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 30, 1995

OR

/ / TRANSITION REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission File Number 1-3970

HARSCO CORPORATION
(Exact name of registrant as specified in its charter)

| Delaware | 23-1483991 |
|---|---|
| (State of incorporation) | (I.R.S. Employer Identification No.) |

| Camp Hill, Pennsylvania | 17001-8888 |
|---|---|
| (Address of principal executive offices) | (Zip Code) |

Registrant's Telephone Number (717) 763-7064

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 /X/ NO / /

| Title of Each Class | Outstanding Shares at September 30, 1995 |
|---|---|
| Common Stock Par Value $1.25 | 25,324,798 |
| Preferred Stock Purchase Rights | 25,324,798 |

HARSCO CORPORATION AND SUBSIDIARY COMPANIES
PART I - FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

CONSOLIDATED STATEMENTS OF INCOME
(Unaudited)

| (In thousands, except per share amounts) | THREE MONTHS ENDED SEPTEMBER 30 1995 | 1994 | NINE MONTHS ENDED SEPTEMBER 30 1995 | 1994 |
|---|---|---|---|---|
| REVENUES: | | | | |
| Net sales | $ 374,147 | $ 348,073 | $1,108,308 | $1,004,801 |
| Equity in income of unconsolidated entities | 10,939 | 16,904 | 38,682 | 52,728 |
| Gain on sale of investments | - | 99 | - | 5,966 |
| Other revenues | 411 | 12,267 | 1,162 | 16,615 |
| TOTAL REVENUES | 385,497 | 377,343 | 1,148,152 | 1,080,110 |
| COSTS AND EXPENSES: | | | | |
| Cost of sales | 284,326 | 270,228 | 852,504 | 788,758 |
| Selling, general and administrative expenses | 47,147 | 49,552 | 145,555 | 147,547 |
| Research and development | 1,088 | 1,213 | 3,431 | 3,936 |
| Facilities discontinuance and reorganization costs | 16,827 | 8,276 | 19,322 | 11,095 |
| Other | (451) | 548 | (4,831) | 672 |
| TOTAL COSTS AND EXPENSES | 348,937 | 329,817 | 1,015,981 | 952,008 |
| INCOME BEFORE INTEREST, TAXES, AND MINORITY INTEREST | 36,560 | 47,526 | 132,171 | 128,102 |
| Interest income | 1,647 | 1,854 | 5,020 | 4,710 |
| Interest expense | (7,356) | (8,826) | (22,376) | (25,961) |
| INCOME BEFORE TAXES AND MINORITY INTEREST | 30,851 | 40,554 | 114,815 | 106,851 |
| Provision for income taxes | 12,032 | 17,722 | 44,778 | 46,694 |
| INCOME BEFORE MINORITY INTEREST | 18,819 | 22,832 | 70,037 | 60,157 |
| Minority interest | 419 | 494 | 1,618 | 1,644 |
| NET INCOME | $ 18,400 | $ 22,338 | $ 68,419 | $ 58,513 |
| Average shares of common stock outstanding | 25,313 | 25,150 | 25,262 | 25,094 |
| NET INCOME PER SHARE | $ .73 | $ .89 | $ 2.71 | $ 2.33 |
| Cash dividends declared per share | $ .37 | $ .35 | $ 1.11 | $ 1.05 |

See accompanying notes to consolidated financial statements.

HARSCO CORPORATION AND SUBSIDIARY COMPANIES
PART I - FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS (Continued)

CONSOLIDATED BALANCE SHEETS
(Unaudited)

| (In thousands) | SEPTEMBER 30 1995 | DECEMBER 31 1994 |
|---|---|---|
| ASSETS | | |
| CURRENT ASSETS: | | |
| Cash and cash equivalents | $ 58,273 | $ 43,550 |
| Receivables | 289,096 | 350,578 |
| Inventories: | | |
| Finished goods | 30,457 | 25,641 |
| Work in process | 30,127 | 28,625 |
| Raw material and purchased parts | 55,438 | 53,338 |
| Stores and supplies | 15,999 | 13,595 |
| Total inventories | 132,021 | 121,199 |
| Other current assets | 35,724 | 21,432 |
| TOTAL CURRENT ASSETS | 515,114 | 536,759 |
| Property, plant and equipment, at cost | 1,059,608 | 984,930 |
| Allowance for depreciation | (605,474) | (549,962) |
| | 454,134 | 434,968 |
| Cost in excess of net assets of companies acquired, net | 213,617 | 213,480 |
| Investments | 30,187 | 43,711 |
| Other assets | 107,923 | 85,731 |
| | $ 1,320,975 | $ 1,314,649 |
| LIABILITIES | | |
| CURRENT LIABILITIES: | | |
| Notes payable and current maturities | $ 116,967 | $ 25,738 |
| Accounts payable | 94,754 | 92,166 |
| Accrued compensation | 39,473 | 37,837 |
| Income taxes | 37,929 | 10,971 |
| Other current liabilities | 117,342 | 115,709 |
| TOTAL CURRENT LIABILITIES | 406,465 | 282,421 |
| Long-term debt | 181,652 | 340,246 |
| Deferred income taxes | 26,546 | 29,217 |
| Other liabilities | 77,475 | 81,543 |
| | 692,138 | 733,427 |
| SHAREHOLDERS' EQUITY | | |
| Common stock and additional paid-in capital | 140,933 | 134,499 |
| Cumulative adjustments for translation and pension liability | (13,663) | (16,119) |
| Retained earnings | 694,338 | 653,996 |
| Treasury stock | (192,771) | (191,154) |
| | 628,837 | 581,222 |
| | $ 1,320,975 | $ 1,314,649 |

See accompanying notes to consolidated financial statements.

HARSCO CORPORATION AND SUBSIDIARY COMPANIES
PART I - FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS (Continued)

CONSOLIDATED STATEMENT OF CASH FLOWS
(Unaudited)

| | THREE MONTHS ENDED SEPTEMBER 30 | | NINE MONTHS ENDED SEPTEMBER 30 | |
|---|---|---|---|---|
| (In thousands) | 1995 | 1994 | 1995 | 1994 |
| CASH FLOWS FROM OPERATING ACTIVITIES: | | | | |
| Net income | $ 18,400 | $ 22,338 | $ 68,419 | $ 58,513 |
| Adjustments to reconcile net income to net cash provided by operating activities: | | | | |
| Depreciation | 23,492 | 22,913 | 70,721 | 67,227 |
| Amortization | 2,483 | 2,298 | 7,456 | 6,796 |
| Gain on sale of investments | - | (99) | - | (5,966) |
| Equity in earnings of unconsolidated entities | (10,939) | (17,402) | (38,682) | (52,702) |
| Dividends or distributions from unconsolidated entities | 4,696 | 10,654 | 27,245 | 42,932 |
| Other, net | 6,705 | 571 | 3,523 | 2,140 |
| Changes in assets and liabilities, net of acquisition of businesses and formation of a partnership: | | | | |
| Notes and accounts receivables | 43,052 | (10,371) | 68,697 | (25,269) |
| Inventories | (43) | (1,464) | (14,004) | (12,680) |
| Accounts payable | 114 | 2,723 | (9,851) | 3,669 |
| Other assets and liabilities | 24,498 | 14,199 | 15,307 | (10,177) |
| NET CASH PROVIDED BY OPERATING ACTIVITIES | 112,458 | 46,360 | 198,831 | 74,483 |
| CASH FLOWS FROM INVESTING ACTIVITIES: | | | | |
| Expenditures for property, plant and equipment, net of disposals | (25,329) | (25,884) | (79,405) | (56,949) |
| Purchase of businesses, net of cash acquired | (781) | - | (4,143) | - |
| Net proceeds (purchases) from sale/maturity of investments | 2,639 | - | 572 | 7,617 |
| Other investing activities | 128 | (199) | 2,302 | (7,142) |
| NET CASH (USED) BY INVESTING ACTIVITIES | (23,343) | (26,083) | (80,674) | (56,474) |
| CASH FLOWS FROM FINANCING ACTIVITIES: | | | | |
| Short-term borrowings, net | (6,289) | (8,970) | (9,718) | (29,515) |
| Current maturities and long-term debt | | | | |
| Additions | 4,440 | 7,189 | 47,135 | 94,954 |
| Reductions | (49,890) | (29,607) | (119,113) | (83,767) |
| Cash dividends paid on common stock | (9,365) | (8,797) | (28,024) | (26,328) |
| Common stock issued-options | 1,085 | 946 | 5,015 | 6,624 |
| Other financing activities | 1,347 | 2,378 | 1,107 | 2,593 |
| NET CASH (USED) BY FINANCING ACTIVITIES | (58,672) | (36,861) | (103,598) | (35,439) |
| Effect of exchange rate changes on cash | 61 | 171 | 164 | 400 |
| Net increase (decrease) in cash and cash equivalents | 30,504 | (16,413) | 14,723 | (17,030) |
| Cash and cash equivalents at beginning of period | 27,769 | 58,123 | 43,550 | 58,740 |
| CASH AND CASH EQUIVALENTS AT END OF PERIOD | $ 58,273 | $ 41,710 | $ 58,273 | $ 41,710 |

See accompanying notes to consolidated financial statements.

