

SIMMONS HAROLD C  
Form 4  
April 23, 2010

**FORM 4**

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

OMB APPROVAL

OMB Number: 3235-0287  
Expires: January 31, 2005  
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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).

**STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES**

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person \*  
CONTRAN CORP

2. Issuer Name and Ticker or Trading Symbol  
TITANIUM METALS CORP [TIE]

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

(Last) (First) (Middle)  
5430 LBJ FREEWAY, SUITE 1700  
(Street)

3. Date of Earliest Transaction  
(Month/Day/Year)  
03/23/2010

\_\_\_ Director \_\_\_X\_\_\_ 10% Owner  
\_\_\_ Officer (give title below) \_\_\_ Other (specify below)

DALLAS, TX 75240

4. If Amendment, Date Original Filed(Month/Day/Year)

6. Individual or Joint/Group Filing(Check Applicable Line)  
\_\_\_ Form filed by One Reporting Person  
\_X\_ Form filed by More than One Reporting Person

(City) (State) (Zip)

**Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned**

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)	5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Ownership (Instr. 4)		
			Code	V	Amount	(A) or (D)	Price		
Common Stock, \$.01 par value	03/23/2010		J <sup>(1)(2)</sup>	V	156,840	A	\$ 0 (1) 156,840	D	
Common Stock, \$.01 par value	03/23/2010		J <sup>(1)</sup>		156,840	D	\$ 0 (1) 0	I	by Dixie Rice <sup>(3)</sup>
Common Stock, \$.01 par value	03/23/2010		J <sup>(1)(2)</sup>	V	156,840	A	\$ 0 (1) 156,840	I	by Dixie Rice <sup>(3)</sup>
Common Stock, \$.01 par value	03/23/2010		J <sup>(1)</sup>		156,840	D	\$ 0 (1) 47,038,436	I	by VHC <sup>(4)</sup>

Common Stock, \$.01 par value	882,588	I	by NL <u>(5)</u>
Common Stock, \$.01 par value	826,959	I	by Valhi <u>(6)</u>
Common Stock, \$.01 par value	566,529	I	by NL EMS <u>(7)</u>

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

**Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.** SEC 1474 (9-02)

**Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned**  
(e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)	5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)	6. Date Exercisable and Expiration Date (Month/Day/Year)	7. Title and Amount of Underlying Securities (Instr. 3 and 4)	8. Price of Derivative Security (Instr. 5)	9. Number of Derivative Securities Beneficially Owned (Instr. 6)
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## Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
CONTRAN CORP 5430 LBJ FREEWAY, SUITE 1700 DALLAS, TX 75240		X		
VALHI HOLDING CO 5430 LBJ FREEWAY, SUITE 1700 DALLAS, TX 75240		X		
DIXIE RICE AGRICULTURE CORP INC 5430 LBJ FREEWAY, SUITE 1700 DALLAS, TX 75240		X		

SIMMONS HAROLD C  
 5430 LBJ FREEWAY, SUITE 1700 X X Chairman of the Board  
 DALLAS, TX 75240

## Signatures

A. Andrew R. Louis, Secretary, for Contran Corporation	04/23/2010
__Signature of Reporting Person	Date
A. Andrew R. Louis, Secretary, for Valhi Holding Company	04/23/2010
__Signature of Reporting Person	Date
A. Andrew R. Louis, Secretary, for Dixie Rice Agricultural Corporation, Inc.	04/23/2010
__Signature of Reporting Person	Date
A. Andrew R. Louis, Attorney-in-fact, for Harold C. Simmons	04/23/2010
__Signature of Reporting Person	Date

## Explanation of Responses:

- \* If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).
- \*\* Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
- (1) See Exhibit 99.1 attached hereto.
- (2) These acquisitions are exempt pursuant to Rule 16a-13 since the acquisition effected only a change in the form of beneficial ownership without changing the recipient's pecuniary interest in the shares acquired. See Exhibit 99.2 for, among other things, a description of the relationships among the persons joining in this filing.
- (3) Directly held by Dixie Rice Agricultural Corporation, Inc. See Exhibit 99.2 for, among other things, a description of the relationships among the persons joining in this filing.
- (4) Directly held by Valhi Holding Company. See Exhibit 99.2 for, among other things, a description of the relationships among the persons joining in this filing.
- (5) Directly held by NL Industries, Inc. See Exhibit 99.2 for, among other things, a description of the relationships to the persons joining in this filing.
- (6) Directly held by Valhi, Inc. See Exhibit 99.2 for, among other things, a description of the relationships to the persons joining in this filing.
- (7) Directly held by NL Environmental Management Services, Inc. See Exhibit 99.2 for, among other things, a description of the relationships to the persons joining in this filing.

