

# **Relevant provisions of the SPS Agreement: Overview of Annex C**

SPS Committee Thematic Session on the Use of Remote  
(Virtual) Audit and Verification in Regulatory Frameworks

Rolando Alcalá, WTO Secretariat  
21 June 2022

# Remote Audit and Inspection – Relevant provisions of the SPS Agreement?



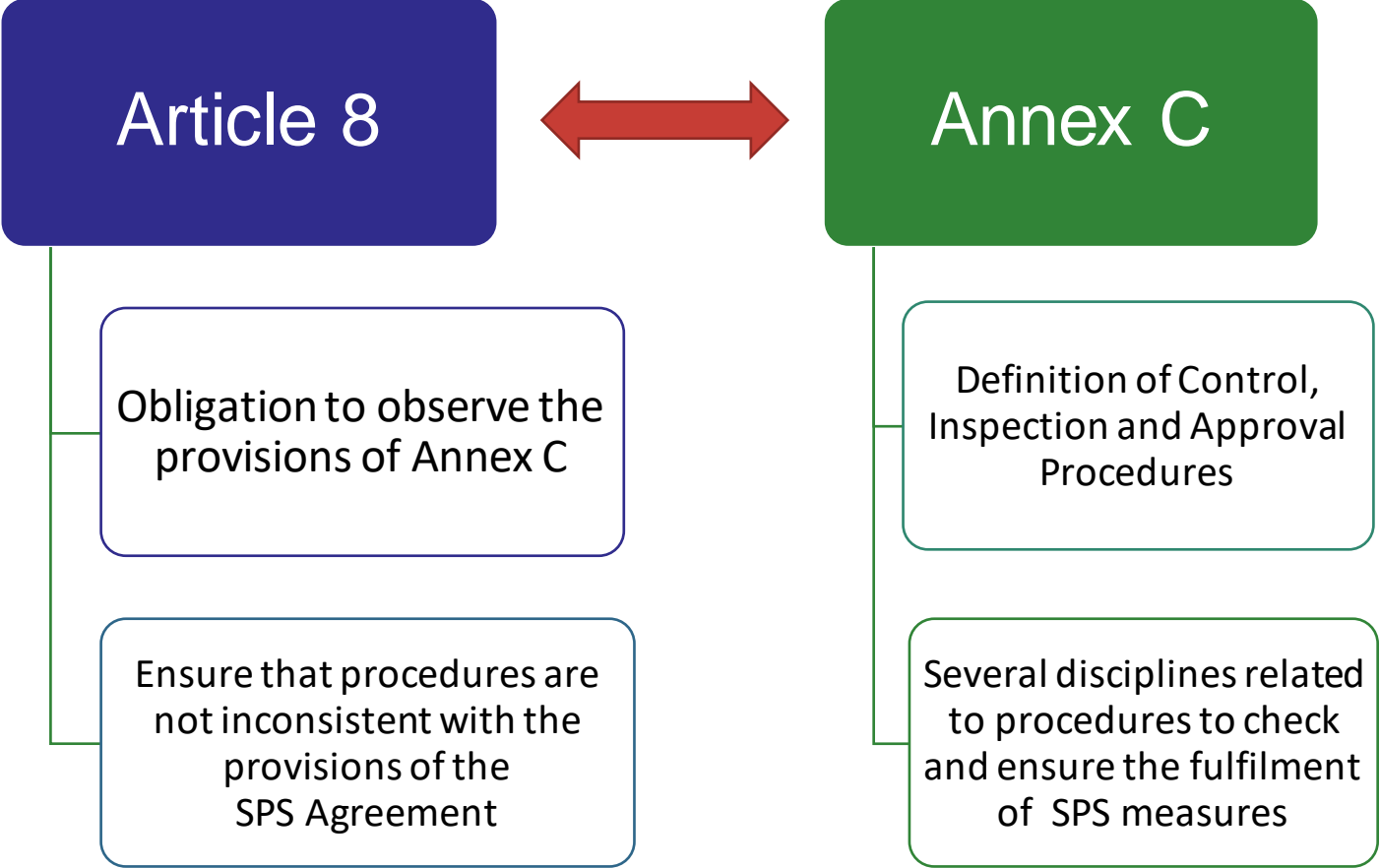
**BUT...**

No specific reference to  
“remote” or “virtual” or  
“audit” in the SPS  
Agreement

## Article 8, Control, Inspection and Approval Procedures

“Members **shall observe the provisions of Annex C** in the operation of control, inspection and approval procedures, including national systems for approving the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs, and otherwise **ensure that their procedures are not inconsistent** with the provisions of this Agreement.”

