that facts "*related to anti-doping rule violations may be established by any reliable means*". However, in the case at hand, where the Player cannot establish the source of the Prohibited Substance, the probative probative value of the polygraph test is very limited (cf. more generally CAS 2011/A/2384 & 2386; CAS 2019/A/6313).

239. Moreover, as ITIA pointed out, Ms Moore was asked only two questions that were extremely narrow in scope, i.e. (i) have you ever deliberately or intentionally ingested either boldenone or nandrolone in any form? and (ii) have you at any time knowingly taken either boldenone or nandrolone in any form?

240. Consequently, the Panel, by majority, concludes that the polygraph expert's written report (if indeed it is admissible as evidence) has very limited evidentiary value, if any, and does not assist in the resolution of the issues in this case insofar as they relate to issues other than the Athlete's intentional use of the prohibited substance.

241. As regard the hair analysis, the Panel notes that, while Prof. Kintz's expertise and reliability is not disputed, the absence of signals detected in the Player's hair leads only to the conclusion that she did not repeatedly administer nandrolone at a concentration detectable in her hair sample, but these results say nothing about occasional use of nandrolone and/or use in microdoses.

242. Moreover, at the hearing Prof. Kintz, while confirming that the results of the analysis conducted on the Player's hair "*are inconsistent with repetitive consumption of boldenone or nandrolone*", also admitted that there is no "*exact definition of repetitive consumption*" and that he does not know "*the minimum dose of nandrolone that has to be ingested by an athlete to get a positive detection in hair*", given that "*this has never been established in the literature*". Prof. Kintz also confirmed that a negative hair test does not exclude the administration of either a "single dose" of nandrolone, or multiple doses (e.g., two, three, or four). Accordingly, given the time lapse between the previous anti-doping test (i.e. 15 September 2021) and the AAF (i.e. 6 April 2022), it is the Panel's opinion that the Player cannot rely on the hair analysis to exclude, on balance of probabilities, the administration of multiple doses of nandrolone.

243. That said, moving on to the "dopey doper" scenario, the Panel notes that, while Dr Smit argues that it would be illogical for any female athlete to use either a single dose or occasional doses of nandrolone for performance enhancing purposes, she did not dispute Profs Ayotte and Saugy's argument that it is impossible for anyone to opine on the reasons that an athlete may have used a prohibited substance in the way that he or she did. Moreover, in her report of 16 December 2024, Dr Smit admitted that her position is not that no female athlete would ever deliberately use nandrolone and that she does not know the details of the cases referred to by the ITIA in its Answer because they "*have not been provided*". In this regard, however, the Panel notes that such cases are present in the case file and could have been easily examined by Dr. Smit, eventually liaising with Ms Moore's counsels.

244. We are left with Ms Moore's assertions and prior clean anti-doping record.

245. The Panel wishes to acknowledge the dignity and grace displayed by Ms Moore during the hearing. However, protestations of innocence, as has been noted by many CAS panel, are the common currency of the guilty and innocent, not just in anti-doping cases but also in other areas of society where wrongdoing is alleged against an individual: "*Even in such cases [where intent can be demonstrated without establishing the origin], it is clear that the athlete cannot rely on simple protestations of innocence or mere speculation as to what must have happened but must instead adduce concrete and persuasive evidence establishing, on a balance of probabilities, a lack of intent*" (see for example, CAS 2017/A/5369; CAS 2016/A/4919; CAS 2016/A/4676; CAS 2017/A/5335).

246. If arbitral panels were to decide the question of intention based on their subjective appreciation of an athlete's, and an athlete's entourage's, simple declarations of non-culpability alone – as opposed to some additional reference to some form of concrete and specific corroborating evidence – the proverbial floodgates would open for tribunals around the world to render inconsistent decisions based on the lowest form of evidence.

This would surely risk undermining the core principles of the WADA Code and the fight against doping, in particular harmonization of sanctions, in a manner that would be unfair to all athletes' ability to compete on a level playing field.

247. Similarly, the same principle applies to a "*lack of a demonstrable sporting incentive to dope, diligent attempts to discover the origin of the prohibited substance or the athlete's clean record*" by themselves, which bases have also been consistently rejected as justifications for a plea of lack of intention (See CAS 2017/O/5218, para. 166; CAS 2018/A/5584, para. 139; CAS 2019/A/6213, para. 65).

248. In light of the above, having considered all the arguments and evidence submitted by the Parties, the Panel concludes the Athlete has failed to offer specific, persuasive and objective evidence to establish that the ADRV was not intentional.

249. Accordingly, pursuant to Article 10.2.1 of the TADP, the applicable sanction is 4 years of ineligibility.

250. Having established that the Athlete must be sanctioned with a 4-year period of ineligibility, the Panel must deal with the following further issues:

(i) the starting date (*dies a quo*) of said ineligibility period;

(ii) the disqualification of the Athlete's results.

251. In respect of the starting date of the 4-year period of ineligibility, the ITIA argues that as per Article 10.13 of the TADP "*the period of ineligibility will start on the date of the final decision providing for ineligibility*". Moreover, the ITIA notes that the Player was provisionally suspended by the ITIA with effect from 27 May 2022, and the provisional suspension remained in place until the date of the Independent Tribunal's original decision on 22 December 2023 (i.e. 1 year, 6 months and 24 days). Therefore, according to Article 10.13.2 of the TADP, the Player is entitled to credit her provisional suspension already served against the 4-year period of ineligibility.