### Remarks:

Harold C. Simmons and his wife own 7,421,787 and 21,575,875 shares, respectively, of the common stock of the issuer. A tru

### Exhibit Index

Exhibit 99.1 - Description of the Transaction

Exhibit 99.2 - Additional Information

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure. Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. such variable rate debt.

Our credit facilities subject us to interest rate risk. We have a secured revolving credit facility, under which we borrow from time to time for various purposes, including to fund our day-to-day operations and to finance additional acquisitions. The maximum amount that we may borrow under this facility was increased from \$75.0 million to \$100.0 million on December 23, 2003. All borrowings under this facility must be repaid by the expiration date of December 31, 2005. As of January 3, 2004, our total borrowings under this facility was \$63.9 million.



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The interest rate applicable to our revolving credit facility is variable, meaning that the rate at which we pay interest on amounts borrowed under the facility fluctuates with changes in interest rates generally. Accordingly, with respect to any amounts from time to time outstanding under this facility, we are exposed to changes in interest rates. We do not currently use derivative instruments to hedge interest rate exposure. However, we do regularly review the structure of our indebtedness and consider changes to the proportion of variable versus fixed rate debt through refinancing, interest rate swaps or other measures in response to the changing economic environment. We cannot assure you that we will be able to continue to refinance our indebtedness on terms that are favorable to us. If we are unable to refinance our indebtedness or otherwise adequately manage our debt structure in response to changes in the market, our interest expense could increase, which would negatively impact our financial condition and results of operations.

**Risk Factors Relating to the Market for Our Common Shares**

*The price of our common shares may be volatile, and a purchaser of our common shares may not be able to resell those shares at or above the purchase price, or at all.*

The market price of our common shares has been volatile from time to time in the past and may change rapidly in the future. Since January 1, 2003, the price of our common shares on the New York Stock Exchange has ranged from \$15.21 to \$30.40. The following factors, among others, may cause significant volatility in the price of our common shares:

- announcements by us, our competitors or our customers;
- the introduction of new or enhanced products and services by us or our competitors;
- rumors relating to us or our competitors;
- actual or anticipated fluctuations in our operating results; and
- general market or economic conditions.

*A substantial number of our common shares are available for sale in the public market and sales of those shares could adversely affect the price of our common shares.*

Sales of a substantial number of our common shares into the public market, or the perception that those sales could occur, could adversely affect the price of our common shares or could impair our ability to obtain capital through an offering of equity securities. As of February 29, 2004, we had 70,396,981 common shares issued and outstanding. Of these shares, most are freely transferable without restriction under securities legislation and a substantial portion of the remaining shares may be sold subject to the volume restrictions, manner-of-sale provisions and other conditions of Rule 144 under the Securities Act of 1933.

*We are subject to significant influence by some shareholders that may have the effect of delaying or preventing a change in control.*

As of February 29, 2004, Thomas H. Lee and certain related entities were deemed beneficially to own approximately 18.1% of our outstanding common shares, and our directors, executive officers and their affiliates (including the Thomas H. Lee entities described above) collectively were deemed beneficially to own approximately 21.1% of our outstanding common shares (including options exercisable within 60 days of February 29, 2004). As a result, these shareholders, who potentially have interests that may differ from those of our other shareholders, are able to exercise significant influence over matters requiring shareholder approval, including the election of directors and approval of significant corporate transactions. This concentration of ownership may also have the effect of delaying, preventing or discouraging a change in control of our company.

