

**DEROGATION LETTER  
IN RESPECT OF INITIAL ENFORCEMENT ORDERS ISSUED  
PURSUANT TO SECTION 72(2) ENTERPRISE ACT 2002**

**Consent under section 72(3C) of the Enterprise Act 2002 (the Act) to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority ('CMA') on 1 February 2021.**

**Completed acquisition by Veolia Environnement S.A. (Veolia) of a minority shareholding in Suez S.A. (the 'Transaction')**

We refer to your submissions of 4 and 29 October 2021, 18 November 2021 and 6 December 2021 requesting that the CMA consents to a derogation to the Initial Enforcement Order of 1 February 2021 (as varied on 9 December 2021, the '**Initial Order**'). The terms defined in the Initial Order and the derogations granted on 1 February 2021 have the same meaning in this letter except that the term 'Suez UK business' has the same meaning as defined in the CMA's Revocation Letter of 19 March 2021. Further, in this letter:

**Completion** refers to the completion of the anticipated public takeover by Veolia of the remaining share capital in Suez.

Under the Initial Order, save for written consent from the CMA, Veolia Environnement S.A. ('**Veolia**') and Veolia UK Limited ('**Veolia UK**') are required to hold separate the Veolia business from the Suez business and refrain from taking any action which might prejudice a reference under section 22 and section 33 of the Act or impede the taking of any remedial action following such a reference.

After due consideration of your request for derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, Veolia, Veolia UK and Suez UK may carry out the following actions, in respect of the specific paragraph:

**1. Paragraph 6 of the Initial Order**

Veolia submits that paragraph 6 of the Initial Order contains a restriction on Veolia voting its shares in Suez which was included in the Initial Order in the context of the Transaction.

On Completion, Veolia submits that this provision of the Initial Order will no longer be required or relevant given the context in which it was first imposed on Veolia. Veolia therefore requests a derogation from its obligations under paragraph 6 of the Initial Order.

The CMA consents to a derogation from paragraph 6 of the Initial Order, strictly on the basis that:

- (i) such a derogation is proportionate and in line with the aims of the Initial Order; and
- (ii) save for any derogations granted by the CMA, following Completion, Veolia and Suez will remain bound by all other provisions of the Initial Order.

## **2. Paragraphs 4(a), 5(a), 5(l), 7(a), and 7(l) of the Initial Order**

Veolia submits that post-Completion, Veolia (as the legal owner of the combined Veolia business and Suez business) will need to extend the Veolia group insurance arrangements to cover the Suez business. These group insurance arrangements include: (i) [X]; (ii) [X]; (iii) [X]; (iv) [X]; (v) [X]; (vi) [X]; and (vii) any other policies that are necessary for the Suez business subject to the prior written consent of the CMA (which can be provided by e-mail).

Veolia is therefore seeking CMA consent to:

- (a) extend its existing insurance arrangements coverage to the Suez business; and
- (b) receive limited information from the Suez business in order to maintain the abovementioned insurance arrangements for Suez.

The CMA consents to a derogation from paragraphs 4(a), 5(a), 5(l), 7(a) and 7(l) of the Initial Order, strictly on the basis that:

- (i) Veolia will not be provided with any information from the Suez business in order to put the insurance arrangements in place given that such information will be provided directly by the Suez business to Veolia's insurers. In the event of a claim by the Suez business, Veolia would be informed of the amount of the claim as is strictly necessary, but would not receive any further information from the Suez business;
- (ii) in the event of a claim, the Suez business would inform the following Veolia individuals of the amount of the claim only, for whom it is strictly necessary to see this information: [X] (the '**Authorised Insurance Individuals**');

