

Office for the Internal Market (OIM) – written evidence (RGD0001)

Office for the Internal Market (OIM) submission to House of Lords Sub-Committee on the Windsor Framework

1. The OIM wishes to thank the Sub-Committee and its officials for the opportunity to provide this written submission. This submission provides an overview of the OIM's role and explains its remit regarding the Windsor Framework (the Framework).¹

Overview of the OIM's role

2. The OIM was established by the UK Internal Market Act 2020 (the Act) and is part of the Competition and Markets Authority. The Act also established market access principles (MAPs) for goods, services and professional qualifications. The OIM's statutory objective is to support, through the application of economic and technical expertise, the effective operation of the UK internal market.² It has two main functions:
 - (a) Providing reports (or advice, where applicable) upon request of one or more of the governments across the UK in relation to (i) proposed regulatory provisions, (ii) regulatory provisions that have been made or passed, or (iii) enacted regulatory provisions which are considered to have detrimental effects on the UK internal market (provided in each case that the regulatory provisions meet the relevant definition in the Act³ and subject to the request meeting the OIM's prioritisation principles⁴).
 - (b) Reporting on the operation of the UK internal market through annual and periodic reports.⁵ The OIM can also review at its own discretion any matter it considers relevant to assessing or promoting the effective operation of the UK internal market and/or the provisions of Parts 1 to 3 of the Act.⁶ Such a review can also follow from a proposal from one (or more) of the four governments across the UK, or a third party.⁷ (In both instances, again subject to the OIM's prioritisation principles.)
3. The OIM's role is therefore to provide expert reports and advice to the

¹ We note that following Joint Declaration No 1/2023 of the Union and the United Kingdom, the Protocol on Ireland/Northern Ireland is commonly referred to as the 'Windsor Framework.'

² See sections 31(2) and (3) of the Act.

³ See sections 34 to 36 of the Act.

⁴ See chapter 4 of the OIM's Operational Guidance.

⁵ See sections 33(5) and (6) of the Act.

⁶ See section 33(1) of the Act.

⁷ See section 33(2) of the Act.

governments across the UK, in particular about the impact of certain regulatory provisions on the UK internal market. This may include regulatory measures affecting trade in goods and services, or the use of a professional qualification. It is important to note that the OIM's role is advisory and not decision-making: decisions about legislation or the functioning of the UK internal market are for the governments and legislatures of the UK.

OIM's remit regarding the Framework

4. The OIM does not collect data specifically about the Framework nor review or advise on the Framework itself, and any legislation necessary to give effect to the Framework falls outside the OIM's statutory remit (although other UK internal market matters relating to Northern Ireland are within its remit⁸). However, through our general monitoring role in relation to the UK internal market, we will capture trade data relating to Northern Ireland, which may be useful when considering the effects of the Framework. We may also refer to the Framework when producing reports or advice, where the presence of the Framework and its effects, or potential effects, are relevant to our analysis. We explain this further below.
5. For the purpose of our functions described in paragraph 2(a) above, it is beyond our statutory remit to consider a regulatory provision to the extent that it contains anything that is necessary to give effect to the Framework (as this would not fall within the relevant definition in the Act).^{9,10}
6. In relation to our monitoring and reporting function, as described in paragraph 2(b) above, the effects of the Framework on the UK internal market may be relevant and therefore reflected in associated work. For example, the Framework may be relevant if the OIM is considering the effects, or potential effects, of regulatory divergence on UK-wide trade within a particular sector.
7. Further, as noted in paragraph 2(b) above, the OIM is required to publish annual and periodic reports. Whilst these reports do not review the Framework (or any legislation necessary to implement it), they may refer to the Framework where appropriate or necessary:
 - (a) The OIM's 2023 Annual Report¹¹ included analysis of trade flows between all four nations of the UK. It also reported on proposed regulatory developments in Northern Ireland, including instances where regulations

⁸ The Framework only applies to a particular aspect of intra-UK trade, namely the movement of goods between Great Britain and Northern Ireland, and to which relevant provisions of the Act, such as the MAPs in relation to goods, do not apply. The Act, and the OIM's remit in relation to other aspects of intra-UK trade such as services and professional qualifications, are unaffected by the Framework.

⁹ The Act sets out the type of regulatory provision which can be the subject of a request to the OIM for advice; see section 30(9).

¹⁰ Those aspects of legislation which go beyond what is necessary to give effect to the Framework – for example additional legal requirements introduced by the Northern Ireland Assembly that go further than EU standards in the relevant area, will fall within the scope of the Act and the OIM's remit.

¹¹ 2023 Annual Report.

in Northern Ireland may be required to remain aligned to the EU as a result of the Framework. It also noted that future regulatory developments in one (or more) of the other nations may, indirectly, lead to regulatory divergence between Northern Ireland and the other nations as Northern Ireland remains aligned to the EU.

(b) The OIM's 2023 Periodic Report¹² sought views from the four governments across the UK on how the MAPs were operating and affecting policymaking, and whether they were effective in supporting the UK internal market. In its response, the Department of Agriculture, Environment and Rural Affairs in Northern Ireland considered the fact that the MAPs do not apply to certain goods moving from Great Britain to Northern Ireland could become more significant in the future.¹³

8. The OIM's 2024 Annual Report (due to be published in Spring 2024) will similarly report on Northern Ireland's role within the UK internal market. We plan to draw on additional sources of information about trade between Great Britain and Northern Ireland and include commentary on these trade dynamics, balancing our remit in legislation and the interest in understanding Northern Ireland's place within the UK internal market.

9. In addition, the OIM is committed to supporting the improvement of intra-UK trade data and a collective understanding of how the UK internal market is operating, including improvements to Northern Ireland trade statistics. An update on the progress of initiatives set out in the OIM's Data Strategy Roadmap¹⁴ will be published in Spring 2024.

10. The OIM is happy to provide clarification of any of the matters covered in this submission to the Sub-Committee should this be of assistance.

¹² 2023 Periodic Report.

¹³ See paragraph 2.29 of the OIM's 2023 Periodic Report. To note that this statement referred to the situation under the Protocol as the Windsor Framework was yet to be agreed.

¹⁴ OIM Data Strategy Roadmap 2023.