

# TYSON FOODS INC

## FORM 10-Q (Quarterly Report)

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Address	2200 DON TYSON PARKWAY SPRINGDALE, AR 72762-6999
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Industry	Food Processing
Sector	Consumer/Non-Cyclical
Fiscal Year	09/30

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

**FORM 10-Q**

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

For the quarterly period ended January 1, 2000

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

**Commission File Number 0-3400**

**TYSON FOODS, INC.**

(Exact name of registrant as specified in its charter)

**Delaware 71-0225165**

(State or other jurisdiction of (I.R.S. Employer Identification No.)

incorporation or organization)

2210 West Oaklawn Drive, Springdale, Arkansas 72762-6999

(Address of principal executive offices and zip code)

(501) 290-4000

(Registrant's telephone number, including area code)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

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

Class	Outstanding January 29, 2000
-----	-----
Class A Common Stock, \$.10 Par Value	123,740,540 Shares
Class B Common Stock, \$.10 Par Value	102,645,423 Shares

# TYSON FOODS, INC.

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**PART I. FINANCIAL INFORMATION**

**Item 1. Financial Statements**

**TYSON FOODS, INC.  
CONSOLIDATED CONDENSED BALANCE SHEETS**

(In millions except per share amounts)

	(Unaudited) January 1, 2000	October 2, 1999
<b>ASSETS</b>		
Current Assets:		
Cash and cash equivalents	\$ 59.0	\$ 30.3
Accounts receivable	579.8	602.5
Inventories	1,028.9	989.4
Assets held for sale	2.4	74.5
Other current assets	13.8	30.2
	<hr/>	<hr/>
Total Current Assets	1,683.9	1,726.9
Net Property, Plant, and Equipment	2,180.0	2,184.5
Excess of Investments over Net Assets Acquired	954.9	962.5
Investments and Other Assets	212.5	208.8
	<hr/>	<hr/>
Total Assets	\$5,031.3	\$5,082.7
	=====	=====
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current Liabilities:		
Notes payable	\$ 63.7	\$ 65.9
Current portion of long-term debt	272.4	222.7
Trade accounts payable	347.6	351.9
Other accrued liabilities	367.6	346.5
	<hr/>	<hr/>
Total Current Liabilities	1,051.3	987.0
Long-Term Debt	1,387.4	1,515.2
Deferred Income Taxes	394.9	398.0
Other Liabilities	55.6	54.5
Shareholders' Equity:		
Common stock (\$.10 par value):		
Class A-Authorized 900 million shares;		
issued 137.9 million shares at		
1-1-00 and 10-2-99	13.8	13.8
Class B-Authorized 900 million shares;		
issued 102.7 million shares at		
1-1-00 and 10-2-99	10.3	10.3
Capital in excess of par value	739.9	740.0
Retained earnings	1,647.2	1,599.0
Other accumulated comprehensive income	(3.8)	(1.5)
	<hr/>	<hr/>
Less treasury stock, at cost-		
14 million shares at 1-1-00 and		
12 million shares at 10-2-99	263.8	232.0
Less unamortized deferred compensation	1.5	1.6
	<hr/>	<hr/>
Total Shareholders' Equity	2,142.1	2,128.0
	<hr/>	<hr/>
Total Liabilities and Shareholders' Equity	\$5,031.3	\$5,082.7
	=====	=====

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

**TYSON FOODS, INC.**  
**CONSOLIDATED CONDENSED STATEMENTS OF INCOME**  
(In millions except per share data)

(Unaudited)

