

# Eurotunnel On Track



Letter to shareholders

**SPECIAL EDITION**  
**"THE FRENCH SAFEGUARD**  
**PROCEDURE"**



## Dear Shareholder,

This summer was marked by three key dates:

- **13 July:** the Board decides unanimously to request the protection of the Courts.
- **2 August:** the Paris Commercial Court decides to initiate a Safeguard Procedure.
- **21 August:** a lorry catches fire in the North Tunnel, reminding us of the risks associated with all transport systems.

### These three events give us several reasons to remain confident in the future of our business.

The first is that our teams are highly motivated and truly professional as shown by the way our staff and the emergency services handled the fire on board a lorry being transported on one of our shuttles. Four hours after this serious incident, we were able progressively to restart our services and commercial operations resumed normally the next day. Of course, we remain vigilant.

The second reason to be satisfied is that the business is doing well operationally. The results for the first half of the year have underlined the strength of the margins we are achieving.

Thirdly, we succeeded in bringing an end to a protracted ten-year dispute between Eurotunnel and the Railway networks regarding their contribution to the operating costs of the Tunnel. An agreement was reached on the amounts due for prior years and on the method of calculating the contribution for the years 2006 to 2014. This decision will enable us to start afresh, on a more positive basis, in our relations with our partners.

**Finally, the decision taken by the Paris Commercial Court places Eurotunnel under the protection of the courts.** This approach seemed to be the most appropriate way to save Eurotunnel in the face of certain minorities who prevented the successful outcome of our debt restructuring negotiations.

You will find overleaf important information regarding this procedure. You must understand that it does not affect the manner in which the business is managed. It allows for the suspension of repayment of the debt (not its cancellation), but it does not, as such, guarantee the continuity of the business. In this respect, the French auditors remain unable to certify the 2005 reports and accounts: these cannot be approved and the suspension of listing should continue.

Some of our creditors contest the use of French law for some of our non-French subsidiaries. This means that they do not want to accept that Eurotunnel is one single undertaking, concessionaire of a single infrastructure.

**Eurotunnel's only asset** is precisely the right to operate the fixed link and should that right be withdrawn by the two States, Eurotunnel would cease to exist. Therefore, the immediate assistance we can seek of the two States is to make clear to creditors that, in these exceptional circumstances, the Concession cannot be maintained without existing shareholders retaining a significant participation in the capital of the operator despite the fact that the letter of the law means they rank lower than creditors in the order of priority.

### My determination to find a realistic and balanced agreement between the parties remains unshaken.

With the support of the judicial administrators, we will continue to negotiate to find a compromise with our creditors based on my last proposals. Indeed, in the limited time available, it would be inconceivable and unreasonable not to build upon all that was achieved during the preceding negotiations.

I am more than ever focussed on defending the future of Eurotunnel. You may recall that **I undertook to do my best to bring about in early 2007 a definitive solution to the uncertainties surrounding the future of Eurotunnel.** We should be able to keep to this deadline. The starting date for the procedure was not chosen by chance: by November a restructuring proposal should be put to the creditors' committees and the Paris Commercial Court should give its decision at the end of 2006 or, at the latest, at the beginning of 2007.

I will continue to keep you regularly informed but for now, I would like to thank all of you who have expressed your support of the work accomplished by our teams over the past year.

United and together, we can save Eurotunnel.

**Jacques Gounon**  
Chairman and Chief Executive

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## THE SAFEGUARD PROCEDURE MADE SIMPLE...

- The legislation came into force on 1 January 2006.
- The safeguard procedure is not equivalent to administration proceedings: whereas the latter presupposes the business is insolvent, the safeguard procedure can only be relied upon by companies who can show that they are not insolvent and where an early resolution of the issues faced by the business may avoid such outcome. It is a pre-insolvency protection mechanism.
- **There is one goal: the pursuit of the continuity of operations through negotiation with committees of the major creditors.**
- **Operations continue as normal** and operating debts in the observation period are paid to suppliers as they fall due.
- The Commercial Court may, according to circumstances, bring the procedure to an end and convert it, as the case may be, into administration or liquidation.
- **Eurotunnel remains managed by its current directors.**