# Remote Audit and Inspection – Relevant provisions of the SPS Agreement Article 8, Control, Inspection and Approval Procedures



*“a failure to observe the provisions of Annex C implies a breach of Article 8”*



# Annex C, SPS Agreement

- ① Obligations related to **procedures covered** in the importing Members
- ② Obligation for exporting Members to facilitate control requirements at the production level
- ③ “Nothing in this Agreement shall prevent Members from carrying out reasonable inspection within their own territories”



# Annex C

## Control, Inspection and Approval Procedures

### What procedures are covered?

✓ “sampling, testing and certification”



Annex C,  
footnote 7

✓ “any procedure to check and ensure the fulfilment of **SPS measures**” (Annex C(1))



Both substantive  
requirements and  
procedures  
(Annex A(1))



# Annex C (1) (a)



Control, inspection and approval procedures need to be undertaken and completed **without undue delay** and **without discrimination**

## What is undue delay?

- Unjustifiable loss of time
- Involving periods of time that are unwarranted, or otherwise excessive, disproportionate or unjustifiable

## What is discrimination?

- if imported products treated "less favourably" than the domestic products  
AND
- if these domestic products are "like" the relevant imported products

# Annex C (1)(b) – 5 obligations for the operation of control, inspection and approval procedures




1. **publication** or **communication** of the **processing period**
2. examination of the **completeness of the documentation** and **communication of deficiencies**
3. transmission of the **results** of the procedure
4. **processing of applications** which have deficiencies
5. provision of information about the **stage of a procedure** and explanation of any delay

As far as  
practicable


# Annex C (1) cont'd

 Information limited to what is necessary


 **Confidentiality**

 **Controls of specimens limited to what is reasonable and necessary**

 **Equitable fees**

 (Siting of facilities)

 Subsequent controls limited to what is necessary

 Procedure to review complaints



# Remote audit and inspection - Relevant SPS Notifications

- **April 2020:** “temporary flexibility option for control authorities to use *inter alia* **remote communication** and **electronically submitted documents** for checks, in view of the situation linked to COVID-19.” (G/SPS/N/EU/380)
- **May 2021:** “... to maintain the flow of trade in fresh mangoes from Mexico to Chile, the Agriculture and Livestock Service (SAG) has agreed to temporarily carry out **virtual verifications**” (G/SPS/N/CHL/677)
- **July 2021:** “... may allow **remote inspection** by using ICT in cases where on-site inspection cannot be carried out due to natural disasters, outbreaks of infectious diseases, etc.” (G/SPS/N/KOR/729)

[ePing SPS&TBT Platform](#)