	Three Months Ended	
	January 1, 2000	January 2, 1999
Sales	\$1,778.7	\$1,824.7
Cost of Sales	1,465.6	1,519.4
	313.1	305.3
Gross Profit		
Expenses:		
Selling	146.0	145.7
General and administrative	35.7	32.6
Amortization	8.5	8.6
	122.9	118.4
Operating Income		
Other Expense (Income):		
Interest	28.7	31.3
Foreign currency exchange	0.6	(1.7)
Other	1.6	(2.8)
	92.0	91.6
Income Before Taxes on Income		
Provision for Income Taxes	32.8	32.8
Minority Interest	2.2	3.0
	\$ 57.0	\$ 55.8
Net Income		
Basic Average Shares Outstanding	227.8	230.8
Basic Earnings Per Share	\$0.25	\$0.24
Diluted Average Shares Outstanding	228.4	232.1
Diluted Earnings Per Share	\$0.25	\$0.24
Cash Dividends Per Share:		
Class A	\$0.0400	\$0.0250
Class B	\$0.0360	\$0.0225

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

**TYSON FOODS, INC.**  
**CONSOLIDATED CONDENSED STATEMENTS OF CASH FLOWS**  
(In millions)

(Unaudited)	Three Months Ended	
	January 1, 2000	January 2, 1999
Cash Flows from Operating Activities:		
Net income	\$ 57.0	\$ 55.8
Adjustments to reconcile net income to cash provided by operating activities:		
Depreciation	63.0	64.9
Amortization	8.5	8.6
Foreign currency exchange	0.6	(1.7)
Minority interest	2.2	3.0
Deferred income taxes	(3.1)	(23.3)
(Gain)loss on dispositions of assets	2.1	(0.9)
Decrease in accounts receivable	22.7	43.9
(Increase)decrease in inventories	19.1	(24.8)
Increase(decrease) in trade accounts payable	(4.3)	54.4
Net change in other current assets and liabilities	37.5	41.1
Cash Provided by Operating Activities	205.3	221.0
Cash Flows from Investing Activities:		
Additions to property, plant and equipment	(49.0)	(107.8)
Proceeds from sale of property, plant and equipment	0.9	19.1
Net change in other assets and liabilities	(5.7)	(3.6)
Cash Used for Investing Activities	(53.8)	(92.3)
Cash Flows from Financing Activities:		
Net change in notes payable	(2.2)	34.9
Proceeds from long-term debt	-	14.2
Repayments of long-term debt	(78.7)	(160.8)
Purchases of treasury shares	(33.2)	(6.1)
Other	(7.5)	(2.2)
Cash Used for Financing Activities	(121.6)	(120.0)
Effect of Exchange Rate Change on Cash	(1.2)	(1.6)
Increase in Cash and Cash Equivalents	28.7	7.1
Cash and Cash Equivalents at Beginning of Period	30.3	46.5
Cash and Cash Equivalents at End of Period	\$ 59.0	\$ 53.6
Supplemental Cash Flow Information		
Cash paid during the period for:		
Interest	\$25.2	\$29.9
Income taxes	\$0.9	\$27.7

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

**TYSON FOODS, INC.**

**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS**

(Unaudited)

**Note 1: Accounting Policies**

The consolidated condensed financial statements have been prepared by Tyson Foods, Inc. (the "Company"), without audit, pursuant to the rules and regulations of the Securities and Exchange Commission. Certain information and accounting policies and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to such rules and regulations. Although the management of the Company believes that the disclosures are adequate to make the information presented not misleading, these consolidated condensed financial statements should be read in conjunction with the consolidated financial statements and notes thereto included in the Company's latest annual report for the fiscal year ended October 2, 1999. The preparation of consolidated condensed financial statements requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. In the opinion of the management of the Company, the accompanying consolidated condensed financial statements contain all adjustments, consisting of normal recurring accruals necessary to present fairly the financial position as of January 1, 2000 and October 2, 1999 and the results of operations for the three months ended January 1, 2000 and January 2, 1999 and cash flows for the three months ended January 1, 2000 and January 2, 1999. The results of operations and cash flows for the three months ended January 1, 2000 and January 2, 1999 are not necessarily indicative of the results to be expected for the full year.

