

Non-tariff measures relevant to seafood with examples

The following list of non-tariff measures is drawn from the UN Conference on Trade and Development (UNCTAD) classification of 16 types of non-tariff barriers. The 14 types used here (a-n) are considered relevant to food and drink operators. Those measures in italics are those of most relevance to seafood operators (definitions and examples of these measures can be found below).

- a) ***Sanitary and phytosanitary measures (SPS)*** (e.g. *plant and animal health regulations*)
- b) ***Technical barriers to trade (TBT)*** (e.g. *regulations on the contents of products, the process by which they were manufactured, their labelling etc.*)
- c) ***Pre-shipment inspection and other formalities*** (e.g. *requirements that goods be checked or licences secured at source before they can be imported.*)
- d) **Contingent trade-protective measures** (e.g. policies that protect the economy from the impact of certain imports, such as anti-dumping measures, safeguards for agriculture, etc.)
- e) ***Non-automatic licensing, quotas, prohibitions and quantity control, measures other than for SPS or TBT reasons*** (e.g. *policies that limit the total number of imports of a certain good, such as quotas, rules stating that imported goods can only be used in certain industries or temporary bans on certain products.*)
- f) **Price-control measures**, including additional taxes and charges (e.g. charges or taxes (other than tariffs) that change the prices of imports, for example, by ensuring that imports do not undercut the price of domestically-produced goods.)
- g) **Measures affecting competition** (e.g. compulsory requirements to use national services)
- h) **Trade-related investment measures** (e.g. requirements that goods should contain certain proportion of locally-produced content, or policies that limit imports based on the performance of exports.)
- i) **Distribution restrictions** (e.g. measures which make it harder to sell imported goods in all parts of the market, for example, by stating that goods can only be sold in areas that meet certain conditions)
- j) **Subsidies** (e.g. money from government for domestic producers, making it harder for importers to compete)
- k) **Government procurement restrictions** (e.g. ensuring the Governments buy good from domestic producers)
- l) **Intellectual property** (e.g. ensuring that imports comply with patents, trademarks, industrial designs, copyright, geographical indications.)
- m) **Rules of origin** (e.g. certificates of origin, rules requiring products to be able to demonstrate in which countries they were produced, often so that it can be

determined where the good can benefit from preferential access under a bilateral free trade agreement.)

- n) **Export related measures** (e.g. policies undertaken by the exporter’s government (currently set by the EU), for example to limit exports to a certain country through trade embargos, or to reduce exports to keep domestic prices low.)

A detailed breakdown of the various NTMs affecting seafood is given below. The NTMs are classified according to the taxonomy developed by the UN Conference on Trade and Development (UNCTAD)¹.

A. Sanitary and Phytosanitary Measures	
Measures that are applied to protect human or animal life from risks arising from: additives, contaminants, toxins or disease-causing organisms in food	
A11 Temporary geographic prohibitions.	An example is European Regulation limiting the importation of bivalve molluscs from Turkey to frozen and processed bivalve molluscs only, with enhanced testing at the EU border. This measure (Regulation 743/2014 as amended) applies until 31/12/2021.
A12 Geographical restrictions on eligibility.	Commission Implementing Decision 2018/1668 permits the entry into the EU of bivalve molluscs from the US but only from the states of Washington and Massachusetts. Bivalve molluscs are permitted into the EU only if they originate in production zones that are listed by the exporting country to be in compliance with the provisions laid down in Regulation 854/2004, Annex II, Heading II A3.
A13 Systems approach (requiring two or more independent SPS measures on the product).	There are multiple SPS measures applicable to all seafood imports into the EU from non-EU countries.
A19 Prohibitions/restrictions of imports for SPS reasons, not elsewhere specified	An example would be the banning (by Regulation 853/2004) of imports into the EU of all seafood of the families Tetraodontidae, Molidae, Diodontidae and Canthigasteridae because of their content of natural biotoxins. The families include all pufferfish and sunfish.
A21 Limits to residues and contaminants.	These requirements are laid out in Contaminants legislation and in Residues legislation. The regulations on

¹ UNCTAD: International Classification of Non-Tariff Measures. 2012 Version. New York and Geneva, 2015. Available from: <https://unctad.org/en/Pages/DITC/Trade-Analysis/Non-Tariff-Measures/NTMs-Classification.aspx>

