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Implementation of Articles 8 and 10 of the International Convention against Doping in Sport

SUMMARY

Background:

The analysis of Articles 8 and 10 remain at the core of the fight against-doping in sport and their normative values are instrumental to determine the scope of the implementation of these important provisions of the Convention regarding the requirement for the adoption by States Parties of measures to restrict the availability and use of prohibited substances and methods in sport, as well as needed increasing efforts to address the challenges of nutritional supplement.

This information document provides detailed analysis of the data resulting from the anti-doping logic questionnaire in relation respectively to Articles 8 and 10.

The Conference of Parties may wish to emphasize that particular efforts are still required by States Parties for the improvement of measures and coordination in response to the concerns raised regarding Articles 8 and 10.

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Introduction

1. States Parties to the International Convention against Doping in Sport aim to pay particular attention to the availability, manufacturing and distribution of controlled substances so as to avoid the use of doping in sports. Articles 8 and 10 work in tandem to achieve this goal, focusing respectively on prohibited substances and methods and on nutritional and dietary supplements.
2. The use of nutritional and dietary supplements is of particular concern for athletes and their trainers in many countries. Manufacturing, distribution and labelling of these supplements do not always follow international guidelines and may include substances prohibited by the anti-doping Convention. Article 10 encourages States Parties to establish best practices in the marketing and distribution of nutritional supplements to prevent the misuse of prohibited substances.
3. This analysis of Articles 8 and 10 of the Convention takes into consideration the responses submitted by 116 States Parties using ADLogic.¹ The list of States Parties and their regional groupings are listed in Annex 1.

Article 8: Prohibited Substances and Methods

Article 8: Restricting the availability and use in sport of prohibited substances and methods

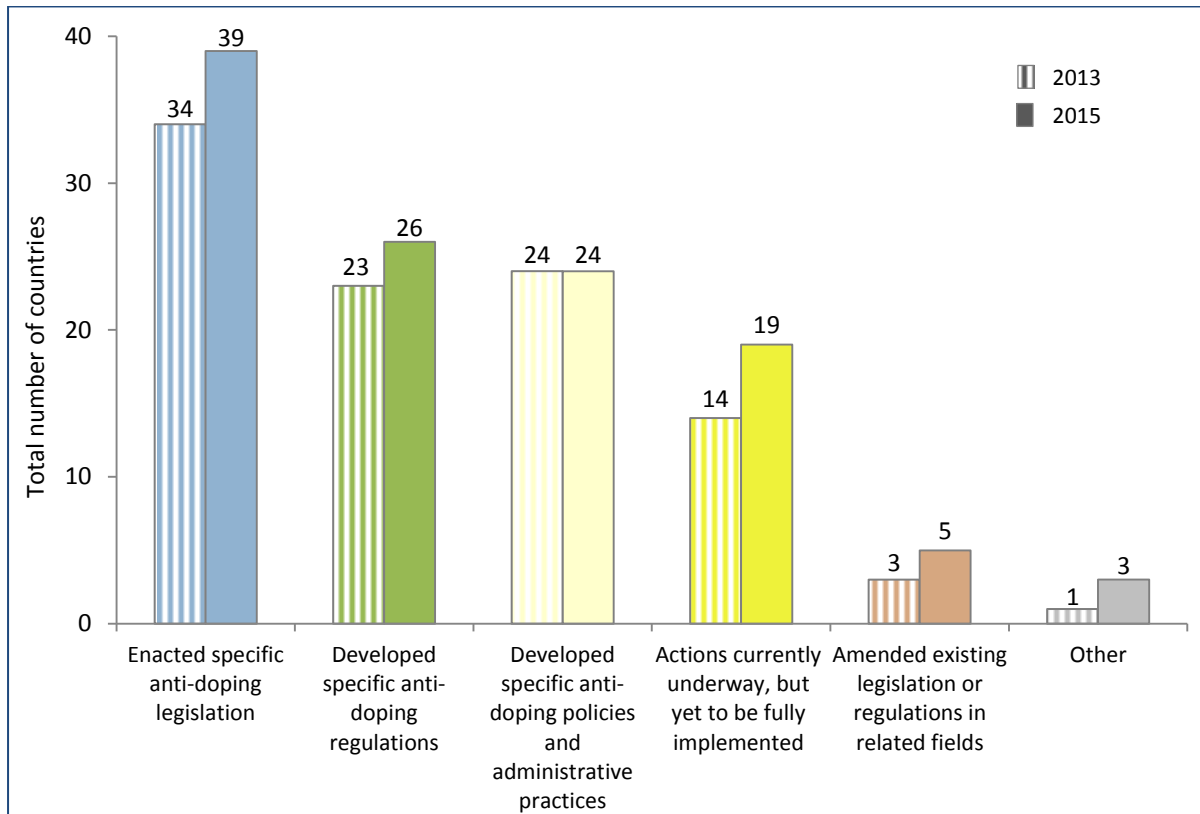
1. States Parties shall, where appropriate, adopt measures to restrict the availability of prohibited substances and methods in order to restrict their use in sport by athletes, unless the use is based upon a therapeutic use exemption. These include measures against trafficking to athletes and, to this end, measures to control production, movement, importation, distribution and sale.
2. States Parties shall adopt, or encourage, where appropriate, the relevant entities within their jurisdictions to adopt measures to prevent and to restrict the use and possession of prohibited substances and methods by athletes in sport, unless the use is based upon a therapeutic use exemption.
3. No measures taken pursuant to this Convention will impede the availability for legitimate purposes of substances and methods otherwise prohibited or controlled in sport.

