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DECISION OF THE EUROPEAN COMMISSION

**on Former Commissioner Miguel Arias Cañete's post term of office activity as member
of the 'Commission on the Future of Mobility'**

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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 set out in paragraph 3, second subparagraph, lit. (a) to (f).
- 4) On 8 August 2020, Former Commissioner Miguel Arias Cañete notified to the Commission his envisaged post term of office activity as member of the 'Commission on the Future of Mobility'. He informed that this 'Commission' aims to reshape global transportation policy to improve safety, opportunity and efficiency. Through research and advocacy, the 'Commission on the Future of Mobility' aims at creating a cleaner environment, enhance security, greater economic opportunity, safer roads and improved access. Mr Arias Cañete further informed that the 'Commission on the Future of Mobility' is a new initiative of 'SAFE', an existing organisation funded by foundations, individual philanthropists and companies active in promoting advanced-fuel adoption (specifically electric vehicles).

- 5) In view of Mr Arias Cañete's presentation of the 'Commission on the Future of Mobility', the Commission noted that this envisaged activity appeared to have a link with his former portfolio on Climate Action and Energy. Therefore, in line with Article 11(3) of the Code of Conduct for the Members of the Commission, the Commission requested, on 28 September 2020, the Independent Ethical Committee's opinion on its compatibility with Article 245 of the Treaty on the Functioning of the European Union.
- 6) On 26 October 2020, upon request from the Independent Ethical Committee, the Commission wrote to Mr Arias Cañete inviting him to provide additional information on several aspects. The request concerned the activities that the 'Commissioners' of the 'Commission on the Future of Mobility' would be expected to pursue in relation to research in the first phase of the 'Commission's' work in view of possible advocacy. Mr Arias Cañete was also invited to provide information on the specific topics of research that would be pursued, under which authority, how the research would be carried out and what the role of the 'Commissioners' would be in this regard. The Commission also relayed the Committee's question whether Mr Arias Cañete considered that he would be able to act as a 'Commissioner' of the 'Commission on the Future of Mobility' without engaging in lobbying activities towards the European Commission during the period of two years after the end of his mandate as Member of the European Commission, knowing that one of his main tasks would be to 'advocate inside and outside the EU', 'participate in conferences' and engage in 'networking'. Finally, Mr Arias Cañete was asked whether he considered if his function could be performed without using or sharing sensitive information or insights that he had gained during his term of office as Member of the Commission.
- 7) Mr Arias Cañete provided the requested information on 30 November 2020. He underlined the objectives, priorities and focus areas of the 'Commission on the Future of Mobility', its immediate research dimension, the role of the 'Commissioners' and the scope of the advocacy efforts planned to begin in early 2023, following the end of the research phase. He also provided answers to the Committee's questions in view of the possibility to comply with the obligations of former Commissioners in this new activity.
- 8) The Committee delivered its opinion on 12 February 2021. The Committee took account of the information received in the context of Former Commissioner Arias Cañete's notification but also in the context of the notification of another Former Member of the Commission who had notified an identical activity as member of the 'Commission on the Future of Mobility'.
- 9) The Committee first noted that, according to publicly available information, the 'Commission on the Future of Mobility' is a new initiative established by the organisation 'SAFE' (Securing America's Future Energy) aiming to address global transportation policies. The Committee then examined the nature of 'SAFE' and of the 'Commission on the Future of Mobility', their organisational structure, Former Commissioner Arias Cañete's envisaged position in the 'Commission on the Future of Mobility', the funding of 'SAFE' and of the 'Commission on the Future of

Mobility’, and the links of both ‘SAFE’ and the ‘Commission on the Future of Mobility’ with the European Commission.