HARSCO CORPORATION AND SUBSIDIARY COMPANIES
PART I - FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS (Continued)

REVIEW OF OPERATIONS BY GROUP
(Unaudited)

| (In millions) | THREE MONTHS ENDED SEPTEMBER 30 1995 | 1994 | NINE MONTHS ENDED SEPTEMBER 30 1995 | 1994 |
|---|---|---|---|---|
| SALES: | | | | |
| Metal Reclamation and Mill Services | $ 153.1 | $ 135.9 | $ 446.0 | $ 383.4 |
| Infrastructure and Construction (a) | 100.6 | 102.5 | 302.7 | 297.4 |
| Process Industry Products | 120.4 | 109.7 | 359.6 | 324.0 |
| Total | $ 374.1 | $ 348.1 | $1,108.3 | $1,004.8 |
| INCOME BEFORE TAX AND MINORITY INTEREST: | | | | |
| Group Operating Profit: | | | | |
| Metal Reclamation and Mill Services | $ 22.9 | $ 16.6 | $ 60.2 | $ 33.5 |
| Infrastructure and Construction (b) | 12.3 | 4.3 | 25.5 | 11.0 |
| Process Industry Products | 10.9 | 7.9 | 32.0 | 27.8 |
| | 46.1 | 28.8 | 117.7 | 72.3 |
| Facilities discontinuance and reorganization costs (c) | (16.7) | (8.3) | (18.4) | (11.1) |
| Total group operating profit | 29.4 | 20.5 | 99.3 | 61.2 |
| Equity in income of unconsolidated entities | 11.0 | 16.9 | 38.7 | 52.7 |
| Gain on sale of investments | - | .1 | - | 6.0 |
| Claim settlements | - | 12.0 | - | 15.8 |
| Interest expense | (7.4) | (8.8) | (22.4) | (26.0) |
| Unallocated income (expense) | (2.2) | (.1) | (.8) | (2.8) |
| Total pre-tax income | $ 30.8 | $ 40.6 | $ 114.8 | $ 106.9 |

(a) Effective January 1, 1995, the Infrastructure, Construction and Transportation Group was renamed the Infrastructure and Construction Group due to the Company's announced exit from the school bus business. The Company ceased all bus operations in June 1995. School bus sales included under this Group were $11.3 million for the third quarter of 1994 and zero for the third quarter of 1995. For the nine months of 1995 and 1994, school bus sales were $15.7 million and $22.1 million, respectively. Additionally, 1994 includes truck sales of $3.5 million for the nine months. Truck operations were ended in June 1994.

(b) The Infrastructure and Construction Group includes operating losses related to the school bus business for the third quarter of 1994 of $4.9 million and zero for the third quarter of 1995. For the nine months of 1995 and 1994, operating losses were $6.2 million and $11.5 million, respectively. Additionally, 1994 includes truck operating losses of $1.9 million for the nine months.

(c) The third quarter and nine months ended September 30, 1995 includes a non-cash charge of $13.5 million relating to the settlement of the Federal Excise Tax reimbursement on the completed five-ton truck contract, and a $2.1 million provision for asset impairment relating to the remaining fixed assets of the school bus business. The nine months of 1995 also includes $2.6 million relating to the discontinuance of certain international facilities related to the Metal Reclamation and Mill Services Group. The third quarter and nine months ended September 30, 1994 includes $3.7 million and $6.3 million, respectively, for discontinuance and rationalization of administrative facilities costs related to the Metal Reclamation and Mill Services Group, and a provision for the third quarter and nine months of 1994 of $4.7 million relating to the net realizable value of the investment in the five-ton truck business.

ITEM 1. FINANCIAL STATEMENTS (Cont'd.)

Cash payments for interest on all debt, net of amounts capitalized, were $21,963,000 for the first nine months of 1995 and $27,322,000 for the first nine months of 1994. Cash payments for income taxes were $36,915,000 for the first nine months of 1995 and $40,659,000 for the first nine months of 1994.

Notes to Consolidated Financial Statements

Commitments and Contingencies

Federal Excise Tax and Other Matters Related to the Five-ton Truck Contract

In the third quarter, the Company, the United States Army, and the United States Department of Justice concluded a settlement of Harsco's previously reported claims against the Army relating to Federal Excise Tax arising under a completed 1986 contract for the sale of five-ton trucks to the Army. On September 27, 1995, the Army paid Harsco $49 million in accordance with the settlement terms. Harsco released the Army from any further liability for those claims, and the Department of Justice released Harsco from a threatened action for damages and civil penalties based on an investigation conducted by the Department's Commercial Litigation Branch that has been pending for several years. During the performance of the five-ton truck contract, the Company recorded an account receivable of $62.5 million for its claims against the Army relating to Federal Excise Tax. As a result of accepting the $49 million in settlement, Harsco recorded a non-recurring, pre-tax, non-cash charge of $13.5 million (after-tax charge of $8.2 million, $.32 per share), in the third quarter. The $13.5 million pre-tax charge is included in the Consolidated Statements of Income under Facilities discontinuance and reorganization costs.

The settlement preserves the rights of the parties to assert claims and defenses under the Internal Revenue Code, and rights of the Army and Harsco to claim certain amounts that may be owed by either party to reconcile possible underpayments or overpayments on the truck contract as part of the formal contract close out process.

The settlement does not resolve the potential for a claim from the Internal Revenue Service that, contrary to the Company's position, certain cargo truck models have gross vehicle weights in excess of the 33,000 pound threshold under the Federal Excise Tax law, and therefore are taxable. As previously reported, the Internal Revenue Service has tentatively concluded that those cargo truck models appear to be taxable. If the Internal Revenue Service asserts that the tax is due on these vehicles, the total claim could be $42 million plus interest and penalty, if any. The Company plans to vigorously contest any such tax deficiency. Although there is risk of an adverse outcome, the Company and its counsel believe that these trucks are not taxable. The settlement agreement preserves the Company's right to seek reimbursement of after-imposed tax from the Army in the event that the Internal Revenue Service finds the cargo trucks to be taxable, but the agreement limits the reimbursement to a maximum of $21 million. Additionally, in an earlier contract modification, the Army accepted responsibility for $3.6 million of the potential tax, bringing its total potential responsibility up to $24.6 million.

Under the settlement, the Army agrees that if the cargo trucks are found to be taxable, the 1993 decision of the Armed Services Board of Contract Appeals will apply to the question of Harsco's right to reimbursement from the Army for after-imposed taxes on the cargo trucks, thus in Harsco's view, favorably resolving the principal issues regarding any such future claim by Harsco. Therefore, the Company believes that even if Harsco is unsuccessful in defending against the imposition of the tax on the cargo trucks, the Army would be obligated to reimburse the Company for a majority of the tax, (but not interest or any penalty if any), resulting in a net maximum liability for Harsco of $18 million plus interest and penalty, if any.

In August 1994, the Company and the Government signed a modification to the five-ton truck contract resolving all outstanding contractual matters concerning that agreement with certain limited exceptions including FET related matters. The contract modification included resolution of the Company's claims described in earlier Company filings for contract changes, inadequate technical data package, and delays and disruptions. The modification provided for an increase of $12.5 million in the contract price and payment was received. The price increase yielded net revenue to the Company of approximately $12.0 million after related excise tax and other associated costs. The Company recognized such amount as Other revenue in the Consolidated Statements of Income in the third quarter of 1994.

M9 Armored Combat Earthmover Claim

The Company and its legal counsel are of the opinion that the U.S. Government did not exercise option three under the M9 Armored Combat Earthmover (ACE) contract in a timely manner, with the result that the unit prices for options three, four and five are subject to renegotiation. Claims reflecting the Company's position have been filed with respect to all options purported to be exercised, totaling in excess of $60 million plus interest. No recognition has been given in the accompanying financial statements for any recovery on these claims. In July 1995, the Armed Services Board of Contract Appeals denied the motions for summary judgment which had been filed by both the Company and the Government. The Company intends to continue to pursue its claim before the Armed Services Board of Contract Appeals.