4. States Parties to the Convention are encouraged to adopt national anti-doping activities to “promote the prevention of and the fight against doping in sport, with a view to its elimination” (Article 1). The Convention enables governments to adapt some freedom to apply the Convention, using legislative, regulatory, political or administrative measures.
5. Figure 1 details the types of measures taken by States Parties to adhere to Article 1. Enacting specific legislative to address anti-doping measures is the most common action taken by States Parties in 2013 and 2015. Anti-doping regulations or policies and administrative practices are also relatively common among States Parties, accounting for

¹ Number of countries to have completed the ADLogic questionnaire by end May 2015, hereafter identified as “States Parties”.

about 20% each. Progress since 2013 is mostly visible in that five additional countries have enacted legislation, but also that several more countries are undertaking action in 2015.

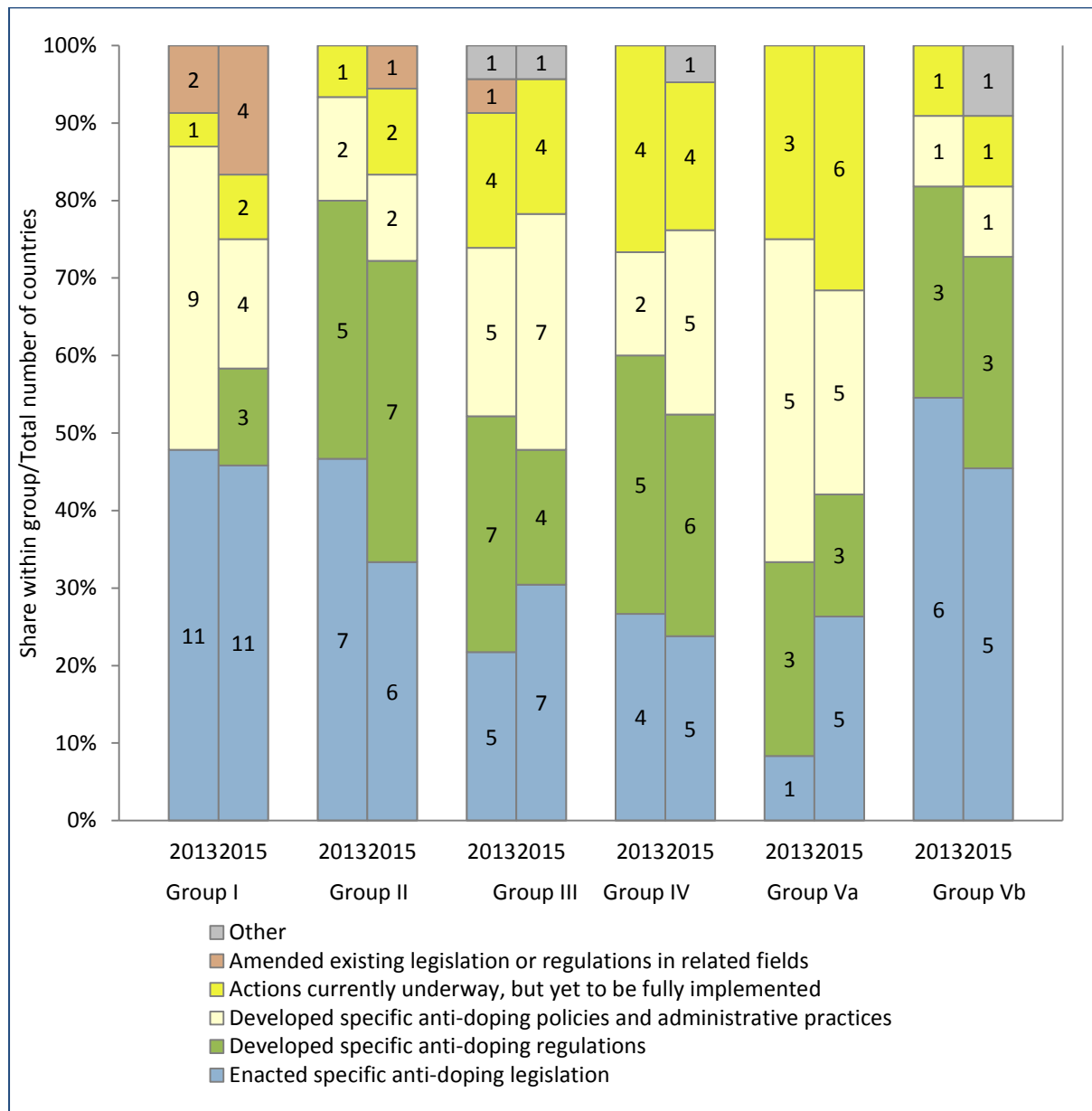
Figure 1: Specific anti-doping legislation enacted by majority of countries, 2013 and 2015



Note: 116 States Parties replied to question Q1 in 2015 and 101 in 2013: "Describe the principal measure taken to abide by the obligations contained in the Convention." Only one answer is provided per State Party.

6. Figure 2 presents the measures adopted by regional groups for 2013 and 2015. In 2015, the share of countries adopting specific anti-doping legislation is highest in Groups I and Vb (nearly half at 45%) and lowest in Group IV and Va where about one-quarter (25%) of countries have selected such measures. Developing specific anti-doping policies and administrative practices is most common in Group III (30% of States Parties), while specific anti-doping regulations was most prominent in Group II States Parties (nearly 40%). About 30% of States Parties in Group Va are still in the process of adopting anti-doping actions, although the nature of the measures to be implemented is not detailed.
7. Although there have been many changes within groups since 2013, no remarkable patterns have evolved. In Group Va, a larger share of countries have actions currently underway and have enacted anti-doping legislation. The share of countries in Groups III and IV per type of anti-doping measure has remained relatively constant throughout this period.