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***Exercise of options to purchase our common shares could adversely affect the price of our common shares and will be dilutive.***

Shares issued pursuant to the exercise of options could dilute the holdings of existing stockholders. As of January 3, 2004, there were outstanding options to purchase a total of 4,067,154 of our common shares at a weighted average exercise price of \$17.75 (Cdn\$22.90) per share. Holders of options to purchase our common shares will probably exercise them only at a time when the price of our common shares is higher than the respective exercise or conversion prices of those options. Accordingly, we may be required to issue common shares at a price substantially lower than the market price of our common shares. This could adversely affect the price of our common shares. In addition, if and when these shares are issued, the percentage of our common shares that existing shareholders own will be diluted.

**FORWARD LOOKING STATEMENTS**

In addition to historical information, this prospectus and the reports and other documents incorporated by reference in this prospectus contain statements relating to future events and our future results. These statements are forward-looking within the meaning of the Private Securities Litigation Reform Act of 1995 and include, but are not limited to, statements that relate to projections of sales, earnings, earnings per share, cash flows, capital expenditures, or other financial items, discussions of estimated future revenue enhancements and cost savings. These statements also relate to our business strategy, goals, and expectations concerning our market position, future operations, margins, profitability, liquidity, and capital resources. Generally, words such as anticipate, believe, continue, could, estimate, expect, intend, may, plan, project, should, and similar terms and phrases are used to identify forward-looking statements in this prospectus and in the reports and other documents incorporated by reference in this prospectus. These forward-looking statements are made as of the date of this prospectus.

Although our management believes the assumptions underlying these forward-looking statements are reasonable, any of these assumptions could prove to be inaccurate and, as a result, the forward-looking statements based on those assumptions could be incorrect. Our operations involve risks and uncertainties, many of which are outside of our control, and any one or any combination of these risks and uncertainties could also affect whether the forward-looking statements ultimately prove to be correct.

The following are some of the factors that could affect our financial performance, including, but not limited to, sales, earnings and cash flows, or could cause actual results to differ materially from estimates contained in or underlying the forward-looking statements:

loss of key customers, particularly Wal-Mart, and the commitment of retailer-brand beverage customers to their own retailer brand beverage programs;

increases in competitor consolidations and other market-place competition, particularly among branded beverage products;

our ability to identify acquisition and alliance candidates and to integrate into our operations the businesses and product lines that are acquired or allied with;

fluctuations in the cost and availability of beverage ingredients and packaging supplies, and our ability to maintain favorable arrangements and relationships with our suppliers;

unseasonably cold or wet weather, which could reduce demand for our beverages;

our ability to protect the intellectual property inherent in new and existing products;

adverse rulings, judgments, or settlements in our existing litigation, and the possibility that additional litigation will be brought against us;

product recalls or changes in or increased enforcement of the laws and regulations that affect our business;

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currency fluctuations that adversely affect the exchange rate between the U.S. dollar, on the one hand, and the Canadian dollar, the pound sterling, and certain other currencies, on the other hand;

changes in interest rates;

changes in tax laws and interpretations of tax laws;

changes in consumer tastes and preference and market demand for new and existing products; and

changes in general economic and business conditions.

Many of these factors are described in greater detail in our other filings with the SEC. We undertake no obligation to update any information contained in this prospectus or to publicly release the results of any revisions to forward-looking statements to reflect events or circumstances that we may become aware of after the date of this prospectus. Undue reliance should not be placed on forward-looking statements.

All future written and oral forward-looking statements attributable to management or other persons acting on our behalf are expressly qualified in their entirety by the foregoing.

## **USE OF PROCEEDS**

We will not receive any of the proceeds from the sale of the shares by the selling security holders, nor will any of the proceeds be available for our use or otherwise for our benefit. All proceeds from the sale of the shares will be for the account of the selling security holders.

## **SELLING SECURITY HOLDERS**

### **Background**

All of the 2,268,383 common shares covered by this prospectus were purchased by the selling security holders listed in the table below from Thomas H. Lee Equity Fund IV, L.P. in private transactions consummated on December 17, 2003. All of those shares were originally acquired by Thomas H. Lee Equity Fund IV, L.P. upon the conversion in June 2002 of our convertible preferred shares purchased by that entity from us in July 1998 and upon the exercise in July 2002 of options purchased by that entity from certain third parties in July 1998. In connection with the sales from Thomas H. Lee Equity Fund IV, L.P. to the selling security holders listed below, we agreed to prepare and file with the SEC the registration statement of which this prospectus is a part registering the resale of those shares by the selling security holders.

