

Economy, Trade, and Rural Affairs Committee, Senedd Cymru

Written Evidence from Prof. Katy Hayward, Queen's University Belfast

September 2023

Thank you for inviting the submission of evidence from me on the subject of the Windsor Framework. I will focus my concise written comments on the Windsor Framework with a particular focus on the movement of goods and what might otherwise be missed. I am submitting this evidence just before the first of the new green lanes comes into effect; in the oral evidence session I will be able to provide an update on how the roll-out has occurred.

The Windsor Framework brings easements to the Protocol on Ireland/Northern Ireland as it was originally intended. However because the Protocol was only partially implemented, with grace periods being extended for the most complicated of border-related processes, the expectation is that the roll-out of the first of the 'green lane' schemes under the Windsor Framework from 1st October, followed by further phases of implementation may result in some new friction.

The **timetable** for the Windsor Framework implementation (Appendix 1) together with that for the Border Target Operating Model (BTOM) (Appendix 2) help us identify several key moments that need to be prepared for: 1st October 2023 (roll out of the Retail green lane); 1st January 2024 (introduction of Export Health Certificates for median-risk SPS products from EU to GB);ⁱ 30th April (border checks for EU SPS goods and pre-notification for median-risk SPS goods)ⁱⁱ; 1st October 2024 (roll-out of the UKMIS green lane plus parcels). The good news is twofold. First, that there is a different timetable for Welsh ports (see below). Secondly, that communication and coordination from UK officials is clearer and more detailed than was the case for 1st January 2021 with the Protocol and TCA roll-out. The fact that both the BTOM and the Windsor Framework are to be implemented in clearly-defined phases helps preparation by businesses across their supply chain, and thus more efficiency in addressing potential problems.

There is still some confusion about what the Windsor Framework does and doesn't facilitate in terms of movement of goods. In order to use the **green lane**, a business has to be registered with one or other of two schemes: the NI Retail Movement Scheme (NIRMS) and the UK Internal Market Scheme (UKIMS). The NIRMS relates to agri-food and is intended primarily to ease the procedures for supermarkets to enter NI from GB. The UKIMS is for other types of trade into NI. Goods entering NI through either green lane still have to comply with the bulk of the EU legislation that applies in NI under the Windsor Framework (they are exempt from only about a fifth of the 300 rules that apply in NI). The green lane enabled by NIRMS will primarily be used by the large supermarkets - the type of business campaigning from the start for recognition that they are 'dead-end hosts'. They will benefit most from the easements under the NIRMS, for example only needing one certificate per load etc.

Going through the green lane doesn't wholly remove the need to meet EU standards but it simplifies and eases the paperwork associated with proving compliance. The flexibilities under the Windsor Framework are based on managing risk in different ways. On the one hand, it is about the **information** that authorities have on the businesses using the green lane. For example, there is a slight increase in information required of businesses when registering under the UKIMS, even if previously registered on the UK Trader Scheme (UKTS). This is in part because of the widening scope of the Scheme to include GB-based businesses, and thus the increased risk of non-compliance. It is also because the Windsor Framework flexibilities are based on access to data, so authorities need to be able to have access to more data from the authorised traders. Secondly, information is being given to consumers. The labelling 'Not for EU'

being put on the product/shelves of goods moved under the NIRMS is intended to help reduce the likelihood of those products ending up in the EU. More weighty safeguards are used where the risk is higher, e.g. of a whole lorry load of green lane goods crossing the EU border. Hence official seals need to be applied each such load under the NIRMS green lane.

Early signs are that, outside retail, many NI-based businesses are clear that they will continue to bring in goods through the red lane. This is because they want to maintain reputation vis-à-vis the EU and thus be assured of continued access to it (whereas use of the green lane implies that they are bringing in goods that should not have access to it).

What are the implications for Wales and the UK Internal Market?

UKIMA: NI firms have to continue to meet EU standards in production of their goods. There is no dual regulatory regime for them. Even if NI firms sell into GB they have to meet EU standards. The upshot potentially has an impact on NI competitiveness in rUK. In that sense, the WF sees NI more affected by the UK Internal Market Act than before, i.e. not being able to discriminate against rUK goods and so cheaper GB food could be potentially sold in NI supermarkets while NI food in GB could potentially be at a higher price. There has been speculation that the UK Government may bring forward secondary legislation to amend the UK Internal Market Act as part of efforts to encourage the Democratic Unionist Party back into power-sharing. This may well have implications for all-GB, e.g. in terms of preventing discrimination of NI goods in GB, but as yet it remains in the realm of speculation.