Figure 2: Anti-doping measures taken to support the Convention, by region, 2013 and 2015



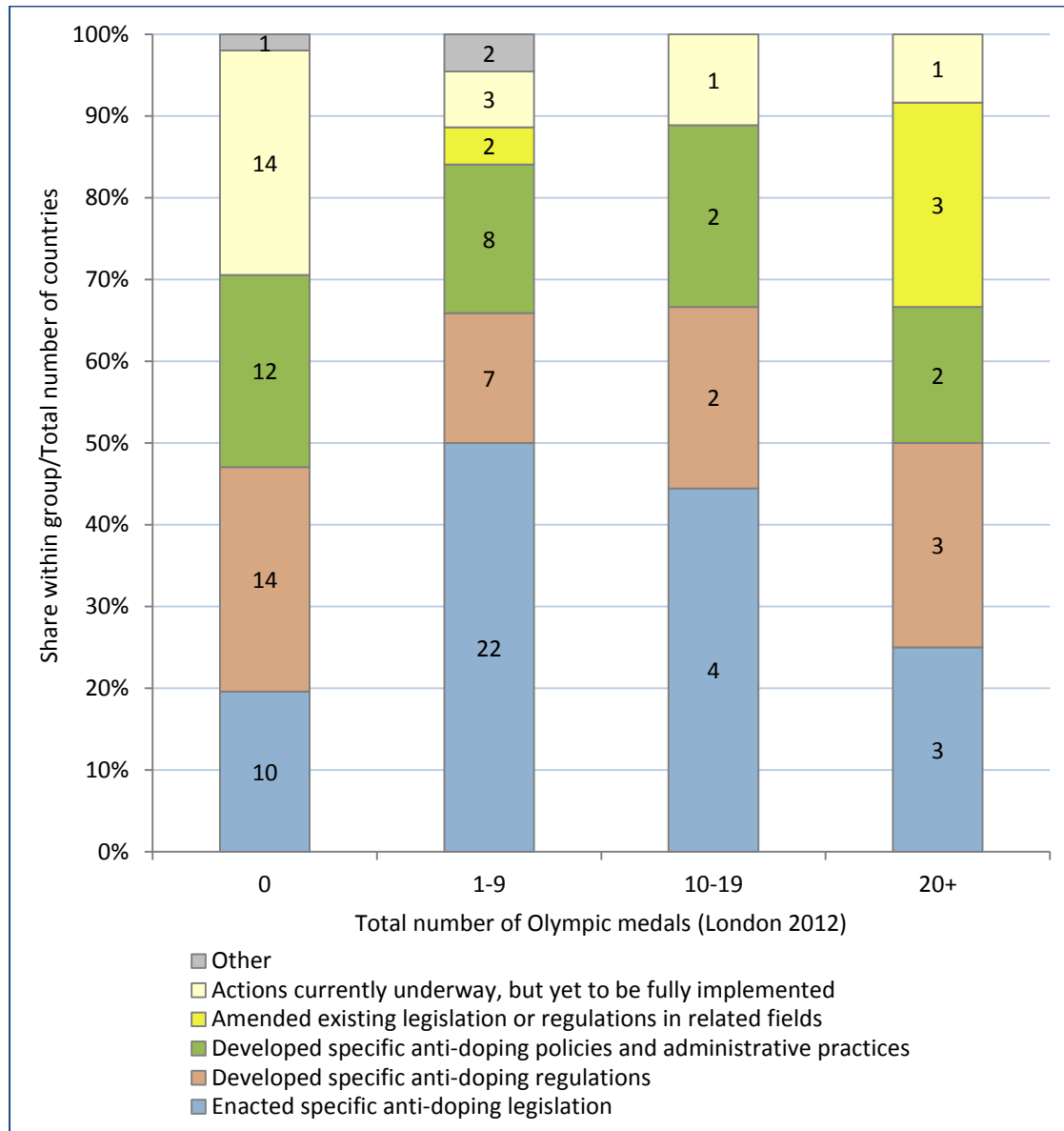
Note: 116 States Parties replied to question Q1 in 2015 and 101 in 2013: “Describe the principal measure taken to abide by the obligations contained in the Convention.” Only one answer is provided per State Party.

8. Monitoring States Parties can also be examined from the lens of the highly competitive world of international athletes.² One possible grouping is determined by the number of Olympic medals attributed to each state party during the most recent Summer Games of London 2012. Figure 3 shows the same data as Figure 2 for 2015, but with States Parties grouped by the total number of medals. Highly-performing countries earning 20 or more medals (12 States Parties) have taken a variety of measures that are equally balanced among the alternatives (new legislation, policies and administrative practices, or regulations, or amending existing legislation or regulations). This similar distribution is

² This designation is based on the number of Olympic medals attained during the Summer Games of London 2012. See Annex 1 for the complete list.

also observed for those countries without any medals. Countries whose performance is emerging, with less than 20 medals, engage in a higher proportion of anti-doping legislation to meet the Convention obligations (between 45%-50%).

Figure 3: Anti-doping measures taken to support the Convention, by number of Olympic medals, 2015



Reading note: 22 countries with between 1 and 9 Olympic medals (50% in the group) enacted specific anti-doping legislation.

Note: 116 States Parties replied to question Q1: “Describe the principal measure taken to abide by the obligations contained in the Convention.” Only one answer is provided per State Party.