### **Beneficial Ownership**

The table below provides the following information:

the names of the selling security holders as of the date of this prospectus;

the number of common shares that each such holder may offer and sell from time to time under this prospectus; and

the number of common shares beneficially owned by each such holder as of the date of this prospectus and as of the completion of the offering to which this prospectus relates, in each case as determined in accordance with applicable rules promulgated by the SEC.

The information presented in this table assumes that the selling security holders will sell all of the shares offered under this prospectus. However, because the selling security holders may sell all, some, or none of their shares under this prospectus, or in another permitted manner, no assurances can be given as to the actual number of shares that will be sold by the selling security holders or that will be held by the selling security holders after completion of the offering to which this prospectus relates.

This table is prepared based upon information supplied to us by the listed selling security holders. However, since the date on which the information in this table is presented, the selling security holders listed





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in this table may have sold or transferred, in transactions exempt from registration requirements of the Securities Act, some or all of their shares or may have acquired additional shares. The shares covered by this prospectus may be offered from time to time by the selling security holders named below or by their pledgees, donees, transferees, or other successors in interest. Information concerning the selling security holders may change from time to time and changed information will be presented in a supplement to this prospectus if and when necessary or required.

The applicable percentages of ownership are based on an aggregate of 70,396,981 common shares issued and outstanding on February 29, 2004.

Name of Selling Security Holder	Number of Shares Beneficially Owned Prior to Offering	Number of Shares Being Offered	Shares Beneficially Owned After Offering	
			Number	Percentage
Fidelity Contrafund(1)	2,235,500	779,500	1,456,000	3.1%
Fidelity Contrafund: Fidelity Advisor New Insights Fund(1)	12,900	2,900	10,000	*
Variable Insurance Products Fund II: Contrafund Portfolio(1)	632,200	220,500	411,700	*
T. Rowe Price Mid-Cap Growth Fund, Inc.(2)	3,000,000	500,000	2,500,000	4.2%
T. Rowe Price Institutional Mid-Cap Equity Growth Fund, Inc.(2)	120,000	18,000	102,000	*
T. Rowe Price Mid-Cap Growth Portfolio, Inc.(2)	152,000	25,000	127,000	*
St. Gobain Corporation Mid-Cap Growth(2)	6,300	900	5,400	*
Maxim Series Fund, Inc. Maxim T. Rowe Price MidCap Growth Portfolio(2)	101,000	17,000	84,000	*
Met Investors Series Trust T. Rowe Price Mid-Cap Growth Portfolio(2)	102,000	16,000	86,000	*
TD Mutual Funds TD U.S. Mid-Cap Growth Fund(2)	77,000	12,000	65,000	*
JNL Series Trust T. Rowe Price/ JNL Mid-Cap Growth Fund(2)	113,000	19,000	94,000	*
MassMutual Institutional Funds MassMutual Mid Cap Growth Equity II Fund(2)	151,000	23,000	128,000	*
Allmerica Investment Trust Select Capital Appreciation Fund(2)	86,000	17,000	69,000	*
Marriott International Mid Cap Growth Portfolio(2)	31,100	5,100	26,000	*
PensionsInvest U.S. Mid Cap Growth(2)	12,500	2,000	10,500	*
Neuberger Berman Genesis Fund	1,327,400	600,000	727,400	1.8%
Caxton Equity Growth LLC	12,990	10,483	2,507	*
<b>TOTAL</b>		<b>2,268,383</b>		

\* Less than 1%.

- (1) This selling security holder is either an investment company or a portfolio of an investment company registered under Section 8 of the Investment Company Act of 1940, as amended, or a private investment account advised by Fidelity Management & Research Company ( FM&RC ). FM&RC exercises voting and investment control over the shares held by this holder and, accordingly, would be deemed to have beneficial ownership of such shares.

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- (2) T. Rowe Price Associates, Inc. acts as investment advisor to this selling security holder and, accordingly, would be deemed to have beneficial ownership of the shares held by such holder, as well as shares held by the other selling security holders for which it serves as investment advisor and any other advisory clients over which it has investment authority.