In addition, in 1994 the Company negotiated a settlement with the U.S. Government of a smaller outstanding claim concerning this contract which provided for payment of $3.8 million by the U.S. Government to Harsco. The Company recognized such amount as other revenue in the Consolidated Statements of Income in the first quarter of 1994 and payment has been received.

Other Litigation

On March 13, 1992, the U.S. Government filed a counterclaim against the Company in a civil suit alleging violations of the False Claims Act and breach of a contract to supply M109A2 Self-Propelled Howitzers. The counterclaim was filed in the United States Claims Court in response to the Company's claim of approximately $5 million against the Government for costs incurred on this contract relating to the same issue. In October 1995, Government counsel informed the Company's counsel that at trial it would claim breach of contract damages of $4.8 million plus damages and civil penalties under the False Claims Act totaling $6.8 million. This is a reduction from the previously asserted Government claim of $7.3 million in damages, trebled plus False Claims Act penalties. The Company and its counsel believe it is unlikely that resolution of these claims will have a material adverse effect on the Company's financial position, however, it could have a material effect on quarterly or annual results of operations.

Iran's Ministry of Defense initiated arbitration procedures against the Company in 1991 under the rules of the International Chamber of Commerce for damages allegedly resulting from breach of various contracts executed by the Company and the Ministry of Defense between 1970 and 1978. The contracts were terminated in 1978 and 1979 during the period of civil unrest in Iran that preceded the Iranian revolution. Iran has asserted a claim under one contract for repayment of a $7.5 million advance payment it made to the Company, plus interest at 12% through June 27, 1991 in the amount of $25.3 million. Iran has also asserted a claim for damages under other contracts for $76.3 million. The Company has asserted various defenses and also has filed counterclaims against Iran for damages in excess of $7.5 million which it sustained as a result of Iran's breach of contract, plus interest. The arbitration hearing is scheduled for January, 1996. The Company's management and its counsel believe it is unlikely that resolution of these claims will have a material adverse effect on the Company's financial position or results of operations.

In 1992, the United States Government through its Defense Contract Audit Agency commenced an audit of certain contracts for sale of tracked vehicles by the Company to foreign governments, which were financed by the United States Government through the Defense Security Assistance Agency. The Company cooperated with the audit and responded to a number of issues raised by the audit. In September 1994, the Company received a subpoena issued by the Department of Defense Inspector General seeking various documents relating to sale contracts between the Company and foreign governments which were funded by the Defense Security Assistance Agency. The Company is continuing to cooperate and is responding to the subpoena. Based on discussions with the agent in charge and the government auditors, it appears that the investigation focuses on whether the Company improperly certified requests for and received progress payments in advance of the schedule permitted by the Defense Security Assistance Agency regulations and Company certifications. The Company's management and its counsel believe it is unlikely that this issue will have a material adverse effect on the Company's financial position or results of operations.

In June 1994, the shareholder of the Ferrari Group, a Belgium holding company involved in steel mill services and other activities, filed a legal action in Belgium against Heckett MultiServ, S.A. and S.E.A.E., subsidiaries of MultiServ International N.V. (a subsidiary of Harsco Corporation). The action alleges that these two subsidiaries breached contracts arising from letters of intent signed in 1992 and 1993 concerning the possible acquisition of the Ferrari Group, claiming that the subsidiaries were obligated to proceed with the acquisition and failed to do so. The action seeks damages of 504 million Belgian Francs (approximately U.S. $17 million). The Company intends to vigorously defend against the action and believes that based on conditions contained in the letters of intent and other defenses it will prevail. The Company and its counsel believe that is unlikely that these claims will have a material adverse effect on the Company's financial position or results of operations.

On August 29, 1994, the Company filed a legal action in the United States District Court for the Southern District of New York against certain former shareholders of MultiServ International N.V. seeking recovery of damages arising from misrepresentations which the Company claims were made to it in connection with its purchase of the MultiServ International N.V. stock on August 31, 1993. The Complaint seeks damages in an amount to be determined. On April 4, 1995, the court dismissed various elements of the Company's claims and allowed the Company to amend its complaint with respect to other elements. At the Company's request, the Court dismissed the remaining claims which then allowed the Company to file an appeal in the United States Court of Appeals for the Second Circuit. The Company has settled its claims with A. H. H. Bowden, but continues to pursue its appeal with respect to claims against the other defendants.

Environmental

The Company is involved in a number of environmental remediation investigations and clean-ups and, along with other companies, has been identified as a "potentially responsible party" for certain waste disposal sites. While each of these matters is subject to various uncertainties, it is probable that the Company will agree to make payments toward funding certain of these activities and it is possible that some of these matters will be decided unfavorably to the Company. The Company has evaluated its potential liability, and its financial exposure is dependent upon such factors as the continuing evolution of environmental laws and regulatory requirements, the availability and application of technology, the allocation of cost among potentially responsible parties, the years of remedial activity required and the remediation methods selected. The Consolidated Balance Sheets at September 30, 1995 and December 31, 1994, include an accrual of $5.6 and $6.2 million respectively for environmental matters. The first nine months of 1995 and 1994 include charges to earnings amounting to $.2 and $.6 million, respectively.

The liability for future remediation costs is evaluated on a quarterly basis. Actual costs to be incurred at identified sites in future periods may vary from the estimates, given inherent uncertainties in evaluating environmental exposures. Subject to the imprecision in estimating future environmental costs, the Company does not expect that any sum it may have to pay in connection with environmental matters in excess of the amounts recorded or disclosed above would have a material adverse effect on its financial position or results of operations.

Other

The Company is subject to various other claims, legal proceedings and investigations covering a wide range of matters that arose in the ordinary course of business. In the opinion of management, all such matters are adequately covered by insurance or by accruals, and if not so covered, are without merit or are of such kind, or involve such amounts, as would not have a material adverse effect on the financial position or results of operations of the Company.

Opinion of Management

Financial information furnished herein, which is unaudited, reflects in the opinion of management all adjustments (all of which are of a recurring nature) that are necessary to present a fair statement of the interim period.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

MANAGEMENT'S DISCUSSION AND ANALYSIS
OF FINANCIAL CONDITION AND
RESULTS OF OPERATIONS

FINANCIAL CONDITION

Cash provided by operating activities was $198.8 million in the first nine months of 1995, reflecting, among other things, a $68.7 million decrease in accounts receivable which include the claim settlement of $20.4 million recognized in December 1994 and received from the U.S. Government in February 1995 and the $49 million Federal Excise Tax reimbursement on the completed five-ton truck contract received in September. As previously reported, to the extent that any portion of the Federal Excise Tax is not recovered, additional losses on the contract will have to be recognized, but there would be little impact on cash flows. By accepting the $49 million settlement, as payment for the $62.5 million receivable recorded during the performance of the contract, the Company recorded a pre-tax, non-cash charge of $13.5 million (after tax charge of $8.2 million). Cash provided by operating activities during the first nine months of 1995 also includes distributions of $27.2 million from unconsolidated entities.

Cash used by investing activities included capital expenditures of $85.8 million and $3.4 million for the acquisition of Fabsco and $0.7 million for an aluminum cylinder shell producer business. Total consideration for Fabsco was $14.8 million with the assumption of debt and other liabilities. Cash flow used for financing activities included a net decrease in long-term debt of $72.0 million, which included the purchase at market of $10.5 million of the Company's outstanding 8-3/4% 10 year notes due May 1996, a $9.7 million reduction of short-term debt, and $28.0 million of cash dividends paid on common stock. Cash and cash equivalents increased $14.7 million to $58.3 million at September 30, 1995.

Other matters which could affect cash flows in the future are discussed under Part I, Item 1 and in the 1994 Annual Report to Shareholders under Note 10, "Commitments and Contingencies."

Harsco continues to maintain a good financial position, with net working capital of $108.6 million, down from the $254.3 million at December 31, 1994, principally due to the increase in current maturities of debt related to 8 3/4% 10 year notes due May 1996 and the result of the settlement of the Federal Excise Tax reimbursement from the U.S. Government. Current assets amounted to $515.1 million, and current liabilities were $406.5 million, resulting in a current ratio of 1.3 to 1, below the 1.9 to 1 at year-end 1994. With total debt at $298.6 million and equity at $628.8 million at September 30, 1995, the total debt as a percent of capital was 32.2%, which is lower than the 38.6% at December 31, 1994.

