

Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

PART SIX

INSTITUTIONAL AND FINAL PROVISIONS

TITLE III

DISPUTE SETTLEMENT

Article 178

Temporary remedies in case of non-compliance

1 If the arbitration panel rules in accordance with Article 177(2) that the respondent has failed to comply with the arbitration panel ruling referred to in Article 173, at the request of the complainant it may impose a lump sum or penalty payment to be paid to the complainant. In determining the lump sum or penalty payment, the arbitration panel shall take into account the seriousness of the non-compliance and underlying breach of obligation, the duration of the non-compliance and underlying breach of obligation.

2 If, 1 month after the arbitration panel ruling referred to in paragraph 1, the respondent has failed to pay any lump sum or penalty payment imposed on it, or if, 6 months after the arbitration panel ruling referred to in Article 177(2), the respondent persists in not complying with the arbitration panel ruling referred to in Article 173, the complainant shall be entitled, upon notification to the respondent, to suspend obligations arising from:

- a any provision of this Agreement other than those contained in Part Two; or
- b parts of any other agreement between the Union and the United Kingdom under the conditions set out in that agreement.

The notification shall specify the provisions which the complainant intends to suspend. Before deciding to suspend parts of an agreement referred to in point (b) the complainant shall first consider whether the suspension of the provision of this Agreement in accordance with point (a) would be an appropriate response to the breach. Any suspension shall be proportionate to the breach of obligation concerned, taking into account the gravity of the breach and the rights in question and, where the suspension is based on the fact that the respondent persists in not complying with the arbitration panel ruling referred to in Article 173, whether a penalty payment has been imposed on the respondent and has been paid or is still being paid by the latter.

The complainant may implement the suspension at any moment but not earlier than 10 days after the date of the notification, unless the respondent has requested arbitration under paragraph 3.

3 If the respondent considers that the extent of the suspension set out in the notification referred to in paragraph 2 is not proportionate, it may request the original arbitration panel in writing to rule on the matter. Such request shall be notified to the complainant before the expiry of the 10-day period referred to in paragraph 2. The arbitration panel shall notify its ruling to

the Union and the United Kingdom within 60 days of the date of submission of the request. Obligations shall not be suspended until the arbitration panel has notified its ruling, and any suspension shall be consistent with the arbitration panel ruling.

4 In the event of the original arbitration panel, or some of its members, being unable to reconvene to consider a request under paragraph 2, a new arbitration panel shall be established as set out in Article 171. In such cases, the period for notifying the ruling shall be 90 days from the date of establishment of the new arbitration panel.

5 The suspension of obligations shall be temporary and shall be applied only until any measure found to be inconsistent with the provisions of this Agreement has been withdrawn or amended, so as to achieve conformity with the provisions of this Agreement, or until the Union and the United Kingdom have agreed to otherwise settle the dispute.