SUMMARY OF CASE LAW ON
WASTE PRODUCER LIABILITY IN EUROPE

DENMARK

Summary of the Law:

Denmark has had a provision which required the use of licensed and approved contractors for waste for a number of years. This was tested in an early case (In re Horn Belysning 1993). In that case, the licensed hauler dumped the wastes at an unauthorized location in the countryside. The Court held the waste producer liable because the waste did not end at an approved location.

The 2012 Danish Law of Waste transposes the EU Directive and tightens the waste producer obligations. The new law requires that the waste producer file with the local government his plans for managing the waste. This must be approved and deviation from this is a violation of the law.

Article 3(10) provides for creation of the so-called "care system" – *"A system where the local council in regulations laid down in what manner and possibly at which plant, the waste producer must ensure that waste is handled."* Read with the Belysning case, this can be construed as creating an obligation to assure the final and proper treatment of the waste. If the authorized scheme is utilized and pre-approved, there may be a defense to liability at least under the waste law.

Note: Nothing in the waste law transposed into national law supersedes, replaces or negates potential liability under the Environmental Liability Directive or the Industrial Emissions Directive (IPPC). Both of which have been applied to waste producers.

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