



16 February 2009

## Public consultation on the exemption application planned by Dunkerque LNG, for its LNG terminal project in Dunkirk

### Technical consultation document

Article 22 of directive 2003/55/EC allows new large-scale gas infrastructures (interconnections between member states, LNG or storage facilities) to obtain exemption from third party access.

The company, Dunkerque LNG, 100% EDF's subsidiary, plans to apply for total exemption from third party access and the regulation of tariff for its project of LNG terminal located in the autonomous port of Dunkirk. The company requests the exemption to be granted for 20 years as from the terminal's commercial start-up date.

Decree no. 2005-877 of July 29 2005 on the exemptions for access to certain gas infrastructures, specifies that:

- the minister submits the application to the CRE, which has one month to make a statement;
- the minister for energy notifies the European Commission within a period of three months as from the dossier's reception, of his decision on the request for derogation. The granted derogations are published in the *Official Journal* together with CRE's position.

Directive 2003/55/EC specifies that within two months of receiving notification, the European Commission may ask the national regulatory authority or the concerned member state to modify the decision to grant an exemption. This two-month period may be extended by one month if the European Commission requests additional information. If the national regulatory authority or the member state does not comply with this request within four weeks, the European Commission shall take a definitive decision.

In light of the timeframe in which CRE has to make its opinion, CRE asked Dunkerque LNG to prepare its analysis on the basis of a pre-dossier. This pre-dossier was sent by Dunkerque LNG to CRE and the General Directorate of Energy and Climate (DGEC) on February 5 2009.

The purpose of this public consultation process is to collect the points of view of market players on the request made by Dunkerque LNG and on the initial views that CRE plans to submit to the minister. If necessary, CRE will suggest to Dunkerque LNG a number of adjustments before presenting its final file. In order to avoid misinterpreting the aims of the project holder, CRE considered it important to submit the public version of the pre-dossier as it was drafted by Dunkerque LNG to the market for its opinion (see appendix).

Interested parties are invited to reply to the questions which appear at the end of this document **by Wednesday March 4 2009** at the latest.

<b>I - Introduction .....</b>	<b>3</b>
1. The regulatory framework.....	3
a. The European framework: directive 2003/55/EC.....	3
b. The national framework: the French law of August 9 2004 and the decree of July 29 2005.....	3
2. The LNG terminal project of the company, Dunkerque LNG .....	3
3. The size of the project.....	4
4. The interface with the natural gas transmission network of GRTgaz.....	4
5. The project's commercial characteristics .....	5
<b>II.CRE's initial views on the compliance with the criteria contained in article 22 of the directive 2003/55/EC by Dunkerque LNG. ....</b>	<b>6</b>
1. Criteria a) the investment must enhance competition in gas supply and enhance security of supply and e) the exemption is not detrimental to competition or the effective functioning of the internal gas market, or the efficient functioning of the regulated system to which the infrastructure is connected .....	6
2. Criterion b) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted .....	9
3. Criterion c) the infrastructure must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built .....	10
4. Criterion d) charges are levied on users of that infrastructure .....	10
5. Summary of CRE's initial views .....	10
Useful links.....	13

### 1. The regulatory framework

#### a. The European framework: directive 2003/55/EC

Article 22 of Directive 2003/55/EC allows new large-scale gas infrastructures **(interconnections between member states, LNG or storage facilities)** to obtain exemption from third party access as long as five conditions are respected:

- the investment must **enhance competition** in gas supply and **enhance security of supply**;
- the **level of risk attached to the investment** is such that the investment would not take place unless an exemption was granted;
- the infrastructure must be owned by a **natural or legal person which is separate** at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;
- **charges are levied** on users of that infrastructure;
- **the exemption is not detrimental to competition or the effective functioning of the internal gas market**, or the efficient functioning of the regulated system to which the infrastructure is connected.

The European Commission has a right to request from the national regulatory authority or concerned member state, to modify the decision to grant the exemption; the Commission is competent to make its own decision.