The stock price range during the first nine months was 59 3/8 - 39 5/8. Harsco's book value per share at September 30, 1995, was $24.83, compared with $23.08 at year-end 1994. The Company's annualized return on average equity for the first nine months of 1995 was 15.0%, compared with 15.7% for the year 1994. The annualized return on average assets was 13.8%, compared with the 13.5% for the year 1994. The annualized return on capital for the first nine months was 11.5%, compared with 11.0% for the year 1994.

In June, the Company amended its $300 million, October 1993 credit facility with a syndicate of nineteen banks. The amended and restated five-year facility consolidates two prior agreements and, as amended, extends maturity to June 2000, provides for greater financial flexibility and reduced fees and interest margins. The new agreement is a $300 million unsecured revolving five-year facility available in U.S. dollars or Eurocurrencies and serves as back-up to the Company's commercial paper program. As of September 30, 1995, there were no borrowings outstanding under this syndicated credit facility.

The Company also has a commercial paper borrowing program under which it can issue up to $150 million of short-term notes in the U.S. commercial paper market. The Company limits the aggregate commercial paper and syndicated credit facility borrowings at any one time to a maximum of $300 million. At September 30, 1995, the Company had no outstanding commercial paper debt.

Harsco's outstanding long-term notes are rated A by Standard & Poor's and Baa1 by Moody's. Harsco's commercial paper is rated A-1 by Standard & Poor's, F-1 by Fitch Investors Service and P-2 by Moody's. The Company also has on file, with the Securities and Exchange Commission, a Form S-3 shelf registration for the possible issuance of up to an additional $200 million of new debt securities, preferred stock or common stock.

As indicated by the above, the Company's financial position and debt capacity should enable it to meet its current and future requirements. As additional resources are needed, the Company should be able to obtain funds readily and at competitive costs.

RESULTS OF OPERATIONS
THIRD QUARTER OF 1995 COMPARED
WITH THIRD QUARTER OF 1994

Third quarter revenues of $385.5 million were 2% higher than last year's comparable period. Higher sales were reported for two of the three operating groups and for most product classes, particularly for metal reclamation and mill services, gas control and containment, process equipment and railway maintenance equipment. These increases were partially offset by the absence of school bus sales, as the Company ceased this operation in June 1995, which was responsible for the third operating group not reporting higher sales. Equity in income of unconsolidated entities of $10.9 million decreased, due to expected lower earnings from Harsco's share of the income from its investment in United Defense, L.P., as compared to $16.9 million for third quarter of 1994. Other revenues also decreased, due to the nonrecurring $12.0 million third quarter of 1994 negotiated claim settlement with the U.S. Government concerning the completed five-ton truck contract.

Cost of sales increased, principally due to higher volume. Selling, general and administrative expenses decreased, principally as a result of exiting the school bus business. On a comparative basis, facilities discontinuance and reorganization costs increased due to the non-cash charge of $13.5 million relating to the settlement of the Federal Excise Tax reimbursement on the completed five-ton truck contract (in which the Company accepted $49 million for the related $62.5 million receivable), and a $2.1 million provision for asset impairment relating to the remaining fixed assets of the school bus operation. The third quarter of 1994 includes facilities discontinuance and reorganization costs of $4.7 million relating to the net realizable value of the investment in the five-ton truck business, and the $3.7 million provision for the discontinuance and rationalization of administrative facilities at several foreign metal reclamation and mill services locations.

Income before taxes and minority interest decreased 24% from the comparable period last year, due to the non-cash charge of $13.5 million relating to the settlement of the Federal Excise Tax reimbursement with the U.S. Government discussed earlier. This was partially offset by higher earnings for metal reclamation and mill services, gas control and containment products, grating, railway maintenance equipment and scaffolding, shoring and forming equipment.

Net income of $18.4 million was down 18% from the comparable period in 1994 due to the previously discussed non-cash charge of $13.5 million ($8.2 million after tax). The effective income tax rate for the third quarter of 1995 was 39%, versus 43.7% in 1994. The lower income tax rate is primarily due to lower effective tax rates on international earnings as well as a reduction in losses sustained in certain international operations for which there is no tax benefit. The lower income tax rate is also due to reduced state income taxes related to the change in the mix of U.S. and international income.

Sales of the Metal Reclamation and Mill Services Group, at $153.1 million, were 12.7% above 1994's third quarter, due to higher volumes in certain European countries, favorable foreign exchange rates, and higher volumes in North America. Sales for the Infrastructure and Construction Group, at $100.6 million, were down from last year's similar period, reflecting the closure of the school bus operation in June 1995. All other operations posted increases, lead principally by railway maintenance equipment and grating. Sales for the Process Industry Products Group, at $120.4 million, were well ahead of the prior year's third quarter, as most product lines within this group posted higher sales, particularly for gas control and containment products.

Third quarter 1995, operating profit for the Metal Reclamation and Mill Services Group, excluding the impact of expense items relating to facilities discontinuance and reorganization costs, was $22.9 million, up 38% from the comparable period last year, reflecting the improved operating performance, as well as business conditions and the favorable impact of the decline of the U.S. dollar against certain European currencies. After including the impact of facilities discontinuance and reorganization costs, operating profit of $21.8 million for the Group was 68% more than in the prior year. The Infrastructure and Construction Group posted an operating profit of $12.3 million, excluding the impact of expense items relating to facilities discontinuance and reorganization costs, which was significantly ahead of the 1994 third quarter due to the improved performance of the grating, railway maintenance equipment, and scaffolding, shoring and forming equipment product lines and the reduction of losses related to the school bus business which ceased operations in June 1995. After including the impact of facilities discontinuance and reorganization costs (which included the $13.5 million pre-tax charge for the Federal Excise Tax settlement and the $2.1 million pre-tax charge for the school bus operation) the Group incurred a $3.2 million loss. Operating profit for the Process Industry Products Group, at $10.9 million, was up 39% over the prior year reflecting improved performance, principally for the gas control and containment product line.

FIRST NINE MONTHS OF 1995 COMPARED WITH
FIRST NINE MONTHS OF 1994

Revenues for the first nine months were $1.148 billion, 6% above last year's comparable period. The increase was primarily due to higher sales for metal reclamation and mill services, gas control and containment equipment, grating, scaffolding, shoring and forming equipment, and to a lesser extent roofing granules and abrasives. Additionally, higher revenues included sales from an acquisition made in the first quarter of 1995. These increases were partially offset by the expected decrease in income from the Company's equity investment in United Defense, L.P., as well as the impact of exiting the school bus operation and divesting an operation in the fourth quarter of 1994. On a comparative basis, revenues for the first nine months of 1994 include a $5.9 million pre-tax gain on the sale of the remaining holdings of an investment in a marketable equity security and $15.8 million due to the negotiated settlement of two claims with the U.S. Government.

Cost of sales increased, principally due to higher volume. Selling, general and administrative expenses decreased as a result of exiting the school bus operation and the impact of divesting a company in the fourth quarter of 1994, which more than offset higher compensation costs and the inclusion of an acquired company, in the first quarter of 1995.

Income before taxes and minority interest was up 7% from the comparable period last year due to improved performance for all three operating groups. The effective income tax rate for 1995 is 39.0%, versus 43.7% in 1994. The lower income tax rate is primarily due to lower effective tax rates on international earnings as well as a reduction in losses sustained in certain international operations for which there is no tax benefit. The lower income tax rate is also due to reduced state income taxes related to the change in the mix of U.S. and international income.

Higher earnings in the first nine months of 1995 were due principally to improved results for metal reclamation and mill services, grating, gas control and containment equipment, structural composites, as well as roofing granules and abrasives. Income benefited in 1995 from the impact of a pre-tax $5.9 million net foreign currency translation exchange gain arising from the decline in the U.S. Dollar against certain European currencies which more than offset a pre-tax $3.5 million foreign currency translation exchange loss due to the devaluation of the Mexican peso. Lower earnings were recorded for the Company's share of income in its equity investment in United Defense, L.P., as well as pipe fittings and railway maintenance equipment. Continuing operating losses during the planned shutdown of the school bus operation, were lower than operating losses incurred in the first nine months of 1994. The Company ceased all school bus operations in June 1995. In September 1995, the Company recorded a non-cash, pre-tax charge of $13.5 million ($.32 earnings per share) arising from the settlement of the Federal Excise Tax reimbursement claim with the U.S. Government. As a result of the settlement, the Company received a $49.0 million payment which was offset against a $62.5 million receivable recorded during the performance of the contract. Additionally, the Company recorded a pre-tax provision $2.1 million ($.05 earnings per share) for the valuation of the remaining school bus operation plant and equipment in Marysville, Ohio. On a comparative basis, favorably affecting 1994's first nine months results were a pre-tax $5.9 million ($.14 earnings per share) gain on the sale of the remaining holdings of an investment in a marketable equity security and $15.8 million ($.35 earnings per share) of pre-tax income resulting from the negotiated settlement of two claims with the U.S. Government. These favorable items in 1994 were partially offset by $11.0 million ($.25 earnings per share) of expense for facilities discontinuance and reorganization costs related to the Metal Reclamation and Mill Services and Infrastructure and Construction Groups. Interest expense decreased as a result of the continued liquidation of the Company's outstanding debt. Net income of $68.4 million, was up 17% from the comparable period in 1994. This income was the highest first nine months performance in the history of the Company, excluding an accounting change in the first nine months of 1993.

