

COTT CORP /CN/
Form 10-Q
November 06, 2008
Table of Contents

United States
Securities and Exchange Commission
Washington, D.C. 20549

FORM 10-Q

x Quarterly Report Pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934
For the quarterly period ended: September 27, 2008

“ Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
For the transition period from _____ to _____

Commission File Number: 000-31410

COTT CORPORATION

(Exact name of registrant as specified in its charter)

Edgar Filing: COTT CORP /CN/ - Form 10-Q

CANADA (State or Other Jurisdiction of Incorporation or Organization)	98-0154711 (IRS Employer Identification No.)
6525 VISCOUNT ROAD	
MISSISSAUGA, ONTARIO	L4V 1H6
5519 WEST IDLEWILD AVE	
TAMPA, FLORIDA (Address of principal executive offices)	33634 (Zip Code)
Registrant's telephone number, including area code: (905) 672-1900 and (813) 313-1800	

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer
Non-accelerated filer (do not check if a smaller reporting company) Smaller reporting company
Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Class	Outstanding at October 31, 2008
Common Stock, no par value per share	71,871,330 shares

Table of Contents

<u>PART I FINANCIAL INFORMATION</u>		1
Item 1.	<u>Financial Statements</u>	1
	<u>Consolidated Statements of Operations</u>	1
	<u>Consolidated Balance Sheets</u>	2
	<u>Consolidated Statements of Shareowners' Equity</u>	3
	<u>Consolidated Statements of Cash Flows</u>	4
	<u>Notes to the Consolidated Financial Statements</u>	5
Item 2.	<u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	32
	<u>Overview</u>	32
	<u>Results of Operations</u>	34
	<u>Liquidity and Financial Condition</u>	39
Item 3.	<u>Quantitative and Qualitative Disclosures about Market Risk</u>	45
Item 4.	<u>Controls and Procedures</u>	45
<u>PART II OTHER INFORMATION</u>		46
Item 1.	<u>Legal Proceedings</u>	46
Item 1A.	<u>Risk Factors</u>	46
Item 6.	<u>Exhibits</u>	49
<u>SIGNATURES</u>		50
	<u>Exhibit 31.1</u>	52
	<u>Exhibit 31.2</u>	53
	<u>Exhibit 32.1</u>	54
	<u>Exhibit 32.2</u>	55

Table of Contents**PART I FINANCIAL INFORMATION****Item 1. Financial Statements
Cott Corporation****Consolidated Statements of Operations***(in millions of U.S. dollars, except per share amounts)**Unaudited*

	For the three months ended		For the nine months ended	
	September 27, 2008	September 29, 2007	September 27, 2008	September 29, 2007
Revenue, net	\$ 420.5	\$ 464.5	\$ 1,276.7	\$ 1,363.2
Cost of sales	372.8	418.8	1,131.2	1,204.4
Gross profit	47.7	45.7	145.5	158.8
Selling, general and administrative expenses	42.4	34.2	139.7	116.5
Loss on disposal of property, plant & equipment	0.1	0.2	0.4	(0.2)
Restructuring and asset impairments		Note 2		
Restructuring	(0.1)	14.1	6.6	23.5
Goodwill impairments	69.2		69.2	
Asset impairments	26.6	0.9	27.0	0.9
Operating (loss) income	(90.5)	(3.7)	(97.4)	18.1
Other (income) expense, net	0.4	(0.8)	(5.8)	(3.1)
Interest expense, net	8.6	8.4	24.3	24.1
Minority interest	0.3	0.4	1.3	1.9
Loss before income taxes	(99.8)	(11.7)	(117.2)	(4.8)
Income tax recovery		Note 4		
	(12.2)	(5.9)	(6.5)	(8.5)
Net (loss) income	\$ (87.6)	\$ (5.8)	\$ (110.7)	\$ 3.7
Net (loss) income per common share				
Basic	\$ (1.25)	\$ (0.08)	\$ (1.56)	\$ 0.05
Diluted	\$ (1.25)	\$ (0.08)	\$ (1.56)	\$ 0.05
Weighted average outstanding shares (thousands)				
Basic	70,279	71,871	71,096	71,818
Diluted	70,279	71,871	71,096	71,846

The accompanying notes are an integral part of these consolidated financial statements.

Table of Contents**Cott Corporation****Consolidated Balance Sheets***(in millions of U.S. dollars)**Unaudited*