#### b. The national framework: the French law of August 9 2004 and the decree of July 29 2005

This directive was transposed into the French law of August 9 2004. Article 44 of this law states that *"the Energy Minister may authorise [...] to derogate, for all or part of this installation or construction [...]."*

*This derogation is granted at the time of the building or modification of this installation [...] as long as this **construction or modification contributes to enhance competition [...]** and **improving the security of supply** and that it is not achievable **under acceptable economic conditions** without this exemption.*

*The decision to grant derogation is taken after consulting CRE's view [...]*

*The CRE's view is published with the minister's decision.*

*This decision stipulates [...] the conditions in which the beneficiary is authorised to refuse to conclude an access contract to the installation or construction concerned."*

The application decree of July 29 2005 specifies that:

- the minister submits the application to the CRE, **which has one month to make a statement**;
- the minister for energy notifies the European Commission within a period of three months as from the dossier's reception, of his draft decision on the request for derogation;
- [...] *The derogation becomes null and void if the construction or modification project of the considered installation has not started within the three years following the publication of the granting of the derogation [...].*

### 2. The LNG terminal project of the company, Dunkerque LNG

In July 2006, the autonomous port of Dunkirk ("PAD") launched a restricted call for projects for the construction and operating of an LNG regasification terminal on its property. In its file, Dunkerque LNG notes that EDF considered Dunkirk to be an appropriate location for a major gas supply point for the EDF group. This opportunity would allow the EDF group to pursue its development in the gas supply markets in France and Europe in light of the liberalisation of the energy markets. EDF therefore responded to PAD's

call to develop an LNG terminal. Its application was finally selected by the port's Board of Directors in October 2006.

A public debate was held between September and December 2007 under the aegis of a special national public debate commission which was formed for this purpose in accordance with French law. This commission submitted its summary report on February 14 2008. The CNDP (national public debate commission) results were published on April 18 2008 and asked the investor to make a number of adjustments, particularly with regard to the installation of the terminal and the ensuing compensatory measures regarding the environmental, economic and social parts of the project. At the end of this stage, EDF announced on July 3 2008 that it intended to pursue the studies relative to the project and that it would transfer its management to Dunkerque LNG, the terminal's future owner/operator.

The company was registered on February 14 2008 under its definitive name, Dunkerque LNG. Today, Dunkerque LNG is a "Société par Actions Simplifiées Unipersonnelle" (SASU) (simplified corporation with a sole shareholder), fully owned by EDEV, a holding of interests which is itself fully owned by EDF.

Dunkerque LNG's statutes allow for a President and a Managing Director for day-to-day decisions and an Executive Committee which is responsible for important decisions.

The final decision to invest must be taken by Dunkerque LNG shareholders in March 2010. Construction work is planned to begin at the end of the first quarter in 2010 so that the terminal can be commissioned in 2014.

### 3. The size of the project

There are two options in the dossier presented by Dunkerque LNG:

- Project 1: construction of an LNG terminal with a regaseification capacity of 10 bcm/year
- Project 2: construction of an LNG terminal with a regaseification capacity of 13 bcm/year

	Project 1	Project 2
<b>Regaseification capacities</b>	10 bcm/year	13 bcm/year
<b>Send-out capacities to the GRTgaz network</b>	1.4 million m <sup>3</sup> per hour, i.e. 363 GWh/day	1.9 million m <sup>3</sup> per hour, i.e. 492 GWh/day
<b>Number of jetties</b>	1	1
<b>Number of tanks</b>	2 x 190,000 m <sup>3</sup> of LNG	3 x 190,000 m <sup>3</sup> of LNG

The Dunkerque LNG terminal will be designed to host LNG tankers of between 75,000 m<sup>3</sup> and 267,000 m<sup>3</sup>.

### 4. The interface with the natural gas transmission network of GRTgaz

Dunkirk's future LNG terminal will be connected to the gas transmission network managed by GRTgaz.

The connection of the Dunkirk LNG terminal to the GRTgaz network requires the undertaking of several construction projects:

- 18 km of pipeline (ND 900) between the planned terminal and the station at Pitgam (North);
- and the doubling of the Hauts de France section over 160 km as far as Cuvilly (Oise): depending on the terminal's needs, two diameters are foreseen for this doubling operation (ND 1050 for the 10 bcm option and ND 1200 for the 13 bcm option).

