

**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 20 December 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, 6, 10 and 17 December 2021 requesting that the CMA consents to a derogation to the Initial Enforcement Order of 20 December 2021, the '**Initial Order**'). The terms defined in the Initial Order have the same meaning in this letter. 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 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. Paragraphs 6(a) and 6(l) of the Initial Order

Veolia submits that, post-Completion, Veolia will require access to certain financial data of the Suez business as is strictly necessary to comply with certain external legal, accounting and regulatory obligations, namely:

- (a) to consolidate Suez financial information within Veolia's financial accounts in line with Veolia's accounting and regulatory obligations;

(b) to comply with Veolia's financial reporting obligations as a French public company, including its obligations pursuant to Article 221-1 of the General Regulations of the Autorité des Marchés Financiers; and

(c) to file tax returns in relevant jurisdictions (together, the '**Permitted Purpose**')

The CMA consents to a derogation from paragraphs 6(a) and 6(l) of the Initial Order to permit Veolia to request certain financial data from the Suez business for the Permitted Purpose, strictly on the basis that:

- (i) financial information received by Veolia from the Suez business for the Permitted Purpose will be limited to that which is strictly necessary for the Permitted Purpose, as outlined in Annexes 1 to 4 of this derogation (the '**Financial Information**'). For the avoidance of doubt, this derogation does not permit the Suez business to share any management commentary with Veolia;
- (ii) the Financial Information will only be provided to the following individuals within the Veolia business for whom it is strictly necessary to see the Financial Information: (i) [X] (ii) [X] (iii) [X] (iv) [X] (v) [X] (vi) [X] and [X] (the '**Authorised Financial Individuals**').
- (iii) the Authorised Financial 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 Financial 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 Financial Individuals for the purposes of this derogation;
- (vi) no additions or changes to the Authorised Financial Individuals shall be made under this derogation without the prior written consent of the CMA (which can be provided via email);
- (vii) no additions or changes to the information templates set out in Annexes 1 to 4 shall be made under this derogation without the prior written consent of the CMA (which can be provided via email);
- (viii) Veolia will keep a detailed record of the Financial Information shared by Suez in accordance with this derogation which will be made available to the CMA at its request;

- (ix) should the Transaction be prohibited or Veolia be required or decide to divest all, or part of the Suez business or the Veolia 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 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.

2. Paragraphs 6(c) and 6(i) of the Initial Order

Veolia submits that following Completion, it intends to appoint [X], to a new position as [X]. The CMA understands that [X] is key staff within the definition in the Initial Order, and is [X].

Veolia proposes that [X] current responsibilities with respect to [X] would be assumed by [X], who is currently [X], and [X] will be taken up by [X].

Further, Veolia notes that [X] will be appointed to the [X] as a consequence of his promotion to the role of [X] (pursuant to the derogation granted by the CMA on 13 October 2021).

Veolia is also proposing an internal reorganisation of the Veolia business relating to the [X]. Veolia submits that the [X] would not comprise any UK activities, except for those of [X] and [X] which is a wholly owned subsidiary of [X] dedicated to the [X]. Veolia submits that [X] and [X] do not overlap with Suez's activities in the UK and are not relevant to the CMA's assessment of the transaction; and that the activities of [X] and [X] account for a [X].

Veolia is therefore seeking a derogation from the Initial Order to permit:

- (a) [X] to assume [X] responsibilities with respect to [X];
- (b) [X] to assume [X] responsibilities with respect to the [X];
- (c) the appointment of [X] to the [X]; and
- (d) the internal reorganisation of the Veolia business relating to the [X].

The CMA consents to a derogation from paragraphs 6(c) and 6(i) of the Initial Order, permitting the changes described in paragraphs (a) to (d) above, strictly on the basis that:

- (i) Veolia has represented that both [X] and [X] have an equivalently high level of knowledge and expertise as [X] in respect of the Veolia business and therefore have the capability and experience needed to effectively take on the responsibilities of [X]. Further, Veolia will ensure a smooth handover of [X] responsibilities with a view to ensuring that the change in key staff and reallocation of responsibilities will not result in any disruption to the Veolia business and will not impact its ability to compete effectively;
- (ii) [X] role and responsibilities with respect to the Veolia UK business will not change;
- (iii) the existing team supporting [X] will remain in place to support [X] and [X] in their new roles;
- (iv) no other organisational, management or key staff changes will be made to the Veolia business as a result of this derogation; and
- (v) this derogation will not lead to any integration of the Suez business and the Veolia business.