- 10) The Committee noted that ‘SAFE’ is a non-profit, non-partisan organisation founded in 2006 in the United States of America by its current President and CEO, and acts as an independent organisation. ‘SAFE’ has historically been funded primarily by foundations and individual philanthropists, with some support from companies whose values align with SAFE. Significant foundation support has come from those that want to promote advanced-fuel vehicle adoption (specifically electric vehicles) and see alignment in their environmental goals.
- 11) According to information made publicly available, ‘SAFE’'s field of activities encompasses energy, economy, national and global security, transportation and mobility. ‘SAFE’'s stated goals are twofold. It aims to ‘unite prominent military and business leaders to develop and advocate for policies that improve America’s energy security’ and to combat the country’s dependency on oil. In addition, the organisation advocates for the development of transformative transportation and mobility technologies. ‘SAFE’ has already launched four initiatives related to its fields of activity and created the ‘SAFE’ Energy Security Leadership Council, a group of business leaders and retired military officers dedicated to combatting the US dependency on oil. Members of this Council include CEOs of global corporations.
- 12) According to the information provided by Former Commissioner Arias Cañete, the Committee then noted that the ‘Commission on the Future of Mobility’ is a new research and advocacy coalition initiated by ‘SAFE’, expected to be launched in February 2021. The ‘Commission on the Future of Mobility’'s general long-term goal is to ‘reshape global transportation policy to improve safety, opportunity and efficiency’. The ‘Commission on the Future of Mobility’ will consequently work on topics related to mobility, such as security, safety, economics, environmental protection and access to transportation.
- 13) In order to reach these objectives, the ‘Commission on the Future of Mobility’, in a first phase, aims to conduct ‘useful research on key questions’ related to the transportation and mobility sectors and, in a second phase, ‘recommend common sense solutions that may be of use to industries seeking to form best practices guidelines or to inform policymakers’. As specified by Former Commissioner Arias Cañete, the ‘Commission’'s activities would primarily focus on research over the next 24 months, in order to ‘fill the gaps in existing understanding of cross-cutting transportation topics’. The ‘Commission’ will be formally launched with informal virtual panels taking place through the fall 2021. According to Mr Arias Cañete’s notification, the area of research could encompass ‘the impact of goods delivery’, ‘the role of drones and vertical take-off and landing systems in the mobility systems’, ‘the intersection of land use and equity and the role of transportation’, ‘the economic impacts of low emission zones in urban areas’, ‘electric-vehicle battery and the electrification of the global fleet’, ‘a reframing of transportation safety’, ‘policies and the changing business of mobility’ and ‘transportation infrastructure funding’. Only once the research phase has been completed, the ‘Commission’ will start ‘advocacy outreach to various levels of government globally’, which the Commission understands to include possible advocacy towards EU institutions.

- 14) On the organisational structure of these two entities, the Committee noted that, according to information made publicly available by 'SAFE', this organisation relies on a structure composed of a President and CEO, a Vice-President for Operations and Finance, a Vice-President of Development, a Board and a team of 'four-star retired military officers, companies CEOs and expert staff'. Former Commissioner Arias Cañete notified that the 'Commission on the Future of Mobility' would be composed of non-corporate and corporate 'Commissioners'. To this date, the 'Commission' confirmed the participation of 3 non-corporate 'Commissioners'. In addition, CEOs of 7 corporations will act as corporate 'Commissioners', namely from Ford Motor Company, TransDev, Qualcomm, FedEx, Cox Automotive Group, Hyundai Motor Company and Goodyear. Former Commissioner Arias Cañete notified that, as the 'Commission on the Future of Mobility' is still in a set-up phase, the process of recruiting corporate and non-corporate 'Commissioners', an Executive Director, a Director of Policy and Research and a Research Team is still ongoing.
- 15) As regards Former Commissioner Arias Cañete's position in the 'Commission on the Future of Mobility', the Committee noted that the Former Commissioner had informed the European Commission that he had been invited to join the 'Commission on the Future of Mobility' as a non-corporate 'Commissioner'. In this position, during the first phase of the 'Commission's' work, Mr Arias Cañete would be expected to meet with other members of this 'Commission' twice a year, in order to give feedback to the Executive Director and the Research Team on their ongoing research. He would be asked to provide 'high-level feedback and insight on the proposals shared by the Research Team' to ensure that 'the outcome of the research is thorough and addresses issues that are of current concern'. The second phase would start once research is complete and findings are published. During this phase, 'Commissioners' are expected to 'determine areas of mutually desirable advocacy' and to 'support advocacy according to their own area of expertise'. However, according to information provided by Mr Arias Cañete, non-corporate 'Commissioners' are not required to engage in advocacy activities 'if they are unable'. Additionally, Mr Arias Cañete assured the European Commission that 'Commissioners' who are 'current or former regulators are not expected to share confidential' and sensitive information acquired during their former mandate.
- 16) Former Commissioner Arias Cañete informed the European Commission that his travel expenses would be covered in order to attend meetings occurring in person. He will receive no other pecuniary compensation for participating in the 'Commission'.
- 17) On the funding of 'SAFE' and the 'Commission on the Future of Mobility', the Committee noted that, according to information provided by Former Commissioner Arias Cañete, 'SAFE' is funded by donations and grants from foundations and individual philanthropists, as well as individual companies whose values align with those of 'SAFE'. Among those organisations, former Commissioner Arias Cañete referred in his notification to the Oak Foundation, William & Flora Hewlett Foundation, Hewlett Foundation, Energy Foundation, Climate Works, A Chance Fund and the Stuart Family Foundation.
- 18) Former Commissioner Arias Cañete informed the European Commission that 70% of the funding for the 'Commission on the Future of Mobility' would be paid by the 7 corporate 'Commissioners', listed above. Foundations would pay for the remaining