A study agreement has been signed with GRTgaz on April 26 2007. In the event of the terminal project being abandoned, Dunkerque LNG will refund GRTgaz for all of the study costs. As indicated in the explanatory statement of the tariff proposal regarding the use of natural gas transmission networks, *"the holding of regasification capacities, regardless of the duration and the level, must also imply the right and obligation to subscribe to corresponding entry capacities on the transmission network"*. In this way, the costs generated by this connection will be covered by transmission network entry capacity subscriptions.

## 5. The project's commercial characteristics

Dunkerque LNG plans to sell a part of the terminal's capacities to third parties, independent from the EDF group to ensure the profitability of this investment.

The terminal's capacity subscription scenarios presented by Dunkerque LNG in its dossier are:

	Project 1: 10 bcm	Project 2: 13 bcm
<b>EDF Group</b>	5-8 bcm	5-8 bcm
<b>LNG producers</b>	2 bcm	2 bcm
<b>Other third parties</b>	0-3 bcm	3-6 bcm

Dunkerque LNG states that the number of capacity subscribers will not exceed 3 or 4, so as to optimise the terminal's operational management. Dunkerque LNG will offer all parties a number of rights including berthing slots, LNG storage capacity and a capacity for regasification and sending out onto the transmission network.

Dunkerque LNG points out that, *"having no subscriptions from outside of the EDF group is neither envisaged nor desired"*.

Nevertheless, to date no regasification capacity reservation contracts have been signed.

Dunkerque LNG plans to contact energy players chosen by EDF directly at the start of 2009; LNG producers will be seen as a priority. The aim of this process is to arrange through bilateral negotiations the long-term subscription of the terminal's capacities.

If this initial phase did not result in a satisfactory level of subscription of the capacities offered by the project, Dunkerque LNG would approach the market in the second semester of 2009 with advertising in specialist reviews and a transparent and non-discriminatory call for tenders.

## II. CRE's initial views on the compliance with the criteria contained in article 22 of the directive 2003/55/EC by Dunkerque LNG.

This section informs the market of CRE's initial views on the basis of the analysis of the pre-dossier presented by Dunkerque LNG. These views are particularly based on:

- the interpretative note from the European Commission presented at the 15<sup>th</sup> Forum in Madrid;
- the ERGEG's guidelines for good practice regarding exemptions under article 22 and regarding open season procedures;
- the conclusions reached by the working group on the regulation of LNG terminals chaired by Mrs Colette Lewiner;
- and CRE's public consultation summary on the regulation of LNG terminals in France published on November 27 2008.

### 1. ***Criteria a) the investment must enhance competition in gas supply and enhance security of supply and e) the exemption is not detrimental to competition or the effective functioning of the internal gas market, or the efficient functioning of the regulated system to which the infrastructure is connected***

#### CRE's initial view

##### ○ ***The security of supply***

At the time the exemption is granted, Dunkerque LNG will not have finalised the sale of the regasification capacities and, furthermore, EDF points out that it has not signed any LNG supply contracts for the future terminal. Consequently, the gas supply sources of the Dunkirk terminal's future users will not be known.

In its dossier, Dunkerque LNG states that "*EDF will only subscribe to capacities from Dunkerque LNG if a significant share of these capacities can be guaranteed through long-term LNG supply contracts*". Furthermore, the items provided in the dossier stress EDF's willingness to negotiate, first and foremost, with producers outside of France's traditional gas import areas.

The interpretative note from the European Commission presented at the 15<sup>th</sup> Forum in Madrid (see useful links - April 22 2008 memo) specifies that an infrastructure contributes to strengthening the security of supply as soon as it contributes to the diversification of the sources of supply of the market in question. CRE thereby considers that a new LNG terminal is, intrinsically, a new entry point into the market and that it contributes, by definition, to the diversification of the sources of supply by permitting the arrival of LNG deliveries from various countries, whether through long-term agreements or spot deliveries and that it therefore improves the security of supply.

