NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

FORT GRATIOT SANITARY LANDFILL, INC. *v.* MICHIGAN DEPARTMENT OF NATURAL RESOURCES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 91–636. Argued March 30, 1992—Decided June 1, 1992

The Waste Import Restrictions of Michigan's Solid Waste Management Act (SWMA) provide that solid waste generated in another county, state, or country cannot be accepted for disposal unless explicitly authorized in the receiving county's plan. After St. Clair County, whose plan does not include such authorization, denied petitioner company's 1989 application for authority to accept out-of-state waste at its landfill, petitioner filed this action seeking a judgment declaring the Waste Import Restrictions invalid under the Commerce Clause and enjoining their enforcement. The District Court dismissed the complaint, and the Court of Appeals affirmed. The latter court found no facial discrimination against interstate commerce because the statute does not treat out-of-county waste from Michigan any differently than waste from other States. The court also ruled that there was no actual discrimination because petitioner had not alleged that all Michigan counties ban out-of-state waste.

Held: The Waste Import Restrictions unambiguously discriminate against interstate commerce and are appropriately characterized as protectionist measures that cannot withstand Commerce Clause scrutiny. Pp.4–14.

(a) *Philadelphia* v. *New Jersey,* 437 U.S. 617, 626–627, provides the proper analytical framework and controls here. Under the reasoning of that case, Michigan's Waste Import Restrictions clearly discriminate against interstate commerce, since they authorize each county to isolate itself from the national economy and, indeed, afford local waste producers complete protection from competition from out-of-state producers seeking to use local disposal areas unless a county acts affirmatively to authorize such use. Pp.4–7.

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(b)This case cannot be distinguished from *Philadelphia* v. *New Jersey* on the ground, asserted by respondents, that the Waste Import Restrictions treat waste from other Michigan counties no differently than waste from other States and thus do not discriminate against interstate commerce on their face or in effect. This Court's cases teach that a State (or one of its political subdivisions) may not avoid the Commerce Clause's strictures by curtailing the movement of articles of commerce through subdivisions of the State, rather than through the State itself. See, *e. g., Brimmer* v. *Rebman,* 138 U.S. 78, 82–83. Nor does the fact that the Michigan statute allows individual counties to accept solid waste from out of state qualify its discriminatory character. Pp.7–9.

(c)Also rejected is respondents' argument that this case is different from *Philadelphia* v. *New Jersey* because the SWMA constitutes a comprehensive health and safety regulation rather than ``economic protectionism'' of the State's limited landfill capacity. Even assuming that other provisions of the SWMA could fairly be so characterized, the same assumption cannot be made with respect to the Waste Import Restrictions themselves. Because those provisions unambiguously discriminate against interstate commerce, the State bears the burden of proving that they further health and safety concerns that cannot be adequately served by nondiscriminatory alternatives. Respondents have not met this burden, since they have provided no valid health and safety reason for limiting the amount of waste that a landfill operator may accept from outside the State, but not the amount the operator may accept from inside the State. Pp.10–14.

931 F.2d 413, reversed.

STEVENS, J., delivered the opinion of the Court, in which WHITE, O'CONNOR, SCALIA, KENNEDY, SOUTER, and THOMAS, JJ., joined. REHNQUIST, C. J., filed a dissenting opinion, in which BLACKMUN, J., joined.