Sales of the Metal Reclamation and Mill Services Group, at $446.0 million, were well above 1994's first nine months, due to improved business conditions, particularly in Europe, as well as North America. The favorable impact of the decline in the U.S. Dollar against certain European currencies, particularly the French franc, Belgian franc and German mark also contributed to increased revenues for the Group. Sales for the Infrastructure and Construction Group at $302.7 million, were slightly ahead of last year's similar period. Grating and scaffolding equipment sales increased modestly from 1994. Sales for the Process Industry Products Group, at $359.6 million, were ahead of the prior year's first nine months. The improvement included increased sales for most product classes, as well as sales from an acquisition made in the first quarter of 1995.

Operating profit of $60.2 million for the Metal Reclamation and Mill Services Group, excluding the impact of expense items relating to facilities discontinuance and reorganization costs, was up 80% from 1994 principally due to improved operating performance as well as business conditions, the favorable effects of cost reduction efforts, and the favorable impact of the decline in the U.S. Dollar against certain European currencies as previously discussed. After including the impact of facilities discontinuance and reorganization costs, operating profit of $57.6 million for the Group was more than twice the amount recorded in the prior year. The Infrastructure and Construction Group posted an operating profit of $25.5 million, excluding the impact of expense items relating to facilities discontinuance and reorganization costs, which significantly exceeded 1994's first nine months. All continuing product classes posted improved results, except railway maintenance equipment which benefited in 1994 from two large shipments to international customers. On a comparative basis, operating losses during the planned shutdown of the school bus operation, were lower than operating losses incurred in the first nine months of 1994. After including the impact of facilities discontinuance and reorganization costs (which included the $13.5 million pre-tax charge for the Federal Excise Tax settlement and the $2.1 million pre-tax charge for the school bus operation as previously discussed) operating profit of $9.6 million for the Group was up 52% from 1994. Operating profit for the Process Industry Products Group, at $32.0 million, was up 15% from the prior year's first nine months and reflected significantly improved results for gas control and containment equipment which more than offset slightly lower earnings for pipe fittings.

HARSCO CORPORATION AND SUBSIDIARY COMPANIES
PART II - OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Information on legal proceedings is included above under Part I, Item 1., the section labeled "Commitments and Contingencies."

ITEM 5. OTHER INFORMATION

a.) On September 26, 1995, Harsco Corporation announced that the Board of Directors declared a quarterly cash dividend of 37 cents per share, payable November 16, to shareholders of record on October 16, 1995.

b.) On August 23, Harsco Corporation announced that, William D. Etzweiler, Senior Vice President and Chief Operating Officer, will assume responsibility for all three operating groups; adding Infrastructure and Construction to his current assignments of Metal Reclamation and Mill Services and Process Industry Products. Barrett W. Taussig, Senior Vice President and Chief Operating Officer, of its Infrastructure and Construction Group stepped down as part of Harsco's continued de-emphasis of the defense sector.

c.) On September 25, Harsco announced that the U.S. Army has paid the Company $49 million in cash to settle a disputed federal excise tax reimbursement claim on a completed 1986 contract for five-ton trucks manufactured for the U.S. Army Tank- Automotive Command. The agreement also releases Harsco from other potential government and Army legal actions related to the contract.

As a result of the settlement, Harsco offset the $49 million payment against a $62.5 million receivable recorded during the performance of the contract. Consequently, the company recorded a non-cash, pre-tax charge of $13.5 million (after-tax charge of $8.2 million or 32 cents per share), in the third quarter.

d.) The Company announced on November 7, 1995 that it has signed a letter of intent to acquire Symons Corporation, a supplier of prefabricated concrete forming equipment, in exchange for 500,000 shares of Harsco common stock.

Symons, a privately owned company, has eight manufacturing facilities and 28 branch sales locations throughout the United States. Annual revenues are approximately $90 million. Harsco intends to combine Symons' operations with those of Harsco Corporation's existing Patent Construction Systems Division.

The transaction is conditioned upon negotiation of a definitive agreement and final approval of the parties.

ITEM 6(a.) EXHIBITS

The following exhibits are attached:

a.) Exhibit No. 10a. Material Contracts - Agreement with Barrett W. Taussig dated August 22, 1995.

b.) Exhibit No. 10b. Material Contracts - Settlement Agreement dated September 19, 1995, among the Company, the United States Army and the United States Department of Justice.

c.) Exhibit No. 11 Computation of Net Income Per Common Share.

d.) Exhibit No. 12 Computation of Ratios of Earnings to Fixed Charges.

e) Exhibit No. 27 Financial Data Schedule

ITEM 6(b.) Reports on Form 8-K

a.) An 8-K was filed September 27, 1995 dealing with the settlement of the Federal Excise Tax Reimbursement Claim with the United States Army and Department of Justice.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

HARSCO CORPORATION
(Registrant)

DATE 11/7/95 /S/ Leonard A. Campanaro

Leonard A. Campanaro
Senior Vice President and
Chief Financial Officer

DATE 11/7/95 /S/ Salvatore D. Fazzolari

Salvatore D. Fazzolari
Vice President and Controller

EXHIBIT INDEX

| Exhibit No. | Description |
| --- | --- |
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| Exhibit 11 | Computation of Net Income Per Common Share. |
| Exhibit 12 | Computation of Ratios of Earnings to Fixed Charges. |
| Exhibit 27 | Financial Data Schedule |

EXHIBIT 10a

[HARSCO CORPORATION LETTERHEAD]

22 August 1995

Mr. Barrett W. Taussig
2006 Mountain Pine Drive
Mechanicsburg, PA  17055

Dear Barrett,

This letter will acknowledge that you have resigned from Harsco as of 30 September 1995 and that the Company has accepted your resignation. It will further serve to confirm the agreement that we have entered into to satisfy Harsco's financial obligations to you under the agreement dated 20 January 1994 (the "Premerger Agreement"), and to meet the Company's anticipated need for your future services from time to time, particularly with regard to defense business matters.

The Company will continue your current salary and benefits until the date of your resignation, 30 September 1995. It is mutually agreed that in consideration of the provisions of this letter agreement, the Premerger Agreement and the related Special Supplemental Retirement Benefit Agreement dated 28 January 1994 between the Company and you are canceled and Harsco will not have any obligations under those Agreements. Thus, your service credit under the Harsco pension plans will be calculated from your actual date of employment at the Company's BMY Division.

On or before 28 February 1996, Harsco will pay you three-fourths (3/4) of the amount that you would have received under the 1995 Executive Incentive Compensation Plan (the "Plan") had you been employed for the full year. This amount will be paid entirely in cash, notwithstanding the provisions of the Plan that require payment partly in common stock.

Harsco will retain you as a consultant to the Corporation for the period 1 October 1995 through 30 September 1998. You will provide Harsco such services as the Chairman and Chief Executive Officer may request relating to the defense business, United Defense, L.P., and such other matters as may be relevant to your knowledge and expertise. You will cooperate with Harsco with regard to legal issues and testify when requested. You will be available to provide occasional consultation from your home or at the Corporate Office upon request by Harsco.

In consideration of the consulting services described above, Harsco will pay you a monthly fee of $18,333.33 on the last day of each month during the term of this consulting agreement. For each day of substantial service that you perform at Harsco's request under this agreement (but not including the brief periodic discussions which would be provided without additional compensation) Harsco will pay you an additional $800 per day of service. The Company will also reimburse you for your actual and reasonable travel expenses incurred at the specific request of the Chairman and Chief Executive Officer when submitted with proper supporting documentation in compliance with Harsco expense reimbursement policies. Harsco will not provide any insurance, pension or other benefits to you beyond those accrued as of the date of your resignation. Your stock options will be exercisable for a period of time in accordance with their terms.

Nothing in this Agreement will be deemed to constitute you as an employee of Harsco. If the obligations of this Agreement are satisfactorily performed, Harsco by policy does not limit your ability to render services for other noncompeting entities.

