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Waste in North America (Detroit Incinerator, Toronto Landfill, PCB Disposal and Transport, Etc.), Hazardous and Non-Hazardous Wastes: Trade or Environmental Issue - Introduction

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WASTE IN NORTH AMERICA (DETROIT INCINERATOR,
TORONTO LANDFILL, PCB DISPOSAL AND TRANSPORT,
ETC.), HAZARDOUS AND NON-HAZARDOUS WASTES:
TRADE OR ENVIRONMENTAL ISSUE?

Introduction – James P. McIlroy[†]

Good afternoon. My name is Jim McIlroy. I will be presiding over our next session; and I think we are going to enjoy this session. It deals with a very controversial issue that is close to home to many people. It is called “Waste in North America, Hazardous and Non-Hazardous Wastes: Trade or Environmental Issue?”

The title of this session goes on to give us a better idea of what we are really talking about here. We are talking about the Toronto landfill and things like PCB disposal and transportation.

Now, whether this is a trade or environmental issue, I think we will all agree this is a very political issue. It is very highly charged. It is not the type of issue that is discussed behind closed doors. It is showing up on radio hotline shows. People are very concerned about this idea that one city takes its garbage and dumps it in another city.

I reside in Toronto, and I have to confess that we are now shipping our garbage to Michigan. You will hear more about Michigan, too. But I think if a non-resident wants to dump their garbage where you reside, you are going to have a very strong reaction to that – *Not In My Back Yard!* I do not think that anyone wants to see a so-called non-resident, especially if it is a foreign non-resident, dumping his or her garbage nearby.

I think for international trade lawyers, this gives new meaning to the word “dumping” (I am sorry that Simon Potter is not here to comment on that). I think it is safe to say this is a big issue that is going to become even a larger one. As large cities are running out of places to dump their garbage; they have to leave their jurisdiction and dump it elsewhere. Once again, I think Professor King has targeted an emerging issue, and he has made sure we have some distinguished speakers today.

Our two speakers today are Professor Matthew Schaefer from the University of Nebraska Law School in Lincoln, Nebraska, and Ken De, a project and waste management engineer from Environment Canada.

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I do not think my friend, Matt Schaefer, needs a whole lot of introduction here. He has been here before.¹ He is also on the Advisory Board of the Canada-U.S. Law Institute. I think one of the reasons he is such a great speaker is because, not only does he have a very strong academic background, he also has a very unique blend of practical experience. He has worked in the White House and with the National Governor's Association, so he understands the federal aspects of trade. Professor Schaefer recently became a member of the Council on Foreign Relations in New York, and I think he is probably one of the most qualified people in this area. I knew this Michigan-Ontario rivalry was going to arise. I should have mentioned Matt has a few degrees, and one of them is a LL.M. from – you guessed it – the University of Michigan. That is why he kept looking back at me every time he was talking about garbage.

Let me also mention, for all you NAFTA Chapter 11 junkies, the *S.D. Myers* case,² which concerned PCB exports from Canada to Ohio. So there is a pattern emerging here. Canada dumps PCBs and garbage. But we do not dump softwood lumber.

Ken De has been a professional engineer for over a quarter of a century. He has extensive experience in both the private and public sectors. After working 15 years for several large companies, he has been project engineer and a waste management engineer at Environment Canada, where he has been for the last decade. He is now at the Environmental Contaminants Nuclear Programs Division at Environment Canada.

¹ See, e.g., Matthew Schaefer, *Federal States in a Broader World*, 27 CAN.-U.S. L.J. 35 (2001); Matthew Schaefer, *States, Provinces and Cross Border International Trade*, 26 CAN.-U.S. L.J. 167 (2000).

² That is, *S.D. Myers v. Canada*, 40 I.L.M. 1408 (NAFTA Arb. Trib. 2000).