

APH - An Update

GIRO/CAS Joint Convention, Glasgow

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Developments in Asbestos

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Developments in Asbestos

- Background
- Recent Developments
- Estimates of the Asbestos "Universe"
- Insurers/Defendants to Fight Back?
- UK Asbestos

Asbestos - Background (1)

- "Miracle Mineral"
 - flexible, strong and durable
 - fire resistant
 - abundant quantities
- Heavily used in a number of industries
 - shipbuilding
 - construction
 - railroads (brake linings)
- In the US usage peaked in the early 1970s; use virtually eliminated in workplace by early 1980s - still legally exists in many products (joint compound, flooring, tiles, etc.)

4

Asbestos - Background (2)

- Exposure
 - between 1940 and 1979, an estimated 27 million Americans had been exposed to asbestos through their work
 - potential exposure to asbestos-in-place if disturbed
 - at least 500,000 claims filed since early 1980s against:
 - asbestos producers (eg Johns Manville - largest producer from 1940s to 1970s)
 - manufacturers and distributors of asbestos-containing products
 - companies that owned or operated a facility where asbestos related products were used

5

Asbestos - Diseases (1)

- Recognised cause of disease since 1920s
- Long latency periods - can be over 50 years
- Malignant and non-malignant diseases
- "Signature" diseases make liability fairly straightforward to establish
- Awards can be large for the most severe forms of disease
 - mesothelioma claims tend to be settled for a few million dollars
 - non-malignant claim awards can also be sizeable due to inventory settlements

6

Asbestos - Diseases (2)

Disease	Symptoms / Comments	Malignant (Y/N)	Latency Period
Mesothelioma	Cancer of membranes that cover & protect lungs. Fatal within 2 years of diagnosis	Yes	Typically 30-40 years - can be as long as 50 years
Lung Cancer	Cancer of the bronchial covering of the lungs	Yes	Typically 20-30 years
Asbestosis	Non-cancerous scarring of interior lung tissue. Most cases do not involve significant impairment	No	Typically 15-30 years
Pleural Plaques/ Pleural Thickening	Scarring or thickening of pleural tissue surrounding lungs. No detectable impairment or injury	No	Depends on when detected

7

Asbestos - Recent Developments (1)

- Higher than expected claim filings
 - lawyers obtaining awards for unimpaired claimants
 - tort reforms accelerating time frame for claim filings
 - defendants catching up on claim filings after collapse of class action ("Georgine Settlement")
 - increased aggression from plaintiff attorneys
 - new law firms aggressively pursuing new claimants
 - geographical expansion of existing law firms
- Number of claims filed against peripheral defendants is increasing as are the number of peripheral defendants
- Bankruptcy of major defendants (10 since 1 January 2000)

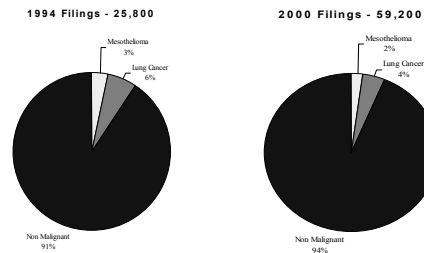
8

Asbestos - Recent Developments (2)

- CCR role drastically reduced
- Reclassification of products claims as non-products
 - reinstates exhausted products coverages
 - opens up previously "untapped" non-products coverages
 - non-products coverages may not have aggregate limits
- Roll forward of initial coverage blocks to later years
- Inventory settlements
- Mix of disease types shifting towards lower severity non-malignant and unimpaired claims
- Combined overall effect on cost still likely to be upwards

9

Asbestos - Change in Disease Mix



Source: Manville Trust

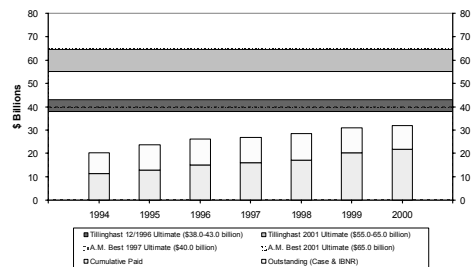
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Asbestos - Estimates of the Claim "Universe"

- AM Best current estimate of ultimate net cost to US insurance industry - \$65 billion (cf \$40 billion 1997)
- Tillinghast corresponding estimate - \$55-65 billion (cf \$38-43 billion December 1996)
- S&P expects the industry to add an incremental \$5-10 billion of asbestos reserves in 2001
- RAND institute believes that all major asbestos defendants will be bankrupt within next 2 years
- Tillinghast estimate of total cost of asbestos "universe": \$200 billion

11

Paid and Reported Loss and Expense Compared to Estimates of Net U.S. Ultimate Liability



12

Asbestos - The Fight Back?