It is understood that, as a consultant, you will be an independent contractor to Harsco, and Harsco will not be responsible for withholding any federal, state, or local taxes. Harsco will issue an IRS Form 1099 at the Company's year-end accounting for taxable remuneration paid under the consulting agreement.

A copy of Harsco's Code of Conduct is attached and is incorporated herein. You expressly agree to conform to the requirements of this Code. You will not make any effort to acquire information for the Company to which Harsco is not legally entitled.

In consideration of Harsco's undertakings in this agreement, you are signing simultaneously with the execution of this agreement, the enclosed confidentiality agreement.

This agreement is for your unique personal services and will not be assignable or delegable by you. In the event of your death, Harsco will make the remaining payments under the consulting agreement to your estate.

In the event that you breach this agreement or the attached confidentiality agreement, Harsco will have the right to terminate all further consideration under this agreement.

If this letter accurately states our agreement, please indicate your acceptance by signing and returning to me the enclosed copy of this letter.

Sincerely,

/s/ DEREK C. HATHAWAY
---------------------
Derek C. Hathaway
Chairman, President & CEO

cab

Attachment

Accepted and agreed to this 23 day of August 1995.

/s/ BARRETT W. TAUSSIG
- ----------------------
Barrett W. Taussig

CONFIDENTIALITY AGREEMENT

I, Barrett W. Taussig, in consideration of my engagement as a consultant to Harsco Corporation ("Harsco") hereby agree that:

1. Unless authorized in writing or instructed by Harsco, I will not during my consulting period or after such consulting period, disclose to anyone outside of Harsco or use any of Harsco's confidential, secret or proprietary information known to or acquired by me during my employment or consulting period relating to human resources, administration, strategic business plans, products, pricing, costs, bids, processes, know-how, customer relations, marketing proposals, profit and loss information, design proposals and specifications, strategic marketing proposals, trade secrets, research, developments, equipment, computer software, computer processed data, suppliers or supplies and services or other information concerning Harsco. This Agreement shall not restrict the disclosure or use of information which is publicly available or the disclosure or use of information which I am required to disclose by order of a court of competent jurisdiction.

2. This Agreement shall be binding on my heirs, legal representatives and assigns, and shall inure to the benefit of any successors and assigns of Harsco.

3. If any provision of this Agreement is found to be invalid by a court of competent jurisdiction, such invalidity will not invalidate the rest of this Agreement but it will be construed as not containing said provision and the rights and obligations of the parties will be interpreted, construed and enforced accordingly.

4. The parties hereto agree that this Agreement is made under the laws of the Commonwealth of Pennsylvania and for all purposes shall be construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania, in which jurisdiction Harsco maintains its principal offices and place of business.

| | |
|---|---|
| 8/23/95 | /s/ BARRETT W. TAUSSIG |
| Date | Barrett W. Taussig |
| | HARSCO CORPORATION |
| 8/23/95 | /s/ DEREK C. HATHAWAY |
| Date | Derek C. Hathaway<br>Chairman, President & CEO |

cab

EXHIBIT 10b

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement is made and entered into by and between the United States of America, acting by and through both the Civil Division of the Department of Justice ("DOJ") and the United States Department of the Army, Army Tank-automotive and Armaments Command ("Army"), and Harsco Corporation and its BMY Wheeled Vehicles Division ("Harsco") (collectively referred to as the "Parties").

II. RECITALS

The Parties agree to the following recital of facts:

1. Harsco Corporation is a corporation organized under the laws of the State of Delaware, with its principal place of business located in Wormleysburg (Camp Hill), Pennsylvania.

2. BMY Wheeled Vehicles Division is a division of Harsco Corporation.

3. On May 1, 1985, the Army Tank-Automotive Command ("TACOM") issued a solicitation for bids for the acquisition of M939A2 Series 5-ton trucks. On April 14, 1986, three offerors, including Arveco, Inc., a wholly owned subsidiary of Harsco, submitted sealed bids. On May 14, 1986, TACOM awarded to Arveco Contract No. DAAEO7-86-C-J111 ("J111 Contract") for the production and delivery of the trucks. The J111 Contract subsequently was novated to the BMY Wheeled Vehicles operation of Harsco.

4. On October 19, 1987, Harsco requested the contracting officer to modify the J111 Contract to reflect an after-imposed Federal Excise Tax ("FET") under the contract for models, identified in the attachments to the request, which did not include Models 923A2 and 925A2. Models 923A2 and 925A2 are referred to herein as Light Weight Trucks ("LWTs"); all other models are referred to herein as Heavy Weight Trucks ("HWTs"). The Parties do not intend the designations of LWT or HWT to constitute any type of admission; rather, the designations are used only for convenience in this Settlement Agreement.

5. On January 5, 1988, the contracting officer denied Harsco's request, primarily on the basis that TACOM contended that the bid price contained costs for FET for the HWTs in question. On February 9, 1988, Harsco submitted a certified claim requesting a contract price adjustment for the after-imposed FET (the "FET Claim"), which subsequently also was denied in a final decision of the contracting officer. Harsco then timely appealed this denial to the Armed Services Board of Contract Appeals ("ASBCA"). See BMY, Division of Harsco Corp., ASBCA No. 36805.

6. On October 5, 1990, Harsco submitted a certified claim requesting the contracting officer to make a contract price adjustment to reflect unilateral changes in shipping destinations under the J111 Contract. This claim was amended five times by claim amendments dated December 18, 1990; January 24, 1991; January 30, 1991; February 8, 1991; and February 18, 1991 (The original claim and its five amendments are collectively referred to hereinafter as the "CLIN Switching Claim"). The CLIN Switching Claim involved some of the same basic questions of fact as the FET Claim.

7. On March 18, 1991, Harsco received a final decision of the contracting officer denying the CLIN Switching Claim. On June 11, 1991, while the FET Claim was still pending before the ASBCA, Harsco timely appealed to the ASBCA the denial of its certified claim for a price adjustment arising from the changes in shipping destinations. See BMY, Division of Harsco Corp., ASBCA No. 43042. Subsequently, because the Army and Harsco believed that a decision in ASBCA No. 36805 could help resolve the issues associated with ASBCA No. 43042, the Army and Harsco jointly moved that the appeal be dismissed without prejudice, which was granted.

8. On January 4, 1993, the ASBCA issued a decision with respect to the FET Claim. See BMY, Division of Harsco Corp., ASBCA No. 36805, 93-2 BCA Paragraph 25,684.

9. On February 3, 1993, in response to ASBCA No. 36805, the Army filed its Motion to Reopen and, in the Alternative, Request for Reconsideration. On February 24, 1994, the ASBCA issued a decision denying this motion. On June 22, 1994, the United States

appealed to the U.S. Court of Appeals for the Federal Circuit the ASBCA's decision denying the motion. On August 16, 1994, in response to the Army's motion, the Federal Circuit ordered the proceeding dismissed under Federal Rule of Appellate Procedure 42(b).

10. By bilateral modification P00311 to the Contract, dated August 26, 1994, the Army and Harsco settled non-FET related issues pertaining to the J111 Contract. This settlement excluded FET-related disputes and other matters enumerated in modification P00311. The Parties are not in agreement whether or not the releases contained in modification P00311 encompass the reconciliation of payments under the J111 Contract. In May 1995, the Defense Finance and Accounting Service, Columbus Center, Ohio ("DFAS") advised the contracting officer of potential overpayments made to Harsco relating to alleged under-recouped progress payments. Harsco believes that it may have been underpaid. This reconciliation is currently under review by DFAS, the Army, and BMY.

11. On February 13, 1995, Harsco petitioned the ASBCA to reinstate ASBCA No. 43042; such request was subsequently approved by the ASBCA.

12. On February 23, 1995, the Army filed a renewed Motion to Reopen and, in the Alternative, Request for Reconsideration in ASBCA No. 36805. This motion currently is pending.

13. On March 13, 1995, following the reinstatement of the appeal in ASBCA No. 43042, Harsco filed its Complaint. This appeal is currently pending.

14. DOJ has conducted an investigation to determine whether to file a lawsuit against Harsco under the civil False Claims Act, the Contract Disputes Act, or at common law (i.e., breach of contract, mistake, fraud, and unjust enrichment) relating to FET and the J111 Contract. The United States believes that there is evidence to suggest that it may have civil causes of action against Harsco relating to FET and the J111 Contract under the False Claims Act, Contract Disputes Act, and at common law (i.e., breach of contract, mistake, fraud, and unjust enrichment).

