



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 28 September 2012

**Interinstitutional File:
2012/0076 (NLE)**

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ADD 2**

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NT 27**

ADDENDUM 2 TO THE NOTE

from: Permanent Representatives Committee (Part I)
to: Council (Employment, Social Policy, Health and Consumer Affairs)

No. Cion prop.: 8556/12 SOC 263 NT 8 - COM(2012) 152 final

Subject: Proposal for a Council Decision on the position to be taken on behalf of the European Union within the Association Council set up by the Agreement establishing an association between the European Economic Community and Turkey with regard to the provisions on the coordination of social security systems
= Political agreement

Delegations will find attached a Statement by IE and UK to be included in the minutes of the Council (EPSCO 4 October).

Joint Ireland-United Kingdom Minute Statement

Title IV of Part Three of the Treaty on the Functioning of the European Union (TFEU) and Article 45(1) clearly states that "Freedom of movement for workers shall be secured within the Union". Article 45(2) TFEU provides that "such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States". Article 48 TFEU provides the Council with the power to adopt measures in the field of social security which are necessary to give effect to this free movement of workers. The United Kingdom and Ireland therefore do not accept that Article 48 can provide a legal base for measures intended to apply to persons other than employed or self employed Member State workers and their dependents moving within the Union.

The view of the United Kingdom and Ireland, which is consistent with the legal base cited for other measures of this type, is that such measures correctly fall within the scope of Title V of Part Three of the TFEU and in particular Article 79(2)(b). This specifically provides a legal base for the adoption of measures defining the rights of third country nationals who come to the Union.

The United Kingdom and Ireland therefore do not consider that Article 48 TFEU is the correct legal base for the Council Decision and that Article 79(2)(b) TFEU should be the correct legal base for this measure. The United Kingdom and Ireland reserve their right to take action necessary to ensure the inclusion of the correct legal base.
