Multinational Companies and Social Regulation: The Case of the Asbestos Industry

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Blind spots in the New International Labor Governance

- Links to conference themes
  - Study of regulation of capitalism
  - Dark side of capitalism: labor conditions and occupational disease

Canada accused of hypocrisy over asbestos exports

Although Canada will not expose its own citizens to asbestos, its plans to continue exporting the deadly substance to developing countries has drawn widespread condemnation. Tony Kirby reports.

Asbestos is a lethal and naturally occurring group of minerals that has brought death and misery to people worldwide. Due to its good tensile

ban on using the substance in any form in all but exceptional circumstances. But unlike other rich nations, Canada has been a major exporter of chrysotile,

project. A spokesperson for the Quebec Government confirmed the matter was under consideration, and that the government required an economic

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Despite this, WHO estimates that about 125 million people worldwide remain exposed to asbestos in the workplace. More than 107 000 people die each year from asbestos-related lung cancer, mesothelioma (a specific form of lung cancer), and asbestosis resulting from occupational exposures. One in every three deaths from occupational cancer is estimated to be caused by asbestos.

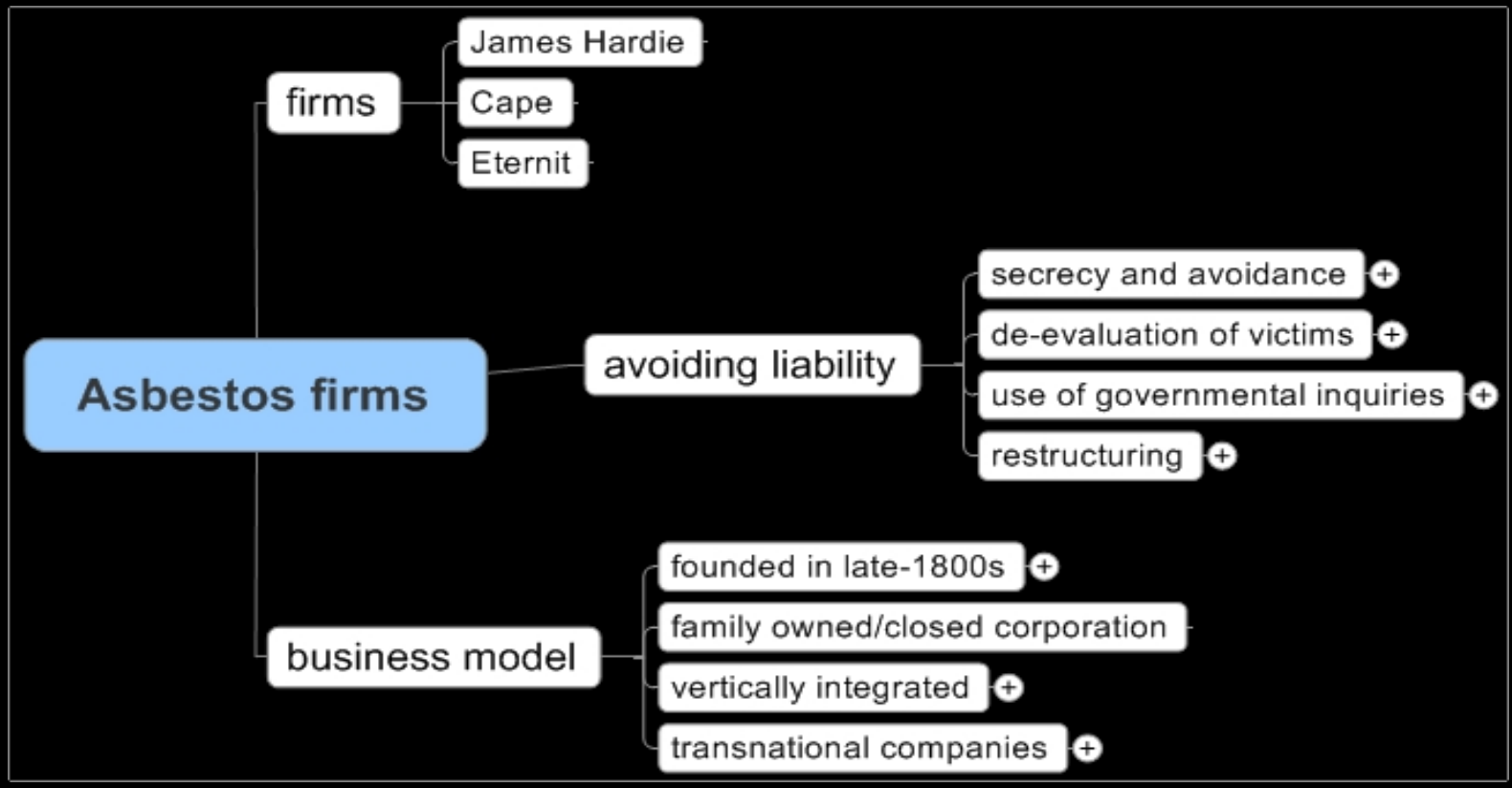
- Links to conference themes
  - Study of regulation of capitalism
  - Dark side of capitalism: labor conditions and occupational disease
  - Analysis of firms as social actors
  - (Legal) Architecture of firms (MNC and GVC) and its relationship to blind spots
  - Sectorial case study

