

Overview of the UK Internal Market

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OIM 6

Office for the Internal Market

Part of the Competition and Markets Authority

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Summary

Introduction

1. The Office for the Internal Market (**OIM**) was launched in September 2021 to provide independent advice, monitoring and reporting in support of the effective operation of the UK internal market.
2. Since leaving the EU, significant powers returned to the UK Government and Devolved Administrations, increasing the possibility of regulatory differences between the nations. The UK Internal Market Act, which established the OIM within the Competition and Markets Authority (**CMA**), aims to ensure that the internal market continues to function as effectively as possible, allowing people and businesses to trade without additional barriers based on which nation they are in.
3. The OIM provides non-binding technical and economic advice to all four governments of the UK on the effect on the UK internal market of specific regulatory provisions that they introduce. Its work assists governments in understanding how effectively companies are able to sell their products and services across the four nations of the UK and the impact of regulatory provisions on this, for consideration alongside wider policy issues.

The purpose of this report

4. We are publishing this report to develop an understanding of current and future issues in the UK internal market ahead of the OIM's first statutory reports in March 2023.
5. We have worked collaboratively with all four nations to review data on intra-UK trade and to identify scope to improve the data for the benefit of policymakers. We have surveyed businesses to understand their awareness of the UK internal market, trading patterns and any concerns about regulatory divergence. We have also reviewed the policy landscape and identified some areas in which regulatory divergence might be most likely to arise.

The regulatory environment

The OIM's objective and role

6. The OIM's objective is to support, through the application of economic and other technical expertise, the effective operation of the UK internal market.

The UK Internal Market Act establishes two ‘market access principles’ (**MAPs**):

- (a) Mutual recognition, which ensures that a product or service which can be legally sold or provided in one part of the UK can be sold or provided in any other part of the UK.
 - (b) Non-discrimination, which ensures that goods or services coming from other parts of the UK are not directly or indirectly discriminated against in favour of local goods or services.
7. The MAPs apply to goods and services. The Act also introduces a system for the recognition of professional qualifications across the UK.
8. Some regulatory provisions are excluded from the Act because they were in place before the end of the transition period following the UK’s exit from the EU on 31 December 2020. In addition, the OIM cannot undertake a review of the Northern Ireland Protocol or of measures necessary to give it effect.
9. The OIM can assist the four governments in their consideration of regulatory provisions where these might have implications for intra-UK trade. The OIM’s functions fall into two categories:
- (a) Providing advice on specific proposed or enacted regulatory provisions on the request of a relevant national authority.
 - (b) Monitoring and reporting on the operation of the UK internal market through discretionary reviews and annual and five-yearly reports.

Regulatory divergence within the UK

10. The exercise of devolved powers by the elected legislatures of Scotland, Wales and Northern Ireland can take many forms, but most relevant to the UK internal market is the power to adopt new regulations and change existing regulations in areas that have been devolved through the relevant devolution Acts. Regulatory divergence can occur where new or changed regulations in one or more of the four nations are not adopted in them all, or where the UK Government exercises its reserved powers but with different approaches or timescales in the devolved nations. Regulatory change may involve either a reduction or an increase in regulations.
11. Any decision by one or more of the four governments to diverge from previously aligned regulatory systems could affect the operation of the UK internal market. Whilst there may be democratic, policy and practical reasons

for governments to adopt differing regulatory approaches, there may also be implications – both positive and negative – for intra-UK trade.

12. Regulatory changes may lead to frictions which make it harder to do business across borders. Differences in regulation can have the equivalent effect of a tax or tariff on products or services from other jurisdictions because they introduce an additional cost for producers. Ultimately, these costs could translate into higher prices, quality impacts and may reduce choice for consumers. The OIM therefore monitors the UK internal market to identify issues which might merit a more detailed review and advises governments, upon request, on the potential technical and economic effects of regulatory provisions.
13. Since 2017, the UK Government and Devolved Administrations have been working together to develop Common Frameworks. These are agreements between the UK Government and the Devolved Administrations to establish common approaches to policy areas where powers which have returned from the European Union intersect with areas of devolved competence. The OIM's five yearly reports will include a review of the impact of Common Frameworks on the UK internal market.

Economic overview of the UK internal market

14. Understanding the economics of the UK internal market, including trade between the four nations, is essential to monitoring the health of the market and considering the effects of regulatory divergence. In undertaking this first analytical assessment of intra-UK trade, we have sought to examine the key sources of data on the economies of the four nations and intra-UK trade and identify the main themes emerging. This, together with our survey work, has enabled us to identify some key themes regarding the UK internal market and intra-UK trade. This gives the OIM a platform upon which further analysis can be conducted.

Economic data

15. The four nations vary significantly both in terms of their population and their economies. England accounts for the highest proportion of UK GDP (86.7%), followed by Scotland (7.6%), Wales (3.5%) and Northern Ireland (2.2%). While the main driver of the differences is population size, there are also important differences in GDP per capita. England has the highest GDP per capita followed by Scotland, Northern Ireland and Wales, with a 38% difference between the GDP per capita of England and Wales.

16. All four UK nations are heavily reliant on services, which make up at least 70% of their economies. However, there are some differences between nations. For example, manufacturing contributes relatively more to the economies of Wales and Northern Ireland while professional and technical activities and financial services contribute relatively more to the economies of England and Scotland.

Intra-UK trade data

17. Data on trade between UK nations has limitations. England does not publish data on intra-UK trade and there are differences in the methodologies used in the data published by Scotland, Wales and Northern Ireland. The data is also published with long lags, with the most recent intra-UK trade data being for 2019.
18. Notwithstanding these limitations, we have undertaken a comprehensive review of the available data. A number of themes emerge:
 - (a) Intra-UK exports are worth at least £190bn per year, representing over a quarter of all UK exports.
 - (b) Scotland, Wales and Northern Ireland, in contrast to England, trade more with the rest of the UK than with the EU or the rest of the world. They are also net importers within the UK, purchasing more from other UK nations than they sell to them. In contrast, England is a net exporter to the other UK nations.
 - (c) Of the devolved nations, Scotland has the greatest amount of trade with the rest of the UK (£66bn of imports and £52bn of exports) followed by Wales (£27bn of imports and £26bn of exports) and Northern Ireland (£13bn of imports and £11bn of exports).
 - (d) In relative terms, Scotland, Wales and Northern Ireland have broadly similar trade patterns with the rest of the UK. 66% of Scotland's imports and 60% of exports are from and to other UK nations. For Northern Ireland and Wales, imports from the rest of the UK are 63% and 58% of total imports, respectively, with sales to the rest of the UK accounting for around half of their exports. Only a small proportion of England's trade is with the other UK nations.
19. We have also examined intra-UK trade flows by sector which indicates that:
 - (a) Service exports to the rest of the UK are higher for Scotland (60% of intra-UK exports) than Northern Ireland and Wales (40%) despite services accounting for 70-80% of all three economies.

- (b) Almost 40% of Scotland's sales to the rest of the UK are business services – over twice that for each of Northern Ireland and Wales – driven in part by Scotland's financial services industry.
- (c) Almost 40% of Northern Ireland's and Wales's sales to the rest of the UK were in manufactured goods, reflecting the importance of manufacturing to these economies.
- (d) 20% of Scotland's and 15% of Wales's sales to the rest of the UK were in primary sector goods and utilities, reflecting the importance of Scotland's oil and gas industry and Wales's agricultural sector.

Collaborative work to improve intra-UK trade data

- 20. Developing comparable and robust statistics on intra-UK trade is important to policymakers, businesses and consumers across the UK. We are therefore working collaboratively with all four governments to identify the current data limitations and take forward plans to improve the data.
- 21. We have also appreciated comments and suggestions from analysts in all four nations which have been helpful in developing this report.

Surveys of the UK internal market

- 22. We commissioned a telephone survey of nearly 600 businesses across the UK in order to understand the economics of the UK internal market in more detail and to provide more recent data than the published statistics. Analysts in all four governments provided valuable input to this work.
- 23. We also worked with the Office for National Statistics to include two questions on intra-UK trade in the fortnightly Business Insights and Conditions Survey (**BICS**) which typically receives 8,000-9,000 responses in each wave.
- 24. The BICS results indicate that:
 - (a) 26% of businesses sold goods or services to customers in other UK nations in the last 12 months. A further 9% may have traded with other UK nations but could not estimate this as a proportion of their sales.
 - (b) Manufacturing (42%) and Wholesale/Retail trade (40%) were the two sectors which had the highest proportions of businesses with intra-UK trade.
 - (c) Larger firms were more likely to trade with other UK nations than smaller firms.

- (d) 10% of businesses which traded with customers in other UK nations said they were experiencing challenges in doing so, with accommodation and food service (21%), transportation and storage (16%) and manufacturing (16%) the most affected sectors.
25. The OIM's survey explored the UK internal market in more detail and found that:
- (a) Consistent with the BICS results, larger firms were more likely to trade with other UK nations than smaller firms.
 - (b) Many markets are local in nature, which limits the incentives and ability for firms, particularly smaller ones, to trade outside their region or nation.
 - (c) Of those firms who engaged in intra-UK trade, the majority who responded found it easy or very easy to trade across nations. However, some firms identified existing differences in regulations that may affect their sales of goods or services within the UK. A slightly smaller number of firms identified anticipated policy and regulatory differences that may affect the sales of their goods or services.
 - (d) Of those firms who engaged in intra-UK trade, the majority could identify the proportion of their sales that were traded across UK nations, and of those, most found it easy to do so. However, there were a sizable minority that were not able to do so, mainly either because they were unable to identify their final customers or because they lacked the information systems needed to generate the data.
 - (e) Most businesses who traded with other UK nations noted that trade had either stayed the same or increased in the past year.
 - (f) There was low awareness of the OIM, although a higher proportion of firms answered questions on the MAPs correctly.
26. In addition to providing a richer evidence base, the survey was also an opportunity to understand better how surveys can be designed to examine intra-UK trade and has enabled us to identify lessons for future survey work.

Future developments in the regulatory environment

27. Our analysis of trade data demonstrated the scale of the UK internal market and its importance to the four nations of the UK. Given the high level of integration in trade flows between UK nations, potential barriers to trade with the rest of the UK could have implications for economic growth and prosperity.

28. We have not identified evidence of substantial new policy divergence emerging between the four nations since 31 December 2020. Coupled with the findings from our survey of businesses, there is nothing in the evidence we have seen to date to suggest that regulatory divergence since December 2020 has affected the UK internal market.
29. This is not unexpected because any potential divergence of regulatory approaches within the UK might occur over time as the governments develop and implement their programmes. In particular, it reflects the transitional period which prevented any modification of EU retained law.
30. Our analysis suggests that the main policy areas where a degree of regulatory divergence may emerge over time are likely to be in sectors such as:
 - Environment.
 - Energy use.
 - Agriculture.
 - Animal welfare.
 - Food, drink and health.
 - Safety-related matters.

Many of these areas align or overlap to an extent with some of the provisional Common Frameworks.

31. In many cases, divergence may not ultimately emerge and regulatory approaches across the UK may even converge over time or be managed through Common Frameworks. However, identifying specific areas in which regulatory divergence is most likely to occur has provided valuable intelligence.
32. We have set out some example developments in these sectors – including in relation to single-use plastics, smart charging, gene-edited crops, live animal exports and nutrition labelling. These examples include regulations relating to the sale of goods, provision of services and recognition of professional qualifications – illustrating the potential range of regulatory divergence that may arise.
33. As part of our role to provide independent advice, monitoring and reporting in support of the effective operation of the UK internal market, we will continue to consider emerging policy developments – drawing on inputs by businesses

and other stakeholders to our digital reporting service and our ongoing engagement with stakeholders and the four governments.

34. We are also ready to respond to requests from the governments for reports and advice on specific regulatory provisions and by March 2023 will produce our first statutory reports on developments relevant to the UK internal market and its effective operation.

1. Introduction and background

- 1.1 This chapter explains the background to this report providing an overview of the UK internal market, including the wider context of the role of the Office for the Internal Market (**OIM**). It explains the purpose of this report in setting the scene for the OIM's ongoing monitoring and reporting role, as well as the information we have drawn on.

Overview of the OIM's role

- 1.2 The UK Internal Market Act 2020 (**the Act**) established the OIM to carry out the Competition and Market Authority's (**CMA**) functions and powers under Part 4 of the Act.¹
- 1.3 The OIM launched on 21 September 2021² to provide independent advice, monitoring and reporting in support of the effective operation of the UK internal market, following the return of powers from the European Union (**EU**) to the UK Government and Devolved Administrations (**DAs**). The Act establishes an OIM panel, consisting of a panel chair (who will sit on the CMA Board) and a number of panel members.
- 1.4 The OIM's statutory objective is to support, through the application of economic and technical expertise, the effective operation of the internal market in the UK.³ It provides non-binding technical and economic advice to all four governments on the effect on the UK internal market of specific regulatory provisions that they introduce. It also assists governments in understanding how effectively companies are able to sell their products and services across the four nations of the UK, and the impact of regulatory provisions on this, including the impact on competition and consumer choice, for assessment alongside wider policy considerations.
- 1.5 The OIM's main functions fall into two categories:

¹ In this report, we use the term 'the OIM' when referring to the CMA discharging its internal market functions.

² See: [Office for the Internal Market opens for business](#), September 2021.

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

- (a) Providing reports (or advice, as applicable) on specific regulatory provisions on the request of a Relevant National Authority (**RNA**).⁴
- (b) Monitoring and reporting on the operation of the UK internal market.⁵ This has two strands:
- **Discretionary reviews and reports** on any issues relevant to the effective operation of the UK internal market.⁶
 - **Annual and five-yearly reports** on developments relevant to the UK internal market and its effective operation.⁷

1.6 Further information on the role of the OIM can be found in its Operational Guidance published in September 2021.⁸

Overview of the UK Internal Market Report

1.7 The OIM is publishing this report providing an overview of the UK internal market as a discretionary output under section 33(1) of the Act, six months after its establishment and a year before it is required to produce its first statutory annual and five-yearly reports. The report is intended to inform understanding of the UK internal market and to help set the scene for the OIM's future outputs.

⁴ Section 45(6) defines 'Relevant national authority' for the purpose of Part 4 as 'any of the following – (a) the Secretary of State; (b) the Scottish Ministers, (c) the Welsh Ministers; (d) a Northern Ireland department'. Under section 34 of the Act, an RNA can request the OIM to advise or provide a report on a proposed regulatory provision; under section 35, an RNA can request the OIM to provide a report after a regulatory provision is passed or made; and under section 36, an RNA can ask the OIM to provide a report on a regulatory provision it considers to have detrimental effects to the effective operation of the UK internal market.

⁵ See section 33 of the Act. The areas this monitoring may consider include, but are not limited to, cross-border competition, cross-border investment, nature and levels of trade between different parts of the UK and access to goods and services.

⁶ See section 33(1) of the Act. The OIM cannot undertake a review of the Northern Ireland Protocol nor of legislation implementing it (section 30(9) of the Act).

⁷ See sections 33(5) and 33(6) of the Act. This Overview of the UK Internal Market is not an Annual nor Five-Yearly Report, but a standalone discretionary output intended to help set the scene for the OIM's future outputs.

⁸ OIM, [Guidance on the operation of the CMA's UK internal market functions](#), September 2021. Although not required for the production of this report, under the Act, the OIM has powers to issue a notice requiring a person to provide information or documents and to impose penalties where an information notice is not complied with. See: OIM, [Statement of Policy on the Enforcement of the OIM's Information Gathering Powers](#), September 2021.

What do we mean by the UK internal market?

The UK internal market

1.8 The UK is a union of four nations: England, Scotland, Wales and Northern Ireland. The term ‘UK internal market’ therefore refers to the set of trading relationships within and across these four UK nations rather than trade with the rest of the world. Chapter 3 explores the size and composition of the economies of the four nations of the UK before considering the trade flows between them.

The UK Internal Market Act

1.9 Since leaving the EU and the end of the Transition Period on 31 December 2020, significant powers returned from the EU to the UK Government and DAs, including powers in devolved policy areas – for instance food, waste, hygiene and hazardous substances regulation.

1.10 This return of powers has increased the opportunity for regulatory differences to emerge between the nations. An important additional factor in considering the scope for possible regulatory differences is the Northern Ireland Protocol (**NIP**).⁹ We consider these issues in Chapter 2.

1.11 The Act is intended to ensure the UK’s internal market functions effectively as powers previously exercised at EU level return to the UK, allowing people and businesses to trade without additional barriers based on which nation they are in – limiting the trade and wider economic costs of divergence and providing certainty for people and businesses.

1.12 Parts 1 to 3 of the Act therefore establish the market access principles (**MAPs**)¹⁰ of mutual recognition and non-discrimination across the four nations of the UK:

- The **mutual recognition principle** ensures that a product that has been legally produced in, or imported into, and can be legally sold in one part of

⁹ The NIP is part of the October 2019 EU UK Withdrawal Agreement and sets out Northern Ireland’s post-Brexit relationship with the EU and Great Britain. Under the NIP, Northern Ireland remains part of the UK customs territory and is therefore included in UK free trade agreements, but must follow the EU’s rules for bringing goods in and out of the EU (the customs code) and many EU single market rules for goods, while GB will set its own customs and regulatory rules.

¹⁰ The MAPs are defined in section 1(2) of the Act as: ‘(a) the mutual recognition principle for goods (see sections 2 to 4); and (b) the non-discrimination principle for goods (see sections 5 to 9)’. The same principles apply to services (see Part 2 of the Act).

the UK, can be sold in any other part of the UK; or that a service that can be legally provided in one part of the UK can be provided in another part of the UK.

- The **non-discrimination principle** ensures that goods or services coming from other parts of the UK are not directly or indirectly discriminated against (in favour of local goods or services).

International examples of internal markets

- 1.13 As the Institute for Government (**IfG**) notes, the UK is not alone in managing an internal market.¹¹ Unitary states, such as Japan and New Zealand,¹² do not need measures to maintain the integrity of their internal markets. However, federal states or those with powers devolved to territories within them such as Switzerland and Australia,¹³ typically face the same challenge of balancing frictionless trade against the right of the territorial jurisdictions within them to set their own rules.
- 1.14 In developing its approach to supporting the effective operation of the UK internal market, the OIM therefore considered international experience in a number of countries, including Spain, Canada, Australia and Switzerland (see **Appendix A**).
- 1.15 There are marked differences between these international examples and the UK internal market model, reflecting each individual historical and constitutional context. Similarly, whilst there is broad international recognition of the need to analyse and assess the economic impacts of divergent regulatory approaches that emerge from federal or devolved systems of government, the role of the OIM and its functions necessarily reflects the specific context of the UK internal market.
- 1.16 In particular, although the UK has adopted some similar aspects of the EU Single Market, such as the concepts of mutual recognition and non-discrimination, the UK model differs in several ways, reflecting its specific constitutional position and devolution settlements. Notably, the OIM's role differs to that of the European Commission in that it does not have a formal role in making regulatory proposals and its function is advisory in relation to regulations that may engage the MAPs.

¹¹ See IFG, [The UK internal market - Balancing frictionless trade and regulatory autonomy](#), June 2021.

¹² See: [OECD Country Profile: Japan](#), [OECD Country Profile: New Zealand](#).