3. Paragraphs 5(a), 6(a), 6(c), and 6(l) of the Initial Order

Following Completion, Veolia wishes to exercise limited oversight of the commercial activity of Suez to ensure that Suez is maintained as a going concern, and operated in the ordinary way, consistent with past practice, so as to preserve the value of the Suez business during the course of the CMA's investigation.

Veolia has therefore sought CMA consent to delegate authority to manage the Suez business to [X] subject to a requirement that [X] seeks approval from designated individuals within Veolia to proceed with certain courses of action. The requirement to seek such approval from Veolia is strictly limited to the items listed in Annex 5 which will apply to the Suez business on a country-by-country basis.

The CMA consents to a derogation from paragraphs 5(a), 6(a), 6(c) and 6(l) of the Initial Order, strictly on the basis that:

- (i) escalation of matters for approval by Veolia will only be escalated to the following Veolia individuals:
 - a. [X] and [X] (together, the '**Designated NE Individuals**') in respect of all countries (including the UK) within Suez's [X] business;

- b. [X] and [X] (together, the '**Designated Group Individuals**') in respect of all other Suez Group countries; and
 - c. should it be strictly necessary, the Designated NE Individuals and Designated Group Individuals are permitted to discuss escalations made by Suez with [X]
- (ii) the Designated NE Individuals, Designated Group Individuals and [X] do not have, and will not, for the duration of the Initial Order, have any commercial or strategic responsibility for the Veolia business;
 - (iii) information shared with the Designated NE Individuals, Designated Group Individuals and [X] shall be limited to that which is strictly necessary to allow Veolia to take a decision on the request (as outlined in Annex 5). For the avoidance of doubt, such information shall not include any commercially-sensitive information of the Suez business unless the CMA provides its prior written consent to share such commercially-sensitive information (which can be provided via email);
 - (iv) the Designated NE Individuals, Designated Group Individuals and [X] will not seek to change the proposals made by the Suez business under the matters for escalation, or seek to substitute their judgment with that of the Suez business;
 - (v) the Designated NE Individuals, Designated Group Individuals and [X] will each enter into a confidentiality undertaking in a form approved by the CMA;
 - (vi) the CMA (and any Monitoring Trustee appointed pursuant to paragraph 12 the Initial Order) will be notified of any requests made by the Suez business to Veolia and at its request, the CMA will be provided with a summary of the information shared by the Suez business with the Designated NE Individuals, Designated Group Individuals and [X] for the purposes of the escalation;
 - (vii) the CMA will be notified in advance of any proposed veto by Veolia of any Suez business matters for escalation, and the reasons for this in advance of any such veto being exercised;
 - (viii) firewalls and/or other ring-fencing measures will be put in place to prevent any unauthorised individuals within Veolia from accessing the information shared with the Designated NE Individuals, Designated Group Individuals and [X] for the purposes of this derogation;

- (ix) should the Transaction be prohibited or Veolia be required or decide to divest all, or part of the Suez business or the Veolia 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 business and any copies destroyed, except to the extent that record retention is required by law or regulation;
- (x) the Suez business will notify the CMA if the limits set out in this derogation do not allow the Suez business to carry out its day-to-day functions without the interference of Veolia; and
- (xi) the limits set out in this derogation will be subject to CMA review and the CMA may revise the thresholds in writing (including via email) if it deems necessary for the Suez business to conduct its day-to-day business independently of Veolia.

4. Paragraph 6(c) of the Initial Order

Veolia submits that shortly after Completion, it intends to de-list Suez simultaneously with the squeezing out of Suez's minority shareholders. As a result of the de-listing Suez SA, as a Veolia subsidiary, will become a private (instead of publicly listed) company.

Veolia further submits that the delisting of Suez will not impinge upon Veolia or Suez's obligations under the Initial Order.

The CMA consents to a derogation from paragraph 6(c) of the Initial Order, strictly on the basis that the de-listing will not:

- (i) affect Suez's assets (tangible or intangible);
- (ii) result in any changes to staff/management of Suez;
- (iii) lead to any integration between the Veolia and Suez businesses;
- (iv) result in changes to customer and/or supplier contracts;
- (v) affect the viability of Suez's business; and
- (vi) result in the sharing of confidential or commercially sensitive information between Veolia and Suez.

Yours sincerely,

Tim Geer

Director, Mergers

10 January 2022

Annex 1 - Financial Information (Suez Group reporting template)

Annex 2 - Financial Information (Suez UK balance sheet reporting template)

Annex 3 - Financial Information (Suez UK P&L reporting template)

Annex 4 - Financial Information (Suez UK cashflow statement reporting template)

Annex 5 – Matters for escalation