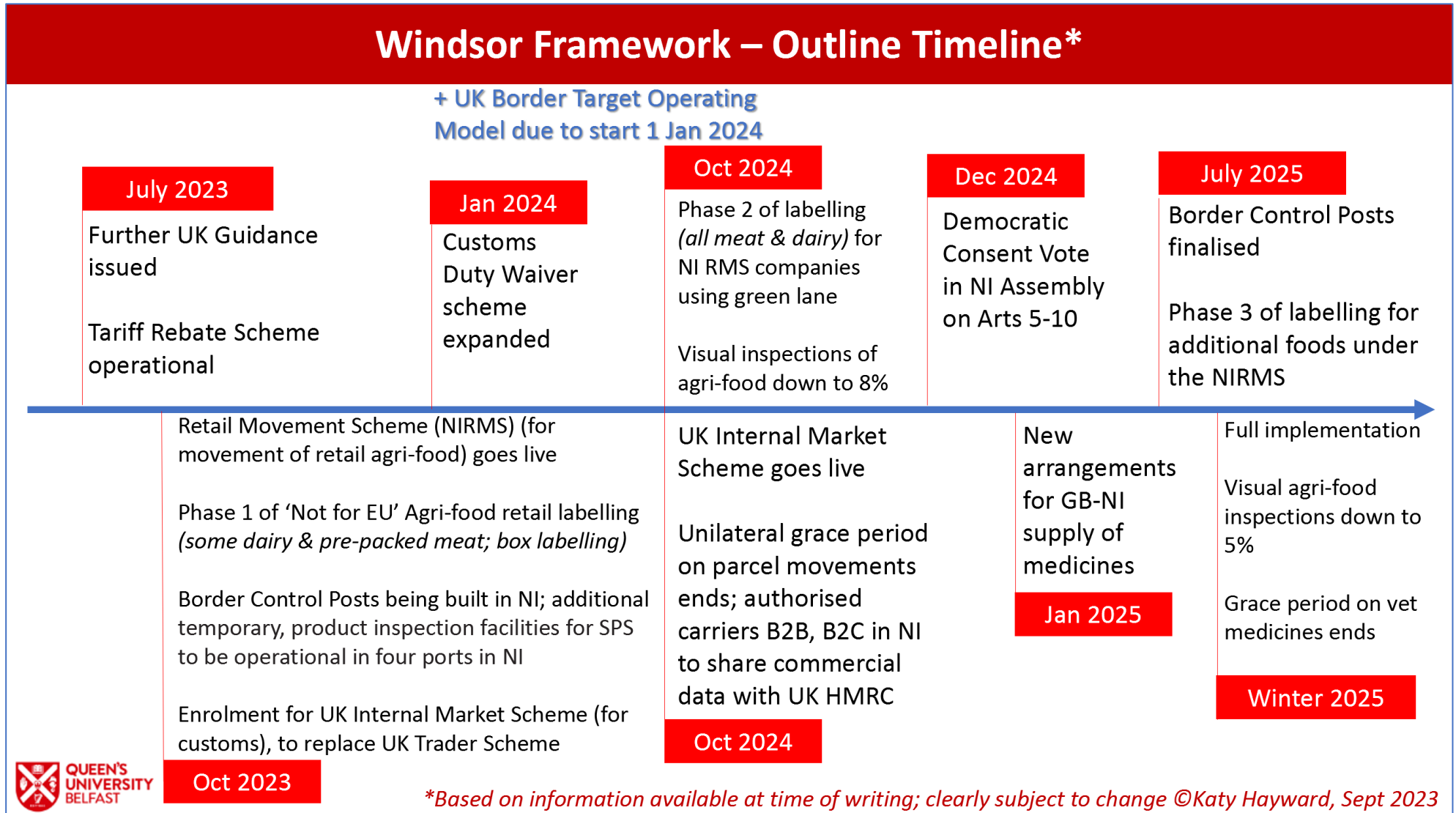
Unfettered Access: A concern about competitiveness for NI agrifood has been the wide-open definition of NI qualifying goods for unfettered access (which in practice allows ROI and other EU goods to benefit from that easy access to GB), i.e. all goods in free circulation in NI. This practice has no doubt affected the decline in the flow into Welsh Ports from Ireland.ⁱⁱⁱ There will be a change to this as a result of the new definition of 'qualifying goods' for such unfettered access. This is to try and restrict that benefit to businesses established in NI. This may help reduce the incentives for entering GB via NI ports (to Cairnryan, Liverpool) rather than Welsh ones. That said, work on building a Border Control Post at Cairnryan is currently stalled so it may well be still easier for ROI goods to enter GB via that route than further down the Irish Sea.

For movement of NI goods into GB via ROI - previously a preferred route - another problem for Welsh ports has been that goods have had to complete an electronic import customs declaration to do so. If the NI goods qualify for unfettered access they will no longer have to do that, although they will still have to use the Goods Vehicle Movement Scheme. This may well encourage use of that 'Irish landbridge' route to GB too.

Labelling: The roll out of GB-wide labelling on products 'not for sale in the EU' is something that has been objected to by business as costly. Minister James Cleverly has admitted that the decision to do so is a 'philosophical' one rather than a practical one, i.e. it comes in response to unionist concerns. The labelling will be on agri-food goods for companies that are using the Retail Movement Scheme to bring products into NI. As the labelling will apply to a widening range of products, and applied to individual items, over the course of the next two years, it is possible to conceive of some objections to this both on the basis of cost and principle coming from Scotland and Wales in particular.

