

28 November – 1 December 2004

Xth Accident Compensation Seminar

2004



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Paying For Asbestos

Steven Girvan & Alan Smee



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Current Status

- State of the Nation
- Defendants:
 - Miners/Manufacturers
 - Other Companies
 - Insurers & Reinsurers
 - Governments



Compensatory Mechanisms

- Australia:
 - DDB and DDT
 - Workers Compensation
 - Common Law
- USA
 - FAIR Act
- UK & Europe
- Insolvency Options



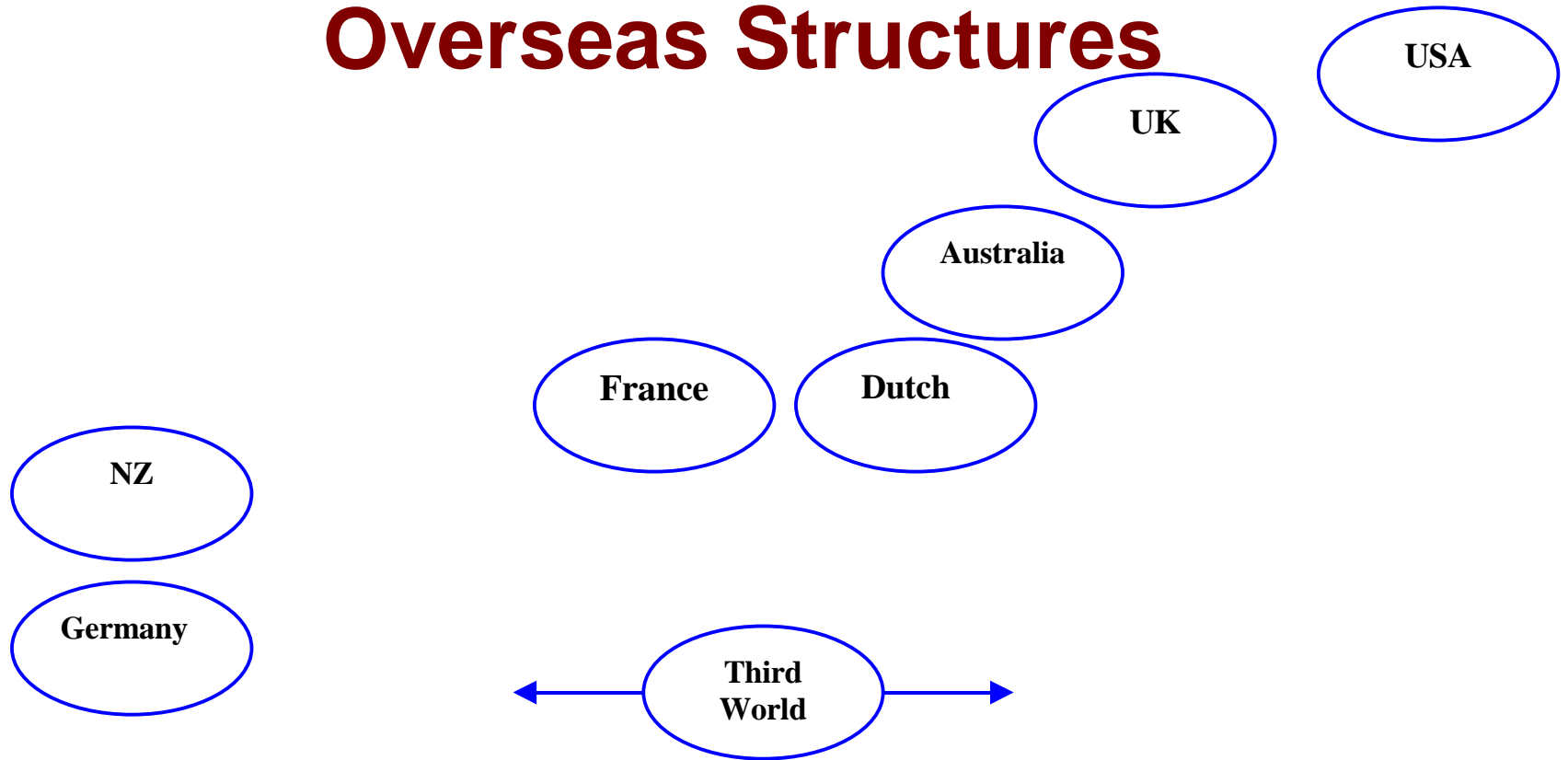
Compensatory Structure

- Scope of Coverage
- Method of Assessment
- Benefit Structure
- Funding Issues
- Governance
- Overseas Structures



Overseas Structures

Level of Benefit



Administrative System

Court Based System



Barriers to Change

- Stakeholder Preferences
- State Law Inconsistency
- Inconsistencies in the law of Negligence
- Contribution Estimation
 - Between Defendants
 - Between Insurers
 - Contribution under the FAIR Act



Possible Solutions

- Objectives are Key
- Court Based Common Law
- Company Schemes
- Hybrid Approach
- Administrative System
- Improved Social Awareness



Conclusions

- Possible Future Developments?
 - Increased demands on defendants / insurers
 - Further insolvencies
 - Claimants seek alternative funding
 - Forum shopping will increase
 - Increase in piecemeal legislation
- A Possible Approach
 - Adopt processes of the DDB / DDT
 - Funding similar to FAIR Act

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