	September 27, 2008	December 29, 2007
ASSETS		
<i>Current assets</i>		
Cash	\$ 20.6	\$ 27.4
Accounts receivable, net of allowance of \$11.5 million (\$9.4 million as of December 29, 2007)	186.9	195.4
Income taxes recoverable	15.6	32.8
Inventories	127.7	130.1
Prepaid and other expenses	12.5	10.2
Deferred income taxes	0.8	2.5
	364.1	398.4
Property, plant and equipment	386.9	388.4
Goodwill	31.0	108.3
Intangibles and other assets	191.9	236.0
Deferred income taxes	12.2	13.3
Income taxes receivable	9.3	
	\$ 995.4	\$ 1,144.4
LIABILITIES AND SHAREOWNERS EQUITY		
<i>Current liabilities</i>		
Short-term borrowings	\$ 132.5	\$ 137.0
Current maturities of long-term debt	9.8	2.4
Income taxes payable	0.8	
Accounts payable and accrued liabilities	178.0	195.4
	321.1	334.8
Long-term debt	295.8	269.0
Other long-term liabilities	13.1	18.1
Other tax liabilities	26.3	36.6
Deferred income taxes	26.0	34.1
	682.3	692.6
Contingencies and Commitments		
Minority interest	18.2	19.6
<i>Shareowners equity</i>		
Capital stock	275.0	275.0
Treasury stock	(6.4)	
Restricted shares		(0.4)
Additional paid-in-capital	37.4	32.2
(Accumulated deficit) retained earnings	(17.6)	93.1

Edgar Filing: COTT CORP /CN/ - Form 10-Q

Accumulated other comprehensive income	6.5	32.3
	294.9	432.2
	\$ 995.4	\$ 1,144.4

The accompanying notes are an integral part of these consolidated financial statements.

Table of Contents**Cott Corporation****Consolidated Statements of Shareowners Equity***(in millions of U.S. dollars)**Unaudited*

	Number of Common Shares <i>(In Thousands)</i>	Number of Treasury Shares <i>(In Thousands)</i>	Common Shares	Treasury Shares	Restricted Shares	Additional Paid-in- Capital	(Accumulated Deficit) Retained Earnings	Accumulated Other Comprehensive Income	Total Equity
Balance at December 30, 2006	71,750		\$ 273.4		\$ (0.7)	\$ 29.8	\$ 168.7	\$ 17.5	\$ 488.7
Options exercised Note 3	53		0.5						0.5
Common shares issued Note 3	68		1.1						1.1
Restricted shares Note 3					0.2				0.2
Share-based compensation Note 3						2.6			2.6
Reclassified share-based compensation to liabilities Note 3						(0.4)			(0.4)
Change in accounting policy						(4.6)	(4.3)		(8.9)
Currency translation adjustment								22.9	22.9
Net income							3.7		3.7
<i>Other comprehensive income</i>									26.6
Balance at September 29, 2007	71,871		\$ 275.0		\$ (0.5)	\$ 27.4	\$ 168.1	\$ 40.4	\$ 510.4
Balance at December 29, 2007	71,871		\$ 275.0		\$ (0.4)	\$ 32.2	\$ 93.1	\$ 32.3	\$ 432.2
Treasury shares		1,954		(5.4)					(5.4)
Treasury shares purchased - EISP - Note 12		353		(1.0)		1.0			
Restricted shares Note 3					0.4	(0.4)			
Share-based compensation Note 3						4.6			4.6
Comprehensive loss Note 5									
Currency translation adjustment								(26.0)	(26.0)
Pension liabilities								0.2	0.2
Net loss							(110.7)		(110.7)
<i>Other comprehensive loss</i>									(136.5)

Edgar Filing: COTT CORP /CN/ - Form 10-Q

**Balance at
September 27, 2008**

71,871 2,307 \$ 275.0 \$ (6.4) \$ 37.4 \$ (17.6) \$ 6.5 \$ 294.9
The accompanying notes are an integral part of these consolidated financial statements.

Table of Contents**Cott Corporation****Consolidated Statements of Cash Flows***(in millions of U.S. dollars)**Unaudited*

	For the three months ended		For the nine months ended	
	September 27, 2008	September 29, 2007	September 27, 2008	September 29, 2007
Operating Activities				
Net (loss) income	\$ (87.6)	\$ (5.8)	\$ (110.7)	\$ 3.7
Depreciation and amortization	20.1	17.7	60.9	53.3
Amortization of financing fees	0.2	0.3	0.8	0.8
Share-based compensation expense	0.3	(2.3)	5.4	2.6
Deferred income taxes	(4.7)	2.0	(3.2)	5.4
Increase in other income tax liabilities	(10.1)	3.4	(11.1)	3.9
Minority interest	0.3	0.4	1.3	1.9
Loss (gain) on disposal of property, plant & equipment	0.1	0.2	0.4	(0.2)
Asset impairments	(0.8)	0.9	(0.4)	0.9
Intangible asset impairments	27.4		27.4	
Goodwill asset impairments	69.2		69.2	
Lease contract termination loss		12.5	0.3	12.5
Lease contract termination payments	(2.7)	(7.3)	(3.1)	(7.5)
Other non-cash items	4.2	1.0	4.8	1.6
Change in accounts receivable	30.4	33.0	5.0	(16.7)
Change in inventories	3.3	15.0	(1.3)	(8.1)
Change in prepaid expenses and other current assets	3.8	(0.9)	(2.8)	(1.6)
Change in other assets	(5.6)		(6.0)	
Change in accounts payable and accrued liabilities	(32.7)	(21.8)	(15.0)	14.3
Change in income taxes recoverable	1.0	(11.0)	8.7	(18.8)
Net cash provided by operating activities	16.1	37.3	30.6	48.0
Investing Activities				
Additions to property, plant and equipment	(22.5)	(14.1)	(46.7)	(50.4)
Additions to intangibles	(0.1)	(1.4)	(3.4)	(3.1)
Proceeds from disposal of property, plant & equipment	(0.1)		2.5	0.8
Net cash used in investing activities	(22.7)	(15.5)	(47.6)	(52.7)
Financing Activities				
Payments of long-term debt	(3.0)	(0.6)	(4.5)	(2.2)
Issuance of long-term debt	17.0		33.6	
Payments on credit facility, net			(127.5)	
Short-term borrowings, net	2.2	(21.0)	2.9	1.1
Short-term borrowings, ABL	436.5		1,031.9	
Short-term repayments, ABL	(446.2)		(910.4)	
Distributions to subsidiary minority shareowner	(1.1)	(1.6)	(2.7)	(2.9)
Issuance of common shares				0.5
Purchase of treasury shares			(6.4)	
Deferred financing fees	(0.7)		(5.0)	
Other financing activities	(0.5)	(0.1)	(0.4)	(0.3)
Net cash provided by (used in) financing activities	4.2	(23.3)	11.5	(3.8)
Effect of exchange rate changes on cash	(0.9)		(1.3)	