¹³ See: [OECD Country Profile: Switzerland](#), [OECD Country Profile: Australia](#).

The purpose of this report

- 1.17 This 'Overview of the UK Internal Market' report is intended to support and inform the OIM's monitoring and reporting role, as described above, by setting out the evidence that we have been able to draw together so far and identifying where there are knowledge gaps ahead of our first statutory reports due by March 2023.
- 1.18 Prior to its launch, the OIM consulted on how it expected to approach the exercise of the internal market functions assigned to it in Part 4 of the Act.¹⁴ A number of respondents suggested that a key early priority for the OIM should be to compile empirical data on the functioning of the internal market and the effects of regulatory divergence upon it, perhaps through the development of a baseline report.
- 1.19 This report therefore provides an economic overview of the UK internal market, the regulatory environment across the nations and the OIM's plans to collect evidence and monitor the UK internal market.
- 1.20 More specifically, the report:
- (a) considers the key elements of the UK regulatory environment, how devolution allows for regulatory divergence, and the potential implications for the UK internal market of leaving the EU;
 - (b) provides an economic overview of the UK internal market, including a summary of the available evidence (including trade data and survey evidence);
 - (c) provides a description of the work that the OIM is doing in partnership with the four nations to improve the evidence base on intra-UK trade; and
 - (d) considers where regulatory divergence might be most likely to arise between the four nations since the UK left the EU and sets out recent and potential UK internal market developments.
- 1.21 The report is likely to be of particular interest to UK Government, the DAs and the four legislatures, as well as businesses that trade across the UK and relevant representative organisations.

¹⁴ See: [Consultation on Draft Guidance on the Operation of the CMA's UK Internal Market Functions](#), May 2021.

What information are we drawing on?

- 1.22 In developing this report, we held a series of bilateral meetings with the four governments of the UK to discuss the OIM's role and relevant regulatory developments. We also worked closely with analysts in each of the UK's nations to consider the economic and statistical evidence available on the internal market and how we can work together to improve the evidence base.
- 1.23 In particular, we have drawn on some specific information sources, including:
- (a) The results of the OIM's survey of nearly 600 businesses across the four nations, and questions proposed by the OIM which the Office for National Statistics (**ONS**) included in its Business Insights and Conditions Survey (**BICS**), discussed in more detail in Chapter 3.
 - (b) Our analysis of published intra-UK trade and other economic data on the economies of the four nations.
 - (c) Desk based reviews of relevant literature and other evidence, such as public announcements, programmes for government and Committee hearings.
 - (d) Information and knowledge from wider CMA work.

Our future monitoring

- 1.24 Our future monitoring reports will be able to build on the information and analysis in this report. We will also draw on our ongoing engagement with UK Government and DAs, as well as analysis we conduct in response to their requests and for our discretionary reviews of specific topics. In particular, we will continue our programme of engagement with stakeholders.¹⁵
- 1.25 In addition, we have set up a new digital reporting service,¹⁶ for businesses and other stakeholders to submit information and evidence via a webform on how the UK internal market is working, which will help to inform our intelligence function.

¹⁵ More than half of the respondents to the OIM's draft Operational Guidance highlighted the need for significant stakeholder outreach and engagement across the whole of the UK, particularly given that the concept of a UK internal market and practical implications of potential regulatory divergence were new and not widely understood. See: [OIM 3 Summary of consultation responses](#), September 2021.

¹⁶ See: [Report a UK Internal Market issue](#).

1.26 The information provided through the webform, as well as from other sources, will be analysed to help monitor how effectively goods and services are moving between different parts of the UK, and whether there are any barriers preventing individuals from practising a profession in one part of the UK because the qualification was obtained in another part of the UK, and to identify emerging issues. We will use this information to decide whether to produce 'own-initiative' reports using our powers under s33 of the Act as well as to inform our general monitoring of the effectiveness of the UK internal market.

2. The regulatory environment

Introduction

2.1 In this chapter, we consider the regulatory framework relating to the UK internal market and the potential for regulatory differences to emerge between the UK's four nations, particularly following the UK leaving the EU. We also consider the OIM's role in assessing regulatory developments.

2.2 The chapter is structured as follows:

- (a) **The regulatory environment** – we set out what we mean by the relevant 'regulatory environment' in terms of the OIM's role.
- (b) **Devolution and regulatory divergence** – we provide an overview of devolution in the UK¹⁷ and set out how this allows for regulatory divergence between the UK nations.
- (c) **Regulatory divergence and Brexit** – we discuss the relationship between Brexit and the scope for regulatory divergence within the UK.
- (d) **The OIM's role in relation to regulatory developments** – we describe the OIM's role in supporting the effectiveness of the UK internal market, through advice, monitoring and reporting, as well as how the OIM's work can help to inform policy development.
- (e) **The OIM's consideration of specific regulatory developments** – we explain what regulatory issues might fall to the OIM to consider, including the implications of the NIP and interaction with the Common Frameworks programme.¹⁸

What is the relevant regulatory environment?

2.3 As set out in Chapter 2, the OIM has reporting and advisory functions under ss 34 to 36 of the Act relating to 'regulatory provisions', which the Act defines¹⁹ to 'include primary and subordinate legislation, retained EU legislation and

¹⁷ Our report focuses on devolution at the national level, rather than regional devolution.

¹⁸ Common Frameworks are 'a consensus' between a Minister of the Crown and one or more devolved administrations as to how devolved or transferred matters previously governed by EU laws are to be regulated following the end of the transition period on 31 December 2020.

¹⁹ See section 30(8) and 30(9) of the Act.

provision made under legislation,²⁰ but not provisions necessary to give effect to the NIP.²¹

- 2.4 Under the Act, a relevant regulatory provision is one to which the MAPs for goods, services, or professional qualifications apply. Some provisions fall outside our scope because they are excluded by Schedule 1 (goods) or Schedule 2 (services),²² or because they were in place before 31 December 2020 (the end of the transition period following the UK's exit from the EU).²³
- 2.5 Furthermore, for the OIM to consider a regulatory provision under ss 34 to 36, the provision must apply to one or more of England, Scotland, Wales and Northern Ireland, but not apply to the whole of the UK.
- 2.6 As explained in Chapter 2, under section 33(1) of the Act, the OIM also has a role to monitor and report on the UK internal market, including on any issues relevant to its effective operation, or the effective operation of the MAPs.²⁴ In practice, as well as regulatory provisions, these issues could include matters which are not of a legislative nature but may impact on the movement of goods or services between the four nations such as relevant trade association rules or government policy; and relevant regulatory provisions which would not fall within the OIM's ss 34 to 36 functions because they are excluded from the MAPs.
- 2.7 For the purposes of the Act and the OIM's role, the relevant 'regulatory environment' therefore broadly refers to regulatory developments falling within the above scope. For this report, however, at this early stage in the OIM's life, we focus primarily on regulatory developments that may be relevant to our functions under ss 34 to 36 of the Act, rather than the broader range of developments that we might consider under s33(1).²⁵

²⁰ For example, trade association codes that are mandated by statute.

²¹ See [Explanatory Notes – United Kingdom Internal Market Act 2020](#).

²² A number of regulatory requirements or sectors are therefore wholly or partially excluded from the MAPs. For example under Part 1, section 15 of the Act, where the sale of goods is only for the purpose of performing a public function, this is excluded from the MAPs. Other exclusions under Part 2, section 19 of the Act, apply to the protection of human, animal, or plant health and where the requirement can reasonably be justified as a response to a public health emergency. As such these areas are not within the scope of the OIM's consideration under sections 34 to 36.

²³ This exclusion ceases at the point of a substantive change to the existing regulation.

²⁴ However, the OIM cannot undertake a review of the Northern Ireland Protocol or of legislation implementing it.

²⁵ As we explain in Chapter 4, our reference to any specific developments should not be considered an assessment on our part as to whether these are necessarily relevant regulatory provisions as defined in the Act.

Devolution and regulatory divergence

- 2.8 In the UK, devolution has been a process conferring increased legislative powers upon the elected legislatures of Scotland, Wales and Northern Ireland, and executive (or administrative) powers on their administrations / governments. Each devolved nation in the UK has its own devolution settlement,²⁶ with the creation and development of devolved legislatures and administrations.²⁷ See **Appendix B** for more information.
- 2.9 The exercise of devolved powers by the elected legislatures of Scotland, Wales and Northern Ireland can take many forms, but most relevant to the UK internal market is the power to adopt new regulations and change existing regulations. Regulatory divergence can therefore occur where new or changed regulations in one or more of the four nations is not adopted in them all, resulting in differences between the nations in how they treat businesses. Divergence may also occur where UK Government exercises its reserved powers, but with different approaches or timescales in the devolved nations. As discussed further below, divergence between Great Britain (**GB**)²⁸ and Northern Ireland may also arise following Brexit because of the NIP.
- 2.10 Regulatory change itself can also vary in nature. It may involve either a reduction or an increase in regulation. It may also include procedural changes – such as a requirement to meet particular standards and the establishment of new regulatory bodies to oversee this.

Regulatory divergence and Brexit

- 2.11 Prior to the UK's exit from the EU, there was already scope for regulatory divergence. Over time, devolution has seen differences emerge between the nations in how they regulate certain goods and some services within their borders – for example, funeral services, building regulations, Sunday trading laws, minimum pricing for alcohol units, the sale of raw drinking milk and the labelling of natural spring water.
- 2.12 However, whilst the UK was a member of the EU, the EU single market provided a framework that limited the scope for further divergence in

²⁶ The Scotland Act 1998 as amended by the Scotland Act 2012 and the Scotland Act 2016; the Northern Ireland Act 1998; and the Government of Wales Act 1998, replaced by the Government of Wales Act 2006 as amended by the Wales Act 2014, the Wales Act 2017 and the Senedd and Elections (Wales) Act 2020.

²⁷ The Scottish Parliament, Welsh Parliament (Senedd Cymru), and Northern Ireland Assembly, together with their administrations – the Scottish Government, Welsh Government and Northern Ireland Executive respectively.

²⁸ Great Britain is the combination of England, Scotland and Wales.

regulatory approaches across the four nations.²⁹ The devolved legislatures and administrations were expressly prohibited by statute from passing any legislation or acting in any way that was incompatible with 'community' (EU) law or obligations. After the UK left the EU, and at the end of the Transition Period on 31 December 2020, powers previously exercised at EU level returned to the UK Government and the DAs.

- 2.13 This included powers in devolved policy areas – for instance food, waste, hygiene and hazardous substances regulation. This return of powers has increased the potential for regulatory differences to emerge between the four nations. Within this general context of increased scope for regulatory differences, the NIP is an important additional factor which we consider further below in relation to the OIM's role.

The implications of increased regulatory divergence for the UK internal market

- 2.14 Any decision by one or more of the four governments to diverge from previously aligned regulatory systems could affect the operation of the UK internal market. Whilst there may be democratic, policy and practical reasons for governments to adopt differing regulatory approaches, there may also be implications – both positive and negative – for intra-UK trade that have not, until recently, typically been considered in any depth.
- 2.15 Absent the MAPs, regulatory differences in one or more nations may affect both the nation(s) adopting the regulations and those not doing so, because they may impose or remove requirements on businesses selling across borders between the nations. Some changes may represent challenges and risks whilst others represent opportunities and rewards. Each of the four nations may therefore be affected by decisions made elsewhere and will therefore have an interest in understanding these decisions and their impacts.
- 2.16 Whilst regulatory developments may have beneficial economic effects for intra-UK trade, intra-UK trade barriers might also arise from the UK Government and DAs amending retained EU law in different ways. This could lead to frictions – making it harder to do business across borders, which, in

²⁹ Although it is important also to note that whilst EU membership limited the scope for regulatory divergence between the four nations where the EU had competence, it did not entirely prevent this. Whilst EU regulations required conformity, EU directives allowed member states to devise legislation to address set goals. For example, as noted by the IfG, the UK's devolved administrations had the discretion to set different policies and targets in relation to certain air pollutants to comply with the EU Waste Framework Directive. See IfG, [The UK internal market - Balancing frictionless trade and regulatory autonomy](#), June 2021.

turn, might lead to higher supplier costs, affect investment decisions and impact on the range, price and quality of goods available to consumers.³⁰

The OIM's role in relation to regulatory developments

2.17 In this section we consider the role assigned to the OIM under the Act and, in particular, its aim to assist governments across the UK through its functions to provide reports or advice on specific regulatory provisions as well as to monitor and report on the operation of the UK internal market. We also address how the OIM can help to inform policy development.

Supporting the effective operation of the UK internal market

2.18 The aim of the OIM is to assist RNAs across the UK to manage the potential evolution of different regulatory approaches in a way which protects the effective operation of the UK internal market.

2.19 As summarised in Chapter 1, the OIM can provide non-binding technical and economic advice to all four governments on the effect on the UK internal market of specific regulatory provisions that they introduce. It also assists governments in understanding how effectively companies are able to sell their products and services across the four nations of the UK, and the impact of regulatory provisions on this, including the impact on competition and consumer choice. These considerations would form part of the governments' assessment of these provisions alongside wider policy considerations. **Appendix C** addresses the policy making processes in terms of where the OIM might assist governments.

2.20 In the context of the OIM's overall responsibilities, recognising the balance to be struck between frictionless trade and devolved policy autonomy, we consider that 'effective operation' includes the following:

- (a) Minimised barriers to trade, investment and the movement of labour between all parts of the UK (subject to relevant exclusions in the Act).
- (a) Ensuring that businesses or consumers in one part of the UK are not favoured over others.

³⁰ The potential economic effects of divergence between UK nations is discussed further in Chapter 3 of the OIM's [Guidance on the Operation of the CMA's UK Internal Market Functions](#), September 2021.

(b) Effective management of regulatory divergence (including through the use of Common Framework agreements).³¹

2.21 The OIM's focus will therefore be on assessing the economic effects of regulatory differences, with a particular emphasis on trade between the UK nations. The OIM will not assess wider policy considerations, including the benefits, or otherwise, of divergence.

Providing reports and advice

2.22 As set out in Chapter 1, the OIM will provide reports and advice to the RNAs on request. Ultimately, decisions about how potential regulatory divergence post Brexit is managed is a matter for the four governments of the UK. However, as we note below, the OIM's technical and economic analysis is designed to be a valuable input to the policy and decision-making processes of governments as well as potentially assisting with common policy programmes, including Common Frameworks.

2.23 The OIM's analysis may also assist with wider economic policy developments. In this regard we note that Scotland, Wales and Northern Ireland each trade more with the rest of the UK than with the EU or the rest of the world (see Chapter 3). Given the high level of integration in trade flows between UK nations, potential barriers to trade with the rest of the UK could have implications for economic growth and prosperity.

Monitoring the internal market

2.24 As described in Chapter 1, one of the OIM's main functions is to monitor and report on the operation of the UK internal market. The Act envisages three distinct tools for the OIM to do so: discretionary reviews and reports; annual reports and five-yearly reports.

2.25 There is an important distinction between the scope and nature of the OIM's annual and five-yearly reports. The annual report provides for a broad assessment of the 'health' of the UK internal market – essentially a review of its operation and function in the wider sense. In contrast, the five-yearly report requires the OIM to assess the effectiveness of Parts 1 to 3 of the Act and the impact they have on the operation and development of the internal market – i.e. whether the MAPs are fulfilling their function in safeguarding the effective operation of the UK internal market appropriately. The five-yearly report will

³¹ See OIM, [Guidance on the operation of the CMA's UK internal market functions](#), September 2021.

also cover Common Frameworks and their interaction with both Parts 1 to 3 of the Act and impact on the effective operation of the UK internal market.

- 2.26 To conduct its monitoring function, the OIM can commission research to establish baselines and benchmarks, and seek to understand flows and barriers to flows of capital, trade and labour to develop an evidence base.³² Chapter 3 of this report includes the outcomes of the OIM's research on the current economic and trade structure of the UK internal market.

The OIM's consideration of specific regulatory developments

- 2.27 As well as monitoring general trends, the OIM will seek to track specific regulatory developments in the nations of the UK and to assess relevant changes and developments in the internal market over time to identify the sectors or industries in which these are occurring. As noted above, this will include considering the impact of Common Framework agreements on the development of the UK internal market. In Chapter 4, we consider the sectors where relevant regulatory developments may be most likely to arise and identify some examples of potentially relevant regulatory developments in these sectors.

- 2.28 In the OIM's view, specific variations in regulatory provisions (including sales restrictions) with the potential to affect **trade in goods** may include, for example:³³

- packaging, labelling or design regulations;
- restrictions relating to the transport and sale of live animals, or animal and plant products;
- testing, inspection and certification procedures; and
- environmental, safety or quality regulations.

- 2.29 Potential regulatory developments in relation to the **regulation of service providers** may notably include:³⁴

- local presence requirements;

³² Paragraph 3.10, [Guidance on the operation of the CMA's UK internal market functions](#), September 2021.

³³ This list is not exhaustive. As noted above, there may also be relevant exclusions which limit the scope of the OIM's review.

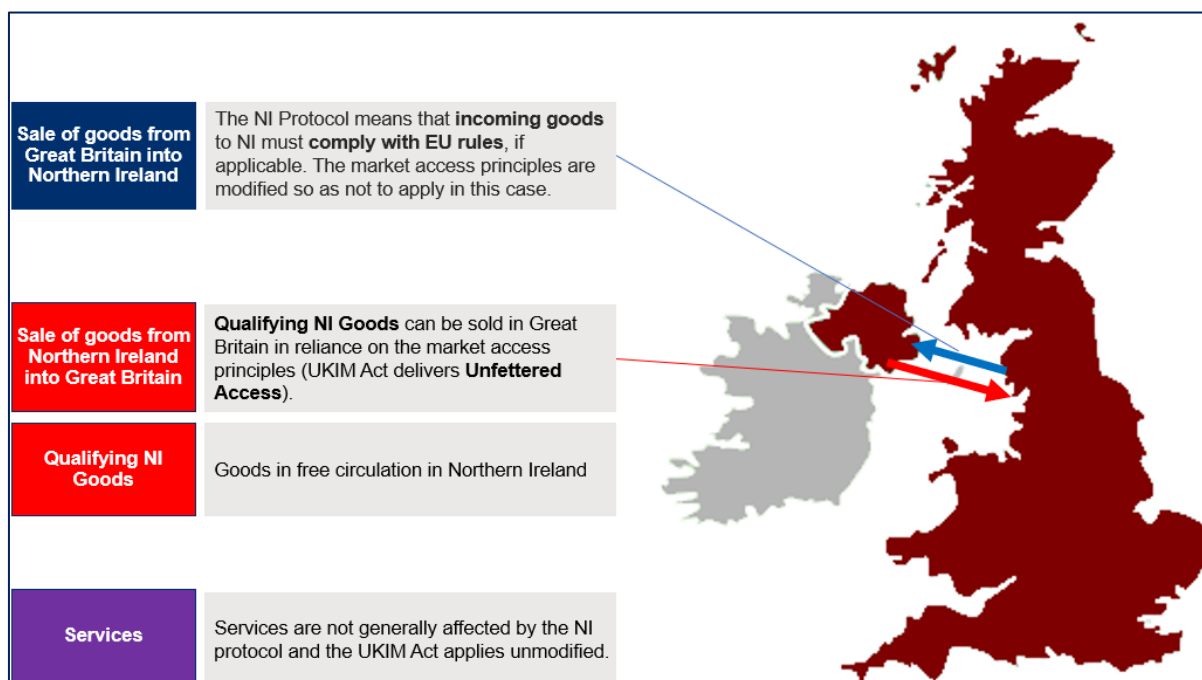
³⁴ This list is not exhaustive.