In addition, the Dunkerque LNG dossier does not foresee a service to re-export gas, such as:

- the resending of gas through an unregulated pipeline directly linked to the terminal;
- or the re-exporting of liquid natural gas through the reloading of LNG tankers.

Such services would significantly alter the nature of the project.

In light of the above, CRE believes that the criterion regarding improving the security of supply has been met. CRE plans to recommend in its view that the granting of an exemption should be reconsidered if the operator were to offer a gas re-export service, representing more than 10% of the technical capacity.

- **Competition**

- **The size of the terminal**

Dunkerque LNG states that the completion of the sales phases will dictate the project's final size (10 bcm/year or 13 bcm/year).

If the 13 bcm/year project were adopted, the project would be close to the maximum size possible (land surface area, number of jetty, development threshold, etc.).

On the other hand, if the 10 bcm/year project were adopted, it should be checked whether this minimum size chosen by Dunkerque LNG does not restrict access to its terminal as some market players could have subscribed to capacities over 10 bcm/year.

In light of this, CRE plans to recommend in its opinion that for the 10 bcm/year option, that the granting of an exemption should depend on Dunkerque LNG's ability to prove that a transparent and non-discriminatory call to the market was organised in compliance with ERGEG recommendations for open seasons (see useful links - GGPOS of May 21 2007) and that this commercial process did not justify the 13 bcm/year option. As requested by the European Commission in several exemption decisions, this call to the market must be submitted for inspection to the CRE.

- **The allocation of regasification capacities**

As stated above, at the time the dossier is presented, Dunkerque LNG will not have finalised the sale of its regasification capacities and will not therefore be in a position to specify the identity of the subscribers to the future Dunkirk terminal.

As a reminder, no exempted terminal in Europe has a subscriber with more than 68% of the terminal's capacity except for the Rovigo terminal which benefits from a partial exemption of around 80% over 20 years.

Under the 10 bcm/year scenario, EDF and its associated companies would hold up to 8 bcm/year of the regasification capacities, i.e. 80% of the marketable capacity.

Under the 13 bcm/year scenario, EDF and its associated companies would hold up to 8 bcm/year of the regasification capacities, i.e. 61.5% of the marketable capacity. Third-party companies would then hold 5 bcm/year of the regasification capacities.

In the event of demand being greater than supply, Dunkerque LNG commits itself to ensuring that the EDF group does not hold more than 8 bcm/year of the terminal's capacities over the long term for the two projects.

CRE takes note of this commitment and plans to recommend to the minister that non-compliance with this condition should result in the revocation of the exemption.

Furthermore, it plans to recommend in its views that the awarding of the exemption should depend on the 2 bcm of gas linked to the regasification capacities subscribed to by third parties not being resold to the EDF group.

If the project with the 10 bcm option were decided and if a part of the terminal's capacity had not been subscribed after the two sales phases, CRE plans to recommend in its opinion that Dunkerque LNG must commit itself to regularly offering this residual capacity to market players in a transparent and non-discriminatory call for tenders, according a frequency that should be defined, and until this capacity finds a buyer. This new call to the market will also have to be submitted to the CRE's control. Dunkerque LNG will be allowed to sell this residual capacity to the EDF group during the intermediate period in the form of a short-term contract.

- **Analysis of the impact on the wholesale and retail gas markets in France**

In order to show that criteria a) and e) on competition and the proper functioning of the domestic market are met, Dunkerque LNG undertook a study on the impact of its project on the wholesale and retail gas markets.



Dunkerque LNG considered the wholesale gas market for France as the relevant market. Alternative relevant market definitions were also studied by the company: an extended geographic area in north-western Europe, markets located upstream of the terminal (production, shipping) and downstream markets (gas supplies to five French customer types).

This study shows through 90 simulations with various scenarios of allocations of the terminal's capacities, that the project will reduce the concentration of the French wholesale gas market in 60% of cases or will not have any noticeable effect in 40% of cases. The method used examines the effect of the terminal's start-up in 2014 on the concentration of the market measured with the HHI index.

