Annex 4

Opinion of the Ad Hoc Ethical Committee

FROM

Michel Petite

DATE

2 November 2010

Rafael Garcia-Valdecasas

Terry Wynn

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Mrs Day, General Secretary

Re: - Request n° 10 from the European Commission

- Prof Günter Verheugen

- 1. By letter of the 1st September 2010, the Secretariat General of the European Commission requested the opinion of the Ad Hoc Ethical Committee, on an activity envisaged by Prof. Günther Verheugen, former Commissioner in charge of the Enterprise and Industry until the entry in office of the new Commission in 2010.
- 2. The activity considered is that of non-executive director of a newly founded "European Experience Company GmbH" (EEC). The new company is aimed at developing, on European and international policy matters:
 - briefing sessions and written briefings for top leaders;
 - management seminars in cooperation with experts from European institutions;
 - background papers and strategy recommendations;
 - support for public relations in European affairs speeches, media events, publications;
 - conflict mediation.

EEC excludes engaging in any lobbying activity. EEC is co-owned by Dr Petra Erler, managing director of the firm and Prof. Günther Verheugen, non-executive director.

3. Prof. Verheugen will receive no remuneration for this function of non-executive director function, and expects to be eventually remunerated as a shareholder of the company, out of its results.

- 4. In his former term of office as Commissioner, Prof. Verheugen was in charge of Enterprise and Industry, which implies covering a broad spectrum of economic activities, of which are excluded the area of services and a number of specific industrial sectors (*i.e.* energy, transport, telecoms).
- 5. In its web presentation EEC clearly implies that the services offered by the company will be delivered by either or both of its co-founders Dr Petra Erler and/or Prof. Günther Verheugen. The Committee is of the opinion that it is indifferent in this respect that Prof. Verheugen be employed by the company or co-own the company and be potentially remunerated accordingly; the relevant matter being that his services be offered as an economic activity to the operators

The Committee is therefore of the opinion that Prof. Günther Verheugen would engage in an occupation relevant to article 245(2) of the Treaty on the Functioning of the European Union.

- 6. The content of the services offered is very broad. It formally excludes lobbying activities. Nevertheless it covers briefings, recommendations, support for public relations in European affairs in an unspecified manner, in such a way that it could cover very general services as well as very specific issues which Prof. Verheugen could have come across in his previous function. Considering the broad and indiscriminate description of the services covered, the Committee feels unable to assess in an appropriate manner the scope of services offered, which could unduly overlap with the previous functions as Commissioner. It is of the view that, as described, it is inevitable that such a wide activity could at some point directly intersect with the scope of the Commissioner's former activity, in a manner which could not be dealt with by abstaining on a case-by-case basis.
- 7. The Ethical Committee is therefore of the opinion that, as presently so indiscriminately described, the considered activity cannot be viewed as in conformity with article 245(2) of the TPEU.