- local qualification requirements; and
 - restrictions on business structure.
- 2.30 Understanding these developments will assist the OIM in undertaking its monitoring role, but also potentially in addressing requests for reports and advice from RNAs, as well as in identifying where the OIM may conduct discretionary work.
- 2.31 Under the Act there is a presumption that professional qualifications will be recognised throughout the nations and that there must be no discrimination when assessing the compatibility of qualifications with national law. Some provisions, such as those relating to legal services and to schoolteachers, are excluded and in some cases professionals may need to requalify. The OIM can also consider regulatory developments in relation to professional qualifications.
- 2.32 The OIM will also take into account some further factors in identifying potential relevant regulatory developments and which we explain in more detail below:
- (a) The relationship to the NIP.
 - (b) The relationship to the Common Frameworks programme.

The Northern Ireland Protocol

- 2.33 Under the NIP, Northern Ireland remains part of the UK customs territory and is therefore included in UK free trade agreements. However, Northern Ireland must follow the EU's rules for bringing goods in and out of the EU (the customs code) and many EU single market rules for goods, while GB will set its own customs and regulatory rules. This is explained further in **Figure 1**.

Figure 1: NIP devolved and reserved / excepted matters



Source: Department for Business, Energy & Industrial Strategy (BEIS).³⁵

2.34 Differences may therefore arise between Northern Ireland and the rest of the UK, as the EU adopts regulatory changes that Northern Ireland is required also to adopt; or as GB (or nations in GB) adopt regulatory changes that Northern Ireland cannot follow as a result of the NIP.

The NIP and the OIM's role

2.35 The NIP and legislative provisions which are necessary to give effect to it are outside the scope of the OIM's functions under the UKIM Act. The OIM therefore cannot produce reports, at the request of any RNA on regulatory provisions which are necessary to give effect to the NIP. Nor can the OIM undertake a review of the NIP (or legislation implementing it) under its broader monitoring functions.

2.36 However, it is important to note that the NIP affects only goods moving from GB to Northern Ireland. It does not impact on goods moving from Northern Ireland to GB, nor does it impact the provision of services or the recognition of professional qualifications.

2.37 Furthermore, the OIM can potentially provide advice in certain specific circumstances, such as when regulations are made which go beyond what is

³⁵ See: BEIS [An introduction to the UK Internal Market Act](#), October 2021.

necessary to give effect to the NIP, or on the impacts of GB divergence with EU law on the UK internal market, or when Northern Ireland is required by the Protocol to remain aligned to the EU. In all circumstances, these would need to be assessed on a case-by-case basis.

- 2.38 For the purposes of this report, we note in Chapter 4 some examples of regulatory developments that may be within scope of the NIP.

Common Frameworks

- 2.39 Common Frameworks are, essentially, non-statutory intergovernmental arrangements between the UK Government and DAs to establish common approaches to policy areas where powers which have returned from the EU intersect with areas of devolved competence.

- 2.40 In 2017, governments across the UK agreed principles³⁶ setting out what Common Frameworks would be and the areas in which they were required after Brexit. Their communiqué defined Common Frameworks:

“A framework will set out a common UK, or GB, approach and how it will be operated and governed. This may consist of common goals, minimum or maximum standards, harmonisation, limits on action, or mutual recognition, depending on the policy area and the objectives being pursued. Frameworks may be implemented by legislation, by executive action, by memorandums of understanding, or by other means depending on the context in which the framework is intended to operate.”

- 2.41 The Frameworks Division in the UK Government Cabinet Office has coordinated the Common Frameworks programme as a whole, working with governments across the UK. All major decisions are taken by administrations jointly including decisions to sign off the Frameworks at key stages of their development. Framework agreements are also subject to scrutiny by Parliament and the devolved legislatures before they are finally agreed.

- 2.42 In 2021, the Cabinet Office identified 152 areas of EU law that intersected with devolved competence in one or more DAs.³⁷ Through collaborative work, the UK Government and DAs have reviewed these policy areas to agree where

³⁶ See: [Communiqué from the Joint Ministerial Committee \(EU Negotiations\)](#), October 2017, representing all governments of the UK (not ratified by NI Executive until 2020).

³⁷ Cabinet Office, [Frameworks Analysis 2021](#), November 2021.

Common Frameworks are required³⁸ and continue to work together to take forward the programme. At the time of writing there are 32 areas where a Common Framework has been or is being developed, covering a range of policy areas and at various stages of delivery (see **Appendix D**).³⁹ To date, one Common Framework has been finalised and fully implemented following scrutiny by all four legislatures.⁴⁰ A further 29 Common Frameworks have been provisionally confirmed and of these 26 have been shared with legislatures for Parliamentary scrutiny.

- 2.43 Common Frameworks may set out areas of harmonisation and areas of agreed or accepted divergence. An example is the Food and Feed Safety and Hygiene Common Framework,⁴¹ which sees all four administrations conduct joint risk analysis on food safety but with decisions ultimately taken by each Minister separately, with a possibility of divergence.

Common Frameworks and the OIM's role

- 2.44 The OIM's five-yearly reports will include a review of the impact of Common Frameworks on the UK internal market, and any interaction between the operation of the MAPs and Common Framework agreements.⁴² As we set out in our Operational Guidance,⁴³ the scope of this analysis relating to Common Frameworks may include: identifying the relevant regulatory and market conditions in each of the nations; the scope of permitted and actual divergence; the existence, extent and impact of any related exclusions from the MAPs; and assessment of impacts on trade and other economic variables.⁴⁴

³⁸ For example, in its 2021 analysis, the Cabinet Office agreed with the DAs that in 120 policy areas, no further action would be needed to develop a framework – for instance because risk of divergence is minimal and no specific intergovernmental arrangements are needed; existing intergovernmental arrangements in place to ensure coherence and manage risk of divergence; or divergence has, or is expected to have, minimal impact and no specific intergovernmental arrangements are needed. All policy areas in this category remain open for review. Cabinet Office, [Frameworks Analysis 2021](#), November 2021. We consider this further in Chapter 4.

³⁹ See Cabinet Office, [The European Union \(Withdrawal\) Act and Common Frameworks: 26 March to 25 June 2021](#), November 2021.

⁴⁰ The [Hazardous Substances \(Planning\) framework](#), August 2021.

⁴¹ Department of Health and Social Care (DHSC), [Food and feed safety and hygiene: provisional common framework](#), November 2020.

⁴² Section 33(6) of the Act.

⁴³ OIM, [Guidance on the operation of the CMA's UK internal market functions](#), September 2021.

⁴⁴ This is an illustrative, not an exhaustive list, and we will adapt our analytical approach as we learn from operational experience.

- 2.45 Prior to its launch, the OIM consulted on how it expected to approach the exercise of the internal market functions assigned to it in Part 4 of the Act.⁴⁵ Approximately half of respondents discussed the role of Common Frameworks within the UK internal market. Many advocated a prominent role for them in managing future divergence within the internal market, arguing that this best respected the devolved settlements whilst providing a forum for the effects of divergence to be managed on a pan-UK basis; balancing economic impacts with regulatory autonomy.
- 2.46 Strategic choices about how potential divergence within the internal market is to be managed, and the role of Common Frameworks within that process, are matters for the UK Government working with the DAs.
- 2.47 However, as we set out in our response to the outcomes of the consultation, we are open, within the constraints of our functions under the Act, to exploring with RNAs how best we can support them in the operation of the Common Frameworks process.⁴⁶
- 2.48 Furthermore, section 10(3) of the Act provides that the Secretary of State may make exclusions from the MAPs to give effect to agreements under Common Frameworks. The UK Government, Northern Ireland Executive, Scottish Government and Welsh Government have developed a process for the consideration of such exclusions, which involves evidence gathering, review and agreement by all four governments.⁴⁷
- 2.49 For this report, we note in Chapter 4 where there may be some interaction between Common Frameworks and some of the regulatory developments we have identified. We will continue to liaise closely with the Cabinet Office and the DAs to understand developments in Common Frameworks and their implications for the UK internal market as well as our role.

⁴⁵ See: [Consultation on Draft Guidance on the Operation of the CMA's UK Internal Market Functions](#), May 2021.

⁴⁶ See: [Consultation on Draft Guidance on the Operation of the CMA's UK Internal Market Functions](#), May 2021.

⁴⁷ See Cabinet Office, [Process for considering UK Internal Market Act exclusions in Common Framework areas](#), December 2021.

3. Economic overview of the UK internal market

Introduction

- 3.1 This chapter provides an economic overview of the UK internal market.
- 3.2 To provide context, we first describe the relative size and key sectors of the economies of the four nations of the UK. We then examine trade flows between the nations (**intra-UK trade**) based on data published by Scotland, Wales and Northern Ireland (England does not yet publish intra-UK trade data). We summarise the key findings by nation and sector, noting the current limitations of the data.
- 3.3 All four governments share a common desire to enhance intra-UK trade data for the benefit of policymakers, businesses and consumers. We set out the OIM's collaborative work with the ONS and the governments of Scotland, Wales and Northern Ireland to develop the published trade data.
- 3.4 In addition, as part of the ongoing work to improve the evidence base on intra-UK trade, the OIM commissioned its own telephone survey of businesses across the four nations. We discuss the methodology, key results and qualitative responses. In addition to this survey, following discussions with the OIM, ONS included two questions on intra-UK trade in its Business Insights and Conditions Survey (**BICS**). We set out the methodology and results.
- 3.5 We conclude by drawing together the emerging themes from the published intra-UK trade data and surveys.

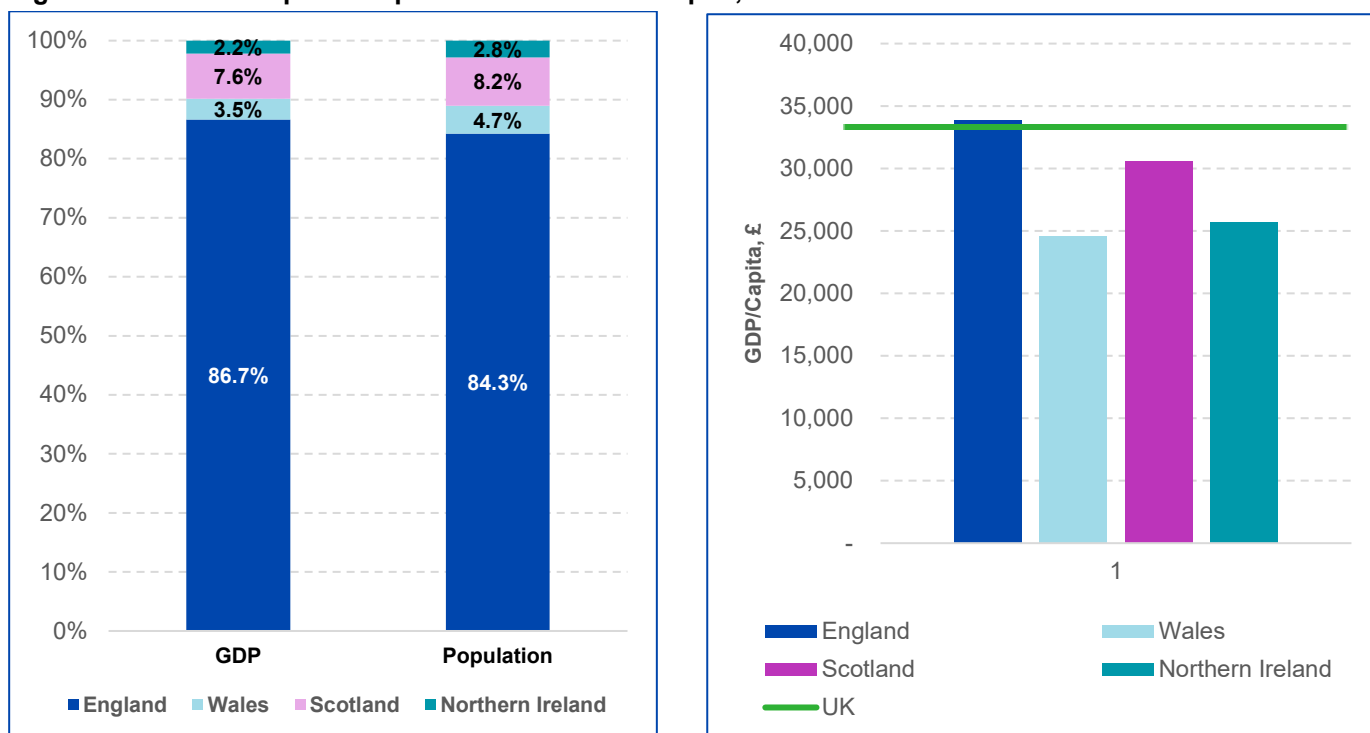
Overview of published economic evidence on the UK internal market

- 3.6 In this section we provide an overview of the key economic data on the UK internal market, including:
 - (a) The relative size of the economies of the four nations of the UK and the key sectors of their economies.
 - (b) A summary of evidence sources for intra-UK trade flows as well as an analysis of both recent and historical evidence by nation and by sector of the economy.
 - (c) Ongoing work to enhance intra-UK trade data.

The relative sizes and key sectors of the economies of the four UK nations

3.7 The four nations of the UK vary significantly in the size of their populations and economies. Total Gross Domestic Product (**GDP**) for England in 2019 was £1,903 billion compared to £167 billion in Scotland, £78 billion in Wales and £49 billion in Northern Ireland.⁴⁸ Figure 2 below shows that in 2019 GDP in England accounted for c.87% of total GDP compared with c.8% for Scotland, c.3% for Wales and c.2% for Northern Ireland.

Figure 2: GDP and Population per Nation and GDP/Capita, 2019



Source: ONS Regional economic activity by GDP and population estimates for the UK, 2019.

3.8 While the main driver of the differences in GDP is differences in population size,⁴⁹ there are important differences with respect to each nation's GDP per capita. England had the highest GDP per capita in 2019 at nearly £34,000 per head and is the only nation to have a GDP per capita higher than the UK average. Scotland's equivalent figure in 2019 was approximately £30,600, but both Northern Ireland and Wales had comparatively lower measures with figures of approximately £25,700 and £24,600, respectively.

⁴⁸ [Regional economic activity by gross domestic product, UK - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk).

⁴⁹ England comprises 84% of the total population of the UK, compared with 8% for Scotland, 5% for Wales and 3% for Northern Ireland.

- 3.9 Although the magnitudes of the four nations' economies differ, the composition of their economies is relatively similar. All four nations are heavily reliant on services, with at least 70% of Gross Value Added (**GVA**)⁵⁰ in their economies attributed to services.
- 3.10 As illustrated below in Table 1, whilst the available data indicates that no single sector dominates any one economy, we note the following:
- (a) All four economies are heavily driven by service industries, though England and Scotland have a greater reliance on these sectors with over 75% of their respective GVAs within these sectors. Wales comparatively has the smallest reliance on services and the largest reliance on goods, though service sectors still account for over 70% of its economy.
 - (b) Real estate activities are typically one of the largest components of any individual UK nation's GVA, accounting for between 11-14% of GVA in each nation.⁵¹
 - (c) Manufacturing, whilst relatively important for all four nations, contributed significantly more to the economies of Wales (17% of GVA) and Northern Ireland (13%) than it did to those of Scotland (11%) and England (9%).
 - (d) By contrast, professional and technical activities and financial services comprised a larger share of England and Scotland's economies (each accounting for around 8% of GVA) compared to Wales and Northern Ireland (around 4% of GVA).
 - (e) The 'Other' industries contribute around 20% of each nation's economy and comprise a range of sectors such as transport and storage, administrative and support service, food and accommodation as well as agricultural and mining related activities.

⁵⁰ GVA is a measure of an industry's output less the value of intermediate inputs used in the production process. GVA differs from GDP estimates in that it excludes taxes and includes subsidies. In this respect it is considered a better gauge of the economic contribution of an industry to the overall economy.

⁵¹ Real estate activities comprise buying, selling, renting, operating and general management of real estate on a fee or contract basis. The largest component of the rental sector is owner-occupiers' imputed rent, which is an estimate of the housing services consumed by households who own their properties.

Table 1: Breakdown of GVA by Industry and UK Nation, 2019

Industry	England	Wales	Scotland	Northern Ireland
Agriculture, forestry and fishing	1%	1%	1%	2%
Mining and quarrying	0%	0%	1%	0%
Manufacturing	9%	17%	11%	13%
Electricity, gas, steam and air conditioning supply	1%	2%	3%	1%
Water supply; sewerage and waste management	1%	2%	2%	2%
Construction	7%	7%	6%	8%
Wholesale and retail trade; repair of motor vehicles	11%	10%	9%	14%
Transportation and storage	4%	3%	4%	4%
Accommodation and food service activities	3%	4%	3%	3%
Information and communication	7%	3%	4%	4%
Financial and insurance activities	7%	4%	6%	3%
Real estate activities	14%	11%	12%	12%
Professional, scientific and technical activities	8%	4%	7%	4%
Administrative and support service activities	6%	4%	4%	3%
Public administration and defence	5%	8%	7%	8%
Education	6%	6%	6%	6%
Human health and social work activities	7%	11%	10%	11%
Arts, entertainment and recreation	2%	1%	1%	1%
Other service activities	2%	2%	2%	2%
Activities of households	0%	0%	0%	0%

Source: ONS Regional Gross Value Added 2019.

Evidence and analysis of intra-UK trade flows

3.11 In this section, we set out the sources of evidence on intra-UK trade and provide an overview of intra-UK trade flows by nation. We consider more recent data available in relation to trade between Great Britain and Northern Ireland. We then discuss trade flows by economic sector.

Sources of evidence on intra-UK trade

3.12 Before examining intra-UK trade flows and highlighting key findings, we summarise the available sources of published evidence in Box 1. Given the differences in methodologies used to compile intra-UK trade data, and relative lack of comparability across data sources, caution is advised in interpreting the data. Further information about these data sources and their limitations is set out in **Appendix E**.

3.13 As described below, the OIM is working collaboratively with ONS, the governments of Scotland, Wales and Northern Ireland and the Economic Statistics Centre of Excellence at the Fraser of Allander Institute to develop comparable and robust statistics on intra-UK trade for the benefit of policymakers, businesses and consumers.

Box 1: Sources of intra-UK trade data

National publications

Intra-UK trade data has historically been relatively limited. Scotland, Wales and Northern Ireland each publish details of the value of sales and purchases of goods and services with other UK nations:

- Scotland publishes information on trade with the rest of the UK in its Quarterly National Accounts, Scotland (**QNAS**) and its annual Export Statistics Scotland (**ESS**).
- Wales publishes the annual Trade Survey for Wales (**TSW**), which includes sales to and purchases from each UK nation by either business size or broad sector category.
- Northern Ireland publishes annual information on its trade with other UK nations in the Broad Economy Sales and Exports Statistics (**BESES**).
- England does not publish information on intra-UK trade so it is not possible to compare trade between all four UK nations using official or government sponsored statistics.