Dunkerque LNG did not carry out a detailed demonstration of the project's impact on the retail gas market, considering that the relevant market concerned by the project was the wholesale market and that the positive impact identified for the wholesale market *automatically* meant a positive impact for the retail market. Furthermore, Dunkerque LNG points out that the forecasts for EDF's market share in the retail gas markets will not be greater than 15% in all cases.

CRE has analysed the study submitted by Dunkerque LNG in detail and considers that the methodology employed is in line with that which is generally used in this area. CRE believes that the project will have a positive impact on competition in the wholesale gas market. It also believes that the project will not have any negative effects on competition in the retail market. By allowing one or more alternative suppliers to secure very large shares of their supplies, this project could even have a positive impact on the development of competition in the retail market.

In both markets, the market share of GDF Suez will be reduced following the terminal's commissioning.

Furthermore, Dunkerque LNG's analysis shows that given the dominant position of GDF Suez in the wholesale and retail gas markets in France, the subscription threshold allocated to this player will have to be below 1 bcm/year so as not to harm competition.

In order to enhance the terminal's positive impact on the development of competition, CRE plans to recommend in its opinion that the GDF Suez group and its associated companies are not to hold any regasification capacities in this terminal.

- ***The "Use it or lose it" mechanism***

LNG terminals play an important role in the development of competition in the wholesale and retail gas markets in France and in Europe. Optimising the use of regasification capacities is therefore of major importance to the market. In its pre-dossier, Dunkerque LNG describes the principles envisaged for the "Use it or lose it" mechanism. This description does not allow the mechanism's operational effectiveness to be judged.

Nevertheless, it is impossible to describe the mechanism in detail four years before the terminal is put into service without knowing the exact nature of the service which will be offered to shippers.

Consequently, CRE plans to recommend in its views that the exemption should depend on Dunkerque LNG having implemented, before the terminal is put into service, a "Use it or lose it" mechanism, which has been approved by the regulator and on publication of conditions of release of these capacities on the market.



- **Coexistence with regulated terminals**

Exemption must not give an unfair competitive advantage to exempted terminals with respect to regulated terminals.

Therefore, Dunkerque LNG will have to comply with CRE's decisions concerning regulated terminals in the area of operating rules on interfaces with other infrastructure. In particular:

- the current tariff for use of the natural gas transmission network states that holding regasification capacities, whatever their level and duration, involves an obligation to subscribe to the corresponding entry capacities on the transmission network;
- this tariff states that an economic test must be carried out to check that the costs linked directly to each project are borne by the shippers concerned if a terminal project entails very high investment costs on the transmission networks. This economic test is based on the principle that income from subscriptions of transmission network entry capacities from the LNG terminal should make it possible to cover the cost of all constructions between the terminal and the transmission network node over a period of 20 years;

Consequently, the regasification capacity subscribers at the Dunkirk terminal will have to subscribe to the corresponding network entry capacities over the same period of time from GRTgaz.

Furthermore, it is admitted that GRTgaz has to take advantage of the incomes corresponding to the entire capacities created at the Dunkirk entry point. Otherwise, the eventual lack of incomes will have to be supported by the other users of the transmission network, which is not suitable according to CRE. As a consequence, CRE plans to recommend in its view that Dunkerque LNG should commit itself to financially compensate GRTgaz for the capacities which have not been subscribed to by shippers of Dunkirk terminal.

Finally, CRE plans to recommend in its opinion that the future decisions made by CRE on the contribution of LNG terminals to the intra-day flexibility of the transmission networks will also have to apply to those terminals which benefit from an exemption.

CRE considers criteria a) and e) to be met if the aforementioned conditions are respected.

## **2. Criterion b) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted**

### CRE's initial view

- **The risks under a regulated framework**

In the case of regulated third party access, Dunkerque LNG stresses the difficulty in:

- freely defining the services offered and adapting them if necessary;
- retaining the subscribers of its choice;
- establishing the conditions of use for 20 years.

Such uncertainty may represent a factor of risk when presenting the business plan to the project's potential financial backers.

Dunkerque LNG therefore considers the exemption as necessary so as to guarantee that the EDF group has significant access to the infrastructure, and to enable it to provide selected partners with participation and access to capacities, thereby making it possible to reach long-term agreements.