30%. Former Commissioner Arias Cañete informed the European Commission that the process of fundraising is still ongoing.

- 19) The Committee indicated that, according to the Financial Transparency System of the European Commission, neither 'SAFE' nor the 'Commission on the Future of Mobility' received EU funds from the European budget implemented directly by the Commission departments, its staff in the EU delegations or other bodies such as executive agencies.
- 20) Finally, on the links between 'SAFE' and the 'Commission on the Future of Mobility' with the European Commission, the Committee noted that neither 'SAFE' nor the 'Commission on the Future of Mobility' are currently registered in the Joint Transparency Register of the European Parliament and the Commission.
- 21) The Committee underlined that Former Commissioner Arias Cañete had informed the European Commission that he would make sure, before engaging himself in any advocacy activities on behalf of the 'Commission on the Future of Mobility', that the 'Commission on the Future of Mobility' is adequately registered in the Transparency Register of the European Parliament and the European Commission.
- 22) On the basis of the facts established, the Committee assessed the compatibility of Former Commissioner Arias Cañete's notified position against the framework of the applicable legal context.
- 23) First, and in line with previous opinions, the Committee recalled that former 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, while this right needed to be balanced with the obligations set out in Article 245 of the Treaty on the Functioning of the European Union and in the Code of Conduct for the Members of the European Commission.
- 24) Concerning Mr Arias Cañete's specific position, the Committee underlined the basic elements of the factual description stated above and noted that the envisaged activity is directly linked to the Former Commissioner's portfolio. The Committee considered nonetheless that the activity does not represent a serious risk with regard to the interests of the Commission and the European Union. Mr Arias Cañete would not be remunerated for his position and would only meet twice a year with other members of the 'Commission on the Future of Mobility'. Furthermore, the envisaged studies and fields of research are not linked to a specific interest of an individual stakeholder, and seem globally in line with the European Commission's policies and objectives.
- 25) The Committee also noted that, in his notification, Mr Arias Cañete had stated that he was fully aware of his obligations as a former Member of the European Commission. He guaranteed that, in his new position, he would not be expected to share confidential information or insights gained during his term of office. The Committee also took good note that Mr Arias Cañete had guaranteed he would be able to pursue this activity without engaging in lobbying activities towards the European Commission during the period of two years after the end of his mandate.