Edgar Filing: COTT CORP /CN/ - Form 10-Q

Net decrease in cash	(3.3)	(1.5)	(6.8)	(8.5)
Cash, beginning of period	23.9	6.4	27.4	13.4
Cash, end of period	\$ 20.6	\$ 4.9	\$ 20.6	\$ 4.9

The accompanying notes are an integral part of these consolidated financial statements.

Table of Contents

Cott Corporation

Notes to the Consolidated Financial Statements

Unaudited

Note 1 Business and Summary of Significant Accounting Policies

Business

Cott Corporation (the Company, our Company, Cott Corporation, we, us, or our) is one of the world's largest non-alcoholic beverage companies and the world's largest retailer brand soft drink provider. In addition to carbonated soft drinks (CSD), our product lines include clear, still and sparkling flavored waters, juice-based products, bottle water, energy drinks and ready-to-drink teas. We operate in five reportable segments North America (which includes the United States operating unit and Canada operating unit), United Kingdom (which includes our United Kingdom operating unit and our Continental European operating unit), Mexico, Royal Crown International (RCI) and All Other (which includes our business in Asia). We anticipate closing our active Asian operations by the end of 2008. We changed our reporting segments in the third quarter of 2008 to reflect a change in our management structure and how information is reported to management.

Basis of Presentation

The accompanying interim unaudited consolidated financial statements have been prepared in accordance with the instructions to Form 10-Q and Article 10 of Regulation S-X and in accordance with United States (U.S.) generally accepted accounting principles (GAAP) for interim financial reporting. Accordingly, they do not include all information and notes presented in the annual consolidated financial statements in conformity with U.S. GAAP. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for fair presentation have been included. This Quarterly Report on Form 10-Q should be read in conjunction with the annual audited consolidated financial statements and accompanying notes in our Annual Report on Form 10-K for the year ended December 29, 2007. The accounting policies used in these interim consolidated financial statements are consistent with those used in the annual consolidated financial statements.

During the period ended September 27, 2008, we identified an error related to the expensing of certain information technology software costs that were previously capitalized and amortized over an estimated life. In accordance with Accounting Principles Board Opinion No. 28 (APB 28), we assessed the materiality of this item on the estimated income for the full fiscal year ended December 27, 2008 and also assessed the quarter ended September 27, 2008, year ended December 29, 2007 and any other periods between and subsequent to those dates, in accordance with the SEC's Staff Accounting Bulletin No. 99 (SAB 99) and concluded that the error was not material to any such periods. Accordingly, in accordance with SEC's Staff Accounting Bulletin No. 108 (SAB 108), the September 27, 2008 consolidated financial statements herein have been revised to correct the immaterial error and to reflect the corrected balances of intangible assets and selling, general and administrative expenses as of that date. This correction resulted in a reduction of intangible assets of \$4.6 million and an increase in selling, general and administrative expenses of \$4.6 million.

Table of Contents

The presentation of these interim consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes.

Certain of the comparative figures have been reclassified to conform to the current period's presentation, which includes a reclassification of \$4.5 million from accrued liabilities to allowance for doubtful accounts and certain income tax line items discussed in Note 4.

Impairment of Long-lived Assets

We evaluate the recoverability of our long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amounts may not be recoverable and periodically evaluate the useful lives of such assets. Determining whether an impairment has occurred requires various estimates and assumptions including evaluating the lowest level of cash flows associated with groups of assets as well as estimates of cash flows that are directly related to the potentially impaired asset or groups of assets, the useful life over which cash flows will occur and their amounts. The measurement of an impairment loss requires an estimate of fair value, which is also based on estimates of future cash flows. These estimates could change in the near term and any such changes could be material.

