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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom from the Union **(first reading)** - Adoption of the legislative act - Statements

Commission statement on the coverage of third country nationals

The Regulation on establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union is based on Article 48 of the Treaty on the Functioning of the European Union (TFEU) as it concerns measures in the field of social security coordination. An extension of this Regulation to third-country nationals in the same legal act is not possible due to the incompatibility of the legal bases, as such an extension would need to be based on Article 79(2)(b) TFEU.

The Commission considers that third-country nationals covered by Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 should continue to benefit from the basic principles of social security coordination intended to be codified in the Regulation on establishing contingency measures in the field of social security coordination, based on the provisions of Regulation (EU) No 1231/2010 and of Regulations (EC) No 883/2004 and 987/2009, which remain in force.

The Commission will consider, however, if it becomes necessary at a later stage, to have the principles set out in this Regulation extended to third country nationals legally resident in a Member State who, pursuant to Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010, are or have been covered by the EU legislation on coordination of social security systems to confirm their entitlements in relation to the period when the United Kingdom was a Member State.

Commission statement on a coordinated approach to social security coordination

The Commission would like to express its concerns as regards the introduction of recital 4(a) and Article 5(a) to the proposal for a Regulation establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom from the European Union. The Commission considers that it is not necessary to include these elements in the Regulation.

The Withdrawal Agreement is the best possible solution for safeguarding social security entitlements of the concerned persons. The Commission acknowledges that, in the absence of a Withdrawal Agreement, administrative arrangements remain essential for the implementation of the contingency Regulation, and therefore stands ready to fully support Member States in a coordinated approach to these arrangements with the United Kingdom. Furthermore, the Commission will work closely with Member States in order to achieve for the future a common approach to social security coordination with the United Kingdom.

Statement by the United Kingdom

The United Kingdom notes these measures, which seek to protect citizens of the EU and United Kingdom, who have engaged with the social security system of the United Kingdom under the Coordination Regulations whilst the United Kingdom was a Member State.

However, we would encourage the Commission to continue to explore additional contingency measures in this area, including on reciprocal healthcare, that would further protect the rights of all EU citizens, citizens of the United Kingdom, and also rights of third country nationals covered by the EU acquis in the field of social security coordination at the date the United Kingdom ceases to be a Member State.

We ask the Council to note our position that all such relevant contingency measures should apply with respect to Gibraltar, where Gibraltar has previously been covered by the relevant area of EU law.