○ **The financial risks**

Dunkerque LNG believes that for the project to be viable, it must strike a balance between a satisfactory return on investment for shareholders, a tariff which remains at an acceptable level for shippers and a secure cash flow for the reimbursement of the debt.

The analysis undertaken by Dunkerque LNG concludes that only exemption over a period of at least 20 years, which represents the project's economic and commercial appeal, guarantees its viability. The data which justify such an analysis were presented to CRE in the confidential version of the pre-dossier.

CRE considers that the hypotheses retained by Dunkerque LNG to reach such a conclusion are acceptable which means that, under these conditions, criterion b) can be considered to be met.

**3. Criterion c) the infrastructure must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built**

CRE's initial position

The absence of a legal link between Dunkerque LNG and GRTgaz, the operator of the gas network in which the terminal will be located, is immediately apparent and does not require any comment on the part of CRE.

With regard to the electricity network, Dunkerque LNG states that it is legally separate from the electricity system operators, RTE and ErDF. The statement made by Dunkerque LNG is satisfactory and does not require any comment on the part of CRE.

CRE considers criterion c) to be met.

**4. Criterion d) charges are levied on users of that infrastructure**

CRE's initial position

Dunkerque LNG intends to implement an known identical tariff to the terminal's subscribers. This tariff will cover the terminal's construction and operating costs, reimburse the debt and ensure the profitability of the capital invested without exceeding the price range which is seen as unattractive by Dunkerque LNG in its exemption request dossier.

CRE plans to recommend in its view that Dunkerque LNG send to CRE the contracts relative to capacities subscription and the applied tariff.

As long as these conditions are fulfilled, CRE considers criterion d) to be met.

**5. Summary of CRE's initial views**

CRE plans to give a positive opinion to the exemption request made by Dunkerque LNG with regard to third party access for a period of 20 years.

Nevertheless, in order to avoid an absence of third party access having a negative impact on the development of competition, CRE plans to recommend to the minister for energy to include the following terms and conditions in the exemption:

• **Conditions applicable to both terminal projects, 10 bcm and 13 bcm**

- the share subscribed to by EDF over the long term will be restricted to 8 bcm/year of the terminal's regasification capacities;
- the shipper(s) which hold(s) the remaining capacity over the long term shall not resell the corresponding gas to a company that belongs to the EDF group;
- the GDF Suez group or one of its associated companies will not hold any primary regasification capacities in the terminal;

- Dunkerque LNG will have to implement a "UIOLI" mechanism which is approved by CRE and publish the conditions concerning the capacities release;
- Dunkerque LNG will have to comply with regulations and, when appropriate, any decisions made by CRE regarding regulated LNG terminals with regard to interfaces with the gas transmission network:
  - Dunkirk terminal users' obligation to subscribe to transmission network entry capacities which correspond to the regasification capacities subscribed to and for the same period of time;
  - Dunkerque LNG's obligation to subscribe any capacities which have not been subscribed to by shippers which use the terminal;
  - if necessary, the rules which will be applied to regulated LNG terminals to provide intra-day flexibility.
- Dunkerque LNG will have to send to CRE and to minister the signed contracts relative to capacities subscription and the tariff for use of the terminal infrastructure;
- Dunkerque LNG will publish the data requested to the regulated terminals.

- **The additional condition applicable in the case of the 10 bcm project:**

If the 10 bcm option were to be adopted, Dunkerque LNG will have to prove to CRE that it has done it all that it can in compliance with the good practices specified by the ERGEG to ascertain market demand in an efficient, transparent and non-discriminatory manner.

Furthermore, if a residual capacity has not been subscribed to, Dunkerque LNG must commit itself to regularly offering this residual capacity to market players in a transparent and non-discriminatory call for tenders at least every two years and until the outstanding capacity finds a buyer. This call for tenders will have to be submitted to CRE, after Dunkerque LNG sending it the tariff.