15. Harsco has denied wrongdoing of any kind whatsoever and specifically, with respect to the J111 Contract, has denied that it acted in violation of any statutes or common law, or that it is liable contractually or otherwise to any party. During settlement discussions conducted in connection with the DOJ investigation noted above, Harsco initially presented a quantum analysis for the FET Claim and the CLIN Switching Claim, dated December 7, 1994, asserting that it was entitled to $86,273,729.17 under these claims. Under a different methodology suggested by DCAA, Harsco submitted an alternate quantum analysis for these claims dated December 21, 1994, asserting that it was entitled to $83,614,237.87.

16. It is recognized by the Parties that the IRS has been reviewing whether LWTs are subject to FET. Harsco maintains that LWTs are not subject to FET and to date has paid no tax on LWTs. Harsco also maintains that, in the event the IRS determines that some or all of the LWTs are taxable in whole or in part, it may elect to file an after-imposed tax claim for FET based on actual shipping destinations for those LWTs originally scheduled, by the J111 Contract at the time of contract award or by an option under the J111 Contract on the date that option was exercised, to be delivered on or after October 1, 1988 (the "Potential LWT FET Claim"). During the settlement discussions noted in paragraph 15, above, Harsco presented a pro forma quantum analysis for a Potential LWT FET Claim, dated January 12, 1995, asserting that it would be entitled to approximately $24,739,253, exclusive of interest, from the Army in the event that all LWTs are determined to be taxable. Harsco's January 12, 1995 pro forma represented that this amount did not include any amounts or adjustments for unilateral price changes which were made by TACOM due to unilateral changes in shipping destinations, i.e., the Pro Forma CLIN Switching Claim amounting to approximately $12,893,375.

17. The Parties are entering into this Settlement Agreement to avoid the expense, delay, and inconvenience of protracted litigation relating to the matters referenced above.

18. Accordingly, in reliance upon the representations contained herein and in consideration of the mutual promises, covenants, and obligations in this Settlement Agreement,

and for good and valuable consideration, the Parties mutually agree to the terms and conditions set forth below.

## III. TERMS AND CONDITIONS

19. The Army agrees to pay to Harsco the Settlement Amount of $49,000,000.00 on or before September 30, 1995, in full satisfaction of Harsco's FET Claim and the CLIN Switching Claim (inclusive of attorneys' fees, costs, and/or any interest that may be due under the Contract Disputes Act, or otherwise) as described herein. The Parties recognize that the funds available to the Army with which to consummate this Settlement Agreement are in part subject to expiration and cancellation on September 30, 1995. Accordingly, and notwithstanding any other provision of this Settlement Agreement, it is expressly agreed that a condition precedent to any obligation of any party to be bound by the terms of this Settlement Agreement is the requirement that full payment recited in this paragraph be obligated to the J111 Contract and disbursed to Harsco on or before September 30, 1995. If this September 30, 1995 milestone is not met, the Parties agree that this Settlement Agreement shall be completely unenforceable and null and void.

20. Harsco, except as otherwise expressly noted in this Settlement Agreement, hereby releases and discharges DOJ and the Army, and any present or former agents, employees, or officers of DOJ or the Army, from any and all civil claims or administrative claims, that it has or may have based upon Harsco's entitlement to FET under the J111 Contract, or arising under or related to the J111 Contract (to include, but not limited to, the FET Claim and CLIN Switching Claim and all other claims, disputes, or issues not previously released by modification P00311, described in paragraph 10, above); provided, however:

a. that with respect to the issue of FET and LWTs, in the event that some or all of the LWTs are determined to be taxable in whole or in part, this release and discharge does not prevent Harsco from attempting to reverse such a determination, or from filing a Potential LWT FET Claim or from obtaining payment on such a claim (except as such payment may be limited by paragraph 24 or the Payment Ceiling referenced in subparagraph 25.b, below), or from submitting invoices to recover amounts for FET on LWTs specifically withheld by TACOM pursuant to Modifications to the J111 Contract (including Modifications P00266, P00292, P00297, and A00034); and

b. that it is recognized by the Parties that trucks shipped to foreign destinations under the J111 Contract were exempt from FET. It is also recognized by the Parties that in certain cases, even though trucks were shipped to foreign destinations, proof of exportation was not available from TACOM for such trucks within six months of the date of sale, thereby requiring Harsco to pay FET to the IRS in accordance with Section 4221(b)(2) of the Internal Revenue Code. All necessary proofs of exportation have now been received from TACOM and Harsco is in the process of seeking refunds from the IRS. This release does not prevent Harsco from seeking and obtaining all of such refunds.

21. It is agreed that all costs (as defined in the Federal Acquisition Regulations ("FAR") 31.205-47) incurred by or on behalf of (or allocated to) Harsco and its officers, directors, and employees in connection with the following activities shall be unallowable costs for government contract accounting purposes: 1) the matters released by DOJ in this Settlement Agreement other than routine contract administration, 2) the United States' civil or criminal investigation of the matters covered by this Settlement Agreement, 3) the investigation, defense or corrective action, if any, undertaken by Harsco in connection with the civil or criminal inquiries based upon matters described in paragraph 14, above, 4) the negotiation of this Settlement Agreement, 5) any CID's issued by DOJ relating to its investigation described in paragraph 14, above, and 6) the prosecution of its FET Claim and/or CLIN Switching Claim before the ASBCA. For accounting purposes these amounts, with the exception of Harsco's Pennsylvania corporate office costs which are viewed as de minimus, shall be kept separate from Harsco overhead accounts and Harsco agrees not to charge these costs directly or indirectly to any of its contracts with the United States. Harsco further agrees to separately account for any costs incurred on or after the Effective Date of this Settlement Agreement by Harsco with regard to any tax litigation with the IRS relating to FET and trucks delivered under the J111 Contract.

22. Harsco agrees to withdraw the following Freedom of Information Act ("FOIA") Requests that it has filed in connection with or relating to DOJ's investigation referenced in paragraph 14, above. The identity of these FOIA Requests is as follows: 1) 9/7/94 FOIA Request to Army Judge Advocate General from McKenna & Cuneo (J. Merrifield); 2) 9/7/94 FOIA Request to Defense Contract Management Area Operations - Cleveland from McKenna & Cuneo (J. Merrifield); and 3) 8/11/94 FOIA Request to DCAA from BMY (J. Dodd).

23. The Parties agree that currently pending litigation concerning the FET Claim (ASBCA No. 36805) and the CLIN Switching Claim (ASBCA No. 43042) will be concluded as follows:

a. Harsco, upon payment of the full Settlement Amount by the Army, will file a motion for voluntary dismissal of its appeal of the CLIN Switching Claim (ASBCA No. 43042), with prejudice and without costs or attorneys' fees to any party; the Army will not oppose voluntary dismissal of that appeal on these terms;

b. The Army, upon payment of the full Settlement Amount by the Army, will request, in writing, withdrawal of its motion to reopen the appeal of the FET Claim (ASBCA No. 36805), with prejudice and without costs or attorneys' fees to any party; Harsco will not oppose voluntary withdrawal of that motion on these terms;

c. Harsco, upon payment of the full Settlement Amount by the Army, will file a motion for voluntary dismissal of its appeal of the FET Claim (ASBCA No. 36805), with prejudice and without costs or attorneys' fees to any party; the Army will not oppose voluntary of that appeal on these terms.

24. Harsco will omit from the quantum portion of any Potential LWT FET Claim reserved to Harsco by subparagraph 20.a, any amounts or adjustments relating in any way to:

a. unilateral price changes which were made by TACOM due to unilateral changes in shipping destinations, i.e., CLIN Switching, it being expressly understood and agreed by the Parties that all CLIN Switching issues whether related to liability, entitlement, damages, or quantum are being completely resolved herein;

b. interest and penalties, if any, that may be paid by Harsco to the IRS; and

c. trucks (including HWTs and LWTs) originally scheduled for delivery prior to October 1, 1988. The issue of which LWTs were scheduled for delivery prior to October 1, 1988 is not affected by this Settlement Agreement.

25. The Army, except as otherwise expressly noted in this Settlement Agreement, hereby releases and discharges Harsco, including its present and former officers, directors, employees, agents, subsidiaries, affiliates, divisions, successors and assigns, from any and all civil claims or administrative claims that it has or may have based upon Harsco's entitlement to FET under the J111 Contract, or arising under or related to the J111 Contract (to include, but not limited to, the FET Claim, the CLIN Switching Claim and all other claims, disputes or issues not previously released by modification P00311, described in paragraph 10, above); provided, further:

a. that with respect to the issue of FET and LWTs, regardless of the outcome of the IRS review, this release and discharge includes the release and discharge of any claim that the Army is entitled to any recovery from Harsco relating to costs in the J111 Contract bid price that Harsco may have included with respect to FET for LWTs originally scheduled for delivery prior to October 1, 1988; and

b. in the event that some or all of the LWTs are determined to be taxable in whole or in part, the Army will abide by the result of the ASBCA decision on the FET Claim (ASBCA No. 36805), cited in paragraph 8, above, and will apply that decision to a Potential LWT FET Claim. The Parties agree that the quantum of any Potential LWT FET Claim is excepted from this Settlement Agreement; provided, however, that the amount of any payment that the Army may make on a Potential LWT FET Claim will not exceed a Payment Ceiling of $21,000,000.

