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DECISION OF THE EUROPEAN COMMISSION

**on Former Commissioner Neven Mimica's post term of office professional activity as
member of the Board of Directors of 'Friends of the Global Fund Europe'**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Commission Decision of 31 January 2018 (C(2018) 700 final) on a Code of Conduct for the Members of the European Commission, and in particular Article 11(3) thereof,

Whereas:

- 1) According to Article 245(2) of the Treaty on the Functioning of the European Union, the Members of the Commission, when entering upon their duties, shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and, in particular, their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.
- 2) Article 339 of the Treaty on the Functioning of the European Union provides that the Members of the institutions of the Union shall be required, even after their duties have ceased, not to disclose information of any kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.
- 3) Article 11 of the Code of Conduct for the Members of the European Commission establishes a specific procedure for the assessment of planned professional activities which the Members or former Members of the Commission intend to take up after they have ceased to hold office. The Commission shall examine the information provided in order to determine whether the nature of the planned activity is compatible with Article 245 of the Treaty on the Functioning of the European Union. If the planned activity is related to the portfolio of the Member or former Member, the Commission shall decide only after having consulted the Independent Ethical Committee unless the planned activity falls within the exceptions foreseen in Article 11(3), second subparagraph.
- 4) On 6 May 2020, Former Commissioner Neven Mimica informed the Commission about his intention to engage in a non-remunerated post term of office activity as member of the Board of Directors of 'Friends of the Global Fund Europe'.

- 5) 'The Global Fund' is a public-private partnership and a global financial instrument created in 2002 in order to fight AIDS, tuberculosis and malaria worldwide. Its creation was supported by the General Assembly of the United Nations and by the G8 (declaration of commitment on HIV/AIDS adopted by the General Assembly of the United Nations in its special session on HIV/AIDS on 27 June 2001; communiqué of the G8 summit on 22 July 2001). It was established as an international non-governmental organisation in Geneva, working in partnership with governments, civil society, technical agencies and the private sector. 'The Global Fund' pools resources to invest strategically in programs to end AIDS, tuberculosis and malaria as epidemics.
- 6) 'The Global Fund' does not have country offices. It created independent associations known as 'Friends of the Global Fund' in order to develop contacts and allies, to promote a good understanding of the organisation's mission and to mobilise political and financial support.
- 7) Four regional associations of Friends were created: in Europe ('Friends of the Global Fund Europe'), in the United States ('Friends of the Global Fight'), in Japan ('Friends of the Global Fund Japan') and in Australia ('Pacific Friends of Global Health'). Each of these four organisations is completely independent of 'The Global Fund' and has its own core objectives, activities and governance structure.
- 8) The Association 'Friends of the Global Fund Europe' was founded in April 2005. Through its advocacy activities, it aims to: (1) raise awareness among policy makers and key partners on the investments, challenges, results and impacts of the fight against HIV/AIDS, tuberculosis and malaria and more broadly on global health; (2) communicate the results and the impact of 'The Global Fund', inform on its principles and operating modalities; (3) contribute to private sector and foundations' investment in Europe in the fight against pandemics and in global health, including through the promotion of public-private partnerships; and (4) support and encourage initiatives in favor of innovative financing mechanisms for development and global health.
- 9) 'Friends of the Global Fund Europe' carries out its advocacy activities in France, Germany, Italy, Luxembourg, Belgium, Spain, Denmark, Sweden, Norway and Finland as well as with the European institutions. Its governing structure is composed of a Board of Directors, an Advisory Committee and a Secretariat. Based in Paris, the organisation is a French not-for-profit association with a European scope of missions and activities. Its Board of Directors is composed of 'prominent European political figures and experts'.
- 10) 'The Global Fund' is an important recipient of funds from the EU Budget. The European Commission has been associated to the Global Fund ever since its creation in 2002 and is represented in its Board. Since then, it has committed to more than €2.6 billion (August 2019). The European Commission is the sixth-largest donor to the Global Fund representing on average around 5% of all contributions. The Fund also

receives additional support from EU countries, bringing the collective EU contribution to almost 50% of all resources received by the Global Fund.