Surveys

Surveys can provide insights into intra-UK trade. Depending on the scale, frequency and design of a survey, it may also allow more timely evidence to be gathered than the data available from published statistics. Surveys also offer an opportunity to gather qualitative evidence from respondents. As well as the cost involved, key challenges in conducting a survey include obtaining a sufficiently large and representative sample and balancing the need for key insights from businesses against the burdens these questionnaires place on their time and willingness to respond. The OIM has used the ONS' fortnightly interview of businesses in addition to conducting its own survey of UK businesses for this report; further information is provided below.

Input-Output Analytical Tables

Input-output (**IO**) and national supply-use tables (**SUTs**) are national accounting frameworks or matrices that illustrate how domestic production and imports of goods and services are used by industries for intermediate consumption and households for final consumption. Regional SUTs for Scotland, Wales or Northern Ireland are not compiled in a regular or co-ordinated manner and there are no existing IO or SUTs for England.

Separate to the national publications, the PBL Netherlands Environmental Assessment Agency published a time series of IO tables at a regional level for all European members as of 2010, known as 'EUREGIO'. More recently the Economic Statistics Centre of Excellence (**ESCoE**) has developed its own regionalised supply-use tables documenting their understanding of trade between the four UK nations as of 2015.

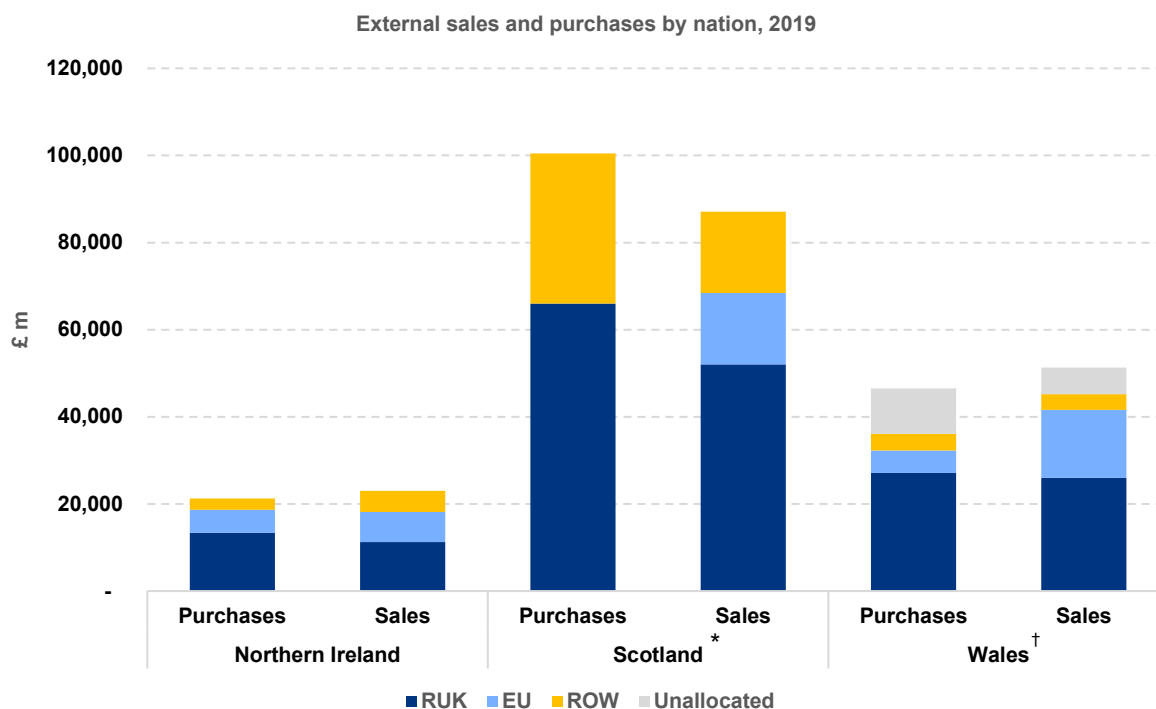
Analysis of intra-UK trade flows

3.14 In this section we summarise the published data on intra-UK trade flows. The analysis focuses on 2019 data, the most recent year for which published data is available for each of Scotland, Wales and Northern Ireland.

Summary of comparative intra-UK trade flows

3.15 Figure 3 illustrates the total external purchases and sales by origin and destination in 2019 for each of Scotland, Wales and Northern Ireland using the data in their respective statistical publications. In summary, Scotland has the greatest amount of trade with the rest of the UK in absolute terms with approximately £66bn in purchases (imports) and £52bn in sales (exports), followed by Wales (c.£27bn purchases; c.£26bn sales) and Northern Ireland (c.£13bn purchases; c.£11bn sales). As Figure 3 illustrates, all three nations are net importers, purchasing more from the rest of the UK than they sell or export. By inference, this would also suggest that England is a net exporter to the rest of the UK internal market.

Figure 3: Total external purchases and sales by origin/destination in 2019 for Scotland, Wales and Northern Ireland (£m)

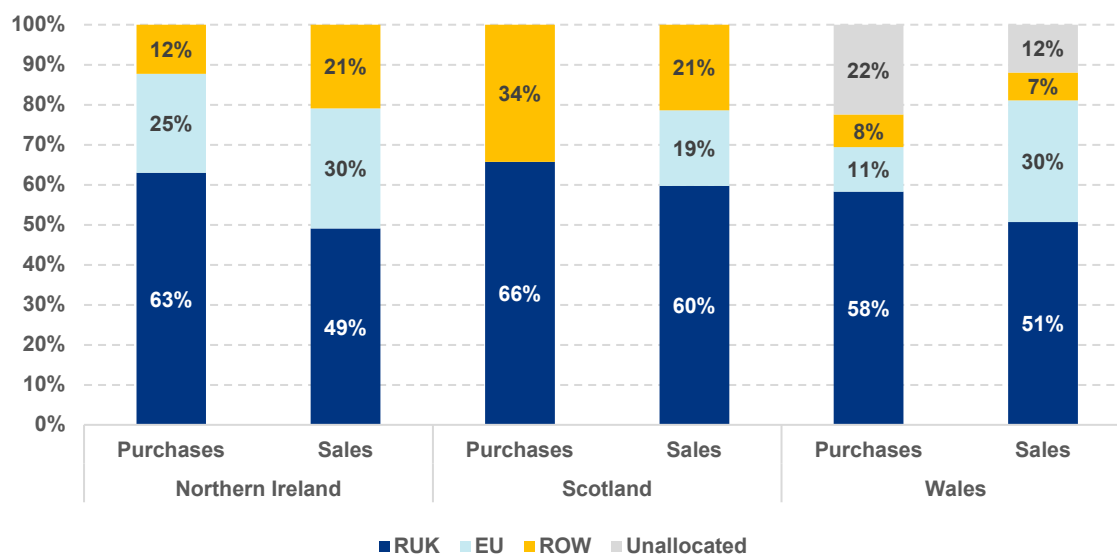


Source: Figures for Northern Ireland are taken from the Broad Economy Sales and Statistics, 2019; Figures for Wales are from Trade Survey Wales, 2019; Figures for Scotland are from Quarterly National Accounts Scotland, 2019 and Export Statistics Scotland, 2019.

*Scotland's predominant source for intra-UK trade only covers exports. Imports have been taken from the Quarterly National Accounts Scotland, which does not distinguish between EU and Rest of World trade.

† Over 15% (c £16.5bn) of the value of internal market trade from Wales is 'unallocated' where respondents have been unable to allocate this trade to a specific destination therefore these figures are a lower estimate of Welsh trade with the rest of the UK.

Figure 4: Proportion of external purchases and sales by origin/destination in 2019 for Scotland, Wales and Northern Ireland (£m)

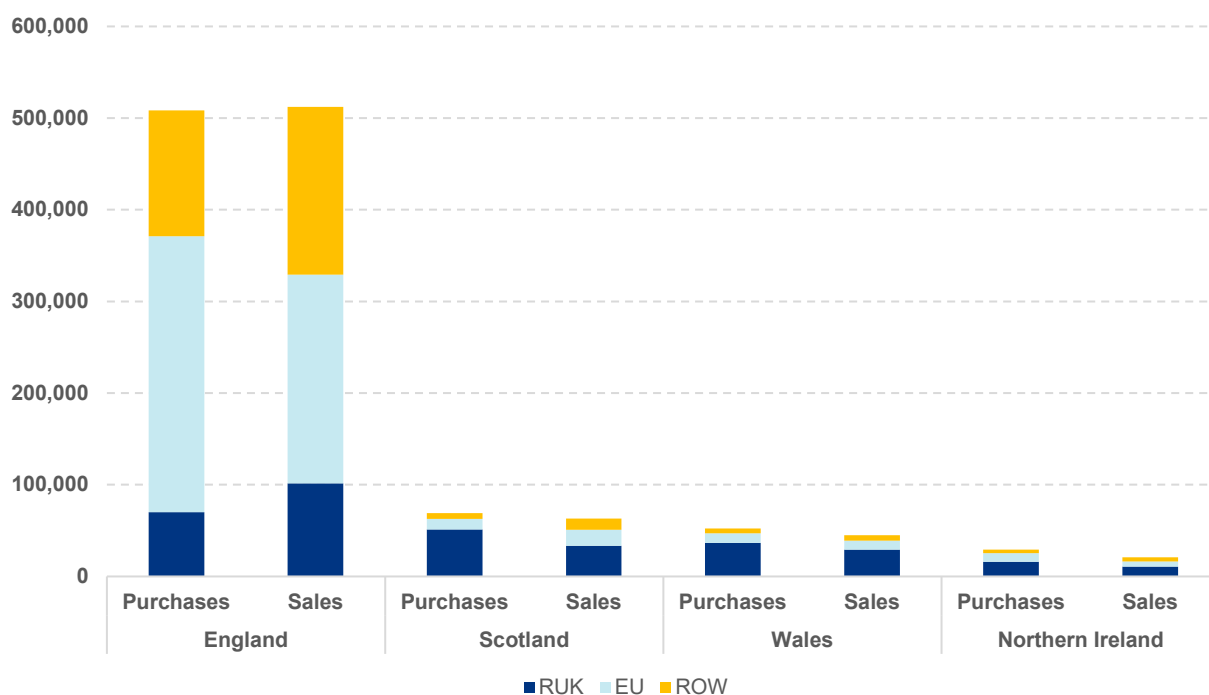


Source: Broad Economy Sales and Statistics, 2019; Trade Survey Wales, 2019; Quarterly National Accounts Scotland, 2019; Export Statistics Scotland, 2019.

3.16 As shown in Figure 4, despite differences in absolute values, in relative terms Scotland, Wales and Northern Ireland have a broadly similar reliance on the rest of the UK with respect to trade. 66% of Scotland’s external purchases and 60% external sales are from and to other UK nations. For Northern Ireland and Wales, purchases from the rest of the UK are 63% and 58% of total external purchases, respectively, and, for both nations, sales to the rest of the UK are around a half of external sales.

3.17 As also illustrated by Figure 4 and as discussed above, there are no corresponding intra-UK trade measures for England as of 2019. However, we can infer trade values and proportions for firms in England using two sources, the EUREGIO database, which estimate figures for intra-UK and external trade as of 2010 and the ESCoE publication in 2021,⁵² which estimates intra-UK sales as of 2015. These are presented in Figures 5 to 8.

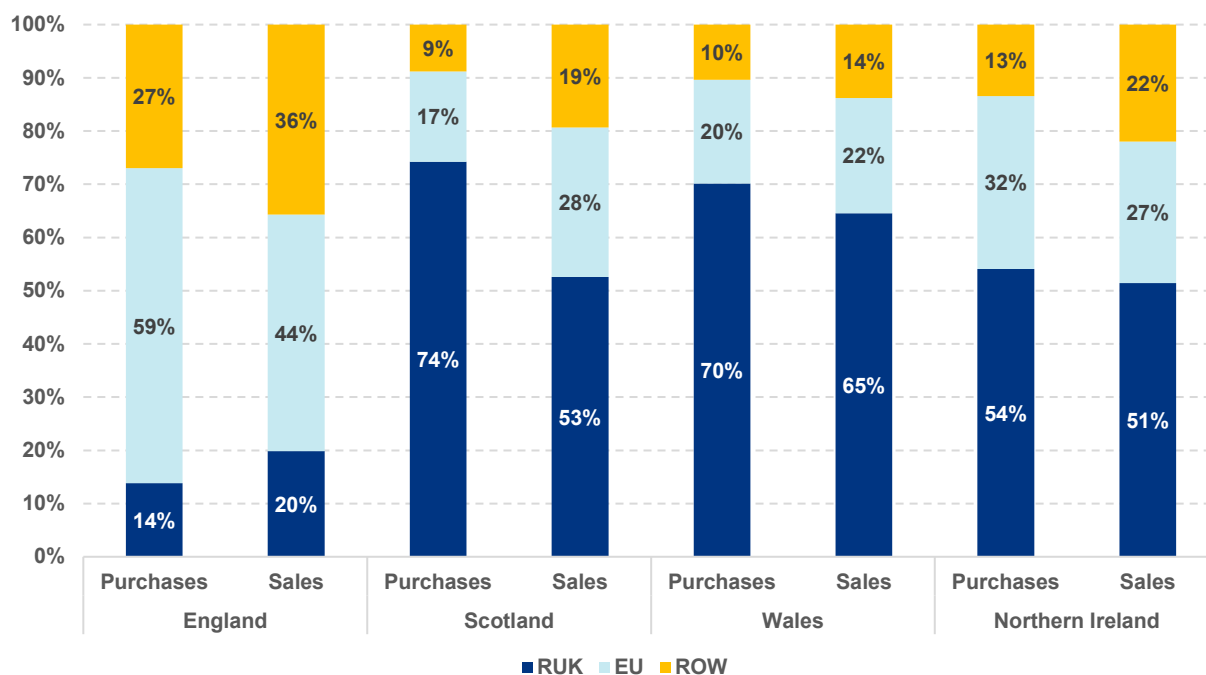
Figure 5: 2010 estimates of intra-UK trade



Source: EUREGIO 2010.

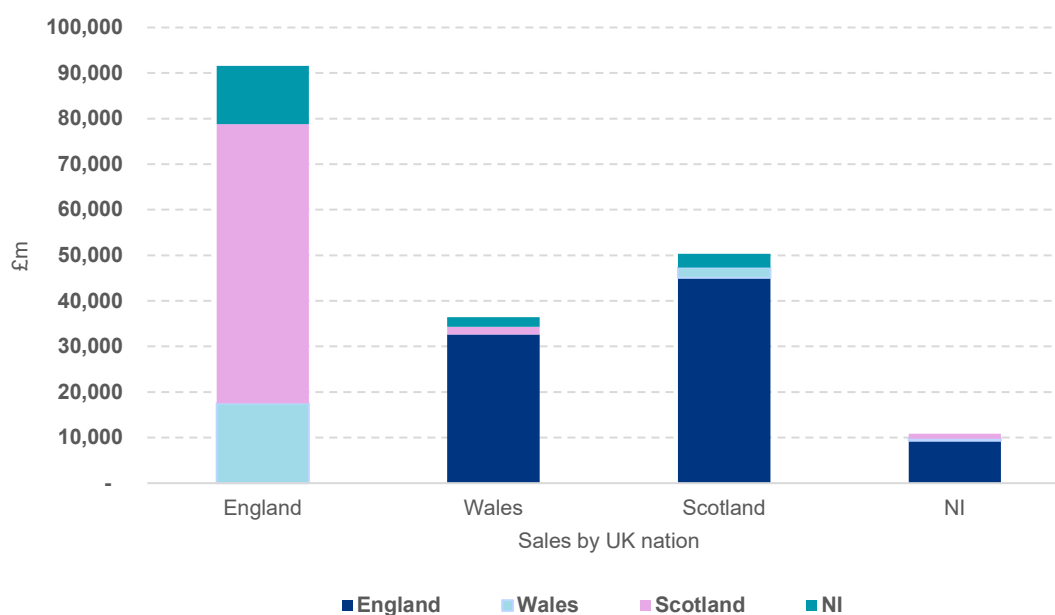
⁵² Spowage, M. and Davidson, S.N. (2021) *Improving the Quality of Regional Economic Indicators in the UK: A Framework for Interregional Trade Data Collection and Estimation*, ESCoE Technical Report TR-13.

Figure 6: 2010 estimates of proportions of intra-UK trade



Source: EUREGIO 2010.

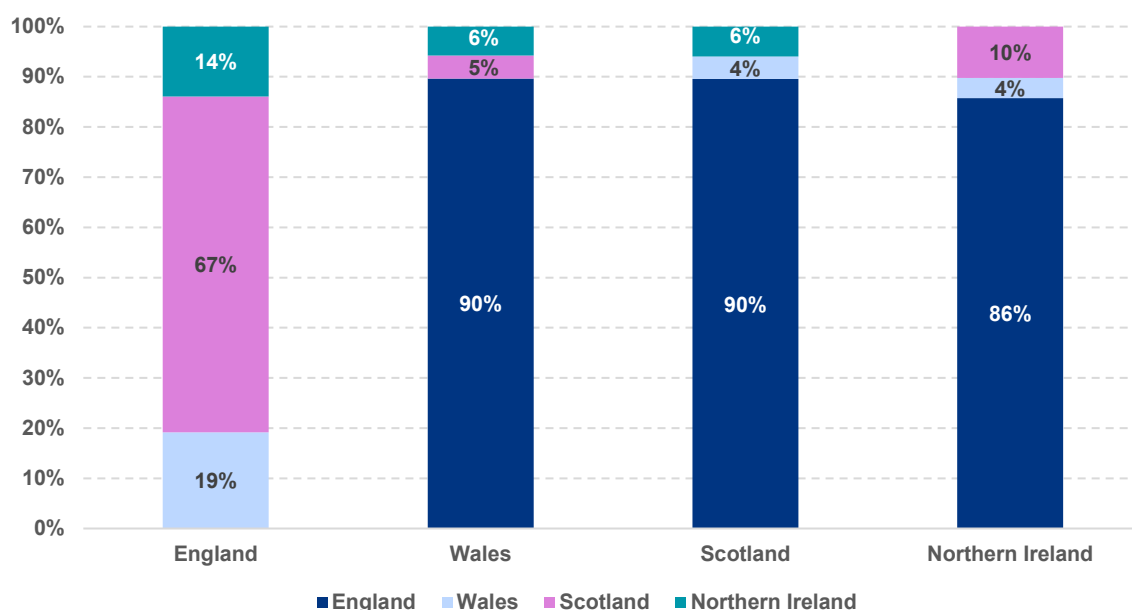
Figure 7: 2015 estimates of intra-UK sales by UK nation⁵³



Source: ESCoE (2021) (excludes non-resident flows).

⁵³ Note the ESCoE analysis does not provide a breakdown of purchases for all four UK nations. The analysis also excludes trade flows from non-residents, goods or services which move between UK nations but may be produced or provided by a non-resident to the UK.

Figure 8: 2015 estimates of proportions of intra-UK sales



Source: ESCoE (2021) (excludes non-resident flows).