26. The Army agrees to make its best reasonable efforts to return to Harsco all originals and copies of Harsco documents in the Army's possession (to include both TACOM and the Army Contract Appeals Division) that were obtained from Harsco in connection with the investigation referenced in paragraph 14 above (excluding any Harsco documents attached to any filings before the ASBCA), the FET Claim, or the CLIN Switching Claim. The Army will make its best reasonable efforts to return such documents within ninety days of the Effective Date of this Settlement Agreement. The Army reserves the right to retain copies of such materials that are necessary to document its decision to enter into this Settlement Agreement.

27. DOJ, except as otherwise expressly noted in this paragraph and paragraph 34, below, hereby releases and discharges Harsco, including its present and former officers, directors, employees, agents, subsidiaries, affiliates, divisions, and successors and assigns, from any and all civil or administrative monetary claims, that the United States has under the False Claims Act, 31 U.S.C. Section 3729 et seq.; Contract Disputes Act, 41 U.S.C. Section 604; or common law (i.e., breach of contract, mistake, fraud, and unjust enrichment) based upon (i) Harsco's entitlement to FET under the J111 Contract, (ii) the FET Claim (ASBCA No. 36805), (iii) the CLIN Switching Claim (ASBCA No. 43042), and (iv) any representations Harsco made concerning to what extent Harsco included in its bid price costs for FET for either HWTs or LWTs, and any repetition of those representations that may be made in connection with a Potential LWT FET Claim.

28. DOJ agrees to make its best reasonable efforts to return to Harsco all originals and copies of Harsco documents in DOJ's possession that were obtained from Harsco in connection with the investigation referenced in paragraph 14, above. DOJ will make its best reasonable efforts to return such documents to Harsco within ninety days of the Effective Date of this Settlement Agreement. DOJ reserves the right to retain copies of such materials that are

necessary to document its conduct of its investigation and its decision to enter in this Settlement Agreement or attached to any court filings, depositions, or records of interviews.

29. Nothing in this Settlement Agreement is intended to constitute an admission of wrongdoing on the part of DOJ, the Army, or Harsco.

30. The Parties agree that this Settlement Agreement may not be altered, amended, modified, or otherwise changed except by a writing duly executed by DOJ, the Army, and Harsco. The Parties further agree that this Settlement Agreement constitutes the entire agreement with respect to its subject matter.

31. The Parties to this Settlement Agreement have executed three identical copies of this Settlement Agreement, each of which shall be deemed an original.

32. Each signatory below warrants that he has all necessary authority to execute this Settlement Agreement on behalf of his respective party.

33. Subject only to the provisos set forth in paragraph 19, above, this Settlement Agreement shall become effective (the "Effective Date") upon the last date of its execution by the Parties.

34. Notwithstanding any term of this Settlement Agreement, specifically excluded and reserved from the scope and terms of this Settlement Agreement are any and all: 1) claims and defenses to claims that may arise under Title 26, United States Code, or Internal Revenue Service regulations, 2) suspension and debarment rights of any federal agency, 3) claims and defenses to claims personal injury or property damage arising from the delivery of deficient or defective products or parts under the J111 Contract, or for breach of any express or implied warranty relating to products or parts delivered under the J111 Contract, 4) claims and defenses to claims: (a) by Harsco for underpayment or (b) by the government for over-payment relating to alleged under-recouped progress payments, of the contract price disclosed by the reconciliation of payments under the J111 Contract described in paragraph 10, above, and not otherwise resolved by Modification P00311 to the J111 Contract, and 5) claims for the enforcement of the terms of this Settlement Agreement.

35. The provisions of this Settlement Agreement shall be binding upon the United States and Harsco and their heirs, successors, and assigns.

FOR THE UNITED STATES OF AMERICA:

Dated: September 19, 1995 /s/ DENNIS L. PHILLIPS

Dennis L. Phillips
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice
Washington, D.C.

FOR THE DEPARTMENT OF THE ARMY:

Dated: 19 Sep 95 /s/ MARTIN J. GREEN

Martin J. Green
Contracting Officer
U.S. Army Tank-automotive and Armaments Command
Warren, Michigan

FOR HARSCO CORPORATION AND ITS BMY WHEELED VEHICLES DIVISION:

Dated: September 19, 1995 /s/ DEREK C. HATHAWAY

Derek C. Hathaway
Chairman, President and Chief Executive Officer

Part I
Exhibit 11

# HARSCO CORPORATION
## COMPUTATION OF NET INCOME PER COMMON SHARE
(dollars in thousands except per share)

| | 3 MONTHS ENDED SEPT. 30 | | 9 MONTHS ENDED SEPT. 30 | |
|---|---|---|---|---|
| | 1995 | 1994 | 1995 | 1994 |
| Net income | $ 18,400 | $ 22,338 | $ 68,419 | $ 58,513 |
| Average shares of common stock outstanding used to compute earnings per common share | 25,312,553 | 25,150,174 | 25,261,634 | 25,093,574 |
| Additional common shares to be issued assuming exercise of stock options, net of shares assumed reacquired | 169,001 | 79,399 | 186,276 | 93,336 |
| Shares used to compute dilutive effect of stock options | 25,481,554 | 25,229,573 | 25,447,910 | 25,186,910 |
| Fully diluted net income per common share | $ 0.72 | $ 0.88 | $ 2.69 | $ 2.32 |
| Net income per common share | $ 0.73 | $ 0.89 | $ 2.71 | $ 2.33 |

Part I
Exhibit 12

HARSCO CORPORATION
Computation of Ratios of Earnings to Fixed Charges
(In Thousands of Dollars)

| | YEARS ENDED DECEMBER 31 | | | | | Nine Months Ended |
|---|---|---|---|---|---|---|
| | 1990 | 1991 | 1992 | 1993 | 1994 | 9/30/95 |
| Consolidated Earnings: | | | | | | |
| Pre-tax income from continuing operations (1) | $ 115,587 | $ 119,647 | $ 140,576 | $ 137,151 | $ 146,089 | $ 113,197 |
| Add fixed charges computed below | 21,864 | 23,544 | 22,425 | 23,879 | 37,982 | 25,268 |
| Net adjustments for equity companies | (532) | (439) | (454) | (363) | (134) | (604) |
| Net adjustments for capitalized interest | (255) | (469) | (134) | (172) | (274) | - |
| Consolidated Earnings Available for Fixed Charges | $ 136,664 | $ 142,283 | $ 162,413 | $ 160,495 | $ 183,663 | $ 137,861 |
| Consolidated Fixed Charges: | | | | | | |
| Interest expense per financial statements (2) | $ 17,506 | $ 18,925 | $ 18,882 | $ 19,974 | $ 34,048 | $ 22,376 |
| Interest expense capitalized | 345 | 574 | 355 | 332 | 338 | 276 |
| Portion of rentals (1/3 ) representing an interest factor | 4,013 | 4,045 | 3,188 | 3,573 | 3,596 | 2,616 |
| Interest expense for equity companies whose debt is guaranteed (3) | - | - | - | - | - | - |
| Consolidated Fixed Charges | $ 21,864 | $ 23,544 | $ 22,425 | $ 23,879 | $ 37,982 | $ 25,268 |
| Consolidated Ratio of Earnings to Fixed Charges | 6.25 | 6.04 | 7.24 | 6.72 | 4.84 | 5.46 |

(1) 1992 excludes the cumulative effect of change in accounting method for post-retirement benefits other than pensions.

(2) Includes amortization of debt discount and expense.

(3) No fixed charges were associated with debt of less than fifty percent owned companies guaranteed by Harsco during the five year period 1990 through 1994, and the nine months ended September 30, 1995.

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9-MOS
DEC-31-1995
SEP-30-1995
58,273
0
296,668
(7,572)
132,021
515,114
1,059,608
(605,474)
1,320,975
406,465
181,652
40,648
0
0
588,189
1,320,975
1,108,308
1,148,152
852,504
1,015,981
0
1,871
22,376
114,815
44,778
68,419
0
0
0
68,419
2.71
2.69