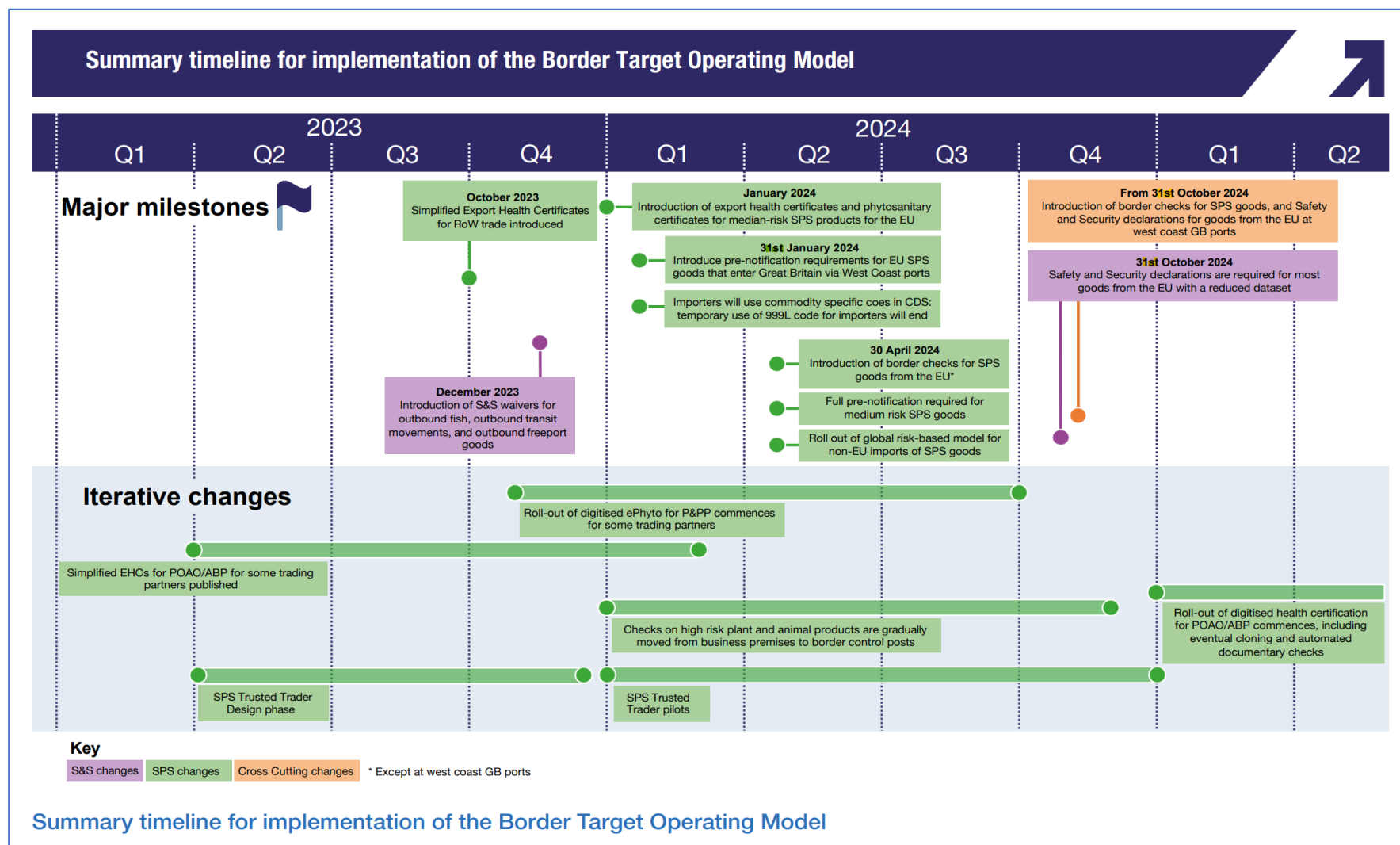
BTOM: The complexity of the situation for goods entering GB from the island of Ireland is recognised in the fact that the BTOM timetable contains a slightly extended timeframe for 'west coast GB ports'. This means that the requirement of pre-notification of SPS goods entering GB into Welsh ports won't kick in until 31st January 2024 and the introduction of border checks on SPS products and Safety & Security declarations on goods entering GB is postponed until 31st October 2024 - according to the current BTOM timetable at least.

Appendix 1. Timeline for the trade dimensions of the Windsor Framework's implementation



*Based on information available at time of writing; clearly subject to change ©Katy Hayward, Sept 2023

Appendix 2. UK BTOM Timeline (issued August 2023)



ⁱ Currently just for high-risk SPS products.

ⁱⁱ Currently checks on SPS products take place away from the border, at business premises.

ⁱⁱⁱ Irish Maritime Development Office (2022) United Traffic Report, Q3, 2022, see:

<https://www.imdo.ie/Home/sites/default/files/IMDOFiles/IMDO%20Q3%202022%20Unitised%20Traffic%20Report..pdf>