- 11) On 24 August 2019, the EU announced a €550 million pledge to ‘The Global Fund’ during the G7 summit in Biarritz ‘under the assumption that the EU’s new Multiannual Financial Framework for the period from 2021-2027 and the new external action instrument, which would provide the budget for [the] pledge, would be adopted broadly along the lines proposed by the European Commission’.
- 12) On 3 March 2016, Commissioner Mimica, as Commissioner in charge of International Cooperation and Development, had announced the Commission’s pledge of €470 million for ‘The Global Fund’ to fight AIDS, Tuberculosis and Malaria for the three-year period beginning in 2017. On 29 April 2019, the Commission and ‘The Global Fund’ had signed an agreement for the final €73 million of the EC’s pledge for the current funding cycle.
- 13) The envisaged activity consequently presents a link with Former Commissioner Mimica’s portfolio on International Cooperation and Development. Nonetheless, the compatibility of a similar activity with Article 245(2) of the Treaty on the Functioning of the European Union has already been assessed in the past and subsequently established by the Commission.
- 14) On 19 November 2014, Former Commissioner Andris Piebalgs, who was responsible for development from 2010 to 2014, notified to the Commission his envisaged non-remunerated activity as ‘*Board Member of the Friends of the Global Fund Europe to help in fight against AIDS, tuberculosis and malaria*’. In view of ‘The Global Fund’'s activity in developing countries, the Ad Hoc Ethical Committee was asked to provide an opinion on the compatibility of the notified activity with article 245(2) of the Treaty on the Functioning of the European Union. The Ad hoc Ethical Committee delivered its opinion on 28 November 2014. The Committee noted that Mr Piebalgs' envisaged activity was non-remunerated and that it aimed at contributing to raise awareness of ‘The Global Fund’ among a broad range of stakeholders, promoting a good understanding of ‘The Global Fund’'s mission and mobilising both political and financial support, the mission being to fight AIDS, tuberculosis and malaria worldwide. The Committee underlined that Mr Piebalgs’ envisaged activity would not involve participating in ‘The Global Fund’'s management. The Committee concluded that Mr Piebalgs’ activity was compatible with Article 245(2) of the Treaty on the Functioning of the European Union and the Commission subsequently took a positive decision in line with the Committee’s opinion.
- 15) The Independent Ethical Committee was consulted on 25 June 2020 and delivered its opinion on 29 June 2020. The Committee examined the nature of the ‘Global Fund’, including its link with the Commission, then the nature, activities and governance structure of ‘Friends of the Global Fund Europe’, the funding of the ‘Global Fund’ and

of 'Friends of the Global Fund Europe' and Former Commissioner Mimica's envisaged activity with 'Friends of the Global Fund Europe'.

- 16) On this basis, the Committee assessed the compatibility of the envisaged activity against the framework of the applicable legal context.
- 17) First, and in line with previous opinions, the Committee noted that the Members of the Commission had a right to engage in work and to pursue a freely chosen or accepted occupation after the term of their office, yet knowing that this right needed to be balanced with the obligations set out in Article 245 TFEU and the Code of Conduct for the Members of the European Commission.
- 18) On Former Commissioner Mimica's envisaged activity, the Committee noted that, as a Member of the Board of Directors of Friends of the Global Fund Europe, Former Commissioner Mimica would have to attend meetings of the Board and contribute to raise awareness on the association's activities and goals. While no information had been provided by Mr Mimica whether his activity would entail any involvement in the acquisition or distribution of EU funds, the Committee noted that the objectives of Friends of the Global Fund Europe regarding global health and the fight against HIV/AIDS, tuberculosis and malaria pandemics seemed to be in line with goals shared internationally, including by the European Union.
- 19) The Committee furthermore underlined that Mr Mimica's non-remunerated position as member of the Board of Directors of 'Friends of the Global Fund Europe' would be the same as Former Commissioner Piebalgs', for which a favourable opinion had been given by the Ad Hoc Ethical Committee in November 2014.
- 20) The Committee concluded that Former Commissioner Mimica's envisaged activity did not represent a risk with regard to the interests of the Commission and the European Union and was compatible with Article 245 of the Treaty on the Functioning of the European Union, subject to the appropriate conditions/restrictions, to be set in the Commission's decision, regarding the prohibition of lobbying, the protection of confidentiality and collegiality and, in general, the duty impending on Former Commissioners to abide by the principles of integrity and discretion enshrined in Article 245 of the Treaty on the Functioning of the European Union. It underlined that the obligation not to lobby would not affect possible participations of Former Commissioner Mimica in public events or general exchanges of, and on, publicly available information with Members of the Commission or Commission staff on behalf of 'Friends of the Global Fund Europe'.
- 21) The Commission shares the Independent Ethical Committee's assessment and its decision is based thereupon.

HAS DECIDED AS FOLLOWS:

Article 1

Former Commissioner Neven Mimica's envisaged activity as member of the Board of Directors of 'Friends of the Global Fund Europe' is compatible with Article 245(2) of the Treaty on the Functioning of the European Union on the conditions that Mr Mimica :

- abides by the obligations set out in Articles 245 and 339 of the Treaty on the Functioning of the European Union;
- abides by the duties of collegiality and discretion, with respect to the Commission's decisions and activities during his term of office, deriving from Article 11(1), in conjunction with Article 5, of the Code of Conduct for the Members of the Commission;
- refrains from lobbying the Members of the Commission or their staff on behalf of, or for the interests of, 'The Global Fund' or 'Friends of the Global Fund Europe', for a period of two years following his term of office, in accordance with Article 11(4) of the Code of Conduct.

Done at Brussels, on 8 July 2020.

The President
Ursula von der Leyen