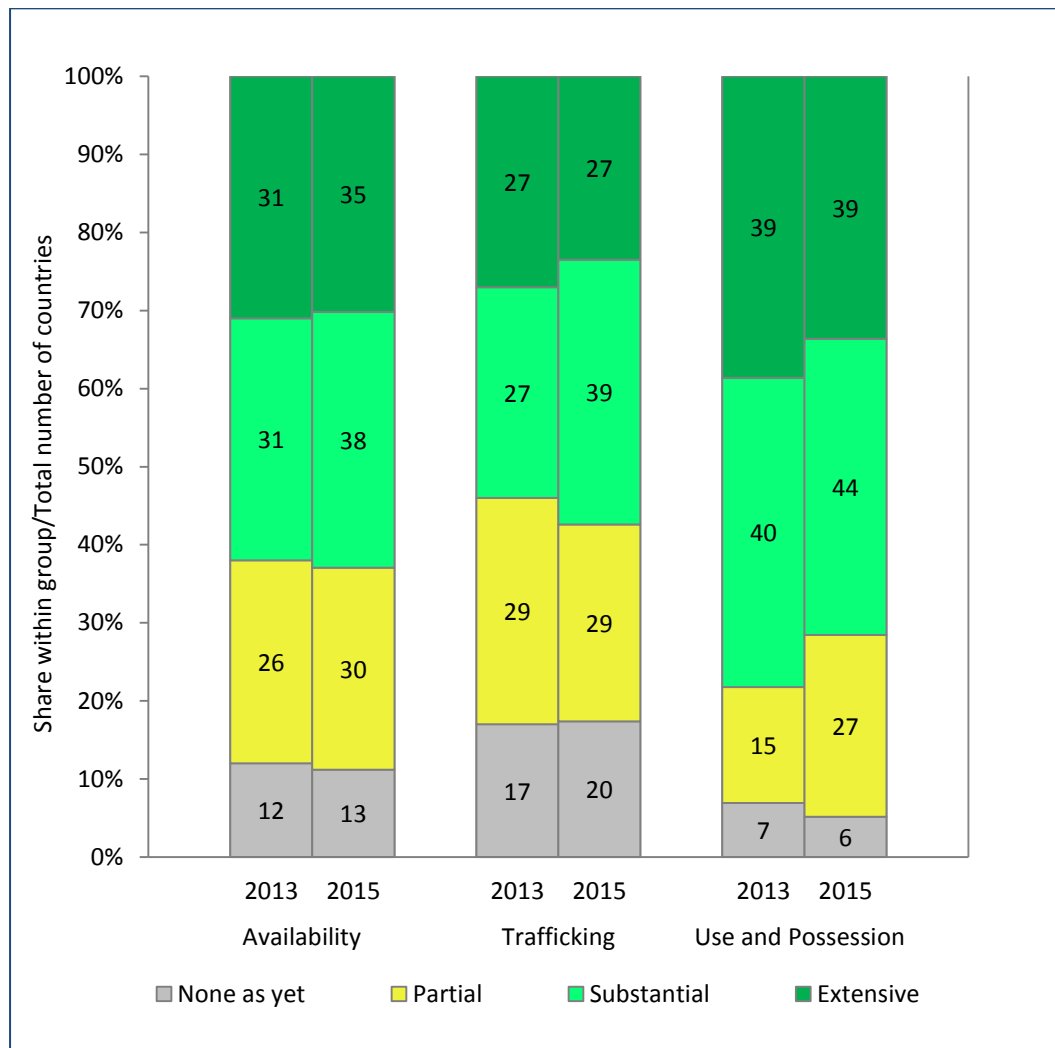
9. Specific measures to restrict the availability, distribution and use and possession of prohibited substances and methods as set forth in the Prohibited List (Annex I of the Convention) have been adopted to varying degrees by States Parties. Figure 4 examines the answers provided by the responding countries on the extent of their actions in 2013 and 2015. Generally, nearly all States Parties have adopted some measures to limit the availability, distribution, use and possession of prohibited substances and methods since 2013.

10. Among the three areas the use and possession of prohibited substances and methods have received the most attention by States Parties. Nearly all countries have adopted to some extent measures in this area. Measures are particularly strong in this area for about 70% of States Parties, having adopted substantial or extensive measures. Trafficking has been less well addressed overall by States Parties, as 17% of countries have not implemented any measures as of 2015. Half of these countries (10 of 20) are from Group III.

11. Little progress can be observed between 2013 and 2015 among States Parties. The highest observed increases between 2013 and 2015 occurred for countries improving anti-doping measures to a “substantial” extent, especially around the availability and trafficking of prohibited substances and methods. Within the category of measures prohibiting use and possession, an additional 12 countries developed limited (i.e. “partial” in ADLogic) measures.

12. Twelve States Parties in Group I (50% of group) addressed all three areas (availability, trafficking and use and possession) to the highest degree – that is “extensively” – in 2013, compared to 8 in 2015. Between 0 and 4 countries in the other Groups had addressed all three areas at a similarly high level.

Figure 4: Extent of measures taken with regards to prohibited substances and methods, 2013 and 2015



Reading note: 35 countries (30% of all countries) in 2015 have extensively limited the availability of prohibited substances and methods.

Notes: 116 countries responded to Questions 2, 3 and 4 in 2015, 101 for Questions 2 and 4 in 2013 and 102 for Question 3 in 2013. These questions ask respectively, “to what extent have measures been adopted to restrict the availability (Q2), [to prevent the trafficking (Q3), and to prevent and restrict the use and possession (Q4)] of prohibited substances and methods as set forth in the Prohibited List (Annex I of the Convention).” “Do Not Know” answers are not shown.