- Some effort in recent past of a fight back by defendants and insurers
- Group of London market insurers (led by Equitas) require all claims to be supported by adequate medical evidence and product causing disease appropriately identified
- G-I Holdings filed civil racketeering suit against three plaintiff law firms
- Asbestos defendants unsuccessfully filed law suits against tobacco firms
- Attempts to pass federal reform in US have not progressed

13

UK Asbestos

- Insolvency of Chester Street
- Former dock worker awarded £10,000 for "stress caused by fear of contracting asbestosis"
- Judith Fairchild v Waddingtons and Leeds City Council
 - could not establish which defendant responsible for death from mesothelioma
 - since mesothelioma not caused by cumulative exposure, wrong to say contributed equally

14

Developments in US Pollution & APH

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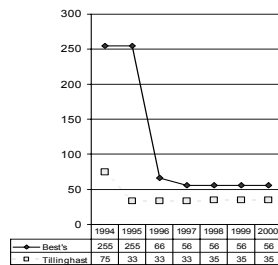
US Pollution Developments

- Some discussion of / threats regarding natural resource damages, but no significant developments
- Superfund reform being discussed, but limited to relief for small businesses and de minimis polluters
- Slow growth in NPL site numbers; non-NPL sites increasing in importance
- Few significant coverage decisions
- On-going settlement activity and commutation of reinsurance, esp. Equitas/London Market
- Insurance industry offering coverage for real estate / remediation risks (esp. brownfields)

16

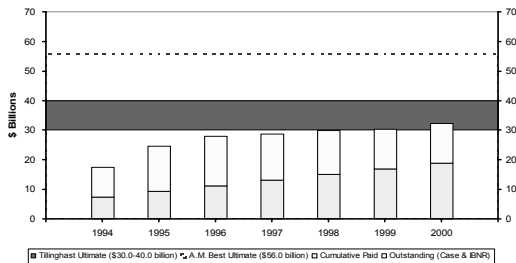
US Pollution Developments

- Tillinghast estimated ultimate US industry costs:
\$30 - 40 B
- Recognized at Dec 00 per AMBest:
\$31 B
- Unrecognized:
\$(-1) - 10 B



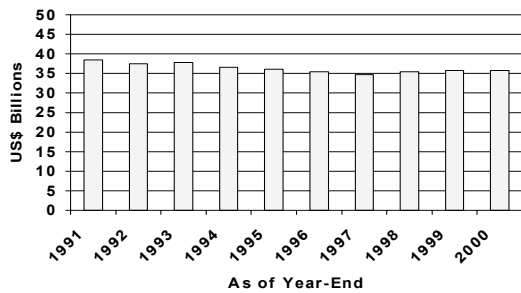
17

US Pollution Developments



18

US Pollution -- Tillinghast Aggregate Loss Development Estimates



19

APH -- Other US Developments

- Tobacco
 - Judgment bonds an issue in Florida class action
 - Tobacco industry ordered to pay \$18M to NY Blue Cross / Blue Shield
 - Signs of that individual actions are increasingly winning lawsuits (although \$3B jury award in California reduced to \$100M)
- Tread separation (Ford / Firestone) being litigated
- Lead paint litigation continues, but generally against landlords
- Fen-phen being settled

20

APH -- Other US Developments

- Latex, EMF, Y2K, Norplant, tainted blood and guns -- relatively inactive
 - ... but potential for Hepatitis C developments is unclear
- Breast implants -- little action due to settlement offers and Dow Corning bankruptcy
- Agent Orange and DES mostly paid

21

US Developments -- Toxic Mold

- Mold problem is primarily in Texas homeowners
 - Texas homeowners policy forms do not limit water damage to "sudden and accidental"
 - 60% increase in water damage claim costs in one year due to mold claims
 - Public & media awareness fueling the problem
 - Extensive hearings by the Insurance Commissioner
 - Lack of identification & remediation standards
 - Claims for remediation costs and bodily injury (and bad faith)

22

US Developments -- Toxic Mold (2)

- Mold problem is showing signs of spreading to:
 - Homeowners coverage in California (like Texas, a litigious state) and some southeastern states
 - Home builders' coverages (due to alleged poor construction causing leaking water pipes)
 - Some commercial property and landlords' coverage

23

US Developments -- Toxic Mold (3)

- Coverage trigger not decided but likely to be injury-in-fact
- Companies withdrawing from Texas homeowners market (e.g., Farmers & State Farm)
- Regulatory response still developing -- Texas considering caps on homeowners mold claims
- (California) Toxic Mold Protection Act of 2001 (SB 732) awaits governor's signature -- will set exposure limits & identification/remediation standards
- Significant media attention
- Plaintiffs' bar response clear: "Mold is gold."

24

APH -- Future Issues?

- Arsenic in playground equipment
- MTBE
 - To be banned by proposed Federal bill
 - Potentially large groundwater cleanup costs
- "Coach class syndrome"
- Employer liability for cell phone-related auto accidents
- Endocrine disrupters
- Genetically modified foods