Each year, or more frequently if events or changes in circumstances so require, we re-evaluate the assumptions used to reflect changes in our business environment. Based on the evaluation performed in the third quarter of 2008, we determined that the fair values of our reporting units, except for the United Kingdom operating unit, exceeded their carrying amounts and as a result further impairment testing was not required. We determined that as of September 27, 2008, our United Kingdom operating unit's goodwill was impaired based on our estimate of its fair value. This was due to declines in our forecasts of volumes and the profit margin of products in the United Kingdom operating unit, which resulted in lower revenues and operating income. Allocating this fair value to the assets and liabilities to the United Kingdom operating unit resulted in a \$69.2 million goodwill impairment charge.

We also evaluate on an annual basis, or more frequently if events or changes in circumstances so require, the fair value of our intellectual property that represents the knowledge to manufacture concentrate and the ability to use the trademark of RC Cola outside of the United States, Canada and Mexico as described in Note 2 (the Rights). As of September 27, 2008, we recorded an asset impairment related to the Rights of \$27.4 million, primarily due to the decline of our North American case volume partially offset by anticipated increased overseas concentrate volume by our RCI reporting unit. If some of our assumptions (including volume and per unit price) underlying this impairment change adversely, then we could have an additional impairment loss.

A long-term contract with Wal-Mart for the lease and maintenance of vending machines expired in June 2008, in connection with Wal-Mart's plans to implement a different approach to soft drink vending. The existing program was designed to support Wal-Mart's brands. The new program resulted in a significant reduction in the number of our vending machines at Wal-Mart. In January 2008, we revised the expected useful life of these assets, and as a result, we recorded accelerated depreciation of \$1.6 million for the first six months of 2008. Accordingly, these assets have no carrying value on our balance sheet as of September 27, 2008.

Recent Accounting Pronouncements

On December 30, 2007, we adopted Statement of Financial Accounting Standards No. 157, Fair Value Measurements (SFAS 157) for financial assets and liabilities. There was no cumulative effect related to the adoption of SFAS 157 and the adoption did not have a material impact on our financial position or results of operations. As permitted by FASB Staff Position No. FAS 157-2, Effective Date of FASB Statement No. 157, we elected to defer the adoption of SFAS 157 for all nonfinancial assets and nonfinancial liabilities, except those that are recognized or disclosed at fair value in our financial statements on a recurring basis.

In February 2007, the FASB issued SFAS No. 159, The Fair Value Option for Financial Assets and Financial Liabilities Including an Amendment of FASB Statement No. 115 (SFAS 159), which permits entities to choose to measure many financial instruments and certain other items at fair value. SFAS 159 also includes an amendment to SFAS No. 115, Accounting for Certain Investments in Debt and Equity Securities, which applies to all entities with available-for-sale and trading securities. This statement is effective as of the beginning of an entity's first fiscal year that began after November 15, 2007. We chose not to elect the fair value option for our financial assets and liabilities existing at December 30, 2007, and did not elect the fair value option on financial assets and liabilities transacted in the nine months ended September 27, 2008. Therefore, the adoption of SFAS 159 had no impact on our consolidated financial statements.

Table of Contents

In December 2007, the FASB issued SFAS No. 141 (revised 2007), Business Combinations. This statement significantly changes the financial accounting and reporting of business combination transactions. The provisions of this statement are to be applied prospectively to business combination transactions in the first annual reporting period beginning on or after December 15, 2008. We expect this to have an impact on our accounting for future business combinations once adopted but the effect is dependent upon acquisitions made in the future.

In December 2007, the FASB issued SFAS No. 160, Noncontrolling Interests in Consolidated Financial Statements an amendment of ARB No. 51 (SFAS 160). SFAS 160 establishes accounting and reporting standards for noncontrolling interests in subsidiaries. This statement requires the reporting of all noncontrolling interests as a separate component of stockholders' equity, the reporting of consolidated net income (loss) as the amount attributable to both the parent and the noncontrolling interests and the separate disclosure of net income (loss) attributable to the parent and to the noncontrolling interests. In addition, this statement provides accounting and reporting guidance related to changes in noncontrolling ownership interests. Other than the reporting requirements described above which require retrospective application, the provisions of SFAS 160 are to be applied prospectively in the first annual reporting period beginning on or after December 15, 2008. We are currently evaluating the impact of this standard on our consolidated financial statements.

In March 2008, the FASB issued SFAS No. 161, Disclosures about Derivative Instruments and Hedging Activities an amendment of FASB Statement No. 133 (SFAS 161). SFAS 161 increases the disclosure requirements for derivative instruments and hedging activities to improve the transparency of financial reporting. Entities are required to provide enhanced disclosures about (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under Statement No. 133 and its related interpretations, and (c) how derivative instruments and related hedged items affect an entity's financial position, financial performance, and cash flows. The provisions of this statement are to be applied prospectively in the first annual reporting period beginning on or after November 15, 2008 with comparative disclosures for earlier periods at initial adoption being optional. We are currently evaluating the impact of this standard on our disclosure. Since we currently do not have any derivative instruments, we do not expect any impact upon adoption of this statement.