Article 10: Nutritional Supplements

Article 10 – Nutritional supplements

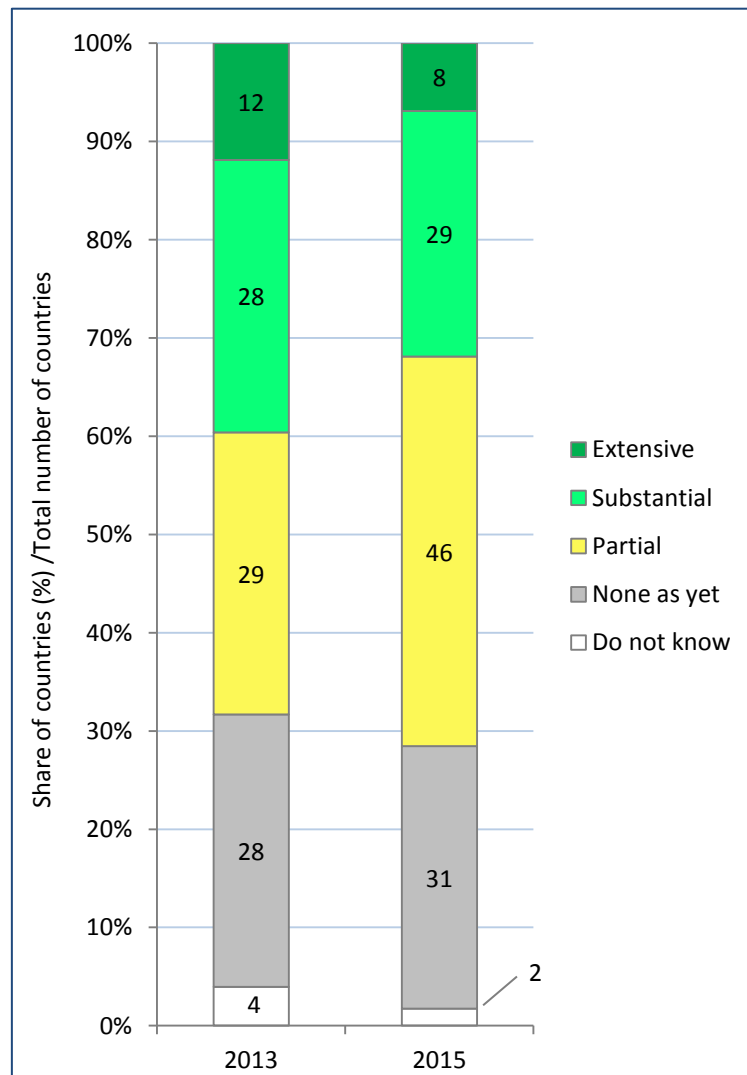
States Parties, where appropriate, shall encourage producers and distributors of nutritional supplements to establish best practices in the marketing and distribution of nutritional supplements, including information regarding their analytic composition and quality assurance.

13. The use and availability of nutritional supplements among athletes is a critical element in the Convention, but remains difficult to monitor at a global level. In 2015, only 2 questions on measures taken related to nutritional supplements are included in the

ADLogic questionnaire. The first question relates to the extent of measures taken to establish best practices in marketing and distributing nutritional supplements. The second question lists the variety of measures implemented to address anti-doping concerns with nutritional supplements. All 116 countries responded to the first question on nutritional supplements, 82 countries the second question.

14. Figure 5 shows the distribution of the extent to which States Parties have established best practices in the marketing and distribution of nutritional supplements. Overall, the responses of States Parties underscore a weak level of responsiveness to the issue of nutritional supplements. In 2015, only 7% of countries (8 total) and another 25% identified (29 total) feel they have provided extensive or substantial measures, respectively, to address best practices in this area. About two-thirds of countries only have established limited or partial measures (40%) or none at all (27%).
15. Compared to 2013, there has been little change overall – 70% of countries are providing measures to varying extents. The most notable change was an additional 17 countries enacting partial measures regarding the marketing and distribution of nutritional supplements. The share of countries providing substantial or extensive measures dropped from 39% in 2013 to 32% to 2015.

Figure 5: Limited measures taken by States Parties with regards to the marketing and distribution of nutritional supplements, 2013 and 2015



Reading note: In 2015, 8 countries (7% of all countries) extensively encouraged producers and distributors of nutritional supplements to establish best practices.

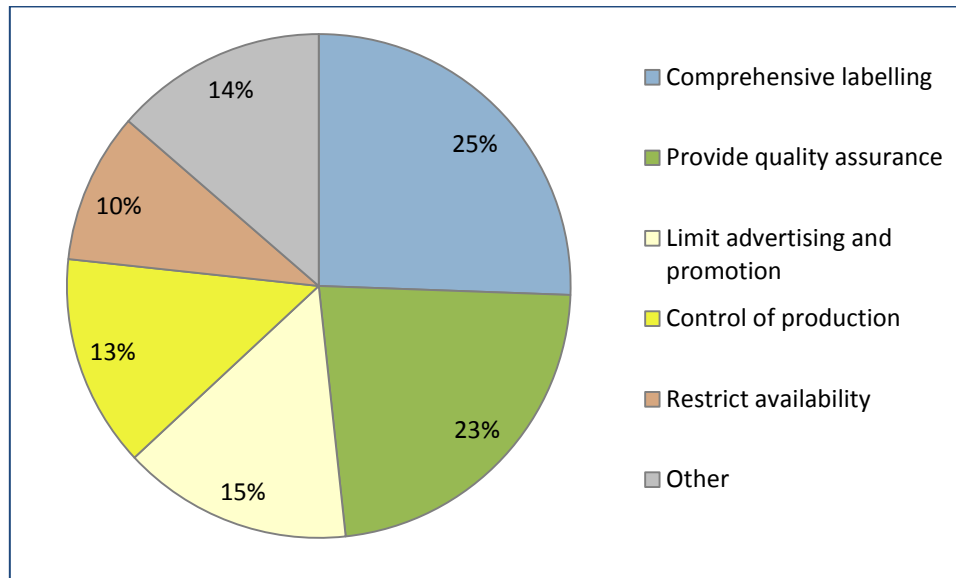
Note: In 2013 and 2015, 101 and 116 countries, respectively, responded to Question 6 “To what extent are producers and distributors of nutritional supplements encouraged to establish best practices in the marketing and distribution of nutritional supplements?”