	<p>residues of pharmacologically active substances have zero tolerance for certain substances. Hygiene legislation has zero tolerance on certain biotoxins (e.g. ciguatoxin) in fishery products. Where exports are concerned, UK exporters need to be aware that contaminant and residue requirements in the country of destination may be different to European requirements.</p>
<p>A22 Restricted use of certain substances in foods and feeds and their contact materials.</p>	<p>Examples are barriers to the importation into the EU of carbon monoxide-treated tuna, because carbon monoxide is not a permitted additive in the EU. The EU considers the treatment as potentially injurious to health because it can mask the true age of the tuna product. Certain ingredients or constituents of food need EU approval before being permitted to be placed on the market: food additives, food flavourings, smoke flavourings, and vitamins and minerals used in food. An example of a barrier to exporting is the non-acceptance in Japan of Nephrops treated with 4-hexylresorcinol, because the preservative is not an accepted additive in Japan.</p>
<p>A31 Labelling requirements related to food safety.</p>	<p>Examples of this would be a) allergen labelling, b) durability labelling, and c) special labelling required by the EU for fishery products of the Gempylidae family (e.g. butterfish) alerting the consumer to possible gastrointestinal effects.</p>
<p>A33 Packaging requirements.</p>	<p>There is EU legislation covering the general principles of safety and inertness for all food contact materials and legislation on specific materials that may be used as packaging. Seafood imported into the EU will have to comply with this legislation. Solid wood packaging used in trade has to meet ISPM15 international standards for phytosanitary reasons.</p>
<p>A41 Microbiological criteria.</p>	<p>Imported and exported seafood has to comply with microbiological criteria laid out in hygiene regulations. Occasionally individual member states place requirements on seafood imported into the EU that go beyond these</p>

	requirements e.g. tests for Vibrio and Salmonella in white fish fillets.
A49 Temperature requirements.	These are in place for chilled and frozen seafood for importation into the EU, and are covered by hygiene regulations. They include stipulated temperatures for fresh and frozen product, and a requirement to avoid breaks in the cold chain. EU regulation specifies that live bivalve molluscs must be stored and transported at a temperature that does not adversely affect food safety or their viability.
A51 Cold/heat treatment.	Fishery products intended to be consumed raw or almost raw need to have undergone a freeze process in order to inactivate nematodes.
A62 Animal-raising or catching processes.	Seafood that is permitted for import into the EU from certain countries may be restricted to either aquaculture product only or wild caught only. Aquaculture product intended for importation into the EU has to be raised according to stipulations on medication and feed (feed hygiene, additives, medications and contaminants) set by the EU.
A64 Storage and transport conditions.	There are temperature and other hygiene requirements placed on areas meant for storage of seafood intended for export to the EU. Requirements in EU legislation are (indirectly) applicable to production of seafood in non-EU countries intended for export to the EU - e.g. the storage requirements of Regulation 853/2004, Annex III, Section VIII, Chapter VII.
A82 Testing requirement.	Veterinary checks at the EU border are carried out at specified frequencies. Most consignments of fishery products are tested at a frequency of 20% whereas most bivalve molluscs are checked at a frequency of 50%. There is statutory pre-export testing and special measures requiring extra checks at the border with consignments of seafood from specific countries e.g. China. There are fees for handling goods at the BIP and for analytical testing.
A83 Certification requirement.	An example of when an additional safety certificate is needed is the registration

	document that has to accompany live bivalve molluscs. This is laid out in Regulation 853/2004, Annex III, Section VII, Chapter I.
A85 Traceability requirements.	An example is the EU requirement for products consisting of a fishery product mixed with other product of animal origin. The origin of all ingredients of animal origin, such as egg in surimi, needs to be documented to ensure conformity with requirements for a national residue plan.
A859 Distribution and location of products prior to importation.	The requirement that fishery products transported on reefer vessels have been transported on registered/approved reefer vessels.

B. Technical barriers to trade	
Measures referring to technical regulations, and procedures for assessment of conformity with technical regulations and standards	
B31 Labelling requirements (measures regulating the kind, colour and size of labels).	There are specific rules for "identification" marking all seafood. These are set out in Regulation 853/2004, Annex II, Section I. There are further rules requiring non-SPS information (species name, catch area, method of catch, date of catch, date of freezing etc.) in the fisheries control regulations.
B33 Packaging requirement	There are several packaging requirements in EU legislation e.g. Oysters must be wrapped or packaged with the concave shell downwards, packaging must be closed, and labels must be waterproof.
B42 TBT regulations on transport and storage.	Fishery products and other seafood intended to be placed on the market while alive must be transported in such a way as not to affect their viability.
B6 Product identity requirement.	Fish names need to comply with official commercial designations listed by Defra. Where no official designation is provided, there is a requirement for the product identity to not be misleading. In order to have an organic label, imports have to comply with EU organic labelling requirements.
B7 Product-quality or -performance requirement.	There are requirements for Total Volatile Nitrogen content of seafood under Regulations 853/2004 and 2074/2005,