252. Article 10.13 of the TADP states in its pertinent part as follows:

"*(…) the period of ineligibility shall start on the date of the final decision providing for Ineligibility or (if the hearing is waived or there is no hearing) on the date Ineligibility is accepted or otherwise imposed (…)*".

253. Article 10.13.2.1 of the TADP states in the pertinent part as follows:

"*Any period of Provisional Suspension (whether imposed or voluntarily accepted) that has been respected by the Player or other Person will be credited against the total period of Ineligibility. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Player or other Person shall receive a credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal*".

254. The Panel notes that Article 10.13 of the TADP raises a question concerning the

identification of the "*hearing decision*" the date of which is the starting date of the ineligibility period: more particularly, the question is whether such "*hearing decision*" is the one adopted by the Appealed Decision or the present CAS decision.

255. In coming to its conclusion, the Panel relies on Article R57 of the CAS Code. As stated in CAS 2011/A/2515, "*under this provision, in fact, the CAS Panel has the power to issue a new decision that replaces the decision challenged: such power was indeed declared by the Swiss Federal Tribunal (in a judgment of 3 January 2011, 4A_386/2010, at § 5.3.4) to be consistent with the mission of arbitral jurisdiction exercised by the CAS. As a result, in the event the CAS award imposes a sanction to an athlete that had not been found responsible on an anti-doping rule violation, the ineligibility would be imposed only by CAS: therefore (…), the date of the CAS award would be the starting moment of the ineligibility (…). Conversely, the date of the decision of the disciplinary body is the starting date of the ineligibility in the event the CAS decision does not replace, but entirely confirms, the sanction imposed by the disciplinary body: in such event, ineligibility finds its foundation only in, and is therefore imposed only by, the lower-level decision*" (para 82).

256. In light of the above, the Panel concludes that the starting date of the Athlete's ineligibility is the date of the present CAS decision. Of course, the period of provisional suspension already served by the Player (i.e. 1 year, 6 months and 24 days) must be credited against said 4-year period of ineligibility.

257. Article 9.1 of the TADP states that "*[a]n Anti-Doping Rule Violation committed by a Player in connection with or arising out of an In-Competition test automatically leads to Disqualification of the results obtained by the Player in the Competition in question, with all resulting consequences, including forfeiture of any medals, titles, ranking points and Prize Money obtained by the Player in that Competition*".

258. Article 10.1 of the TADP states that "*Except as provided in Article 10.1.2, where a Player is found to have committed an Anti-Doping Rule Violation during or in connection with a Competition in an Event where the Player also participated in other Competitions, any individual results obtained by the Player in the other Competitions in that Event will be Disqualified, with all resulting consequences, including forfeiture of all medals, titles, ranking points and Prize Money*".

259. Lastly, Article 10.10 of the TADP provides that "*Unless fairness requires otherwise, in addition to the Disqualification of results under Articles 9.1 and 10.1, any other results obtained by the Player in Competitions taking place in the period starting on the date the Sample in question was collected or other Anti-Doping Rule Violation occurred and ending on the commencement of any Provisional Suspension or Ineligibility period, will be Disqualified, with all of the resulting consequences, including forfeiture of any medals, titles, ranking points and Prize Money)*".

260. The Panel notes that the Player has filed no submission concerning the disqualification of results, whereas the ITIA has requested the Panel to disqualify (a) the Player's results achieved in the doubles competition at the Copa Colsanitas tournament; and (b) the Player's results obtained in the period from after the Copa Colsanitas tournament until

the present CAS decision, given that the Player has not established that fairness requires otherwise. In each case, with all resulting consequences, including forfeiture of any medals, titles, ranking points and prize money

261. Failing any submission as to any element of fairness that would require otherwise under Article 10.10 of the TADP, the Panel confirms the disqualification of (a) the Player's results achieved in the doubles competition at the Copa Colsanitas tournament; and (b) the Player's results obtained in the period from after the Copa Colsanitas tournament until the present CAS decision. In each case, with all resulting consequences, including forfeiture of any medals, titles, ranking points and prize money

XI. COSTS

(…)

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ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The appeal filed by the International Tennis Integrity Agency on 12 January 2024 with respect to the decision rendered by the Independent Tribunal dated 22 December 2023 is upheld.

2. The appeal filed by Ms Tara More on 11 June 2024 with respect to the decision rendered by the Independent Tribunal dated 22 December 2023 is inadmissible.

3. The decision rendered by the Independent Tribunal dated 22 December 2023 is set aside.

4. Ms Tara Moore is found to have committed an Anti-Doping Rule Violation under Articles 2.1 and 2.2 of the Tennis Anti-Doping Program.

5. Ms Tara Moore is sanctioned with a 4-year period of ineligibility.

6. The period of ineligibility starts on the date of the present Award with credit to be applied for any period of ineligibility served by way of provisional suspension.

7. Ms Tara Moore's results achieved in the doubles competition at the Copa Colsanitas tournament as well as the results obtained in the period from after the Copa Colsanitas tournament until the present Award, with all resulting consequences, including forfeiture of any medals, titles, ranking points and prize money

8. (…).

9. (…).

All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 15 July 2025

THE COURT OF ARBITRATION FOR SPORT

Prof. Stefano Bastianon
President of the Panel

Prof. Ulrich Haas
Arbitrator

Mr Jeffrey Benz
Arbitrator