3.18 We draw the following key conclusions from the trade data published by the devolved nations and both the ESCoE and EUREGIO data.

- (a) As illustrated in Figure 7 conservative estimates of all four UK nations sales would suggest intra-UK exports are worth around £190bn.⁵⁴ Comparable figures for UK international exports indicate that the UK sold £512bn of goods and services internationally,⁵⁵ which suggests that intra-UK exports could represent over one-quarter of all UK exports (both intra- and extra-UK exports).
- (b) The significant disparity in the size of England's economy and the size of those of the other UK nations is reflected in a significant difference in their patterns of trade. Whereas intra-UK trade accounts for the majority of trade for Scotland, Wales and Northern Ireland, only a small proportion of England's trade is with the other UK nations. This is not surprising given that, for England, the other UK nations represent a relatively small market,

⁵⁴ Davidson and Spowage (2021) estimate that the value of interregional exports in 2015 was £189 billion excluding non-resident expenditure. This estimate is based on data from the 2015 Scottish and Northern Irish Supply and Use Tables published by the Scottish Government and NISRA and rebased data from the 2007 Welsh Combined Use Table by Jones et al. (2010). The value of English interregional exports is inferred by considering other nations' imports. Since these estimates are for 2015, and it is highly likely that this figure has grown since, this figure is likely to be a lower bound estimate.

⁵⁵ To be consistent with the ESCoE's analysis as of 2015, this figure represents total UK exports of goods and services as of 2015. [Summary of latest UK trade statistics](#), ONS, December 2015.

whereas for Scotland, Wales and Northern Ireland, England represents a large and geographically close market which accounts for the bulk of their intra-UK sales.

- (c) All three devolved nations are net importers within the UK, purchasing more from the other UK nations than they sell to them. England is a net exporter to the other UK nations.

3.19 The variation in importance of economic trade is also reflected in the proportion of GDP that intra-UK trade represents. Using the 2010 EUREGIO data and 2010 GDP estimates, imports into England from the rest of the UK represented around 5% of GDP. By contrast, this figure was over 40% for Scotland and Northern Ireland and over 60% for Wales. Caution should be exercised when drawing any conclusions with this dataset given both the considerable data lags and the challenges of generating trade data.⁵⁶ However, the data serves as a useful indication of the relative importance of trade to various UK nations.

Recent data on trade between Great Britain and Northern Ireland

- 3.20 Media coverage of trading patterns between Great Britain and Northern Ireland over the last year placed increased scrutiny over this aspect of intra-UK trade.
- 3.21 Whilst analysis of the NIP remains out of scope for the OIM, trade between GB and Northern Ireland is an important aspect of the UK internal market. We have therefore considered the availability of more recent evidence on trade between GB and Northern Ireland.
- 3.22 As noted above, at the time of publication of this report, the most recent and robust intra-UK trade data from official devolved nation sources covers trade to 2019, which precedes any effects of the NIP, the pandemic or Brexit. There are some more recent sources of evidence including the Northern Ireland Manufacturing Survey and data on trade between the Republic of Ireland and both Northern Ireland and Great Britain published by the Republic of Ireland's Central Statistics Office. However, both sources have limitations in relation to estimating trade between Great Britain and Northern Ireland.

⁵⁶ Because the vast majority of ports are in England, if trade data are recorded on the basis of entry into the UK, it is possible that imports by the DAs that arrive via an English port would be recorded as imports from consumers in England. This would inflate England's international trade figures relative to other UK nations.

3.23 Given the paucity of data sources and their limitations, the picture is far from definitive at this stage. More data will become available in December 2022 when NISRA publishes the BESES exports data for 2021, followed in March 2023 by data on imports and a split by goods and services.

Trade flows by sector

3.24 Table 2 breaks down trade for each of Scotland, Wales and Northern Ireland by broad industry type alongside a comparison of the respective GVA or economic make up for each nation.

Table 2: Proportion of trade and GVA by broad industry group, 2019

Broad Industry Group	NI		Scotland		Wales	
	GVA	Trade	GVA	Trade	GVA	Trade
Primary Sector and utilities	5%	2%	7%	20%	5%	15%
Manufacturing	13%	39%	11%	21%	17%	38%
Construction	8%	17%	6%	3%	7%	7%
Trade, accommodation and transport	21%	29%	17%	19%	16%	25%
Business and other services	53%	14%	59%	37%	55%	15%

Source: Broad Economy Sales and Statistics, 2019; Trade Survey Wales, 2019; Quarterly National Accounts Scotland, 2019; Export Statistics Scotland, 2019, ONS Regional Gross Value Added 2019.

3.25 The importance of intra-UK trade to the UK economy is clear from the data collected by the devolved nations, with nearly £90bn in exports and over £100bn in imports reported by the devolved nations in 2019. As illustrated by Table 2, we conclude the following:

- (a) **Reliance on intra-UK trade in services varies considerably across Scotland, Wales and Northern Ireland.** Whilst all three nations rely heavily on services sectors in terms of GVA (comprising 70-80% of economic output⁵⁷), services sales from Northern Ireland and Wales to the rest of the UK account for a significantly lower proportion (approximately 40%) of intra UK sales than for Scotland (approximately 60%).
- (b) **Almost 40% of Scotland's sales to the rest of the UK are business services.** This figure is over twice that of Northern Ireland's or Wales's equivalent trading proportions. This larger concentration in business services may be explained by the size of Scotland's financial services industry.

⁵⁷ Services sectors comprise the 'Trade, accommodation and transport' and 'Business and other services' sectors'.

- (c) **Almost 40% of Northern Ireland's and Wales' sales with the rest of the UK were in manufactured goods.** As noted, these industries accounted for a larger proportion of GVA compared to Scotland and England.
- (d) **20% of all of Scotland's and 15% of all of Wales's sales to the rest of the UK were in primary sector goods and utilities.** In Scotland, this figure is driven by the oil and gas industry. In Wales, the figure is underpinned by a relatively bigger agricultural sector.

Ongoing work to enhance intra-UK trade data

3.26 As part of its remit to facilitate the operation of the internal market, one of the OIM's primary contributions includes the collation, analysis and dissemination of evidence to develop understanding of intra-UK trade. This includes two surveys:

- (a) The OIM's own-initiative survey.
- (b) Inclusion of intra-UK trade questions in BICS.

3.27 In addition, the OIM's ongoing projects to improve intra-UK trade data include:

- (a) Collaborating with the governments of Scotland, Wales and Northern Ireland to find ways to enhance intra-UK trade statistics.
- (b) Collaborating with ONS on its work to investigate sources of data that might contribute to the estimation of intra-UK trade. We are advising on data collection and analysis and taking part in the ONS chaired sub-national working group, which also includes HMRC and statisticians from the Scottish, Welsh and Northern Ireland Governments.
- (c) Engaging with academics at ESCoE at the Fraser of Allander Institute, University of Strathclyde, who are working to develop intra-UK trade statistics.
- (d) Gathering intelligence on internal market developments, including through our digital reporting service.

Evidence from BICS

- 3.28 BICS is a voluntary fortnightly business survey conducted by ONS to deliver real-time information to help assess issues affecting UK businesses.⁵⁸ BICS is a large-scale survey, sent to around 39,000 businesses with each wave typically receiving around 8,000-9,000 responses. Samples are drawn from the Inter-Departmental Business Register (**IDBR**) which covers around 2.7 million businesses with a broad coverage of business sectors and sizes. ONS included two questions⁵⁹ on intra-UK trade in the BICS Wave 47 survey,⁶⁰ relating to: (i) sales of goods or services to customers in other UK nations; and (ii) whether businesses were experiencing challenges in trading with customers in other UK nations. We received input from analysts in all four nations on the design of the questions. This section summarises the results and further detail is set out at **Appendix F**.
- 3.29 Based on weighted responses⁶¹ to the survey, an estimated 26% of businesses were able to estimate the proportion of goods or services they sold to customers in other UK nations in the last 12 months. This is likely to underestimate the total proportion that sold goods or services to customers in other UK nations as a further 9% answered 'not sure' to the question and some of these are likely to have made sales but be unable to estimate the proportion.
- 3.30 Figure 9 shows the proportion that provided percentages of their sales to other UK nations by industry.⁶² This shows significant variation between sectors, from around 10% for human health and social work and just 7% for other service activities to 40% for Wholesale / Retail trade and 42% for Manufacturing.

⁵⁸ [BICS releases](#).

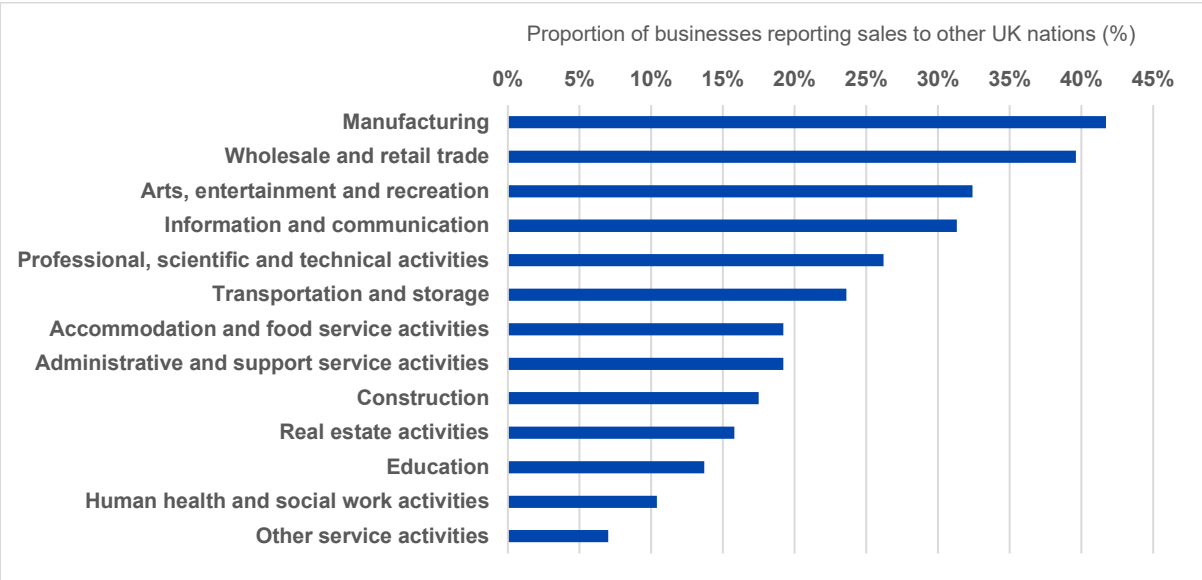
⁵⁹ The questions were: 'In the last 12 months, approximately what percentage of your sales of materials, goods and services were to customers in other UK nations?'; and 'Is your business experiencing any challenges when trading with customers in other UK nations?'

⁶⁰ Wave 47 of the survey was live from 27 December 2021 to 9 January 2022.

⁶¹ Weighting BICS responses enables ONS to make inferences about all UK businesses, not just those in the sample and that have responded. The weighting approach used by ONS (weighting 'by count') gives a very large weight to responses by firms with 0-9 employees, since these make up around 90% of the total number of businesses in the UK.

⁶² This excludes respondents that answered 'not sure'.

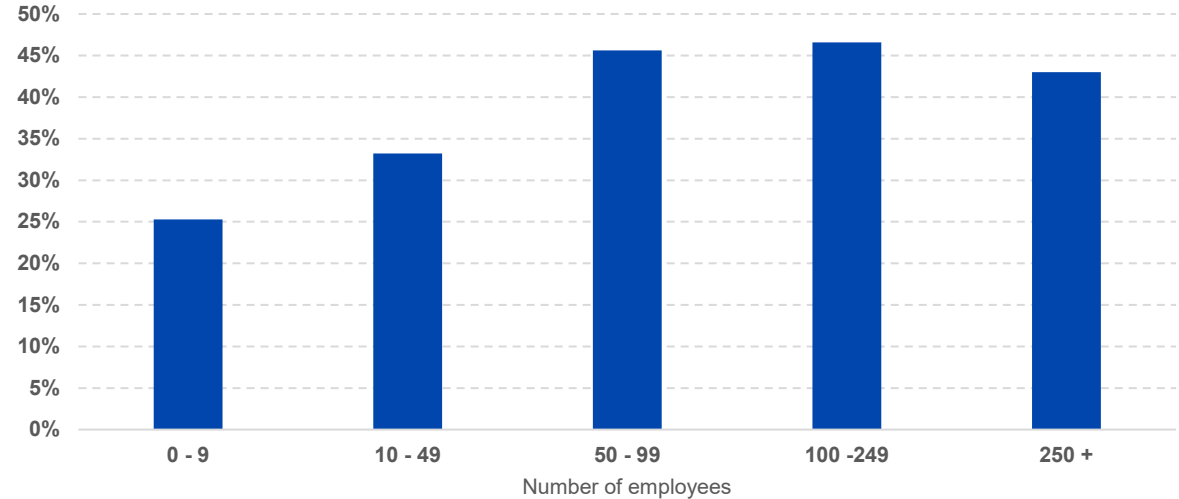
Figure 9: Proportion of businesses reporting estimated sales to other UK nations, by industry



Source: OIM analysis of BICS Wave 47 data.

3.31 As shown in Figure 10 below there was a positive relationship between the proportion of businesses trading with other UK nations and company size. The estimated proportion trading and estimating a percentage was 35%⁶³ (with a further 11% 'not sure') when the smallest companies (those with 0-9 employees) are excluded.

Figure 10: Proportion of businesses with sales to customers in other UK nations, by size band (employees)



Source: OIM analysis of BICS Wave 47 data

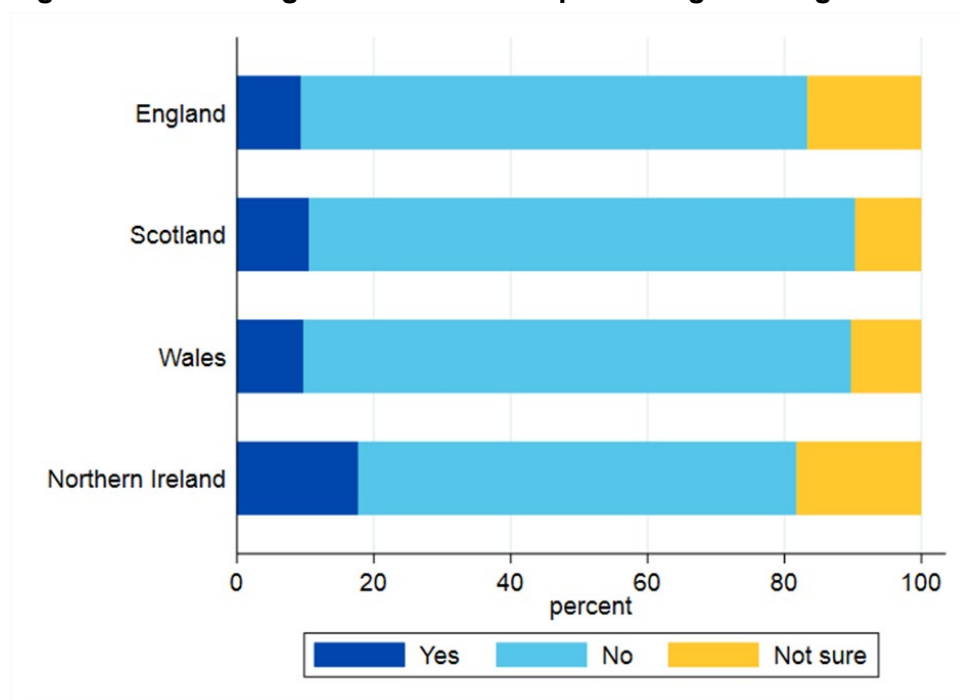
⁶³ As noted at footnote 64, these are weighted estimates. Whilst the proportion of medium and larger businesses with sales to customers in other UK nations are all over 40%, there are a greater number of small businesses in the UK (defined as having 10-49 employees) which means that greater weight is attached to this category when estimating population trends.

- 3.32 The data generated by the BICS questions does not include specific sales value or destination estimates and does not facilitate estimation of aggregate intra-UK trade flows. Doing so would require a more sophisticated survey, for example of the types undertaken by the DAs in the preparation of their annual trade reports.
- 3.33 Of those businesses which traded with customers in other UK nations, 10% said that they were experiencing challenges in doing so. By industry sector, the highest were: Accommodation and food service (21%); Transportation and storage (16%); and Manufacturing (16%). There was no clear relationship with business size, with a range from 7% (businesses with more than 250 employees) to 11% (50-99 employees). In the absence of further follow-up questions, it is not possible to identify the specific nature of trading challenges, which could feasibly include the COVID pandemic, supply chain disruption, transport logistics disruption, as well as any barriers arising from regulatory divergence.
- 3.34 A breakdown by nation, as illustrated in Figure 11, would appear to show a higher proportion of businesses in Northern Ireland experiencing challenges trading across borders.⁶⁴ However, it should be noted that there is great deal of uncertainty in these estimates.⁶⁵ The small numbers of responders in Scotland, Wales and Northern Ireland, together with differences in the sizes of businesses within each sector across the four nations, results in a very small effective sample size. This suggests that BICS data is not suitable for obtaining good country-level estimates.

⁶⁴ 18% of businesses in Northern Ireland compared to roughly 10% in each of England, Wales and Scotland

⁶⁵ The 95% confidence interval for the proportion of Northern Ireland businesses answering this question 'Yes' is 8% to 36%. The equivalent confidence intervals for England, Scotland and Wales were 8% to 12% (England), 6% to 17% (Scotland) and 5% to 17% (Wales).

Figure 11: Percentage of businesses experiencing challenges across borders



Source: OIM analysis of BICS Wave 47 data.⁶⁶

The OIM's survey

- 3.35 To complement the quantitative analysis discussed above on existing intra-UK trade, we conducted a survey of businesses.
- 3.36 The survey was primarily designed to gain insights into the prevalence of UK businesses selling goods and services across national borders within the UK internal market, these firms' experiences of trading across the UK and their awareness of regulatory issues that might act as a barrier to trade. It also sought to establish an indication of the extent to which businesses are familiar with the concepts of UK internal market trade. In addition to providing a richer evidence base, the survey was also an opportunity for the OIM to understand better the extent to which surveys can be used as a means of examining intra-UK trade.
- 3.37 The OIM survey was a telephone interview of 582 businesses.⁶⁷ The survey was not intended to cover a representative sample but rather to collate a wide

⁶⁶ This graph was produced using statistical data from the ONS's secure researcher service. The use of this data does not imply the endorsement of the ONS in relation to the interpretation or analysis of the statistical data. This work uses research datasets which may not exactly reproduce National Statistics aggregates.

⁶⁷ The initial intention of the survey was to achieve a larger sample, but a number of challenges meant that this was not achievable within a workable timeframe (see Appendix G). The response rate was 18%.

range of views across all UK sectors.⁶⁸ As a result, smaller regions and industries have been oversampled to provide a minimum level of representation. Further information on the sampling approach and the questionnaire can be found in **Appendix G** together with the data tables setting out the responses.