- Thesis
  - Blind spots contribute to determine the geography of a MNC
  - Businesses with corporate structures and operations in multiple jurisdictions enjoy certain legal advantages because of their multi-country operations

- Evidence
  - Hardly new, in fact history provides the best evidence
  - Blind spots have favored certain social actors
  - Blind spots are purposely designed to favor certain social actors

<capitalism (regulation of)>

* ownership/capital
  * markets/labor
    = *diseases*


Asbestos firms
firms
James Hardie
Cape
Eternit
avoiding liability
secrecy and avoidance
de-evaluation of victims
use of governmental inquiries
restructuring
business model
founded in late-1800s
family owned/closed corporation
vertically integrated
transnational companies

Cape

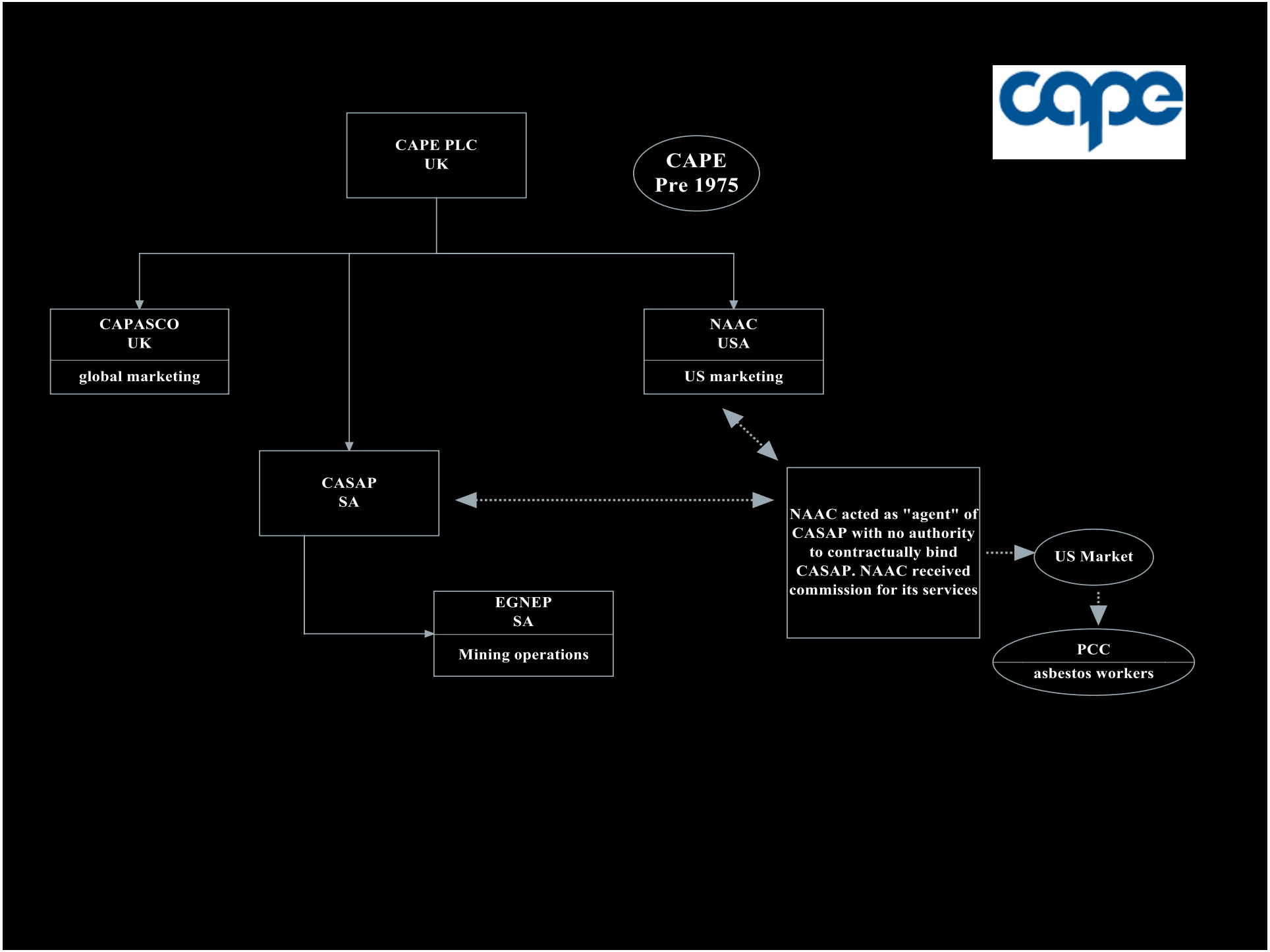
Lawsuit : Tyler 1

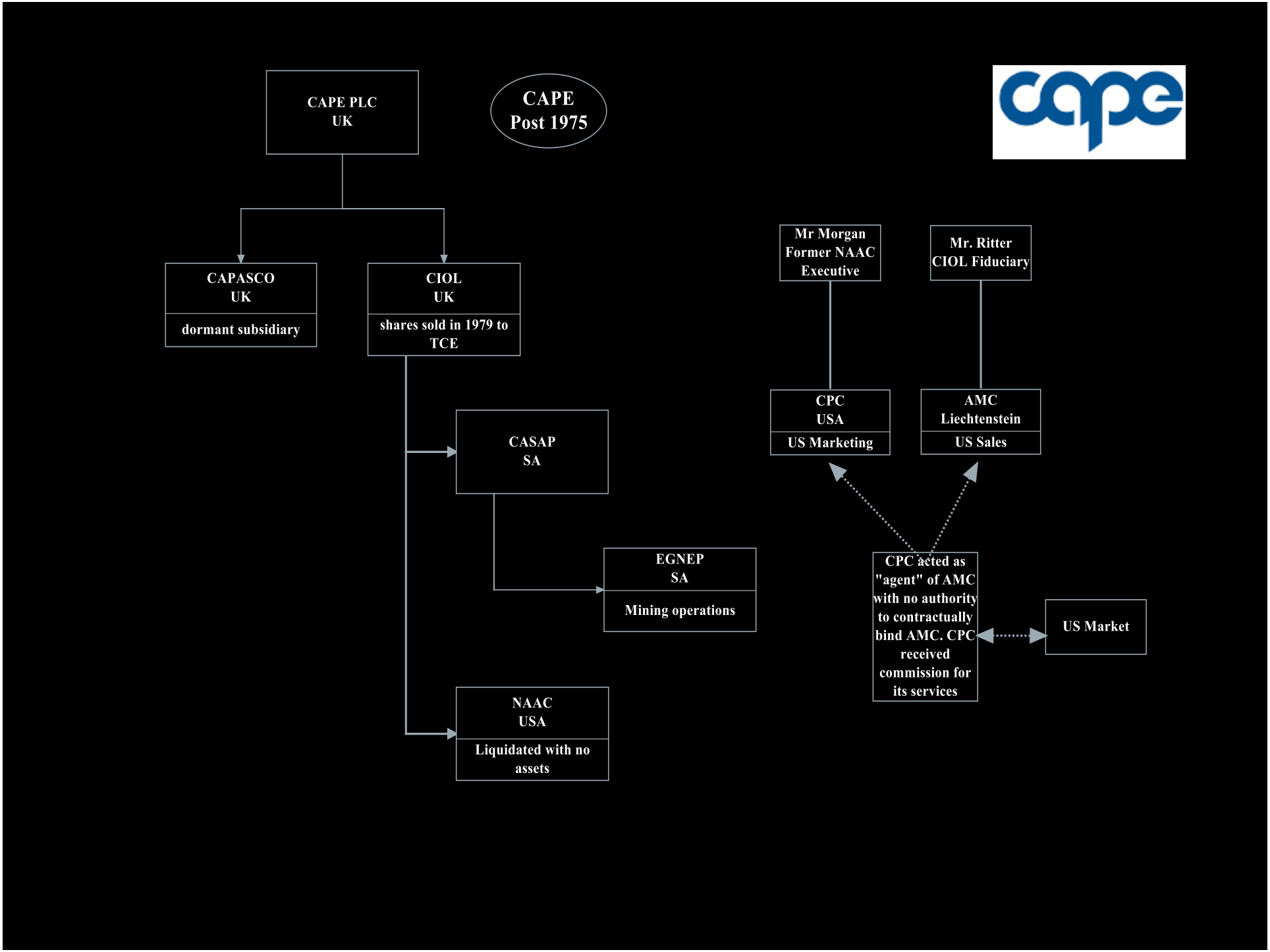
- Cape, Capasco and Egnep appear as defendants
- $20m settlement of 462 claims
- $5.2m is the share allocated to N.A.A.C., Cape and Egnep
  - $4.1m paid by N.A.A.C.'s insurers