In April 2008, the FASB issued FASB Staff Position (FSP) No. 142-3, Determination of the Useful Life of Intangible Assets (FSP 142-3). FSP 142-3 amends the factors to be considered in developing renewal or extension assumptions used to determine the useful life of intangible assets under SFAS No. 142, Goodwill and Other Intangible Assets. Its intent is to improve the consistency between the useful life of an intangible asset and the period of expected cash flows used to measure its fair value. This FSP becomes effective for us on January 1, 2009. We are still in the process of evaluating the impact of FSP 142-3 on our consolidated financial statements.

Note 2 Restructuring, Asset and Goodwill Impairments

The following table summarizes restructuring and asset impairment charges for the nine months ended September 27, 2008:

<i>(in millions of U.S. dollars)</i>	Total
Restructuring	\$ 6.6
Asset recovery	(0.4)
Intangible asset impairment	27.4
Goodwill impairment	69.2
	\$ 102.8

Table of ContentsRestructuring Plans

On June 19, 2008, we announced a plan to refocus on retailer brands and reduce costs in the operation of our business (the Cost Reduction Plan). The following table is a summary of our Cost Reduction Plan charges and payments for the nine months ended September 27, 2008:

<i>(in millions of U.S. dollars)</i>	Balance at December 29, 2007	Charge to Costs and Expenses	Payments made during nine months ended September 27, 2008	Balance at September 27, 2008
Severance and termination benefits	\$	\$ 6.3	\$ (6.0)	\$ 0.3
	\$	\$ 6.3	\$ (6.0)	\$ 0.3

In 2008, we recorded pre-tax restructuring charges totaling \$6.3 million (December 29, 2007 nil) in connection with severance costs relating to headcount reductions associated with the Cost Reduction Plan. As of September 27, 2008, the remaining severance and termination benefits have been classified as accounts payable and accrued liabilities.

In September 2005, we announced our plan to realign the management of our Canadian and U.S. businesses to a North American basis, rationalize product offerings, eliminate under-performing assets and increase focus on high potential accounts. The following table is a summary of charges and payments under such plan for the nine months ended September 27, 2008:

<i>(in millions of U.S. dollars)</i>	Balance at December 29, 2007	Charge to Costs and Expenses	Payments made during nine months ended September 27, 2008	Balance at September 27, 2008
Severance and termination benefits	\$ 1.1	\$	\$ (1.1)	\$
Lease contract termination loss	13.1	0.3	(3.1)	10.3
	14.2	0.3	(4.2)	10.3

As of September 27, 2008, \$6.6 million (December 29, 2007 \$12.1 million) of our lease contract termination loss liability has been recorded as other long-term liabilities and \$3.7 million of the lease contract termination loss liability (December 29, 2007 \$2.1 million) has been classified as accounts payable and accrued liabilities.

In 2006 and 2007, we recorded pre-tax restructuring charges totaling \$44.8 million in connection with the closure of our facilities at Elizabethtown, Kentucky (Elizabethtown) and at Wyomissing, Pennsylvania (Wyomissing), and severance costs relating to headcount reductions. We completed all of our previously announced cost restructuring programs as of the end of 2007. However, in June 2008, we recorded a \$0.3 million lease contract termination charge associated with finalizing the payments related to a termination agreement for the Wyomissing facility.

Asset And Goodwill Impairments

In the third quarter of 2008, we recorded an asset impairment related to the Rights of \$27.4 million and a goodwill impairment loss of \$69.2 million associated with our United Kingdom operating unit as disclosed in Note 1. In June 2008, we also recorded a \$0.4 million asset impairment charge for our Elizabethtown facility. We also increased the value of previously impaired held-for-sale assets by \$0.8 million in the third quarter of 2008.

Table of Contents**Note 3 Share-Based Compensation**

As of September 27, 2008, we had various share-based compensation plans, which are described below.

The table below summarizes the compensation expenses for the three and nine month periods ended September 27, 2008 and September 29, 2007. This compensation expense was recorded in selling, general and administrative expenses.

<i>(in millions of U.S. dollars)</i>	For the three months ended		For the nine months ended	
	September 27, 2008	September 29, 2007	September 27, 2008	September 29, 2007
Stock options	\$ 0.3	\$ 0.4	\$ 0.6	\$ 2.9
Performance share units	0.6	(3.7)	1.7	(1.6)
Share appreciation rights	0.2	0.2	0.5	0.5
Restricted stock			(0.1)	
CEO award ¹		0.7	1.9	0.8
Interim CEO award	(0.8)		0.7	
Share purchase plan			0.1	
Total	\$ 0.3	\$ (2.4)	\$ 5.4	\$ 2.6

¹ Includes expense for restricted shares of \$0.4 million and \$0.2 million, respectively, for nine month periods ended September 27, 2008 and September 29, 2007.

The table below summarizes the unrecognized compensation expense as of September 27, 2008 and the weighted average years over which such compensation expense is expected to be recognized.

	Unrecognized compensation expense as of September 27, 2008 <i>(in millions of U.S. dollars)</i>	Weighted average years expected to recognize compensation
Stock options	\$ 0.1	0.2
Performance share units	1.9	1.1
Share appreciation rights	0.8	0.5
Interim CEO award	0.2	0.3
Total	\$ 3.0	

Common Share Option Plan

Under the 1986 Common Share Option Plan, as amended (the Option Plan), we have reserved a total of 14.0 million common shares for future issuance. Options are granted at a price not less than the fair value of the shares on the date of grant. As of September 27, 2008, there were 7.3 million shares available for issuance under the Option Plan.