	Annex II.
B83 Certification requirement.	Illegal, unreported and unregulated (IUU) catch certification and CITES certification are examples of non-SPS certification requirements. Origin certification may be necessary for imported goods to qualify for preferential tariffs.
B84 Inspection requirement.	Seafood consignments undergo documentary and identity checks, which may include sensory checks, physical tests such as cutting or cooking, checking number of packages and weights against documentation, and checks of packaging.
B85 Traceability information requirements.	There are several traceability requirements on imports related to IUU catch certification and processing statements; and related to fisheries control (e.g. catch areas) and consumer information (method of catch).
B852 Processing history.	An example would be the processing statement part of the IUU catch certificate.
B9 TBT measures, not elsewhere specified.	In order to comply with HGV drivers' hours regulations, transporting live and fresh shellfish from Scotland to Boulogne by road using just one driver is not possible. A break in the journey would be required, increasing the mortality of the live shellfish or reducing shelf life for the fresh shellfish. The trip has to be carried out using two drivers, with one driver resting while the other drives.

C. Pre-shipment inspection and other formalities	
<u>C3 Requirement to pass through specified port of customs.</u>	The requirement that all seafood must enter through a BIP authorised to check seafood. Only certain BIPs in the EU are authorised to check seafood, and even these may be restricted to ambient, chilled or frozen seafood.
<u>C4 Import-monitoring and -surveillance requirements and other automatic licensing measures.</u>	All imports into the EU, and some exports, have to be declared to Customs using a specific form (Form C88). All exporters in the EU have to register for an (Economic Operator Identification and Registration) EORI number. The UK intends to roll this over, with minor modifications.

E. Non-automatic licensing, quotas, prohibitions and quantity control measures other than for SPS or TBT measures
Control measures generally aimed at restraining the quantity of goods that can be imported.

<u>E6 Tariff-rate quotas</u>	Multiple tariff rates that are quota-dependent exist for several seafood imports, such as those covered by Autonomous Tariff Quota (ATQ) legislation. ATQs covering the period 2015-2018 are listed in Regulation 2015/2265.
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F. Price control measures, including additional taxes and charges
Measures implemented to control or affect the prices of imported goods

<u>F62 Merchandise-handling or -storing fees.</u>	When it arrives at a sea port or airport, imported seafood is usually subject to charges for demurrage and transport to and from border inspection premises. Seafood detained pending the outcome of analytical checks for compliance will also result in demurrage charges to the importer.
<u>F69 Additional charges, not elsewhere specified.</u>	Charges for vet checks and BIP handling
<u>F79 Internal taxes and charges levied on imports, not elsewhere specified.</u>	Seafish levy applies to most seafood imports into the UK.

G. Finance measures

<u>G1 Advance import deposit.</u>	EU-based, and UK based importers for the foreseeable future, need to provide a Comprehensive Customs Guarantee to qualify for a range of Customs special procedures
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O. Rules of origin
There are documentary requirements to verify the originating status of certain imports for them to qualify for preferential tariffs.

P. Export-related measures applied by the authorities of the exporting country on exported goods.
Measures applied by the government of the exporting country on exported goods

<u>P11 Export prohibition.</u>	There is a requirement that seafood intended for export or re-export out of the UK complies with UK food law.
<u>P14 Export registration requirements.</u>	Any EU-based exporter who exports more than £250,000 worth of goods to another EU country needs to register for

	<p>Intrastat and make monthly Intrastat declarations.</p> <p>Non-EU exporters wishing to export to the EU and make use of preferential tariff arrangements need to be registered under the Registered Exporter (REX) scheme in their country, which then allows them to issue certificates of origin.</p>
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Further information

Export trade barriers reported to the European Commission are listed at http://madb.europa.eu/madb/barriers_crossTables.htm?isSps=false

Sanitary and phytosanitary (SPS) measures that may interfere with exports from the EU are listed at http://madb.europa.eu/madb/sps_crossTables.htm?isSps=true.

The ePing alert system is a searchable database of SPS and Technical Barriers to Trade that have been notified to the World Trade Organisation, available at: <http://www.epingalert.org/>

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