CRE plans to recommend in its opinion that non-compliance with one of these conditions should lead the minister, when proposed by CRE, to revoke the exemption. Furthermore, CRE plans to recommend in its opinion that Dunkerque LNG should present a new exemption request dossier if the project's physical or commercial nature were significantly altered (for example: alteration of the terminal's physical configuration with the possibility of re-exporting natural gas through tankers for more than 10% of the technical capacity or underwater pipeline, change to the subscribers' shareholder base, etc).

CRE invites interested parties to send their contributions, **by 4th March 2009** at the latest:

- on CRE's web site under the section, "Public consultations" by clicking on "Contribute" (documents may be uploaded);
- by email to the following address: [webmestre@cre.fr](mailto:webmestre@cre.fr);
- by mail to: 2, rue du Quatre Septembre - 75084 Paris Cedex 02 – France;
- by meeting the Commission's departments, by calling the Division of gas infrastructures and networks (tel: 0033 (0)1 44 50 41 43);
- by requesting a hearing by the Commission.

Interested parties are invited to answer the following questions:

**Q1** *Do you consider that the demonstrations made by Dunkerque LNG for the criteria stated by the European directive are satisfactory?*

*a) Security of supply*

*b) Competition and the proper functioning of the domestic market*

*c) Efficiency and the proper functioning of the regulated network*

*d) Level of risk associated with the investment is such that the investment will not be carried out if exemption is not granted*

*e) Levying of charges from the users of the infrastructure*

*f) Independence of the infrastructure's operator in relation to the operators of the systems in which it will be built*

**Q2** *Do you think that the exemption dossier should be re-examined if an LNG export service, representing more than 10% of terminal's regasification capacities, were to be put in place?*

**Q3** *Do you consider that Dunkerque LNG has to propose regularly the non subscribed capacities to the market after the final investment decision? If yes, what should be the appropriate frequency?*

**Q4** *Do you think that Dunkerque LNG should commit itself to financially compensate GRTgaz for the capacities which have not been subscribed to by shippers of Dunkirk terminal?*

**Q5** *Do you consider that Dunkerque LNG should comply with any decisions made by CRE regarding regulated LNG terminals with regard to intra-day flexibility?*

**Q6** *Do you consider that the group GDF Suez should be allowed to subscribe long term capacities up to 1 bcm/year on Dunkirk terminal?*

**Q7** *Do you consider the description of the "Use it or Lose it" mechanism by Dunkerque LNG to be satisfactory?*

**Q8** *Do you think that the Dunkerque LNG project should obtain total exemption for 20 years?*

**Q9** *What do you think of the conditions that CRE plans to propose to the minister?*

**Q10** *Do you think that the awarding of this exemption must be conditioned by the implementation of other measures?*

**Q11** *Do you have any other comments?*

## **Useful links**

1- EREG Guidelines for Good Practice on Open Season Procedures (GGPOS), C06-GWG-29-05c, May 21, 2007

[http://www.energy-regulators.eu/portal/page/portal/EER\\_HOME/EER\\_CONSULT/CLOSED%20PUBLIC%20CONSULTATION%20S/GAS/GGP%20Open%20Season/CD/E06-PC-16-17\\_C06-GWG-29-05c\\_GGPOS.pdf](http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_CONSULT/CLOSED%20PUBLIC%20CONSULTATION%20S/GAS/GGP%20Open%20Season/CD/E06-PC-16-17_C06-GWG-29-05c_GGPOS.pdf)

2- European Commission Draft Staff Working Document on Article 22 of Directive (EC) No 2003/55 and Article 7 Regulation (EC) No 1228/2003 – New Infrastructure Exemptions – (22.04.2008)

[http://ec.europa.eu/energy/gas\\_electricity/forum\\_gas\\_madrid\\_en.htm](http://ec.europa.eu/energy/gas_electricity/forum_gas_madrid_en.htm) (15th Madrid Forum, forder Article 22, file 4.0.1)

3- Site of the working group chaired by Collette Lewiner

<http://gttm.cre.fr/>

4- Site of the Special national public debate commission, Dunkirk

<http://www.debatpublic-dunkerquegaz.org/>

5- Summary of CRE's consultation on LNG terminals

[http://www.cre.fr/fr/documents/consultations\\_publicques](http://www.cre.fr/fr/documents/consultations_publicques)