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Introduction: Chapter 11--Private Party vs. Governments, Investor-State Dispute Settlement: Frankenstein or Safety Valve

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INTRODUCTION: CHAPTER 11 - PRIVATE PARTY VS.
GOVERNMENTS, INVESTOR-STATE DISPUTE
SETTLEMENT: FRANKENSTEIN OR SAFETY VALVE?

Chios Carmody

Good afternoon and welcome to this session on NAFTA, Chapter 11, private party versus governments investor-state dispute settlement: Frankenstein or safety valve? My name is Chios Carmody. For those of you that I have not already met, I am an assistant professor at the Faculty of Law at the University of Western Ontario in London, Ontario. I am joined today on this panel by Daniel Price of the Washington firm of Powell, Goldstein, Fraser & Murphy, and by David R. Haigh of Burnet, Duckworth & Palmer in Calgary. I am sure that the panelists join me in thanking the Institute for having invited us and in saying how truly appreciative we are for the work that Professors King and Picker have done over the years on behalf of the Institute. I want to thank all the donors, students, and members of the interested public who have made these particular proceedings possible during this time.

I should mention that I have seen the proceedings from this conference at venues as diverse as the Canadian Embassy Library in Tokyo, at the WTO library in Geneva, and I think that these locales speak amply the import of the sessions that we have in a trilateral North American context and internationally. These are of international importance and I think Professors King and Picker should be very proud of the work that they and many other people have done on behalf of the Institute.

When Professor King asked me back in the fall if I would preside over a session on NAFTA Chapter 11, I was honored. As the months progressed, I began to notice that there were at least two or three other panels on NAFTA, Chapter 11. I began to wonder, now that all these panels were being organized and these venues were being put together what new could be said? I think that given all the controversy over access, interpretation, and results of the NAFTA Chapter 11 cases that it is perhaps symptomatic of the importance of the particular process that we are going to be examining during the next hour and a half.

To speak to some of the issues that are raised to date, we have two distinguished speakers. David Haigh is the senior partner with the firm of Burnet, Duckworth and Palmer, as I mentioned. Since joining Burnet, Duckworth and Palmer in 1966, he has practiced extensively in the field of

corporate and commercial litigation. He has participated in numerous international commercial arbitrations, both as counsel and arbitrator, including having served as co-counsel for Canada in the Chapter 11 Ethyl dispute between Canada and Ethyl Corporation of Virginia.

Daniel Price, who will be speaking first this afternoon, chairs the International Practice Group at Powell, Goldstein, Fraser & Murphy in Washington. Previously, he has served as Principal Deputy Counsel to the office of the United States Trade Representative in Washington. During this time, he also served as the USTR's lead negotiator on investment issues for the NAFTA negotiations and as a legal advisor on investment issues during the GATT Uruguay round, a series of negotiations that led to the TRIMS agreement.

Without any further ado, I welcome Dan Price.