## ... IN ORDER TO UNDERSTAND HOW IT WORKS

### THE COMMERCIAL COURT HAS APPOINTED:

- A supervising judge (juge commissaire), M Bernard Soutumier and his deputy (juge commissaire suppléant), M Jean-Philippe Klotz.
- Two creditors' representatives (mandataires judiciaires): Maîtres Jean-Claude Pierrel and Valerie Leloup-Thomas.
- Two Court representatives (administrateurs judiciaires) whose role is to observe together the management of Eurotunnel and, if needs be, to assist in the development of the restructuring proposal: Maîtres Laurent le Guernevé and Emmanuel Hess.

### THE OTHER PARTIES :

- **Two creditors' committees**, set up by the Court representatives (one for main suppliers and one for the lenders) who will vote upon the proposals which will be put to them. The vote is by majority (representing 2/3 of the debt).

- **The bond-holders** or "subordinated creditors" will also be called to decide on the proposals.
- Appointed staff representatives.
- **A public interest representative** (*Ministère Public*) is kept informed and is consulted by the Commercial Court before the judgement is handed down.

### 6-MONTHS' OBSERVATION PERIOD

The observation period means:

- Suspension of any legal proceedings started by creditors before 2 August;
- Freeze on the payments of debts which arose before 2 August;
- Continuation of existing contracts;
- Lodging of claims in relation to existing debts: to this end, the Court-appointed creditors' representatives (mandataires judiciaires) wrote to all known suppliers and creditors of Eurotunnel in August requesting notification of claims;
- An inventory.

### FROM THE OBSERVATION PERIOD TO THE PERIOD OF IMPLEMENTATION OF A RESTRUCTURING PLAN

- A proposal is put to the vote of creditors' committees within two months of their constitution.
- Next, having consulted the creditors' representatives (mandataires judiciaires), Eurotunnel, the Court representatives (administrateurs judiciaires), having heard representations from staff representatives and the Ministère Public, the Commercial Court approves the plan. **This judgement by the Commercial Court brings an immediate end to the Safeguard Procedure.**
- The Commercial Court then nominates a supervisor (commissaire) to observe the implementation of the plan.
- **Shareholders may be required to give their opinion depending on the final dispositions of the plan.**

## Provisional timetable (subject to any extension of the procedure)



### The status of Concessionaire: the obligations of a public service provider

The Channel Tunnel is a public infrastructure. Its construction was sought by the two States who granted private companies known as "Concessionaires" a concession of the right to operate this infrastructure for a set period of time (1) in return for bearing the costs of construction of the project. The infrastructure itself will eventually revert to the States at the expiry of the Concession, at no costs to them, unless they decide to renew the concession.

On the basis that the entire financing of the construction and operation of the project must be achieved using solely private funds (2), the Lenders considered it necessary to benefit from a guarantee should the Concessionaires fail; this is how the possibility of substitution was included in the Concession Agreement.

This clause, which benefits Lenders, allows creditors, subject to approval by the Governments and in very specific cases, literally to "substitute" themselves for Eurotunnel to operate the Concession for as long as necessary to reimburse their debt, in any event, up to 2052 at the latest. Subordinated creditors do not rank highly in the order of priority in the event of substitution. This mechanism can only be started by the holders of classic debt.

Eurotunnel shareholders are shareholders of Eurotunnel P.L.C. and Eurotunnel SA, parent companies of the Concessionaires. The Concession Agreement, which establishes the scope of the public service carried out by Eurotunnel, sets the terms and conditions and defines the rights and obligations of the States and the Concessionaires. The States may bring the Concession to an end should the holder not fulfil its duties.

<sup>(1)</sup> The Concession was initially granted until 2042. In 1994 the length of the Concession was extended by 10 years until 2052; in 1997, the two States decided once again to extend the length of the Concession, this time until 2086.

<sup>(2)</sup> The Treaty of Canterbury, the basis for the existence of the Tunnel, signed in 1986, together with the Concession Agreement, exclude any direct financial involvement by either government, but do not exclude any generally available financial support.