16. The specific types of measures taken by States Parties to address nutritional supplements is monitored in ADLogic. Five categories are proposed – namely, comprehensive labelling, providing quality assurance, limiting advertising and promotion, controlling of production and restricting availability. Only 82 of the 116 States Parties responded to this specific question (Question 6.1) and Figure 6 shows all cited answers (50 countries provided multiple answers).

17. At a global level, the use of comprehensive labelling and the provision of quality assurance (25% and 23%, respectively) are the most common measures taken by States Parties. The measures (limiting advertising and promotion, controlling, production and restricting the availability of nutritional supplements) are implemented in about equal

proportion, at about 10% to 15% of all measures. The “other” category represented an equally large share (14%) of measures taken, but additional information was not available on the nature of these actions.

Figure 6: Other measures taken by States Parties with regards to nutritional supplements

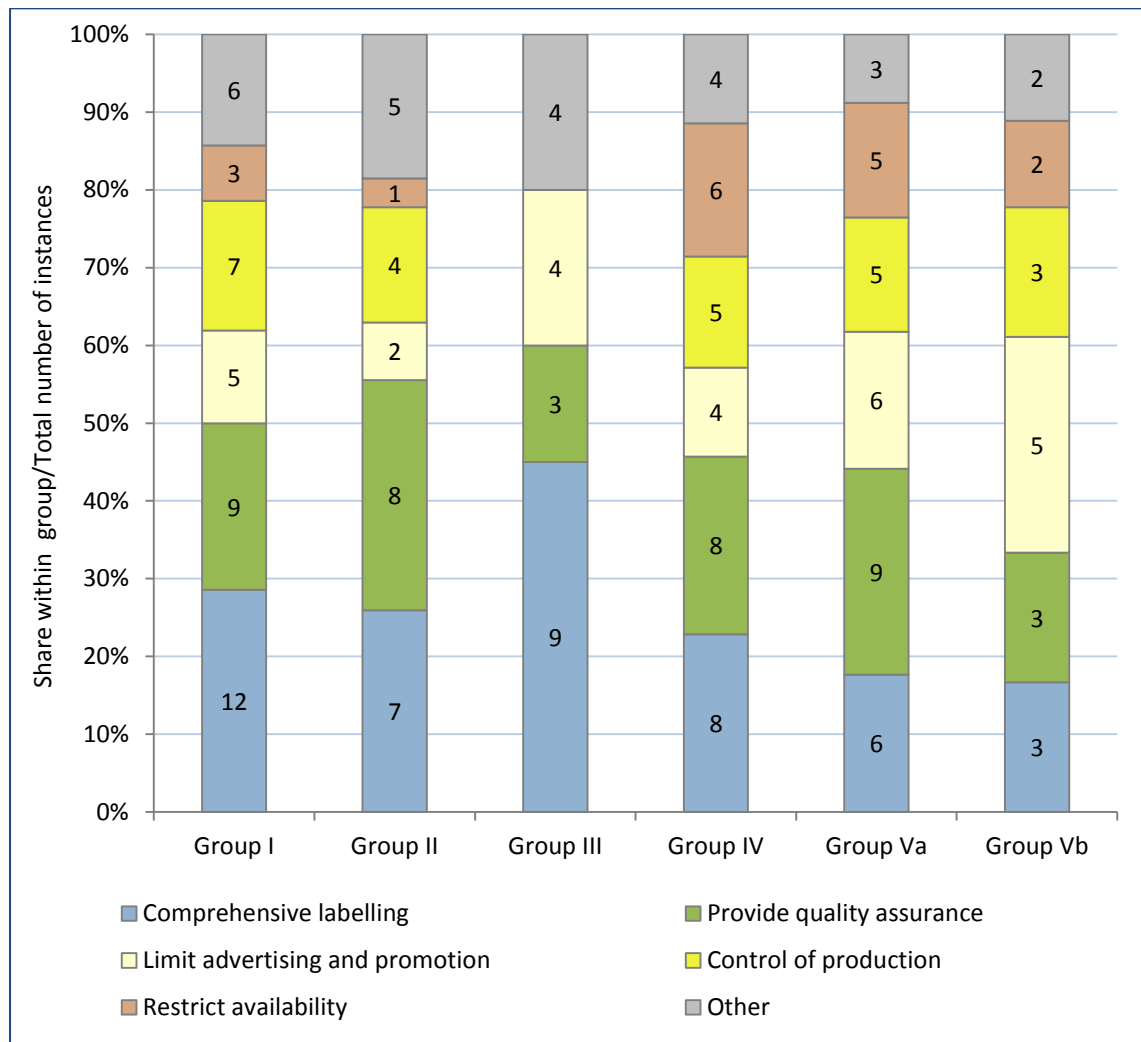


Reading note: 13% of States Parties have implemented the control of production to address concerns with nutritional supplements.