There were no common shares issued pursuant to option exercises in the first nine months of 2008. However, in the second quarter and the third quarter of 2008, we granted new board members options to purchase 25,000 shares and 100,000 shares, respectively.

Edgar Filing: COTT CORP /CN/ - Form 10-Q

Options granted after September 1, 1998 expire after 7 years. Options granted after July 17, 2001 to the non-management members of the Board of Directors vest immediately. All options are non-transferable and when options are exercised we issue new shares. As a result, these options are dilutive to our shareowners. The fair value of each option grant is estimated on the date of grant using the Black-Scholes option pricing model. The estimates are based on four factors: risk-free interest rate, average expected life, expected stock price volatility and expected dividend yield. The risk-free interest rate is based on the implied yield available on zero coupon Government of Canada bonds

Table of Contents

with an equivalent remaining term. The average expected life of the options represents the estimated period of time until exercise and is based on historical experience of similar awards, giving consideration to the contractual terms, vesting schedules and expectations of future employee behavior. The expected stock price volatility is based on a combination of historical volatility of our stock and the implied volatility of our traded options.

The fair value of each option granted during the quarter and prior quarters is estimated on the date of grant using the Black-Scholes option pricing model with the following assumptions:

	June 28, 2008	August 5, 2008
Risk-free interest rate	3.4%	3.3%
Average expected life (years)	5.0	5.0
Expected volatility	75.5%	76.5%
Expected dividend yield		

Option activity was as follows:

	Shares (In Thousands)	Weighted average exercise price (Canadian\$)
Balance at December 29, 2007	2,368	\$ 30.03
Awarded	125	3.32
Forfeited or expired	(1,536)	17.45
Outstanding at September 27, 2008	957	27.87
Exercisable at September 27, 2008	951	\$ 27.93

Long-Term Incentive Plans

During the second quarter of 2006, our shareowners approved and adopted two long-term incentive plans, the Performance Share Unit Plan (PSU Plan) and the Share Appreciation Rights Plan (SAR Plan). The PSU Plan and SAR Plan were amended and restated in the second quarter of 2007.

Amended and Restated PSU Plan

Under the Amended and Restated PSU Plan, performance share units (PSUs) may be awarded to employees of our Company and its subsidiaries. The value of an employee's award under our PSU Plan will depend on (i) our performance over a maximum three-year performance cycle; and (ii) the market price of our common shares at the time of vesting. Performance targets will be established annually by the Human Resources and Compensation Committee of the Board of Directors. PSUs granted will vest over a term not to exceed three fiscal years. The amendments to the PSU Plan allow for early funding by us under the PSU Plan and clarify the authority of our Board of Directors to accelerate the vesting of all or a portion of the unvested PSUs of all of or any of the participants under the PSU Plan on a Change of Control (as such term is defined in the PSU Plan) irrespective of whether termination of employment has occurred. As of September 27, 2008, the trustee under the PSU Plan had purchased 1.6 million common shares in the open market during 2008 to satisfy our anticipated future liability under the PSU Plan.

Amended and Restated SAR Plan

Under the Amended and Restated SAR Plan, share appreciation rights (SARs) may be awarded to employees and directors of our Company and its subsidiaries. SARs will typically vest on the third anniversary of the grant date. On vesting, each SAR will represent the right to be paid the difference, if any, between the price of our common shares on the date of grant and their price on the vesting date of the SAR. Payments in

Edgar Filing: COTT CORP /CN/ - Form 10-Q

respect of vested in-the-money SARs will be made in the form of our common shares purchased on the open market by an independent trust with cash contributed by us. If our share price on the date of vesting is lower than on the date of grant, no payment will be made in respect of those vested SARs. Prior to vesting, there are no dividends paid on the SARs, and holders do not

Table of Contents

have the right to vote the common shares represented by their SARs. The amendments to the SAR Plan allow for early funding by us and clarify the authority of our Board of Directors to accelerate vesting of some or all of the SARs of all of or any of the participants under the SAR Plan as determined by the Board of Directors or the Committee (as such term is defined in the SAR Plan) in its sole discretion, irrespective of whether termination or a Change of Control (as such term is defined in the SAR Plan) has occurred.

We recognize the compensation cost of the PSUs and SARs based on the fair value of the grant. We recognize these compensation costs net of a forfeiture rate on a straight-line basis over the requisite service period of the award, which is generally the vesting term. Compensation cost of the PSUs may vary depending on management's estimates of the probability of the performance measures being achieved and the number of PSUs expected to vest.

During the first nine months of 2008, the PSU and SAR activity was as follows:

	Number of PSUs <i>(In Thousands)</i>	Number of SARs <i>(In Thousands)</i>
Balance at December 29, 2007	860	622
Awarded	1,581	
Forfeited	(730)	(82)
Outstanding at September 27, 2008	1,711	540

Subject to meeting certain performance targets and other terms of the PSU Plan, the vesting date for the PSUs awarded in fiscal years 2006 and 2007 will be December 27, 2008 and December 26, 2009, respectively. In 2007, we determined that it was no longer probable that the performance targets for the 2006 and 2007 PSU awards would be achieved and as such, no compensation costs for these awards have been recognized nor are they expected to be recognized in 2008. As of September 27, 2008, no compensation costs were recognized associated with these units because it is not probable that the targets will be met.