Cape

Lawsuit : Tyler 2

- 133 claimants
- $5.2m default judgment against Cape, Capasco and Egnep
- To be enforced in England (parent company)


CAPE PLC
UK
CAPE
Pre 1975
CAPASCO
UK
global marketing
NAAC
USA
US marketing
CASAP
SA
NAAC acted as "agent" of CASAP with no authority to contractually bind CASAP. NAAC received commission for its services
US Market
EGNEP
SA
Mining operations
PCC
asbestos workers


CAPE PLC
UK
CAPE
Post 1975
CAPASCO
UK
dormant subsidiary
CIOL
UK
shares sold in 1979 to TCE
CASAP
SA
EGNEP
SA
Mining operations
NAAC
USA
Liquidated with no assets
Mr Morgan
Former NAAC Executive
Mr. Ritter
CIOL Fiduciary
CPC
USA
US Marketing
AMC
Liechtenstein
US Sales
CPC acted as "agent" of AMC with no authority to contractually bind AMC. CPC received commission for its services
US Market

James Hardie's exit strategy as litigation was growing

Abandoning use of asbestos fibers in cement production

Creation of MRCF (charitable trust): research + compensation + certain assets + shares of asbestos subsidiaries

Non-asbestos assets transferred to newly established parent company (the Netherlands)

Boycotts ➔ Asbestos Injuries Compensation Fund

Eternit's network of companies

No conglomerate/No parent company

Product: one patent/licenses in 22 nations

Some companies (Belgium/Switzerland) were more powerful

Shareholder gatekeeping

Directors from one company sitting in board of other company

Coordinated business operations (cartel)

Various trials (major trial undergoing in Italy)

Lessons

- MNC's strategy for subsidiary (Prof Morgan)
  - Liability management seeking as additional dimension that explains
- Power relations underlying operations across national business systems (Ferner). Who profits and how? (Morgan)
  - Do blind spots serve a purpose? At the expenses of other social actors?
- Occupying institutional voids
  - Asbestos forms shaped the way in which institutions filled the institutional void.
- Intersectoral homogeneity and heterogeneity
  - Tobacco industry
- Lessons for regulation of global firms
  - Reminder of historical roots of current practices and arrangements

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