Twitter Thread by Nick Gutteridge



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1/ As Brexit talks enter what might be their last few hours, the key hurdle to overcome is how to agree on what the EU calls 'managed divergence' and the UK has dubbed 'lightning tariffs'. Despite the doom and gloom, there are signs the sides aren't quite as far apart as appears.

2/ The EU has dropped its insistence on a 'ratchet clause' which would have formalised the principle both sides should keep up with each other's standards. It's now ready to cater for divergence in the future so long as there are strong safeguards to rebalance unfair competition.

3/ This is a shift from the EU, which previously rejected managed divergence as too messy and risky for its economies. They worried it would create constant uncertainty for them. It thus represents a fair departure from the EU's opening position on LPF.

4/ There is a difference between having a commitment to match standards hard-wired into the deal, failure to comply with which would be a breach of the agreement, and a mechanism written into the text catering for a decision to diverge and accept rebalancing measures in return.

5/ What the sides are now trying to thrash out is how unfair competition would be defined, the process for triggering rebalancing measures, and how extensive they'd be. The EU originally wanted the Commission to have the unilateral right to apply them - hence 'lightning tariffs'.

6/ That demand angered the UK, and has now been diluted by Brussels which accepts there needs to be due process based on evidence. One EU proposal is for a 'distortion test' that could be triggered by either side. They're also open to setting up an independent arbitrage system.

7/ The EU stresses this would only apply in cases of 'significant divergences' in standards - it wouldn't be used to scrutinise the minutiae of every British law. 'At a certain stage the competitive advantage might become so big you have to do something. How do you manage that?'

8/ Key for the EU is speed of response. UK is open to these ideas but is concerned about the size and scope of rebalancing measures. It wants unfair competition in specific sectors to be addressed with tariffs in those sectors. On LPF, the EU has been wedded to cross-retaliation.

9/ But cross-retaliation is for *breaches*. So could a middle-ground be found here? Some don't think it's worth sacrificing a deal over. 'Is either side going to collapse an entire trade deal over what would be a very sectoral issue, over which you could impose sectoral tariffs?'

10/ It's not impossible to see a way through that ticks UK red line on sovereignty & EU one on protecting the Single Market. That's what negotiators have been hammering away at. Risk of No Deal is still 'very high'. But if so it'll be over 'a very minimal subset of open points'.