In the first quarter of 2008, we awarded a fixed dollar amount of \$4.2 million of PSUs (representing 1.5 million shares) to certain executives as part of an executive retention plan. If certain performance targets are met, \$1.5 million of these awards will vest as of December 27, 2008 with the remainder vesting as of December 26, 2009. This award is payable in shares and has been accounted for as an equity award in accordance with SFAS 123R, Share-Based Payments (SFAS 123R). We also awarded \$0.4 million of individual sign-on awards in the first and third quarters of 2008 that will vest if certain performance targets are met. We recognized \$1.7 million of compensation costs associated with these awards for the first nine months of 2008.

CEO Share-Based Compensation

In 2006, Brent Willis, our former Chief Executive Officer, received a net cash award of \$0.9 million at the commencement of his employment to purchase shares of the Company. The purchased shares were required to be held for a minimum of three years. As part of his termination agreement, we will no longer enforce the requirement that he hold the shares. For the first three months of 2008, \$0.4 million (September 27, 2007 \$0.2 million) was recorded as compensation expense. In addition, in 2006, 204,000 common shares with a fair value of \$3.2 million, which vest over three years, were granted to Mr. Willis. For 2008, compensation costs of \$1.4 million were expensed as compensation expense in the first three months because the shares vested upon termination. On May 16, 2007, one third of his grant vested and, as a result, he received 68,000 common shares, which was recognized as an issuance of share capital. As part of his termination agreement, the remaining 136,000 shares were vested upon his termination and \$0.3 million of cash (which was reclassified as a liability award) was paid based on the fair value of such shares.

Table of Contents

We granted to David Gibbons, our Interim Chief Executive Officer, 720,000 restricted stock units on March 24, 2008 of which 360,000 units vested immediately. The remaining 360,000 restricted stock units vest ratably on a monthly basis beginning October 24, 2008, provided Mr. Gibbons is still employed as Interim Chief Executive Officer on the applicable vesting date. This award is recognized as compensation expense over the vesting period. For the nine months ended September 27, 2008, \$0.7 million of this award was recorded as compensation expense to reflect the value of the 360,000 vested restricted stock units and the anticipated vesting of the remaining shares as of September 27, 2008. The fair value and compensation costs vary based on share price and this has been accounted for as a liability award in accordance with SFAS 123R.

Restated Executive Incentive Share Purchase Plan

In the second quarter of 2007, our shareowners approved a restated executive incentive share purchase plan (the EISP Plan) which allows officers and senior management executives, as designated by the Human Resources and Compensation Committee, to elect to receive their performance bonus (or a portion thereof) as common share units held on their behalf by an independent trust. If the employee elects to receive common share units, we will provide to the employee an equal number of shares, which vest in three years provided certain corporate performance goals are achieved (Match Portion).

The Match Portion of the performance bonus is estimated based on the employee's election and will be amortized over the service period of approximately four years. During 2007, employees elected to defer a total of \$1.1 million under the EISP Plan. The Company recorded an expense of \$0.1 million for the nine months ended September 27, 2008 related to the anticipated 2008 and 2007 matching portion of the performance bonus. At September 27, 2008, the awards for the 2007 plan year have been accounted for as an equity award under SFAS 123R because the number of shares have been fixed under the EISP Plan. The awards for the 2008 EISP Plan have been accounted for as a liability award in accordance with SFAS 123R because the number of shares were not fixed as of September 27, 2008.

Note 4 Income Taxes

Income tax recovery was \$6.5 million on pretax loss of \$117.2 million in the nine months ended September 27, 2008 as compared to an \$8.5 million recovery on pretax loss of \$4.8 million in the nine months ended September 29, 2007. The following table reconciles income taxes calculated at the basic Canadian corporate rate with the income tax provision:

<i>(in millions of U.S. dollars)</i>	For the three months ended		For the nine months ended	
	September 27, 2008	September 29, 2007	September 27, 2008	September 29, 2007
Income tax provision (recovery) based on Canadian statutory rates	\$ (32.6)	\$ (3.9)	\$ (38.3)	\$ (1.7)
Foreign tax rate differential	(1.8)	(1.3)	(3.2)	(2.3)
Inter-company debt structures	(0.9)	(0.6)	(2.7)	(2.8)
Non-deductible expenses and other items	25.9	(0.5)	26.4	(0.7)
(Decrease) increase to other tax liabilities	(10.1)	0.4	(11.1)	(1.0)
Increase in valuation allowance	7.3		22.4	
Total	\$ (12.2)	\$ (5.9)	\$ (6.5)	\$ (8.5)

For the nine months ended September 27, 2008, we recognized a benefit of \$3.5 million on the reversal of interest and penalties in the income statement. As of September 27, 2008, we had \$4.0 million of interest and penalties in the balance sheet. We have classified the interest and penalties as income tax expense.

