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“ Basically, Ross's whole shtick boils down to "I'd do you" ” India Knight

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From The Times

September 20, 2008

Chris Osborne: water and fuel. . . who will arbitrate in scramble for resources?

Martin Waller

London is already a centre for international commercial arbitration. Companies come from around the world to have disputes settled in a jurisdiction offering a service that is fair, quick and confidential.

Now there are attempts to create an International Court of the Environment in London, “the supreme legal authority for settling issues regarding harm to the environment”, as Labour MP Nigel Griffiths described it in Parliament this summer.

The member for Edinburgh South mentioned the two men who had put forward the proposal. One is veteran barrister Stephen Hockman; the other is Chris Osborne, managing director of LECG, a consultancy that specialises in economic and financial analysis.

Mr Osborne, 47, has spent 25 years advising on business and regulatory issues, first for Arthur Andersen and then for LECG, which was spun out of the University of California at Berkeley in 1988. He thinks London would be ideally suited to a specialised environmental court because of the breadth of legal and specialist skills available. “You set up a court, and it has a clustering effect. People with expertise build up around it.”

There would be parallels with the International Court of Justice in The Hague. “It's a question of political will. I don't see anything intrinsically unfeasible about it.”

The court could provide a further lift to the UK's invisible earnings. The environment is one of the fastest-growing areas of international law, with issues such as water shortages increasingly going to litigation. “Clean water turns out to be a more finite resource than we used to think. The potential for country-to-country disputes is huge. Better to have a legal solution than go to war.”

Last year was the 50th anniversary of the New York Convention, which established the legitimacy of international arbitration of the sort often settled in London. The new court would operate along the same lines. It would be used by states litigating against companies operating on their territory, and by those countries themselves against states with which they had a grievance. As well as water, it would cover oil and petrocarbons, minerals extraction, carbon emissions - all areas where litigation is growing.

It would be in all the parties' interests. “Companies need to know that disputes with states will be settled sensibly before they are going to be prepared to invest in the way that's required,” he says.

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Mr Osborne is convinced we are heading for an investment gold rush in new green technologies comparable to the dot-com boom a decade ago. America, where the providers of capital already have close links with the academics researching the technologies, is ahead of Europe. "The same VCs who were sticking money into the dot-coms world as an emerging, pattern-breaking transformation are back again. They have the money. They have the clout. They are looking for stuff that will provide the breakthrough."

Among the companies researching new energy technologies are the oil majors. LECG is believed to advise the UK's leading oil companies on green issues, although Mr Osborne is cagey about discussing individual clients.

BP, which switched to a more green-looking logo a few years ago, makes much of its commitment to renewables. Shell is heavily into second-generation biofuels, those not based on foodstuffs. The aim, Mr Osborne says, is to become the greenest producer. A degree of scepticism seems appropriate. Isn't that like being the kindest company in the business of clubbing seal cubs to death with baseball bats? Isn't it what environmental activists call greenwash? How can a company whose basic activity is oil and gas ever be green?

"Most of their money in the foreseeable future is going to come from the extraction of hydrocarbons. There's no need to be an apologist for those companies," he insists. However: "We see increasingly that there are people at a progressively senior level within oil companies who believe passionately in the importance of climate change and want genuinely to do as much as they can to alleviate the issue." He has a five-point plan for such executives, a cut-out-and-keep guide to becoming a respectable hydrocarbons producer.

The first is basic energy efficiency: switching the lights off when not needed. The second is to design, build and run new heavy plant "to be as small a part of the problem as feasible using current technology".

Allied to this is cleaning up existing plant and using techniques such as carbon capture, whereby CO2 is scrubbed out of emissions, to limit carbon footprints. "Refining is a messy business," Mr Osborne says.

Fourth is the development of renewables such as wind, solar power and biofuels as "seed corn", businesses that are still insignificant today in profit terms. Isn't the professed devotion of Shell and BP today to renewables mere greenwash, though? "Greenwash is a pejorative term. I'm not sure that's warranted. These are companies like any other companies and they exist to make money."

Step five, already happening in a limited way, sees oil companies taking the clean technology they have developed and transferring it to heavily polluting non-oil sectors such as metal-bashing, pulp and paper and so on.

Mr Osborne's own carbon footprint bears examination. Separated, with two teenage children in London, he spends two weeks in the City and two weeks in New York, finding time to see his girlfriend in California.

He was born in Cape Town but when he was nine months old his father, a broadcast journalist, found a job with the BBC in London. Having studied civil engineering at Bristol, he qualified as a chartered accountant at Arthur Andersen and, when this imploded after the Enron scandal, failed to join the mass exodus to Deloitte, but instead chose LECG, then barely established in London.

Such is the world of consultancy that Mr Osborne, who advised PostComm, the regulator, during the last charging review, expects to be on the other side of the barricades helping the Royal Mail next time.

He worked on regulatory issues on a series of privatisations including water, gas, power and advised new Labour on the windfall tax imposed on utilities when the party came to power in

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1997.

He also worked on the ill-fated rail privatisation, on the pricing structure that assigned costs between the various parts of the system, and one has to ask how much of the industry's subsequent woes he is prepared to take responsibility for. Railtrack was in part the victim of its own success, he insists, and of an unexpected surge back on to the trains by passengers, partly caused by greater efficiencies inspired by privatisation.

Railtrack was also laid low by the unexpectedly high cost of upgrading the West Coast main line, a cost that the Government decided would have to be borne by the company and its shareholders. When the company was being sold off, there was a belief at the Treasury that it should be valued at about £7 billion, at or around the replacement value of the track.

Mr Osborne was one of those who said it should go for a much lower value. "Had it been a £7 billion company, it might have survived the problems on the West Coast main line and not have gone into administration," he admits.

Railtrack: his part in its downfall?

CV

Born 1961, Cape Town

Educated Winchester; Bristol University

1982-2002 Arthur Andersen, becoming partner

2002-08 Senior managing director, LECG

2008 Global Head of Geographies, LECG, responsible for London and New York offices

Family Separated, one son, one daughter

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