To our knowledge, none of the selling security holders listed above is a broker-dealer and each such selling security holder that is an affiliate of a broker-dealer purchased the common shares covered by this prospectus in the ordinary course of business and, at the time of such purchase, did not have any agreements or understanding, directly or indirectly, with any person to distribute those shares. In addition, to our knowledge, none of the selling security holders nor any of their affiliates, officers, directors, or principal equity holders has held any position or office or has had any material relationship with us within the past three years.

**PLAN OF DISTRIBUTION**

This prospectus relates to the offer and sale from time to time of up to 2,268,383 common shares by the selling security holders, which includes the holders listed above under the caption Selling Security Holders and any of their respective pledgees, donees, transferees, or other successors in interest (including successors by gift, partnership distribution or other non-sale-related transfer effected after the date of this prospectus). Any selling security holders other than those listed above will be identified in a supplement to this prospectus, which will include all required information regarding such selling security holders. The selling security holders will act independently of us and one another in making decisions with respect to the timing, manner, and size of each sale of common shares covered by this prospectus.

The sale of the shares by the selling security holders may be effected from time to time by selling the shares directly to purchasers or through one or more underwriters or broker-dealers. In connection with any such sale, any such underwriters or broker-dealers may act as agent for the selling security holders or may purchase from the selling security holders all or a portion of the shares as principal, and any such sale may be made pursuant to any of the methods described below. If the selling security holders sell the shares through underwriters or broker-dealers, the selling security holders will be responsible for underwriting discounts or commissions or agents' commissions. The total proceeds to the selling security holders will be the purchase price of the shares, less any discounts and commissions paid by the selling security holders. We will not receive any of the proceeds from the selling security holders' sale of the common shares.

The SEC may deem the selling security holders and any underwriters, broker-dealers, or other agents who participate in the distribution of the shares to be underwriters, within the meaning of the Securities Act. As a result, the SEC may deem any profits the selling security holders make by selling the shares and any discounts, commissions, or concessions received by any underwriters, broker-dealers, or other agents to be underwriting discounts and commissions under the Securities Act. Selling security holders who are underwriters will be subject to the prospectus delivery requirements of the Securities Act. To our knowledge, there are currently no plans, arrangements, or understandings between any selling security holders and any underwriter, broker-dealer, or other agent regarding the sale of the shares.

The selling security holders and any other person who participates in distributing the shares will be subject to the Securities Exchange Act. The Securities Exchange Act rules include Regulation M, which may limit the timing of purchases and sales of any of the shares by the selling security holders and any such other person. In addition, Regulation M may restrict the ability of any person engaged in the distribution of the shares to engage in market-making activities with respect to the shares. This may affect the shares' marketability and the ability of any person to engage in market-making activities with respect to the shares.

The selling security holders may sell the shares in one or more transactions:

on the New York Stock Exchange or any other stock exchange or automated interdealer quotation system on which the shares are then listed or traded;

in the over-the-counter market; or

in privately negotiated transactions.

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These sales may be effected at:

fixed prices;

prevailing market prices at the time of sale;

varying prices determined at the time of sale; or

negotiated prices.

The shares also may be sold in one or more of the following transactions:

block transactions (which may involve crosses) in which a broker-dealer may sell all or a portion of such shares as agent but may position and resell all or a portion of the block as principal to facilitate the transaction;

purchases by a broker-dealer as principal and resale by such broker-dealer for its own account;

a special offering, an exchange distribution, or a secondary distribution in accordance with applicable New York Stock Exchange or other stock exchange rules;

ordinary brokerage transactions and transactions in which any such broker-dealer solicits purchasers;

sales in other ways not involving market makers or established trading markets, including direct sales to purchasers;

short sales;

the writing of options, whether or not the options are listed on an options exchange;

distribution by a selling security holder to its partners, members or stockholders;

any other method of sale permitted pursuant to applicable law; and

any combination of any of these methods of sale.