We are currently under audit by the Canada Revenue Agency for tax years 2000 through 2004 and by the Internal Revenue Service for tax years 2004 through 2007. The amounts that may ultimately be payable by us as a result of these audits are uncertain. We believe that the amounts provided for the outcome of these audits in our tax liabilities are adequate; however, our estimates of tax liabilities for these audits may change materially in the near term as the audits progress.

Table of Contents

During the third quarter of 2008, we reduced our tax reserves by \$10.1 million because we recorded a non-cash benefit associated with a tax settlement of approximately \$6.2 million and \$3.9 million of other items, predominately interest and penalties associated with this tax settlement. We expect to pay \$7.2 million of taxes within the next twelve months associated with this tax settlement.

Note 5 Comprehensive (Loss) Income

(in millions of U.S. dollars)

	For the three months ended		For the nine months ended	
	September 27, 2008	September 29, 2007	September 27, 2008	September 29, 2007
Net (loss) income	\$ (87.6)	\$ (5.8)	\$ (110.7)	\$ 3.7
Foreign currency translation	(23.5)	10.5	(26.0)	22.9
Pension liabilities	0.1		0.2	
	\$ (111.0)	\$ 4.7	\$ (136.5)	\$ 26.6

Note 6 Net (Loss) Income Per Common Share

Basic net (loss) income per common share is computed by dividing net (loss) income by the weighted average number of common shares outstanding during the period. Diluted net (loss) income per common share is calculated using the weighted average number of common shares outstanding adjusted to include the effect, if dilutive, that would occur if in-the-money stock options were exercised.

A reconciliation of the numerators and denominators of the basic and diluted net income (loss) per common share computations follows:

	September 27, 2008		Three months ended		September 29, 2007	
	Net (loss) (numerator) (in millions of U.S. dollars)	Weighted Average Shares (denominator) (in thousands)	Per-share amount	Net (loss) (numerator) (in millions of U.S. dollars)	Weighted Average Shares (denominator) (in thousands)	Per-share amount
Basic (loss) income available to common shareholders						
Net (loss) income	\$ (87.6)	70,279	\$ (1.25)	\$ (5.8)	71,871	\$ (0.08)
Effect of dilutive securities						
Options						
Diluted (loss) income available to common shareholders						
Net (loss) income	\$ (87.6)	70,279	\$ (1.25)	\$ (5.8)	71,871	\$ (0.08)

Table of Contents

	September 27, 2008		Nine months ended September 29, 2007			
	Net (loss) (numerator) (in millions of U.S. dollars)	Weighted Average Shares (denominator) (in thousands)	Per-share amount	Net income (numerator) (in millions of U.S. dollars)	Weighted Average Shares (denominator) (in thousands)	Per-share amount
Basic (loss) income available to common shareholders						
Net (loss) income	\$ (110.7)	71,096	\$ (1.56)	\$ 3.7	71,818	\$ 0.05
Effect of dilutive securities						
Options					28	
Diluted (loss) income available to common shareholders						
Net (loss) income	\$ (110.7)	71,096	\$ (1.56)	\$ 3.7	71,846	\$ 0.05

At September 27, 2008, options to purchase 956,740 (September 29, 2007 2,318,114) shares of common stock at a weighted average exercise price of C\$27.87 (September 29, 2007 C\$30.47) per share were outstanding, but were not included in the computation of diluted net (loss) income per share because the options' exercise price was greater than the average market price of the common stock. Shares purchased on the open market and held by independent trusts are categorized as treasury shares. We excluded 1,592,393 of treasury shares associated with our PSU plan and held in various trusts in the calculation of basic and diluted earnings per share pursuant to Statement of Financial Accounting Standard No. 128 Earnings Per Share (SFAS 128).

Note 7 Segment Reporting

We produce, package and distribute retailer brand and branded bottled and canned soft drinks, waters, juice-based products, energy drinks and ready-to-drink teas to regional and national grocery, mass-merchandise and wholesale chains in through five reportable segments North America (which includes the United States operating unit and Canada operating unit), United Kingdom (which includes our United Kingdom operating unit and our Continental European operating unit), Mexico, RCI and All Other (which includes our business in Asia). We anticipate closing our active Asian operations by the end of 2008. We changed the reporting segments in the third quarter of 2008 to reflect a change in our management structure and how information is reported to management.

Table of Contents**Business Segments¹**

<i>(in millions of U.S. dollars)</i>	North America	United Kingdom	Mexico	RCI	All Other	Total
For the three months ended						
September 27, 2008						
External revenue ¹	\$ 296.9	\$ 101.9	\$ 16.0	\$ 5.3	\$ 0.4	\$ 420.5
Depreciation and amortization	15.3	4.1	0.7			20.1
Operating (loss) income	(27.6)	(62.7)	(1.0)	1.2	(0.4)	\$ (90.5)
Restructuring and asset impairments Note 2	26.4	69.2			0.1	95.7
Additions to property, plant and equipment	20.5	1.8	0.8		(0.6)	