# Remote audit and inspection

## Relevant SPS Notifications – Cont.

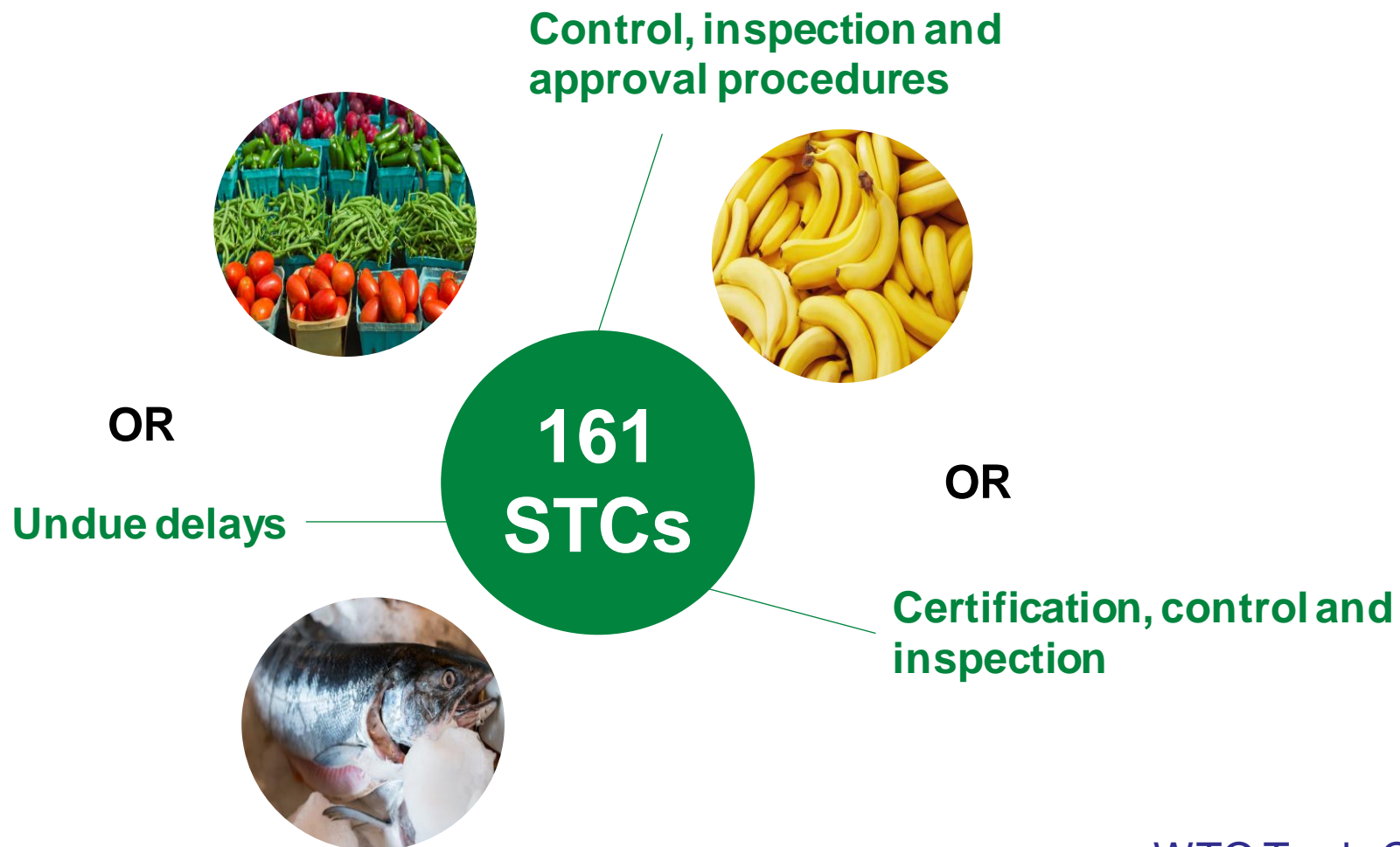
- **July 2021:** “... providing options to allow control authorities to authorise, within strict parameters, natural persons to undertake official controls and official activities under their instruction by any available means of communication; checks on **electronically submitted documents**; documentary checks to take place at or **away from the border**; and meetings with operators to be conducted by **remote communication**.” (G/SPS/N/GBR/10)
- **August 2021:** “As methods of **remote inspection**, followings are determined; remote communication which enables a real-time interaction between the parties, and the submission of necessary materials for inspection via the internet”. (G/SPS/N/KOR/732)



[ePing SPS&TBT Platform](#)

# Remote audit and inspection

## Specific Trade Concerns - Keywords



# Remote audit and inspection

## Relevant Specific Trade Concerns

- short-notice requirements to undertake **remote inspections...**
- requirement of **virtual audits** to maintain or regain market access....



# THANK YOU

[spscommittee@wto.org](mailto:spscommittee@wto.org)

[www.wto.org/sps](http://www.wto.org/sps)

[www.wto.org/spscommittee](http://www.wto.org/spscommittee)

Follow us on Twitter:  
[#WTOsps](https://twitter.com/WTOsps)