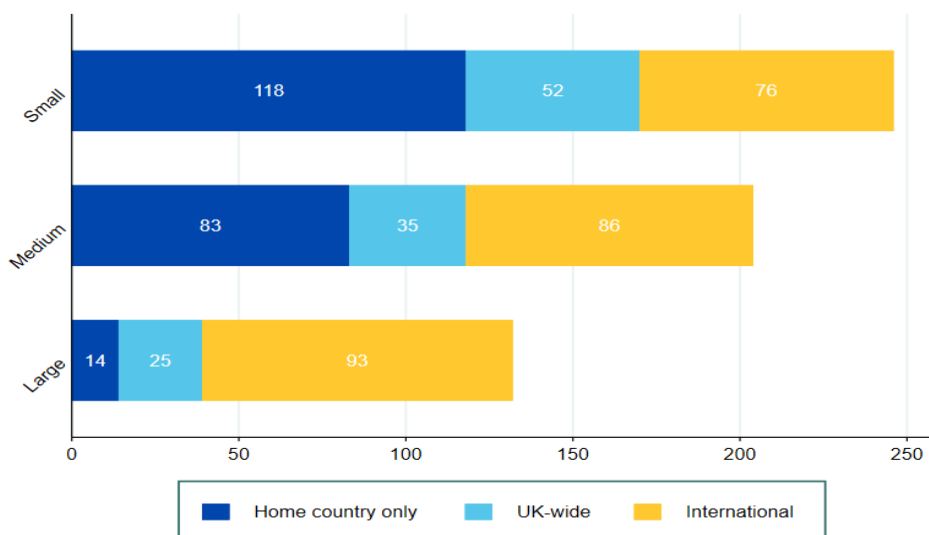
- 3.38 The following paragraphs highlight the key themes that emerged from the responses. As the sample design was not intended to be representative of the wider population we focus on a qualitative interpretation of the results.

Overview of the survey results

- 3.39 Of the 582 businesses surveyed, 337 traded with other UK nations, of which 173 traded goods but not services with other UK nations, 114 traded services but not goods and, 50 traded both goods and services with other UK nations. The following paragraphs highlight the key themes that emerged from the responses.
- 3.40 Larger firms were more likely to trade across the UK. Almost all large firms (250+ employees) traded outside their own nation (trading either UK-wide or internationally). In contrast, almost half of the small firms in our survey did not trade outside the nation they were based in (Figure 12).

⁶⁸ The OIM survey sampled firms within the agricultural and financial sectors, by contrast other surveys such as BICS excludes these sectors from its sample frame.

Figure 12: Number of businesses trading within their home country or across borders^{69,70}



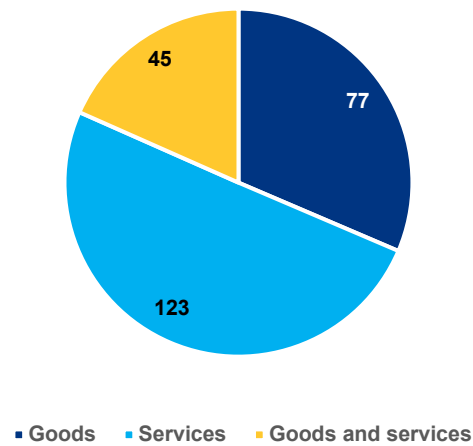
Source: OIM telephone survey of businesses.

3.41 Of the 582 firms who responded, 245 did not engage in any intra-UK trade. Over half of these businesses were exclusively service providers and many of these businesses noted the local nature of their demand, with pubs, restaurants or hairdressers all responding along similar lines (see Figure 13). A similar theme was noted for goods producers too, although for goods producers a key factor making markets local was that transport costs made their products uncompetitive when travelling across large distances.

⁶⁹ Business size definitions are based on the number of employees within a company, as follows: small businesses (10-49 employees); medium businesses (50-249 employees); and large businesses (250+ employees).

⁷⁰ Question: *Based on the last 12 months are the goods/services you sell directly sold in your <home nation/ elsewhere in the UK/ in the Republic of Ireland/ outside the UK and Republic of Ireland>?* (Base: all respondents).

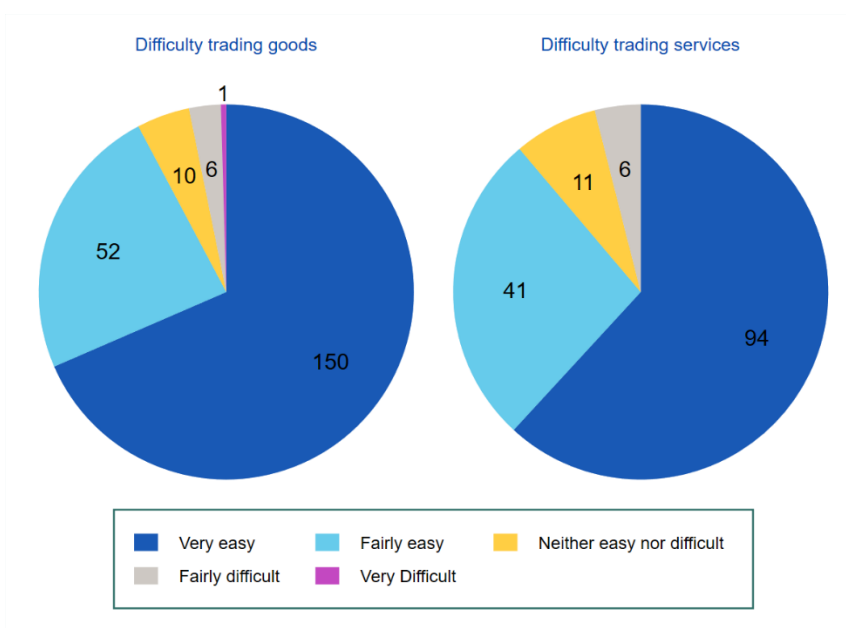
Figure 13: Number of businesses who do not trade across UK nations



Source: OIM telephone survey of businesses.

3.42 Most of the respondents that trade with other UK nations said that doing so was either fairly or very easy. Figure 14 shows that only seven of the 223 businesses who sold goods between UK nations and only six of the 164 businesses selling services said trading with other UK nations was difficult.

Figure 14: Difficulties trading with other UK nations⁷¹



Source: OIM telephone survey of businesses.

⁷¹ Question: *Thinking about trade within the UK, how easy is it to sell goods/services between UK nations?* (Base: 337 respondents).

- 3.43 Those who highlighted difficulties mentioned general difficulties in selling to another country rather than regulatory differences. For example, a medium-sized English luxury packing business highlighted that people had a preference for local companies. An English maritime scientific company stated that although they were not aware of any regulations requiring Scottish companies to procure marine consultancy services locally, they now have very few Scottish clients given that there is now a presumption in favour of local Scottish suppliers. Although it was outside the scope of the survey, some firms mentioned the NIP as a barrier to trade.
- 3.44 A notable number of firms identified some existing differences in regulations already likely to affect their sales of goods or services.⁷² Of the 337 businesses who engage in trade with other UK nations, 42 identified existing differences in regulations that affect their sales.⁷³ For these, the most frequently cited issues were in the following areas:
- (a) Building regulations, including in relation to health and safety – mainly referred to by large- and medium-sized businesses in the construction and manufacturing sectors in Scotland, England and Northern Ireland.
 - (b) Legal services and the law, especially between Scottish and English law – mainly cited by a mix of businesses in the legal, finance and IT sectors.
 - (c) Regulations relating to food and drink, including ingredients, nutrition and alcohol policies (such as Minimum Unit Pricing) – cited by medium and large producers and accommodation providers.
 - (d) Regulations relating to environmental policies, including water regulation, waste disposal and deposit return schemes mainly cited by medium and large business in the agriculture, waste disposal and retail sectors.
- 3.45 The numbers are small but provide an indication that some businesses consider that they are already managing regulatory differences in their work and, in some cases, this may have impacted how they operate.⁷⁴ In Chapter 4 we identify potential new regulatory developments in a number of these areas, including regulations relating to energy use for new builds and to policies relating to food and alcohol.

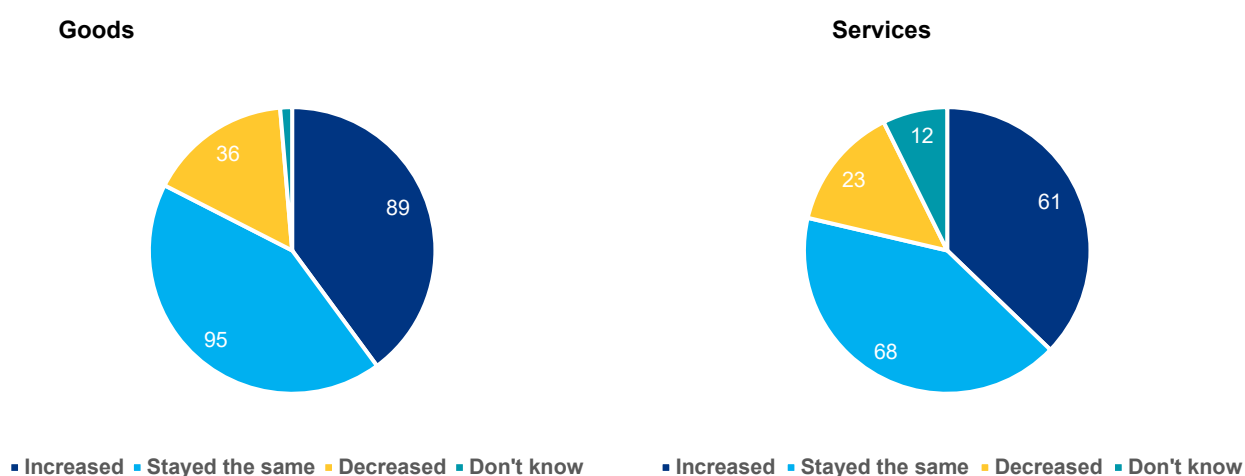
⁷² Question: *Thinking about trade within the UK, are you aware of any differences in regulation between UK nations that affect the sales of your goods/services?* (Base: 337 respondents).

⁷³ Respondents were asked to set aside any issues to do with the NIP when asking, although a small number did still refer to apparent differences in regulatory requirements in Northern Ireland.

⁷⁴ Differences in COVID-19 policies were also cited by a small number of respondents.

- 3.46 A slightly smaller number of firms identified anticipated policy and regulatory differences that may affect the sales of their goods or services. Of the 337 businesses who traded with other UK nations, 29 referred to examples of potential differences.⁷⁵
- 3.47 The most frequently cited topic was the potential for future independence referendums and how this might impact on trade. However, in terms of new regulatory developments, some respondents identified similar themes to those noted above – including food policies, alcohol pricing and building regulations. Some additional specific issues noted by the respondents included expectations in relation to environmental developments and policies relating to packaging, recycling and single-use plastics. Again, these are issues that we address further in our analysis of regulatory developments in Chapter 4.
- 3.48 Of the businesses who traded with other UK nations, most noted trade had either stayed the same or increased over the past year (Figure 15). Of the 223 goods producers who traded with other UK nations, 184 noted they had seen either no change or an increase in their level of trade over the last 12 months. For services providers, 128 of the 164 businesses who traded across UK nations saw no change or an increase in their intra-UK trading activity.

Figure 15: Businesses reporting changes to the level of intra-UK trade over last 12 months⁷⁶



Source: OIM telephone survey of businesses.

- 3.49 The pandemic was cited by different respondents as an important driver for both increases and decreases in internal market trading activity. 22 of the 89

⁷⁵ Respondents were asked to set aside any issues to do with the NIP when asking, although a small number did still refer to apparent differences in regulatory requirements in Northern Ireland.

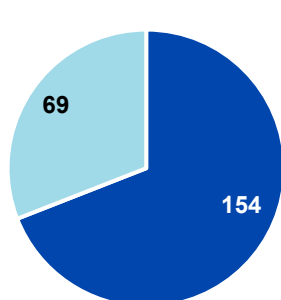
⁷⁶ Question: *Has your trade in goods/services between UK nations increased or decreased in the last 12 months?* (Base: 337 respondents).

goods producers and 21 of the 61 services producers who responded experienced an increase in sales to customers in other UK nations. Illustrative of firms who experienced an increase in their intra-UK sales was a small Scottish manufacturing business who noted that the furniture industry had boomed during lockdown due to people buying within the UK. Similarly, a small English information and communication business highlighted that internet services have been in more demand due to more people working from home; it also noted that the closure of holiday parks allowed technology upgrades ahead of a subsequent holiday boom.

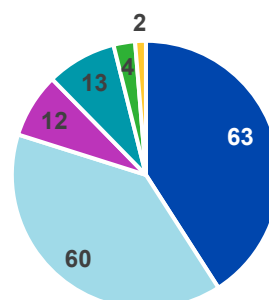
- 3.50 Of those firms who experienced a decline in sales to customers in other UK nations, 24 of the 36 goods producers and 18 of the 23 services providers explained Covid or the pandemic was responsible. This included businesses such as a large English transport and storage company who sold aircraft parts and supported airline services and noted that flight groundings had negatively affected intra-UK sales.
- 3.51 A majority of respondents that traded across UK nations were able to quantify the proportion of the sales that were traded, and most of them found it either very or fairly easy to do so (Figure 16). However, 69 out of 223 goods producers and 59 out of 164 services producers were unable able to estimate their proportions of intra-UK trade. A further 17 of the 152 goods producers and 12 of the 102 services providers said it was either fairly or very difficult to quantify proportions.

Figure 16: Number of business able to quantify proportions of sales to UK nations and the ease of providing these breakdowns for those who could^{77,78}

Goods

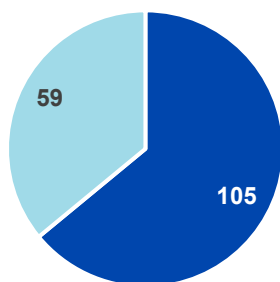


■ Able ■ Not able

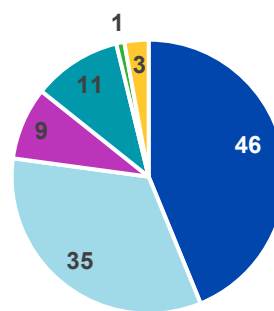


■ Very easy ■ Fairly easy
 ■ Neither easy / difficult ■ Fairly difficult
 ■ Very difficult ■ Don't know

Services



■ Able ■ Not able



■ Very easy ■ Fairly easy
 ■ Neither easy / difficult ■ Fairly difficult
 ■ Very difficult ■ Don't know

Source: OIM telephone survey of businesses

3.52 There were two main reasons that respondents gave for finding it difficult to quantify the proportion of their sales that were traded. The first was that they did not know who their end customers were, for example because their sales

⁷⁷ Question: *Within the last 12 months, approximately what proportion of all sales of goods are to customers in each of the following nations <England/Scotland/Wales/Northern Ireland/Republic of Ireland/Outside of the UK>?* (Base: 223 respondents).

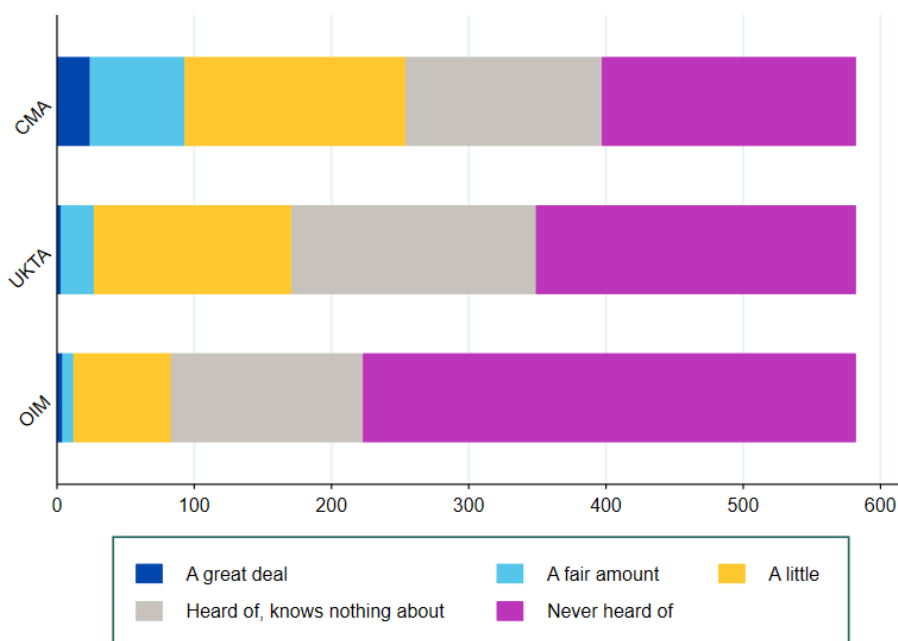
⁷⁸ To respondents able to provide estimates of the proportions of trade: Question: *How easy is it for you to quantify the proportions of goods you sell to different UK nations?* (Base:154 goods respondents; 105 services respondents).

went to a distribution centre which may supply across the UK nations. The second was that they did not have information systems that allowed them to extract data by nation. Similarly, having information systems that can readily generate the data was frequently mentioned as a reason why it was easy to quantify the proportion of sales that are traded. Interestingly, there was some evidence that larger firms found it more difficult to quantify intra-UK trade - 28 out of 69 goods producers and 30 out of 59 service providers that were unable to estimate their proportions by UK nation were large firms.⁷⁹

- 3.53 For the 154 goods respondents and 105 services providers who said they were able to estimate their proportions, a number of key themes emerged. These included having large bespoke products that warranted knowledge of their customers location, dealing with specific individuals or having a relatively limited number of consumers which meant it was easier to calculate proportions of sales manually.
- 3.54 The fact that a sizable minority were unable to estimate the proportion of their sales that are traded suggests that there are likely to be challenges in using surveys of this size and nature to carry out whole economy estimates of intra-UK trade flows. It may also be useful to explore further whether the challenges faced, in particular those around not knowing the final customer, are particularly prevalent in certain sectors.
- 3.55 The survey also offers insights into the general awareness of institutions and intra-UK trade policy. Most respondents were unaware of the OIM, with 359 of the 582 respondents saying they had never heard of the OIM and 71 of the 83 that said they had heard of the OIM, saying they knew little or nothing about it (Figure 17). This number was almost twice as large as the number of respondents who were unaware of the CMA. While this is not altogether surprising given that the OIM only officially launched in September 2021, it does highlight the importance of the OIM continuing to engage with stakeholders to communicate its role. We note that a significant proportion of respondents said they were aware of a fictitious organisation called the UK Trade Agency (indeed more than said they were aware of the OIM) which suggests there may be inherent biases in questions of this nature which makes it difficult to draw firm conclusions from these results.

⁷⁹ Of the 223 goods producers, there were 66 small firms, 82 medium and 70 large firms, which would suggest a relatively equitable split and no obvious reason for there to be a greater number of larger companies who noted an inability to break down their proportions of trade. For services the equivalent numbers were 62 small firms, 45 medium firms and 57 large firms, again suggesting no obvious bias in greater large firm responses.

