

THE ESG HITS 2006

David J V Dumas QC
Hassans

The Benzene sample reading at the Refinery fence last September 2004 of 22 times the EU limit was a **“HIT”** both in terms of the jargon of the trade and a success for those opposed to the dangerous and damaging activity in that industrial plant. In relative terms, the ESG’s meeting with the EU Commissioner for the Environment; Mr. Stavros Dimas in Strasbourg last Tuesday was also a **HIT**. At least a further significant milestone was reached on the long road to freedom for the inhabitants of the Bay of Gibraltar and its surroundings from the harmful effects of that activity – a trek which officially kicked off with the formal complaint filed with the European Commission in November 2002.

As President of the ESG Janet Howitt presented to Mr. Dimas a highly professional exposé, visually on computer and in writing. She stressed the need for the Commission to inspect the plant, monitor the obvious toxic and noxious emissions and enforce the appropriate EU laws. She was ably supported in the briefing and at the meeting by committee member Henry Pinna.

Professor Joan Benach of the University of Barcelona, now an integral part of the ESG team, who gives of his time for free and needs no introduction to Gibraltar, presented his overall findings of mortality rates in Spain. These are concentrated in southern Andalucia with the Campo de Gibraltar deserving special attention, unfortunately for all of us.

In introducing my firm, Hassans, and its role as legal advisers since 2002 also for no fee, I made clear to the Commissioner that, apart from the EU enforcement route, other more direct routes were being considered, in the form of legal action including an action in Gibraltar against the directors of CEPSA and the other offending plants.

As all of you need not be told, the fundamental topic was the ESG’s real concern for health and safety in the environment. In seeking reassuring words on parting Mr. Dimas simply but compellingly reminded us that as EU Commissioner for the Environment his concern also was a healthy and safe environment within the Europe, and within its laws, of course.

He also reassured us that following our 2002 complaint, our subsequent reminders and our visit to his Directorate in Brussels last July, Spain had now provided some answers – in our view clouding the issue and evasive by claiming “no pollution” – and further answers were due following which there would be an assessment.

“EU Strasbourg” is a fascinating place and an expensive one to run. We spent a good 10 hours there as constituents and at the invitation of Mr. Neil Parish MEP using his office facilities, and his assistant’s goodwill. The whole encounter and the media coverage was organised by a most committed and enthusiastic Neil Parish who is totally immersed in this problem to try and sort it out.

It was agreed that Neil Parish would follow up the meeting with a letter that was duly and promptly dispatched, confirming the need for the EU to inspect, monitor and enforce the law.

The letter invites Commissioner Dimas to visit and inspect personally, NOW, that would be **A HIT**.

NOT TO BE INCLUDED

Gibraltar’s own sources of pollution do not go unnoticed, however, and apart from the need to use our cars less often, it was noted that the bunkering activity needs to be carried out under far more stringent and controlled conditions than at present. It is taking place on too grand a scale, without proper procedures at times and too close to shore and residential areas. Most of all there are the three power stations, Waterport and OESCO owned by or operating for the Government and the MoD plant at the Dockyard. The last two between them constitute a big enough plant to come within applicable EU rules which they do not at present. OESCO especially has been for over 10 years and counting been the blatant and uncaring source of toxic and noxious fumes and emissions and of noise nuisance. All these are matters that have to be addressed if we want to successfully abate all the damage that is being done to the environment we live in.