Note: 82 countries responded to Question 6.1. “What additional measures have you taken to address nutritional supplements?” 50 States Parties selected multiple answers for this question.

18. This balance of selected measures to control nutritional supplements is also replicated when examining States Parties’ actions at a regional level (Figure 7). The emphasis and distribution among the 6 categories remains relatively similar to one observed in Figure 6, with the exception of Groups III and Vb. In Group III, the use of comprehensive labelling has a higher level of application in 45% of States Parties (9 total) and there is no use of the control of production in this regional group. In Group Vb, 28% of States Parties (5 total) have chosen to limit advertising and promotion of nutritional supplements, which is at nearly twice the global rate (15%). Groups I and II have a slightly higher emphasis on comprehensive labelling and providing quality assurance than at the global level.

Figure 7: Measures taken to combat doping concerns with nutritional supplements, by region

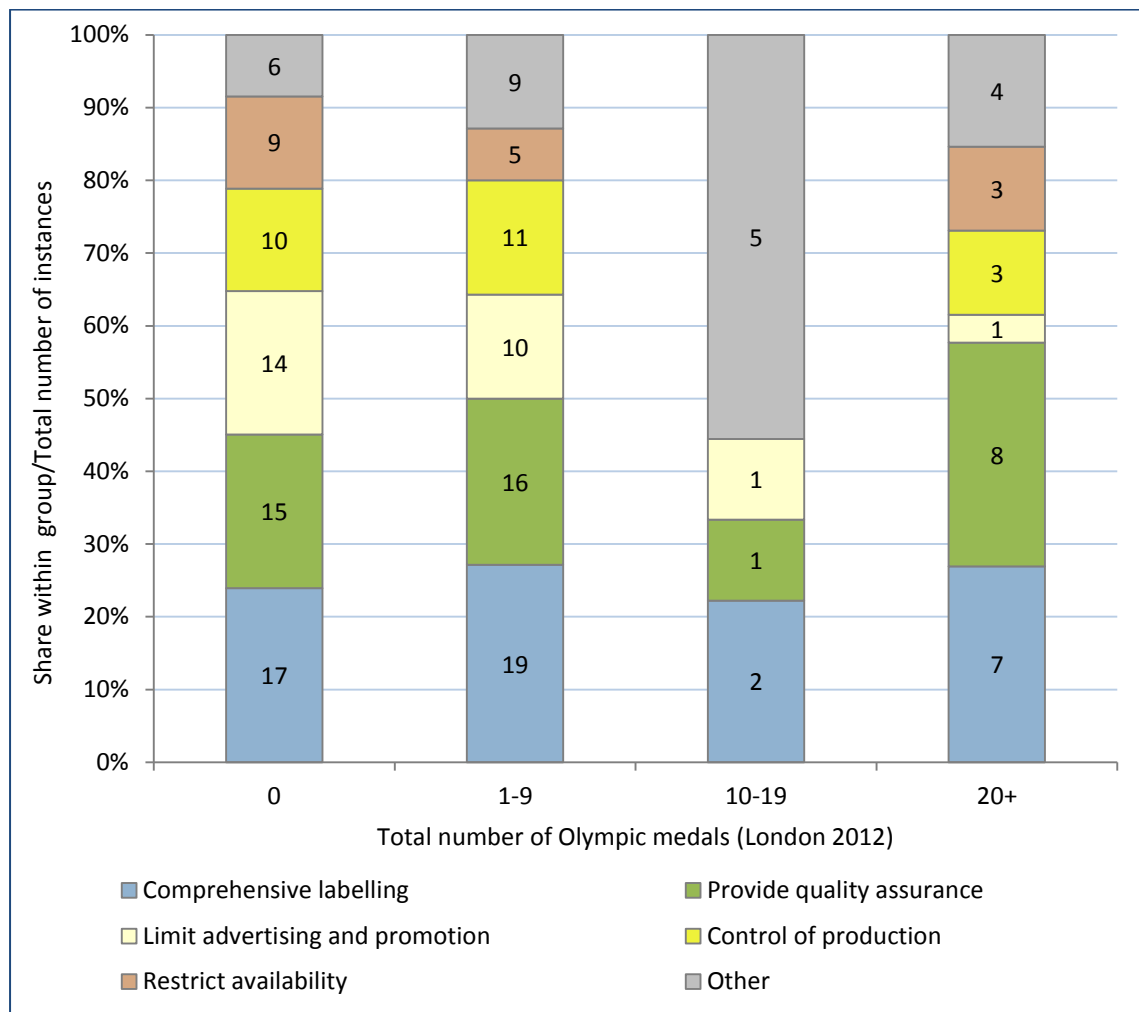


Reading note: 12 countries or about 30% of all countries in Group I have implemented comprehensive labelling to address concerns with nutritional supplements.

Note: 82 countries responded to Question 6.1. "What additional measures have you taken to address nutritional supplements?" 50 States Parties selected multiple answers for this question.

19. An analysis of the same data by Olympic Group (Figure 8) reveals that the distribution of possible measures to address nutritional supplements roughly follows that of the overall distribution observed in Figure 6. States Parties with 20 Olympic medals or more focus slightly more on comprehensive labelling and providing quality assurance than other groups: 58% of measures are in these two categories, compared to 48% for all countries.³

³ Only 7 States Parties responded to Question 6.1 in the Group with 10-19 medals. The distribution reflects the low response rate.