In effecting sales, broker-dealers engaged by the selling security holders may arrange for other broker-dealers to participate. Broker-dealers will receive commissions or other compensation from the selling security holders in amounts to be negotiated immediately prior to the sale. Broker-dealers may also receive compensation from purchasers of the shares that is not expected to exceed that customary in the types of transactions involved.

Some of the underwriters, broker-dealers, or agents and their associates may be customers of, engage in transactions with, or perform services for us in the ordinary course of business.

From time to time, the selling security holders may pledge, hypothecate or grant a security interest in some or all of the shares owned by them. The pledges, secured parties or persons to whom the shares have been hypothecated will, upon foreclosure in the event of default, be deemed to be selling security holders. The number of a selling security holder's shares offered under this prospectus will decrease as and when it takes such actions, but the plan of distribution for that selling security holder will otherwise remain unchanged. In addition, a selling security holder may, from time to time, sell the shares short, including in connection with hedging transactions. In those instances, this prospectus may be delivered in connection with the short sales and the shares offered under this prospectus may be used to cover those short sales.

The selling security holders are not obligated to, and there is no assurance that the selling security holders will, sell any or all of the shares covered by this prospectus. In addition, the shares that qualify for sale under Rule 144 of the Securities Act may be sold under Rule 144 rather than under this prospectus. The selling security holders also may transfer, devise, or gift the shares by other means not described in this prospectus.

## Edgar Filing: SIMMONS HAROLD C - Form 4

In connection with the sales by Thomas H. Lee Equity Fund IV, L.P. of the common shares covered by this prospectus to the selling security holders, we agreed to prepare and file with the SEC the registration statement of which this prospectus is a part registering the resale of those shares by the selling security holders, including the payment of our costs of such filing. We have also agreed not to sell or issue, or negotiate

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or enter into any agreements to sell or issue, any additional common shares or securities convertible into common shares, other than under employee stock options or other share plans or any other existing agreements or instruments already issued or authorized, for a period of 90 days following December 1, 2003, without the prior consent of the lead placement agent for the private offering in which the selling security holders acquired the common shares covered by this prospectus, such consent not to be unreasonably withheld.

We have agreed to keep the registration statement of which this prospectus is a part effective until the earlier of (i) the first anniversary of the effective date of the registration statement, or (ii) the date on which the distribution contemplated by this prospectus has been completed. However, at any time and from time to time, we may suspend the availability of this prospectus, and direct the selling security holders accordingly to discontinue offers and sales of their common shares pursuant to this prospectus, if (a) the SEC issues a stop order suspending the effectiveness of the registration statement of which this prospectus is a part, (b) any event occurs or fact exists that would result in this prospectus containing any untrue statement of a material fact or omitting to state a material fact required to be stated herein or necessary to make the statements herein, in light of the circumstances under which they were made, not misleading, or (c) any corporate development (including, without limitation, a potential acquisition or divestiture, a financing, or the review by the SEC of our prior SEC filings) occurs or is pending that, in our reasonable judgment, makes it appropriate to suspend the availability of this prospectus.

**LEGAL MATTERS**

The legality of the shares offered hereby will be passed upon for us by Drinker Biddle & Reath LLP, Philadelphia, Pennsylvania, our U.S. counsel, and Goodmans LLP, Toronto, Ontario, Canada, our Canadian counsel.

**EXPERTS**

The consolidated financial statements incorporated in this prospectus by reference to our Annual Report on Form 10-K filed on March 18, 2004 for the fiscal year ended January 3, 2004 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, independent accountants, given on the authority of said firm as experts in auditing and accounting.

**WHERE YOU CAN FIND MORE INFORMATION**

We are subject to the informational requirements of the Securities Exchange Act of 1934, which require us to file annual, quarterly and special reports, proxy statements and other information with the SEC. Our Securities Exchange Act file number is 001-31410. Our SEC filings are available to the public over the Internet at the SEC's web site at <http://www.sec.gov>. You may also read and copy our SEC filings at the SEC's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. You may call the SEC at 1-800-SEC-0330 for further information on the public reference facilities. In addition, our common shares are listed on the New York Stock Exchange, and our SEC filings can be inspected at the offices of the New York Stock Exchange, 20 Broad Street, New York, New York 10005.