- (iii) the Authorised Insurance Individuals do not have, and will not, for the duration of the Initial Order, have any commercial or strategic responsibility for the Veolia business;
- (iv) the Authorised Insurance Individuals shall enter into non-disclosure agreements in a form approved by the CMA;
- (v) IT firewalls and/or other ring-fencing measures will be put in place to prevent any unauthorised individuals within the Veolia business from accessing the information shared with the Authorised Insurance Individuals for the purposes of this derogation;
- (vi) no additions or changes to the Authorised Insurance Individuals shall be made under this derogation without the prior written consent of the CMA (which can be provided via email);
- (vii) Veolia will ensure that its third party insurers (to whom the Suez business will provide certain confidential information for the purposes of this derogation) are aware of the terms on which the information has been provided and that the information must not be provided to any individual other than in compliance with the Initial Order and this derogation;
- (viii) the inclusion of the Suez business within Veolia's insurance arrangements:
  - will not be difficult or costly to reverse; and
  - will have no influence upon the commercial direction of the Suez business during the term of the Initial Order;
- (ix) should the Transaction be prohibited or Veolia be required or decide to divest all, or part of the Suez UK business or the Veolia UK business, any records or copies (electronic or otherwise) of business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature, wherever they may be held, that were received from the Veolia business for the purposes of this derogation will be returned to the Suez UK business and any copies destroyed, except to the extent that record retention is required by law or regulation; and
- (x) this derogation will not result in any pre-emptive action which might prejudice the outcome of a reference or impede the taking of any action which may be justified by the CMA's decisions on a reference.

### **3. Paragraphs 4(a), 5(a), 5(l), 7(a) and 7(l) of the Initial Order**

Veolia submits that post-Completion, it is necessary for Veolia to extend its financial support functions (treasury functions, intra-group lending and parent company guarantees) to the Suez UK business in order to ensure its continued viability. Veolia is therefore seeking CMA consent to:

- (a) extend Veolia group funding to the Suez UK business; and
- (b) in the course of doing so, receive limited financial information from the Suez UK business in order to provide the necessary funding to Suez UK.

The CMA consents to a derogation from paragraphs 4(a) 5(a), 5(l), 7(a), and 7(l) of the Initial Order permitting the actions described at paragraphs (a) and (b) above, strictly on the basis that:

- (i) the Suez UK information provided to Veolia for the purposes of this derogation will be limited to that which is strictly necessary for Veolia to provide funding to Suez UK (as outlined in Annex 1, (**Funding Information**)), and will only be used for the purpose of providing the funding. For the avoidance of doubt, this will not involve the exchange of any commercially-sensitive information between the Suez UK business and Veolia;
- (ii) the funding provided by Veolia to the Suez UK business:
  - will be at least as favourable as the terms of the funding which the Suez UK business received prior to the Transaction;
  - will enable the Suez UK business to follow its pre-Transaction business plan, and will maintain the competitiveness of the Suez UK business; and
  - will not result in the assets of the Suez UK business being pledged as security to Veolia's lenders.
- (iii) the Funding Information will only be provided to [X] (the **Authorised Funding Individuals**), for whom it is strictly necessary to see the Funding Information to provide the funding. None of Veolia's external lenders will be provided with access to the Funding Information;
- (i) the Authorised Funding Individuals do not have, and will not, for the duration of the Initial Order, have any commercial or strategic responsibility for the Veolia business;
- (iv) the Authorised Funding Individuals shall enter into non-disclosure agreements in a form approved by the CMA;

- (v) Veolia and Suez shall submit to the CMA a summary of the Funding Information shared with the Authorised Funding Individuals, at the CMA's request;
- (vi) IT firewalls and/or other ring-fencing measures will be put in place to prevent any unauthorised individuals within Veolia from accessing the Funding Information shared with the Authorised Funding Individuals for the purposes of this derogation;
- (vii) no changes to the Authorised Funding Individuals are permitted without the prior written consent of the CMA (which can be provided via email);
- (viii) no additions or changes to the information template set out in Annex 1 shall be made under this derogation without the prior written consent of the CMA (which can be provided via email);
- (xi) the inclusion of the Suez UK business within Veolia's funding arrangements:
  - will not be difficult or costly to reverse; and
  - will have no influence upon the commercial direction of the Suez UK business during the term of the Initial Order;
- (xii) should the Transaction be prohibited or Veolia be required or decide to divest all, or part of the Suez UK business or the Veolia UK business, any records or copies (electronic or otherwise) of business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature, wherever they may be held, that were received from the Veolia business for the purposes of this derogation will be returned to the Suez UK business and any copies destroyed, except to the extent that record retention is required by law or regulation
- (xiii) this derogation will not result in any pre-emptive action which might prejudice the outcome of a reference or impede the taking of any action which may be justified by the CMA's decisions on a reference.

14 December 2021

## Annex 1

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