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ICE

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RODGER A PAYNE, OCT 15 2009

Do you remember when I mentioned “Greenfinger” on this blog a couple of months ago? Greenfinger would be a rich master environmental criminal — perhaps pursuing climate geoengineering without international approval.

In the October *Atlantic Monthly*, representatives of the ICE Coalition wrote to the editors to offer a legal solution to the potential Greenfinger problem:

One important response would be to create a judicial framework for international environmental treaties, which could set standards for national, corporate, and individual activities causing environmental damage or creating hazards and could, when necessary, impose sanctions. Call it an International Court for the Environment. Research into the potential structure and functions of such a court has already begun, and a steering committee ready to launch a worldwide campaign for its adoption has been created; it’s called, appropriately enough, the ICE Coalition.

In anticipation of, or in response to, a potential “Greenfinger” acting unilaterally, such a court could help to establish the ground rules in this area and coordinate a global approach

Interesting, eh? And not merely for future Lex Luthor wannabes. Some advocates say ICE could begin with jurisdiction over a new Copenhagen climate agreement — and then “would also fine countries or companies that fail to protect endangered species or degrade the natural environment and enforce the ‘right to a healthy environment’.” E-Magazine recently had a short note that specifies what the ICE Coalition has in mind in terms of the potential jurisdiction of the proposed court:

“The ICE would sit above and adjudicate on disputes arising out of the United Nations environmental treaties, including the U.N. Convention on Biological Diversity in 1992 and the U.N. Framework on Climate Change in 1992, employing the law in those treaties and in customary international law,” according to a policy summary from the Coalition for the ICE.

The ICE Coalition website points to some media coverage they’ve received, including a *Guardian Weekly* piece last November that noted the precursor ideas:

This isn’t an entirely new idea.... the 1999 Washington Conference had put forward the idea of an environmental court to adjudicate significant disputes, and that in 2003 Michael Meacher, then UK environment minister, had floated a similar proposal. Even going back to the Rio Summit of 1992, Principle 10 in its declaration recognised the need for an effective access to judicial and administrative proceedings.

ICE advocates like to point out that the International Criminal Court went from an idea to an institution in about a decade.

I’m not sure what to make of this proposed institution, but I’d like to see broader discussion. Right now, the main advocates are British lawyers and MPs, as well as the NGO Friends of the Earth.

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