- 26) Finally, the Committee noted that Former Commissioner Arias Cañete had also guaranteed that, before engaging in any advocacy activity after the end of the cooling-off period, he would make sure that the ‘Commission on the Future of Mobility’ is adequately registered in the joint Transparency Register of the European Parliament and the Commission.
- 27) The Committee noted however that the position of non-corporate ‘Commissioner’, by ‘providing high-level feedback’, might constitute by its nature a risk that specific information or insights that former Commissioner Arias Cañete obtained during his mandate could be relevant to the work of the ‘Commission on the Future of Mobility’.
- 28) The Committee came eventually to the conclusion that the envisaged activity would be compatible with Article 245 TFEU, subject to the full and strict respect of the commitments made by Mr Arias Cañete and subject to several conditions and restrictions mentioned in its opinion.
- 29) The Commission shares the conclusions of the Independent Ethical Committee and notes in particular the commitments made by Former Commissioner Arias Cañete.

HAS DECIDED AS FOLLOWS:

Sole Article

Former Commissioner Miguel Arias Cañete’s envisaged activity as member of the ‘Commission on the Future of Mobility’ is compatible with Article 245(2) of the Treaty on the Functioning of the European Union, subject to the strict respect, by Mr Arias Cañete, of the general obligations which apply to former Members of the Commission and, in particular, subject to the following conditions and restrictions:

- Former Commissioner Arias Cañete shall respect the obligations as former Member of the Commission deriving from the Treaties and the Code of Conduct for the Members of the Commission as well as his commitments made to the Commission: (1) to refrain from sharing any sensitive information acquired during his term of office; (2) to refrain from pursuing any advocacy until 2023; (3) to work for an adequate registration of the ‘Commission on the Future of Mobility’ in the Joint Transparency Register of the European Parliament and the European Commission and (4) to refrain from engaging himself in any advocacy activity before this registration is complete;
- In line with Article 11(1), in conjunction with Article 5, of the Code of Conduct for the Members of the Commission, Former Commissioner Arias Cañete remains bound by the duties of collegiality and discretion with respect to the Commission’s decisions and activities during his term of office. This includes not only refraining from disclosing what was said at meetings of the Commission but also a general duty to apply a high sense of discretion with regard to the use of information and insights that he obtained during his mandate, be it within his portfolio responsibilities or within the College. In particular, Mr Arias Cañete shall adopt a prudent approach when providing ‘high-level feedback’ and advice to the ‘Commission on the Future of Mobility’ and to the organisation ‘SAFE’;

- In accordance with Article 11(4) of the Code of Conduct for the Members of the Commission, during a period of two years following his term of office, Former Commissioner Arias Cañete shall refrain from lobbying the Members of the Commission or Commission staff on behalf of the ‘Commission on the Future of Mobility’ on matters for which he was responsible during his mandate. ‘Lobbying’ includes indirect lobbying in the sense of influencing the Commission ‘through the use of intermediate vectors such as media, public opinion, conferences or social events, targeting the EU institutions’ as set out in paragraph 7 of the Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation. This would also cover any potential activity with a view to obtaining EU funding;
- After the two-year period following the end of his mandate at the European Commission, Mr Arias Cañete shall ensure that any possible contacts between himself and the European Commission and its staff, on behalf of the ‘Commission on the Future of Mobility’, shall respect the general duties of integrity and discretion established by Article 245 of the Treaty on the Functioning of the European Union, which continue to apply;
- In accordance with Article 339 of the Treaty on the Functioning of the European Union, Former Commissioner Arias Cañete shall refrain from participating in any activity or decision-making procedure within the ‘Commission on the Future of Mobility’ which might involve using information of the kind covered by the obligation of professional secrecy regarding, in particular, undertakings, their business relations or their cost components. This obligation remains beyond the end of the two-year period following the end of Mr Arias Cañete’s mandate as Member of the European Commission;
- In line with Article 13(2) of the Code of Conduct for the Members of the Commission, Former Commissioner Arias Cañete shall inform the President of the Commission, in a timely manner, if and when he has a doubt with regard to the application of the present decision or to his obligations deriving from the Treaty on the Functioning of the European Union and the Code of Conduct for the Members of the Commission before acting on the matter in relation to which the doubt arises.

Done at Brussels, on 24 March 2021.

The President
Ursula von der Leyen