The SEC allows us to incorporate by reference the information in documents we file with the SEC, which means that we can disclose important information to you by referring you to those documents. The information we incorporate by reference is considered to be part of this prospectus, and information in documents that we file after the date of this prospectus will automatically update and supersede the information in this prospectus.

We incorporate by reference the documents listed below and all documents filed after the date of this prospectus under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act:

1. 2003 Annual Report on Form 10-K, filed on March 18, 2004.
2. Current Reports on Form 8-K dated March 18, 2004 and January 29, 2004.

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3. Registration Statement on Form 8-A/12(b), filed on July 25, 2002, setting forth the description of our common shares.

We will provide without charge to each person to whom a copy of this prospectus is delivered, upon their written or oral request, a copy of any or all of the documents we have incorporated in this prospectus by reference. Requests for copies should be directed to:

Cott Corporation

207 Queen's Quay West, Suite 340  
Toronto, Ontario M5J 1A7  
Attention: Senior Vice President, General Counsel & Secretary  
Telephone: (416) 203-3898

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**Cott Corporation**

**2,268,383 Common Shares**

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**PROSPECTUS**

**, 2004**

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**PART II  
INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 14. Other Expenses of Issuance and Distribution.**

The following table sets forth the costs and expenses, other than selling or underwriting discounts and commissions, we will incur in connection with the issuance and distribution of the securities being registered. All amounts shown are estimated except the SEC registration fee.

Securities and Exchange Commission Registration Fee	\$ 5,262
Legal Fees and Expenses	60,000
Accounting Fees and Expenses	18,000
Miscellaneous Expenses	5,000
	<hr/>
Total	\$88,262

**Item 15. Indemnification of Directors and Officers.**

The corporation laws of Canada and our charter and by-laws include provisions designed to limit the liability of our officers and directors against certain liabilities. These provisions are designed to encourage qualified individuals to serve as our officers and directors.

Under the Canada Business Corporations Act, a corporation may indemnify certain persons associated with the corporation or, at the request of the corporation, another entity, against all costs, charges, and expenses (including an amount paid to settle an action or satisfy a judgment) reasonably incurred by him or her in respect of any civil, criminal, administrative, investigative, or other proceeding in which he or she is involved because of that association with the corporation or other entity. Indemnifiable persons are current and former directors or officers, other individuals who act or acted at the corporation's request as a director or officer, or an individual acting in a similar capacity of another entity.

The law permits indemnification only if the indemnifiable person acted honestly and in good faith with a view to the best interests of the corporation or, as the case may be, to the best interests of the other entity for which the individual acted as a director or officer in a similar capacity at the corporation's request and, in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he or she had reasonable grounds for believing his or her conduct was lawful and he or she was not judged by a court or other competent authority to have committed any fault or omitted to do anything he or she ought to have done. With the approval of the court, a corporation may also indemnify an indemnifiable person in respect of an action by or on behalf of the corporation to which the indemnifiable person is made a party because of his or her association with the corporation.

Sections 7.02 and 7.04 of our by-laws provide that, without in any manner derogating from or limiting the mandatory provisions of the Canada Business Corporations Act but subject to the conditions contained in the by-laws, we shall indemnify any of our directors or officers,



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former directors or officers, and each individual who acts or acted at our request as a director or officer, or each individual acting in a similar capacity at another entity, against all costs, charges, and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative, or other proceeding in which the individual is involved because of that association with us or another entity to the extent that the individual seeking the indemnity:

acted honestly and in good faith with a view to our best interests or the best interest of the other entity for which the individual acted as a director or officer or in a similar capacity at our request, as the case may be; and

in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that his or her conduct was lawful.

Both the Canada Business Corporations Act and our by-laws expressly provide for us to advance moneys to a director, officer, or other individual for the costs, charges, and expenses of a proceeding referenced above. The individual is required to repay the moneys if he or she does not fulfill the aforementioned conditions. Section 7.05 of our by-laws states that, subject to the limitations contained in the Canada Business Corporations Act, we may purchase and maintain insurance for the benefit of our directors and officers as such, as the board may from time to time determine.