Figure 8: Additional measures taken by States Parties, by Olympic group

Reading note: 17 States Parties (24% of group) without any Olympic medals in London 2012 implemented comprehensive labelling of nutritional supplements.

Note: 82 countries responded to Question 6.1. "What additional measures have you taken to address nutritional supplements?" 50 States Parties selected multiple answers for this question.

20. Examining those 50 countries which provided multiple answers reveals some priority setting among States Parties.

- Five countries implemented all 5 additional measures (comprehensive labelling, provide quality assurance, limit advertising and promotion, control of production and restrict availability): Côte d'Ivoire, Denmark, Ireland, Palau and Rwanda.
- Of those 8 countries applying 4 of the 5 measures, they all selected to implement comprehensive labelling and providing quality assurance.
- 80% of countries implemented comprehensive labelling of nutritional supplements (40 of the 50 countries). Of those 10 countries which did not select comprehensive labelling, 8 implemented measures to provide quality assurance.
- 56% of countries implemented comprehensive labelling of nutritional supplements and providing quality assurance.

Annex 1 List of 116 States Parties completing ADLogic by 31 May 2015***Region Group I (24)***

Andorra	Malta
Austria	Monaco
Belgium	Netherlands
Canada	Norway
Cyprus	Portugal
Denmark	Spain
Finland	Sweden
France	Switzerland
Germany	Turkey
Ireland	United Kingdom of Great Britain and Northern Ireland
Israel	United States of America
Italy	
Luxembourg	

Region Group II (18)

Armenia	Lithuania
Bosnia and Herzegovina	Montenegro
Bulgaria	Romania
Croatia	Russian Federation
Czech Republic	Serbia
Estonia	Slovakia
Georgia	Slovenia
Hungary	Ukraine
Latvia	Uzbekistan

Region Group III (23)

Argentina	Guatemala
Barbados	Guyana
Belize	Jamaica
Brazil	Mexico
Chile	Nicaragua
Colombia	Peru
Costa Rica	Saint Lucia
Cuba	Suriname
Dominica	Trinidad and Tobago
Dominican Republic	Uruguay
Ecuador	Venezuela (Bolivarian Republic of)
Grenada	

Region Group IV (21)

Australia	New Zealand
Bhutan	Pakistan
Brunei Darussalam	Palau
China	Philippines
Democratic People's Republic of Korea	Republic of Korea
Fiji	Singapore
Indonesia	Thailand
Japan	Turkmenistan
Malaysia	Vanuatu
Micronesia (Federated States of)	Viet Nam
Myanmar	

Region Group Va (19)

Botswana	Mali
Burkina Faso	Mauritius
Cameroon	Nigeria
Chad	Rwanda
Côte d'Ivoire	Senegal
Equatorial Guinea	Seychelles
Guinea	South Africa
Kenya	Togo
Lesotho	Zambia
Madagascar	

Region Group Vb (11)

Algeria	Qatar
Bahrain	Saudi Arabia
Iraq	Syrian Arab Republic
Jordan	Tunisia
Kuwait	United Arab Emirates
Oman	

Annex 2 Classification of States Parties per number of Olympic medals obtained during the Summer Games of London 2012

Less than 10 Olympic medals

Algeria (1)	Thailand (3)
Bahrain (1)	Tunisia (3)
Botswana (1)	Uzbekistan (3)
Cyprus (1)	Argentina (4)
Grenada (1)	Norway (4)
Guatemala (1)	Serbia (4)
Kuwait (1)	Slovakia (4)
Montenegro (1)	Slovenia (4)
Portugal (1)	Switzerland (4)
Saudi Arabia (1)	Trinidad and Tobago (4)
Venezuela (Bolivarian Republic of) (1)	Ireland (5)
Bulgaria (2)	Lithuania (5)
Dominican Republic (2)	Turkey (5)
Estonia (2)	Croatia (6)
Indonesia (2)	Democratic People's Republic of Korea (6)
Latvia (2)	South Africa (6)
Malaysia (2)	Georgia (7)
Qatar (2)	Mexico (7)
Singapore (2)	Colombia (8)
Armenia (3)	Sweden (8)
Belgium (3)	Denmark (9)
Finland (3)	Romania (9)

10-19 Olympic medals

Czech Republic (10)
Kenya (11)
Jamaica (12)
New Zealand (13)
Cuba (15)
Brazil (17)
Spain (17)
Canada (18)
Hungary (18)

20 or more Olympic medals

Netherlands (20)
Ukraine (20)
Italy (28)
Republic of Korea (28)
France (34)
Australia (35)
Japan (38)
Germany (44)
United Kingdom of Great Britain and Northern Ireland (65)
Russian Federation (81)
China (88)
United States of America (103)

No Olympic medals

Andorra	Malta
Austria	Mauritius
Barbados	Micronesia (Federated States of)
Belize	Monaco
Bhutan	Myanmar
Bosnia and Herzegovina	Nicaragua
Brunei Darussalam	Nigeria
Burkina Faso	Oman
Cameroon	Pakistan
Chad	Palau
Chile	Peru
Costa Rica	Philippines
Côte d'Ivoire	Rwanda
Dominica	Saint Lucia
Ecuador	Senegal
Equatorial Guinea	Seychelles
Fiji	Suriname
Guinea	Syrian Arab Republic
Guyana	Togo
Iraq	Turkmenistan
Israel	United Arab Emirates
Jordan	Uruguay
Lesotho	Vanuatu
Luxembourg	Viet Nam
Madagascar	Zambia
Mali	