Figure 17: Awareness of the OIM



Source: OIM telephone survey of businesses

3.56 The survey also examined awareness of the MAPs by providing respondents with a series of statements and asking them to select the answers they believed to be correct. Respondents were asked questions on non-discrimination, the ability of regulations to vary between UK nations and on the mutual recognition principle. While a significant number of both goods and services respondents answered at least one question on the MAPs correctly, the proportions answering the mutual recognition question correctly are low - indeed for goods producers more respondents gave the incorrect answer.⁸⁰

3.57 As illustrated in Figure 18, of the 347 goods producers, 222 answered the question on non-discrimination correctly,⁸¹ 192 correctly answered the question on internal market trade⁸² and 135 answered the question on mutual

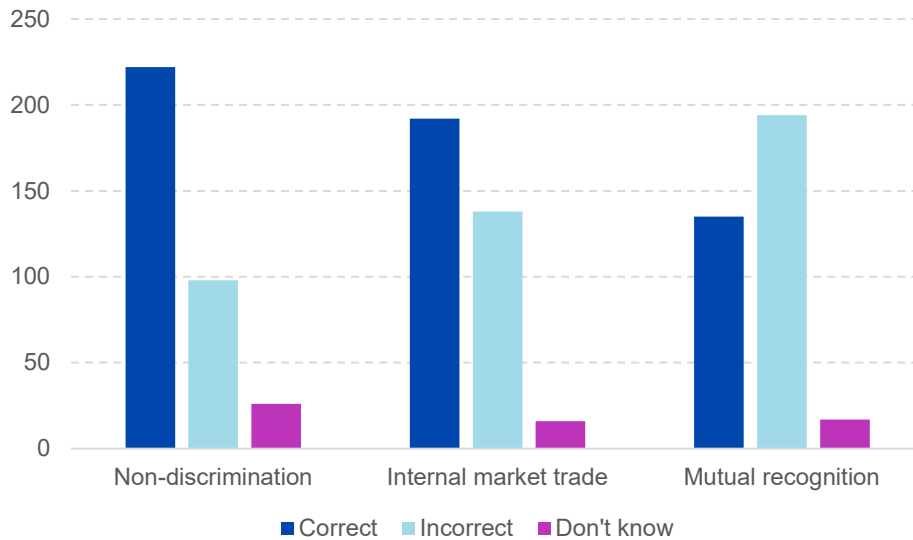
⁸⁰ Given the length of the statements and potential complexity of the wording, comparing responses to questions of this nature in telephone interviews can be more challenging and therefore any inferences should be treated with caution.

⁸¹ The question on non-discrimination to goods producers was: 'Individual UK nations are allowed to set rules that favour their own goods ahead of those imported from other UK nations'. The correct answer is 'False'.

⁸² The question on internal market trade to goods producers was: "Individual UK nations can have different regulations on the sale of goods". The correct answer is 'True'.

recognition correctly.⁸³ As Figure 19 illustrates, of the 341 service providers, 197 answered the question on non-discrimination correctly,⁸⁴ 242 answered the question on internal market trade correctly⁸⁵ and 181 answered the question on mutual recognition correctly.⁸⁶

Figure 18: Goods producers awareness of the MAPs



Source: OIM telephone survey of businesses.

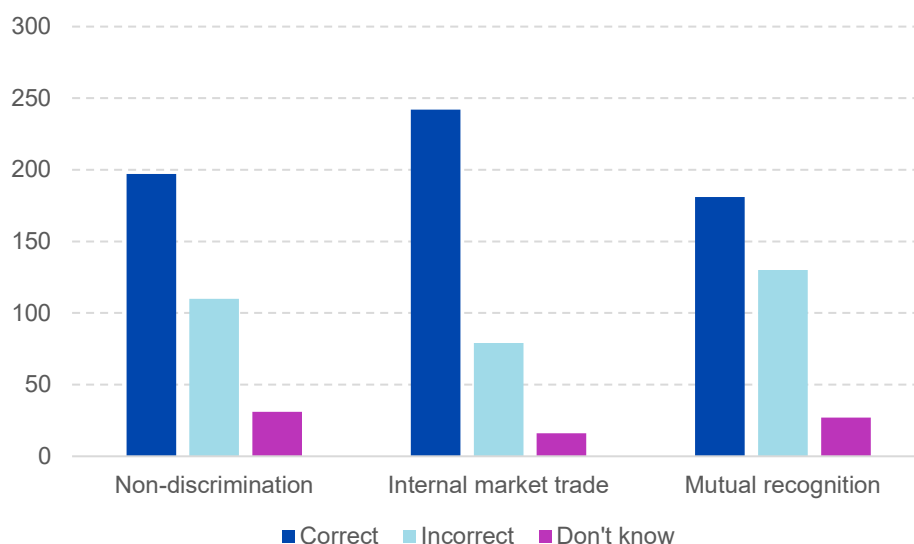
⁸³ The question on mutual recognition involved reading two statements to businesses and asking respondents to select the statement they believed was true. For goods producers these statements were: 'So long as a good meets the regulatory requirements to be sold in the UK nation it is produced in, it can also be sold in other UK nations, even if the local regulations are different' and 'If the UK nations have different regulations governing the sale of goods, then producers need to comply with the rules of the nation they are selling to'. The first statement is correct.

⁸⁴ The question on non-discrimination to services providers was: 'Individual UK nations are allowed to set rules which favour their own service providers, ahead of service providers from other UK nations'. The correct answer is 'False'.

⁸⁵ The question on internal market trade to service providers was: 'Individual UK nations can have different regulations on the provision of services'. The correct answer is 'True'.

⁸⁶ The question on mutual recognition involved reading two statements to businesses and asking respondents to select the statement they believed was true. For service providers these statements were: 'A person who is legally authorised to provide services in one UK nation can provide these services in any other UK nation without further authorisation requirements' and 'A person selling services needs to be authorised in the UK nation they are selling to even if they are already authorised in another UK nation. The first statement is correct.

Figure 19: Services providers awareness of the MAPs



Source: OIM telephone survey of businesses.

Lessons for future survey design

- 3.58 In summary, the qualitative aspects of the survey offer a greater opportunity to probe the incentives, challenges and views UK firms have on intra-UK trade, which broader quantitative surveys may be unable to capture. It also revealed that the extent of regulatory divergence across the internal market is currently relatively limited – a theme which is discussed in further detail in Chapter 4.
- 3.59 The material number of firms who were unable to provide estimates of their proportions of trade has highlighted that there are significant challenges in using surveys of this nature to estimate population wide intra-UK trade flows. This, together with the challenge of achieving a sufficiently large sample, suggests that future surveys of UK internal market issues may be better used for the purpose of narrower, sector specific studies rather than attempting to quantify overall internal market activity.

Conclusions

- 3.60 Understanding the economics of the UK internal market, including trade between the four nations, is essential to monitoring the health of the internal market and considering the effects of regulatory divergence.
- 3.61 In undertaking this first analytical assessment of intra-UK trade, we have sought to examine the key sources of data on the economies of the four nations and intra-UK trade and identify the main themes emerging.

- 3.62 We found that there are severe limitations to the availability, consistency and coverage of intra-UK trade data which makes assessing the landscape challenging. However, with input from analysts in all four nations, we have been able to identify some key themes regarding intra-UK trade. This gives the OIM and analysts in the four nations a platform upon which further analysis can be conducted.
- 3.63 We found, based on conservative estimates, that intra-UK exports across the four nations may be worth up to £190bn or potentially over one-quarter of all UK trade. As may be expected given the relative sizes of their economies, in contrast to England, the devolved nations trade more with the rest of the UK than with the EU or the rest of the world and all three devolved nations are net importers, purchasing more from other UK nations than they sell to them.
- 3.64 At a sectoral level we found that there is a greater proportion of trade in services in Scotland, driven by its financial and business services sector, whereas Northern Ireland and Wales have a greater propensity to trade in manufactured goods.
- 3.65 To understand the economics of the UK internal market in more detail and to provide more recent data than the published statistics, we commissioned a telephone survey of businesses across the UK and worked with ONS to include questions on intra-UK trade in BICS.
- 3.66 The BICS responses indicate that up to 35% of UK firms traded with other UK nations, with larger firms more likely to trade across the UK. It also found that 10% of firms had experienced difficulties trading with other UK nations, although we have no further information on the extent to which these difficulties were driven by regulatory differences.
- 3.67 The OIM survey enabled us to draw on a wide array of business views across UK economic sectors, UK nations and firm sizes. It also enabled us to gain valuable insights as to how to design surveys of the UK internal market.
- 3.68 In general, firms were able to identify the proportion of their sales that were made to other UK nations, although a sizable minority were not, and a few more found it difficult to do so. This, together with the challenge of achieving a sufficiently large sample, suggests that future surveys of UK internal market issues may be better used for the purpose of narrower, sector specific studies rather than attempting to quantify overall internal market activity.
- 3.69 Despite the broad coverage across UK sectors, the OIM survey found little evidence of existing regulatory divergence that is affecting the internal market, a theme that is discussed in more detail in the review of developments in the

regulatory environment in Chapter 4. This may also strengthen the argument for conducting more sector specific, localised assessments in the future.

- 3.70 We are mindful of the importance of developing comparable and robust evidence on intra-UK trade for policymakers, businesses and consumers across the UK. We are therefore working collaboratively with all four governments to identify the current data limitations and take forward plans to improve the data, including designing future surveys to incorporate the lessons from our first survey and the intra-UK trade questions in BICS.

4. Developments in the regulatory environment

Introduction

- 4.1 Our analysis in Chapter 3 has demonstrated the scale of the internal market and its importance to the four nations of the UK. As we explained in Chapter 2, any divergence from previously aligned regulatory systems could affect the operation of the UK internal market. Given the high level of integration in trade flows between UK nations, potential barriers to trade with the rest of the UK could have implications for economic growth and prosperity.
- 4.2 Whilst regulatory developments may have beneficial economic effects for intra-UK trade, intra-UK trade barriers might also arise from the UK Government and DAs amending retained EU law in different ways. This could lead to frictions – making it harder to do business across borders, which, in turn, might lead to higher supplier costs, affect investment decisions and impact on the range, price and quality of goods available to consumers. Each of the four nations may therefore be affected by decisions made elsewhere and will therefore have an interest in understanding these decisions and their effects.
- 4.3 In this chapter, we:
- (a) Consider the sectors where relevant regulatory developments may be most likely to arise.
 - (b) Identify some examples of potentially relevant regulatory developments in these sectors.

Where might relevant regulatory developments arise?

- 4.4 The scope of potentially relevant developments we might consider is broad, in particular under the OIM's function under s33(1) to monitor and report on the UK internal market, including on any issues relevant to its effective operation (as explained in Chapter 2). However, for this report, we have focused on developments that may be considered relevant to our functions under ss 34 to 36 of the Act.
- 4.5 We have therefore considered whether, since 31 December 2020, one or more nations may have adopted, or publicly proposed to adopt, relevant policies and approaches that could differ to the other nations and that may have implications for the internal market. This includes where such differences may be within scope of the NIP.

- 4.6 In identifying the main policy areas, we have drawn on a range of sources, including analysis of policy announcements, papers and hearings,⁸⁷ as well as constructive discussions with key parties – including the UK Government and the DAs. In particular, we have taken note of published government programmes.⁸⁸
- 4.7 Our analysis and discussions with the governments suggests that the main policy areas where a degree of divergence may emerge over time are likely to be in sectors such as: environment; energy use; agriculture; animal welfare; food, drink and health as well as some safety-related matters. Whilst some of these are specific economic sectors in their own right (e.g. food and agriculture), some could have wide ranging relevance to multiple economic sectors (such as environment and energy use).
- 4.8 We note that many of these areas align or overlap to an extent with some Common Framework initiatives. We reviewed the Cabinet Office’s analysis of the 152 areas of EU law that intersected with devolved competence in one or more DAs.⁸⁹ An overview of the powers returned to the UK with devolved responsibility is illustrated in **Figure 20** below. Broadly, the main areas where powers have returned are in transport, policing and the environment. However, the governments agree that there is no need at present for a Common Framework for most of the returned powers within transport and policing.⁹⁰ The main policy areas where there is an acknowledged need to manage divergence through a Common Framework or where divergence might be expected but can be managed through existing arrangements are: the environment; health and healthcare; health and food; agriculture, animal welfare; energy; and some safety-related issues.

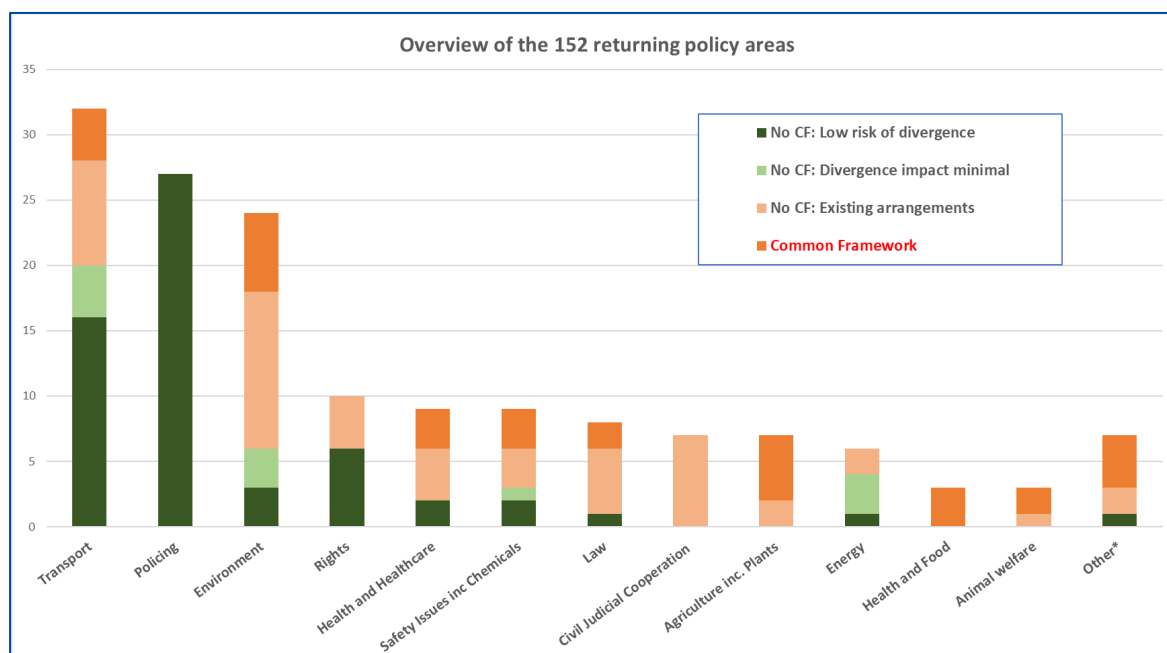
⁸⁷ For example, the [House of Lords Common Frameworks Scrutiny Committee](#); and the [Scottish Parliament Constitution, Europe, External Affairs and Culture Committee](#) which referenced a number of potential policy areas in its recent inquiry into the Internal Market – see [UK Internal Market Inquiry](#), February 2022.

⁸⁸ Scottish Government, [A Fairer, Greener Scotland: Programme for Government 2021-22](#), September 2021; and Welsh Government, [Welsh Government Programme for government: update](#), December 2021. HM Government, [The Benefits of Brexit](#), January 2022. As at the date of this report, elections for the Northern Ireland Assembly are scheduled for 5 May 2022.

⁸⁹ Cabinet Office, [Frameworks Analysis 2021](#), November 2021.

⁹⁰ In the case of policing, this is because there is judged to be a low risk of divergence; and for transport it is mainly because of there being a low risk of divergence or adequate existing arrangements to manage any divergence.

Figure 20: Powers returned to the UK with devolved responsibility



Source: OIM analysis of the Cabinet Office [Frameworks Analysis 2021](#). CF refers to Common Frameworks.
 * 'Other' refers to some specific policy matters including procurement; statistics; packaging and IT.

Examples of potentially relevant regulatory developments

- 4.9 It is important to note that we have not identified evidence of substantial new policy divergences emerging between the four nations of the UK in the period since 31 December 2020. This is not unexpected because any potential divergence of regulatory approaches within the UK might occur over time as the governments develop and implement their programmes. In particular, it reflects the transitional period (up to 31 December 2020) which prevented any modification of EU retained law.
- 4.10 This is also reflected in the outcomes of our business survey which, as explained in Chapter 3, found that at the time of the survey, the vast majority of respondents were unaware of any impending potential changes in regulations that may affect sales or the provision of goods and services.

4.11 Nevertheless, based on the sources described above, we set out below recent and anticipated developments in the following areas in which some divergence appears most likely to emerge over time:⁹¹

- (a) Environment.
- (b) Energy use.
- (c) Agriculture.
- (d) Animal welfare.
- (e) Food, drink and health.
- (f) Safety-related matters.

4.12 We consider these areas to be the most significant, but this list is not exhaustive, and new relevant policy areas may become apparent over time. Furthermore, it is important to note that:

- The examples are illustrative and not an exhaustive list of all potentially relevant policy developments in these sectors across the four nations since December 2020. In particular, we have confined our review to where the governments have made public announcements.
- As set out in Chapter 2, the OIM's aim is to assist the four governments to manage the potential evolution of different regulatory approaches in a way which protects the effective operation of the UK internal market. When exercising the OIM's functions, our analysis is likely to focus on trade between the nations and, in particular, on the economic effects on trade, with due regard to Parts 1 to 3 of the Act. The OIM's considerations would form part of the governments' assessments of regulatory developments, which are aimed at considering a wide range of public policy objectives and include both economic and non-economic effects.⁹²

⁹¹ We have categorised policy developments on the basis of our understanding of the anticipated outcomes. For instance, we classify policies involving pesticides as being related to 'plant health' rather than as 'chemicals'. Where a regulatory development may be relevant to several sectors we have used our judgement to allocate it according to its primary focus.

⁹² See [OIM 3 Summary of consultation responses](#), September 2021.

- The examples illustrate where the UK nations are developing policies that may evolve in different ways. However, this does not mean that divergence will occur or indicate that we have concerns about any potential economic impacts. We have not conducted detailed analysis of whether the examples included would necessarily fall within the OIM's scope (for instance whether the exclusions to the MAPs mentioned in Chapter 2 might apply), or how likely or significant any potential divergence might be.
- In many policy areas, such as environmental initiatives, governments are adopting potentially similar approaches. However, there may be some differences in policy details and timings that might have implications for trade within the internal market. Equally, it is possible that policies may converge over time, as they did in the past in relation to smoking bans and charging shoppers for plastic bags.
- In some policy areas, there may be a degree of overlap with Common Frameworks. We have noted some examples where final or provisional Common Frameworks exist, but at this stage we have not examined whether or how these may relate to, or interact with, the example policy initiatives cited.
- Some of the examples we identify may be within scope of the Northern Ireland Protocol.

Environment

- 4.13 Protecting the environment is a high-profile policy area in which all nations of the UK have announced significant initiatives. We have chosen three examples below in the public domain where there is some commonality of approach between the four nations but also scope for divergence going forward. Some Common Frameworks may also have relevance to environmental initiatives – for example the Resources and Waste Common Framework.⁹³
- 4.14 One significant policy development relates to **single-use plastics**, with bans considered in each UK nation:⁹⁴

⁹³ Cabinet Office, [UK Common Frameworks](#).