In addition to the provisions found in our charter and by-laws, we have entered into an indemnification agreement with our chairman and chief executive officer by way of an employment agreement. Under the employment agreement, if such officer is made a party, or is threatened to be made a party, to any action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director, officer, or employee of us or is or was serving at our request as a director, officer, member, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, including service with respect to employee benefit plans, whether or not the basis of such proceeding is his alleged action in an official capacity while serving as a director, officer, member, employee, or agent, we shall indemnify and hold him harmless to the fullest extent legally permitted or authorized by our charter, by-laws, resolutions of our board of directors, or, if greater, by the laws of the Province of Ontario, and the Federal Laws of Canada applicable to us, against all cost, expense, liability, and loss (including, without limitation, attorney's fees, judgments, fines, ERISA excise taxes, or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by him in connection therewith, and such indemnification shall continue as to such officer even if he has ceased to be a director, member, employee, or agent of us or another entity at our request and shall inure to the benefit of his heirs, executors, and administrators. We are also required to advance to such officer all reasonable costs and expenses incurred by him in connection with a proceeding within 20 days after our receipt of a written request for such advance. Such request shall include an undertaking by such officer to repay the amount of such advance if it shall ultimately be determined that he is not entitled to be indemnified against such costs and expenses.

**Table of Contents****Item 16. Exhibits.**

Exhibit Number	Description
4.1	Articles of Amalgamation of Cott Corporation (incorporated by reference to Exhibit 3.1 to Cott Corporation's Form 10-K filed on March 31, 2000 for the fiscal year ended January 1, 2000)
4.2	By-Laws of Cott Corporation (incorporated by reference to Exhibit 3.2 to Cott Corporation's Form 10-K filed on March 8, 2002 for the fiscal year ended December 29, 2001)
5.1	Opinion of Goodmans LLP (filed herewith)
5.2	Opinion of Drinker Biddle & Reath LLP (filed herewith)
10.1	(*) Employment Agreement of Mark Benadiba dated October 15, 2003 (previously filed)
10.2	(*) Agreement effective July 18, 2003 amending the Employment Agreement between Cott Corporation and Paul R. Richardson dated August 23, 1999, as amended (previously filed)
10.3	(*) Agreement effective July 18, 2003 amending the Employment Agreement between Cott Corporation and John K. Sheppard dated December 21, 2001 (previously filed)
23.1	Consent of PricewaterhouseCoopers LLP (Independent Public Accountants of the Registrant) (filed herewith)
23.2	Consent of Drinker Biddle & Reath LLP (included in Exhibit 5.2)
24	Powers of Attorney (previously filed)

(\*) Indicates a management contract or compensatory plan.

**Item 17. Undertakings.**

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such

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indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

*provided, however*, that paragraphs (1)(i) and (1)(ii) do not apply if the registration statement is on Form S-3, Form S-8 or Form F-3, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Toronto, Ontario, Canada, on March 18, 2004.

*		Date: March 18, 2004
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Frank E. Weise III	Chairman and Chief Executive Officer (Principal Executive Officer)	
*		Date: March 18, 2004
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Raymond P. Silcock	Executive Vice-President and Chief Financial Officer (Principal Financial Officer)	
*		Date: March 18, 2004
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Tina Dell Aquila	Vice President, Controller and Assistant Secretary (Principal Accounting Officer)	
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*	President, Chief Operating Officer and Director	Date: March 18, 2004
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John K. Sheppard		
*	Director	Date: March 18, 2004
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Serge Guin		
*	Director	Date: March 18, 2004
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Colin J. Adair		
*	Director	Date: March 18, 2004
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W. John Bennett		
*	Director	Date: March 18, 2004
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C. Hunter Boll		
*	Director	Date: March 18, 2004
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Thomas M. Hagerty		
*	Director	Date: March 18, 2004
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Stephen H. Halperin		
*	Director	Date: March 18, 2004
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David V. Harkins		
*	Director	Date: March 18, 2004
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Philip B. Livingston		
*	Director	Date: March 18, 2004
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Christine A. Magee		
*	Director	Date: March 18, 2004
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Donald G. Watt		

\*By: /s/ Raymond P. Silcock, pursuant to power of attorney

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 Raymond P. Silcock  
 Executive Vice-President and Chief Financial Officer

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**EXHIBIT INDEX**

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