⁹⁴ A United Nations global assessment of marine litter and plastic pollution concluded that '*plastics are the largest, most harmful and most persistent fraction of marine litter, accounting for at least 85% of total marine waste*'. See: [UN environment programme: From Pollution to Solution 2021](#).

- The Scottish Government is introducing a ban, with effect from 1 June 2022,⁹⁵ covering the manufacture and supply of certain single-use items made from plastic, such as plates, cutlery, straws and stirrers as well as expanded polystyrene items including food containers and cups.⁹⁶
- Some provisions of EU Directive 2019/904, including a ban (or reduction in use) on some single-use plastic items, such as expanded polystyrene food containers and beverage cups, are required to be transposed into domestic law in Northern Ireland from 1 January 2022.⁹⁷
- The UK Government, Welsh Government and the Northern Ireland Executive have all concluded consultations on introducing a ban or other options for single-use plastics and are considering the responses prior to next steps.⁹⁸

4.15 Another policy focus that is common across the UK is that of **deposit return schemes** for certain drinks containers:

- The Scottish Government is due to implement a scheme on 16 August 2023, which will add a 20p deposit to the price of some containers, to be refunded on return.⁹⁹
- The UK Government, the Welsh Government and Northern Ireland Executive consulted in March 2021 on introducing a deposit return scheme to cover England, Wales, and Northern Ireland.¹⁰⁰

4.16 In addition, environmental concerns about the loss of **peatlands** is a common theme across the governments:

⁹⁵ Scottish Government, [Single-Use Plastics Regulations: draft guidance](#), November 2021; and [The Environmental Protection \(Single-use Plastic Products\) \(Scotland\) Regulations 2021](#).

⁹⁶ Some exemptions apply, for example, to allow the use of plastic straws by those who have a medical requirement.

⁹⁷ UK Parliament, [Northern Ireland Protocol: Withdrawal Agreement Joint Committee Decisions and declarations of 17 December 2020](#).

⁹⁸ UK Government, [Single-use plastic: banning the supply of commonly littered single-use plastic items](#) November 2021; Welsh Government: [Reducing single-use plastic in Wales](#) July 2020; and Northern Ireland Executive: [Consultation for the Reduction of Single-Use Plastic Beverage Cups and Food Containers](#).

⁹⁹ Scottish Government, [Scotland's deposit return scheme](#), December 2021; and [The Deposit and Return Scheme for Scotland Amendment Regulations 2022](#).

¹⁰⁰ Defra, [Introduction of a deposit return scheme in England, Wales and Northern Ireland](#), March 2021.

- In December 2021, Defra commenced a consultation on behalf of the UK Government and Welsh Government on a potential ban on the sale of peat and peat-containing products for retail horticultural purposes in England and Wales.¹⁰¹
- The Scottish Government has also set out plans to restore degraded peatlands and to consult on a ban on the sale of peat related gardening products.¹⁰²
- The Northern Ireland Executive has consulted on its peatland strategy and published a summary of the responses.¹⁰³

Energy use

4.17 All the UK nations are also pursuing energy-related initiatives to combat climate change. There are a number of regulatory proposals in this sector, including those which seek to set smart standards for appliances and charge points. For example:

- The UK Government has supported the development of new voluntary standards for the operation of Energy Smart Appliances (**ESAs**) from 31 May 2021,¹⁰⁴ addressing interoperability, data privacy, grid stability and cyber security in GB. It has committed to take powers to set regulatory requirements for ESAs.¹⁰⁵
- The UK Government has also consulted on a phased approach to Electric Vehicle (**EV**) Smart charging¹⁰⁶ and in December 2021 introduced regulations which set out minimum standards for all home and workplace electric vehicle charge points sold in England, Scotland and Wales.¹⁰⁷

¹⁰¹ Defra, [Ending the retail sales of peat in horticulture in England and Wales](#), December 2021.

¹⁰² Scottish Government, [A Fairer, Greener Scotland: Programme for Government](#), September 2021.

¹⁰³ Northern Ireland Executive, [NI Peatland Strategy consultation](#), June 2021; and [Draft Northern Ireland Peatland Strategy: Summary of Consultation responses](#), December 2021.

¹⁰⁴ The British Standards Institution, [Energy Smart Appliances Programme](#). ESAs are connected devices that respond to signals (such as price) by modulating energy consumption to create savings for consumers and support decarbonisation.

¹⁰⁵ BEIS, [Proposals regarding setting standards for smart appliances](#), March 2018.

¹⁰⁶ HM Government, [Electric Vehicle Smart Charging - Government Response to the 2019 Consultation on Electric Vehicle Smart Charging](#), July 2021.

¹⁰⁷ [The Electric Vehicles \(Smart Charge Points\) Regulations 2021](#).

- The Welsh Government has also set out its own EV charging strategy,¹⁰⁸ which includes recommendations for charge point locations in Wales to meet standards for safety, accessibility and security, particularly for the most vulnerable users, and those with accessibility needs.

4.18 Another policy area in which different nations are developing noteworthy initiatives is to improve **heating efficiency and reduce emissions from properties**. For example:

- The Scottish Government's Heat Networks (Scotland) Act 2021 sets up a regulatory and licensing system for district and communal heating.¹⁰⁹ It is also developing regulations to require new buildings to use zero emissions heating, and proposes to introduce requirements for owner occupied housing to meet new energy efficiency standards.¹¹⁰
- The UK Government has consulted on a market framework for heat networks.¹¹¹ Although some of the proposed approaches differ to those in Scotland, in the area of consumer protection, both the UK and Scottish Governments propose to appoint Ofgem as the regulator for GB. The UK Government has also made new regulations which will mean that from June 2022 CO2 emissions from new build homes in England must be around 30% lower than current standards and emissions from other new buildings, including offices and shops, must be reduced by 27%.¹¹²
- The Welsh Government has been consulting on changes to building regulations to improve the energy efficiency requirements for non-domestic buildings and mitigating overheating in new dwellings.¹¹³

¹⁰⁸ Welsh Government, [Electric vehicle charging strategy for Wales](#), March 2021.

¹⁰⁹ [Heat Networks \(Scotland\) Act 2021](#). Heat networks distribute thermal energy from a central source through a network of pipes to multiple properties.

¹¹⁰ Scottish Government, [A Fairer, Greener Scotland: Programme for Government 2021](#).

¹¹¹ BEIS, [Heat networks: building a market framework – government response](#), December 2021.

¹¹² DLUHC, [New homes to produce nearly a third less carbon](#), December 2021.

¹¹³ Welsh Government, [Building Regulations Part L and F Review: Stage 2B](#), October 2021.

- The Northern Ireland Executive has consulted on proposals to introduce legislation that will provide greater consumer protections for people connected to heat networks.¹¹⁴ It has also been consulting on proposals to uplift guidance on energy efficiency and carbon performance requirements for new buildings.¹¹⁵

Agriculture

- 4.19 Agricultural policy is devolved in Scotland, Wales and Northern Ireland. All four governments have provisionally agreed Common Frameworks in relation to Agricultural Support,¹¹⁶ as well as areas which interact with agricultural policy including Fertilisers,¹¹⁷ Organics,¹¹⁸ Zootech¹¹⁹ and Plant varieties and seeds.¹²⁰
- 4.20 As an example of a notable development in this sector, following consultation,¹²¹ Defra announced in September 2021¹²² its intention to allow field trials of **gene-edited crops** in England (provided Defra is notified). In January 2022, it announced new legislation for simplified gene editing rules in support of its initiative.¹²³ Regulations relating to genetically modified organisms (**GMOs**) are a devolved matter and the UK Government has stated that it will work closely with the Governments of Scotland, Wales and Northern Ireland to understand the impacts of future policy changes on their territories.¹²⁴

Animal welfare

- 4.21 Animal welfare is another policy area in which there are planned initiatives in different parts of GB. We set out some examples below where there may be differences emerging in approaches. A number of provisional Common

¹¹⁴ Northern Ireland Executive, [Heat Networks - building a market framework](#), January 2022.

¹¹⁵ Northern Ireland Executive, [Consultation Proposals for amendment of Technical Booklet guidance to Part F \(Conservation of fuel and power\) of the Building Regulations](#), October 2021.

¹¹⁶ Defra, [Agricultural support: provisional common framework](#), February 2022.

¹¹⁷ Defra, [Fertilisers: provisional common framework](#), February 2022.

¹¹⁸ Defra, [Organics: provisional common framework](#), February 2022.

¹¹⁹ See Cabinet Office, [UK Common Frameworks](#). Zootech is the science concerned with the domestication and breeding of animals.

¹²⁰ Defra, [Plant varieties and seeds: provisional common framework](#), February 2022.

¹²¹ Defra, [The regulation of genetic technologies](#), January 2021.

¹²² Defra, [Genetic technologies regulation: government response](#), September 2021.

¹²³ Defra, [New powers granted to research gene editing in plants](#), January 2022.

¹²⁴ The approval of GMOs in food and feed falls in scope of joint working arrangements outlined by the Food and Feed Safety and Hygiene (FFSH) Common Framework and forms part of the Food Standards Agency and Food Standards Scotland joint Regulated Products authorisation process.

Frameworks are also potentially relevant here – notably the Animal Health and Welfare Common Framework.¹²⁵

- 4.22 For example, the Welsh Government has published a five-year plan, including commitments to develop a national model for the **regulation of animal welfare** and to improve the qualifications for animal welfare inspectors.¹²⁶
- 4.23 In December 2020, Defra launched a consultation on proposals to **end live animal exports** for slaughter or fattening for animals that depart from England or Wales, or transit through England or Wales.¹²⁷ The consultation also covered proposed improvements to animal welfare transport in England and Wales, drawing on an opinion on the welfare of animals during transport from the Animal Welfare Committee (AWC, formerly Farm and Animal Welfare Committee) in 2018.¹²⁸
- 4.24 In 2020, the Scottish Government launched a public consultation on this AWC opinion, publishing a summary of responses in October 2021.¹²⁹ The Scottish Government has said that it will consult on proposals to improve animal transport legislation and that it will work with other UK administrations on legislation to control exports of livestock.¹³⁰

Food, drink and health

- 4.25 Promoting healthier food, drinking and smoking habits has been a policy focus in all UK nations. We set out a number of these below, focusing on unhealthy food and drink, nutrition labelling and alcohol as examples. There are also provisional Common Frameworks in these areas that have potential overlap – in particular the Food and Feed Safety Hygiene and Standards Common Framework;¹³¹ and the Nutrition related labelling, Composition and Standards Common Framework.¹³²
- 4.26 In relation to health concerns relating to **unhealthy food and drink**:

¹²⁵ Defra, [Animal health and welfare: provisional common framework](#), February 2022.

¹²⁶ Welsh Government, [Animal Welfare Plan for Wales 2021 to 2026](#), November 2021.

¹²⁷ Defra, [Improvements to animal welfare in transport](#), December 2020.

¹²⁸ Farm and Animal Welfare Committee, [Opinion on the Welfare of Animals during Transport](#), April 2019.

¹²⁹ Scottish Government, [Welfare of animals during transport - consultation: summary report](#), October 2021.

¹³⁰ Scottish Government, [A Fairer, Greener Scotland: Programme for Government 2021](#).

¹³¹ DHSC, [Food and feed safety and hygiene: provisional common framework](#), November 2021.

¹³² DHSC, [Nutrition Labelling Composition and Standards Provisional Common Framework command paper](#), October 2021.

- The Scottish Government plans to introduce a Public Health Bill that would impose restrictions on unhealthier food and drink promotions.¹³³
- The Welsh Government has set out its intention to create a healthier food environment, including consultation on legislation to shift the balance in the food environment towards healthier options.¹³⁴
- The Northern Ireland Executive has set out an obesity prevention framework, which takes an integrated approach to obesity prevention.¹³⁵
- For the UK Government, a programme to promote healthier food is included in the Department of Health and Social Care (**DHSC**) Policy paper highlighting plans to reduce obesity by empowering adults and children to live healthier lives.¹³⁶ Legislation has been laid restricting the promotion of foods with high fat, sugar, or salt content. This will come into effect in England in October 2022.¹³⁷

4.27 Regulatory initiatives in this sector are wide ranging and at different stages of advancement. As one example, DHSC, the Food Standards Agency Northern Ireland (FSA NI), the Welsh Government and Food Standards Scotland launched a consultation in July 2020 on **front of packaging nutrition labelling (FOPNL)**.¹³⁸ The consultation sought views on making sure that the current labelling scheme (the traffic light system) continues to help people choose what food and drink to buy.

4.28 **Alcohol** is another sector where governments are taking various initiatives with public health aims. For example, in February 2022 the Northern Ireland Executive announced a consultation on the Minimum Unit Pricing (**MUP**) of alcohol¹³⁹ and the UK Government has stated that it is actively monitoring the emerging evidence base around MUP in Scotland and Wales.¹⁴⁰ The Scottish government has said that it will drive forward its alcohol framework, which contains 20 actions to reduce alcohol-related harms by focusing on affordability, availability and attractiveness of alcohol. Measures include

¹³³ Scottish Government, [A Fairer, Greener Scotland: Programme for Government 2021-22](#), September 2021.

¹³⁴ Welsh Government, [Healthy Weight: Healthy Wales delivery plan 2020 to 2022](#), February 2020.

¹³⁵ Northern Ireland Executive, [A Fitter Future for All Outcome Framework 2019-2022](#), November 2019.

¹³⁶ DHSC, [Tackling obesity: empowering adults and children to live healthier lives](#), July 2020.

¹³⁷ DHSC, [The Food \(Promotion and Placement\) \(England\) Regulations 2021](#), December 2021.

¹³⁸ DHSC, Northern Ireland Executive, Scottish Government and Welsh Government, [Front-of-pack nutrition labelling in the UK: building on success](#), July 2020. The consultation closed in October 2020 (and in November 2020 for the Welsh version) and results are being analysed.

¹³⁹ Northern Ireland Executive, [Consultation on Minimum Unit Pricing of Alcohol in NI](#), February 2022.

¹⁴⁰ HM Treasury and HMRC, [Alcohol duty review: Call for evidence](#), September 2020.

evaluating its MUP policy, improving alcohol labelling and consulting on potential advertising restrictions to protect children and young people.¹⁴¹

Safety-related matters

- 4.29 Consumer protection is largely a reserved matter in Northern Ireland,¹⁴² Scotland and Wales. Health and safety law within the UK is a complex picture of devolved and reserved competences. In addition, there are differences in how offences are prosecuted in the nations as well as some matters relating to protecting individuals from harm which may fall within the scope of devolved matters.
- 4.30 There are also a number of potentially relevant Common Frameworks in this area, including The Hazardous Substances (Planning) framework;¹⁴³ and Radioactive Substances Provisional Framework.¹⁴⁴
- 4.31 There are several potentially relevant policy developments that relate to the safety of individuals. For example, in 2021 the Scottish Government introduced restrictions on the times of day and the volume of **fireworks** that can be supplied to the public, as well as the times that fireworks can be set off.¹⁴⁵ In February 2022, following consultation, to improve safety around fireworks and pyrotechnics (e.g. hand-held flares and smoke devices),¹⁴⁶ the Scottish Government published the Fireworks and Pyrotechnic Articles (Scotland) Bill, which includes the introduction of a fireworks licensing system.¹⁴⁷
- 4.32 Potential changes to EU law may also be relevant to the UK. For example:

¹⁴¹ Scottish Government, [A Fairer, Greener Scotland: Programme for Government 2021-22](#), September 2021.

¹⁴² The Northern Ireland Assembly is able to legislate for Northern Ireland with the consent of the Secretary of State.

¹⁴³ DLUHC and MHCLG, [Hazardous Substances \(Planning\): common framework](#), August 2021.

¹⁴⁴ BEIS, [Radioactive substances: provisional common framework](#), December 2021.

¹⁴⁵ [The Fireworks \(Scotland\) Miscellaneous Amendments Regs 2021](#).

¹⁴⁶ Scottish Government, [Use and Sale of Fireworks in Scotland, and tackling the misuse of pyrotechnics](#), June 2021.

¹⁴⁷ Scottish Government, [Support for action on fireworks and pyrotechnics](#), December 2021; and [Fireworks and Pyrotechnic Bill published](#), February 2022.

- **Chemicals** – the European Commission (**EC**) has launched a consultation on revising the REACH Regulation concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals in a number of areas including the knowledge base and control of chemicals.¹⁴⁸ The UK Government has indicated an intention to explore whether there are opportunities to reduce the need for industry to replicate existing EU REACH data (retained after Brexit by the UK REACH transitional provisions).¹⁴⁹
- **Product Safety** – the EC is proposing to revise the General Product Safety Directive, given concerns that consumer protection might be compromised in light of new technologies and the growth in online marketplaces.¹⁵⁰ The UK Government has indicated an intention to consult in 2022 on changes to the product safety regime.¹⁵¹

Conclusion

- 4.33 Our analysis of the trade data has demonstrated the scale of the internal market and its importance to the four nations of the UK, with total cross-border exports likely to exceed £190bn. Scotland, Wales and Northern Ireland each trade more with the rest of the UK than with the EU or the rest of the world. Given the high level of integration in trade flows between UK nations, potential barriers to trade with the rest of the UK could have implications for economic growth and prosperity.
- 4.34 We have not identified evidence of substantial new policy divergence emerging between the four nations since 31 December 2020. Coupled with the findings from our survey of businesses, there is nothing in the evidence we have seen to date to suggest that regulatory divergence since December 2020 has affected the internal market.
- 4.35 This is not unexpected because any potential divergence of regulatory approaches within the UK might occur over time as the governments develop and implement their programmes. In particular, it reflects the transitional period which prevented any modification of EU retained law.

¹⁴⁸ EC, [REACH revision under the Chemicals Strategy](#), January 2022.

¹⁴⁹ Defra, [Deadline for UK REACH to be extended](#), December 2021.

¹⁵⁰ EC, [Consumer protection: Commission revises EU rules on product safety and consumer credit](#), June 2021.

¹⁵¹ HM Government, [The Benefits of Brexit](#), January 2022.

- 4.36 Our review of announcements, government programmes, policy papers and hearings, as well as our discussions with all four governments suggests that the main policy areas where a degree of regulatory divergence may emerge over time are likely to be in sectors such as environment, energy use, agriculture, animal welfare, food drink and health, and safety-related matters. Many of these areas align or overlap to an extent with some of the provisional Common Frameworks.
- 4.37 In many cases, divergence may not ultimately emerge and regulatory approaches across the UK may even converge over time or be managed through Common Frameworks. However, identifying specific areas in which regulatory divergence is most likely to occur has provided valuable intelligence.
- 4.38 We have set out some example developments in these sectors – including in relation to single-use plastics, smart charging, gene-edited crops, live animal exports and nutrition labelling. These examples include goods, services and qualifications – illustrating the potential range of regulatory divergence that may arise.
- 4.39 As part of our role to provide independent advice, monitoring and reporting in support of the effective operation of the UK internal market, we will continue to consider emerging policy developments – drawing on inputs by businesses and other stakeholders to our digital reporting service and our ongoing engagement with the four governments.
- 4.40 We are also ready to respond to requests from the governments for reports and advice on specific regulatory provisions and by March 2023 will produce our first statutory reports on developments relevant to the UK internal market and its effective operation.