In June 1998, the Financial Accounting Standards Board ("FASB") issued Statement No. 133 ("FAS No. 133"), Accounting for Derivative Instruments and Hedging Activities. In May 1999, the FASB voted to delay the effective date of FAS No. 133 by one year. The Company will be required to adopt FAS No. 133 in the first quarter of fiscal year 2001. This statement establishes accounting and reporting standards which requires that all derivative instruments be recorded on the balance sheet at fair value. This statement also establishes "special accounting" for fair value hedges, cash flow hedges, and hedges of foreign currency exposures of net investments in foreign operations. The Company has not completed its determination of the impact of the adoption of this new accounting standard on its financial position and results of operations.

The Notes to Consolidated Financial Statements for the fiscal year ended October 2, 1999, reflect the significant accounting policies, debt provisions, borrowing arrangements, dividend restrictions, contingencies and commitments of the Company. There were no material changes in such items during the three months ended January 1, 2000, except as disclosed in these notes.

## Note 2: Earnings Per Share

The following table sets forth the computation of basic and diluted earnings per share for the three months ended:

	Quarter Ended	
	(In millions except per share amounts)	
	January 1, 2000	January 2, 1999
	-----	-----
Numerator:		
Net Income	\$57.0	\$55.8
	=====	=====
Denominator:		
Denominator for basic earnings per share- weighted average shares	227.8	230.8
Effect of dilutive securities:		
Employee stock options	0.6	1.3
	-----	-----
Denominator for diluted earnings per share- adjusted weighted average shares and assumed conversions	228.4	232.1
	=====	=====
Basic earnings per share	\$0.25	\$0.24
	=====	=====
Diluted earnings per share	\$0.25	\$0.24
	=====	=====

The Company had approximately 3.5 million option shares outstanding at January 1, 2000, that were not included in the dilutive earnings per share calculation because they would have been antidilutive.

## Note 3: Inventories

Inventories, valued at the lower of cost (first-in, first-out) or market, consist of the following:

(In millions)

	January 1, 2000	October 2, 1999
	-----	-----
Finished and work-in-process	\$ 530.2	\$549.2
Live poultry	296.7	290.8
Hogs	58.4	-
Hatchery eggs and feed	66.9	67.4
Supplies	76.7	82.0
Total	<u>\$1,028.9</u>	<u>\$989.4</u>
	=====	=====

**Note 4: Assets held for sale**

On September 28, 1999, the Company signed a letter of intent to sell its wholly-owned subsidiary, The Pork Group, Inc. ("Pork Group") to Smithfield Foods, Inc. ("Smithfield"). As a result, the Pork Group's swine assets valued at approximately \$70 million were included in assets held for sale at October 2, 1999. On December 6, 1999, the Company and Smithfield ceased negotiations for the sale of the Pork Group. Therefore, the swine assets at January 1, 2000, have been reclassified to inventory and net property, plant and equipment. At this time, the Company has not developed a formal alternative plan to actively market the Pork Group and/or its assets. The balance of assets held for sale at January 1, 2000, relates to facilities identified for closing under the Company's restructuring program which are expected to be disposed of within the next twelve months.

**Note 5: Segments**

The Company is a fully integrated producer, processor and marketer of a variety of food products. The Company identifies segments based on the products offered and the nature of customers which results in four reported business segments: Food Service, Consumer Products, International and Swine. Food Service includes fresh, frozen and value-enhanced poultry products sold through foodservice and specialty distributors who deliver to restaurants, schools and other accounts. Consumer Products include fresh, frozen and value-enhanced poultry products sold through retail markets for at-home consumption and through wholesale club markets targeted to small foodservice operators, individuals and small businesses. International markets and sells the full line of Tyson chicken products throughout the world. Swine includes feeder pig finishing and marketing of swine to regional and national packers. The Company's seafood business, which was sold on July 17, 1999, is also listed as a business segment for fiscal 1999. The majority of revenue included in the Other category is derived from the Company's Specialty Products and Prepared Foods groups, the Company's wholly-owned subsidiaries involved in supplying poultry breeding stock and trading agricultural goods worldwide, as well as the Company's turkey and egg products facilities which were sold on December 31, 1998. Sales between reportable segments are recorded at cost. Total assets for each segment at January 1, 2000 approximate those at October 2, 1999.

Net Sales by operating segment were as follows: (in millions)

	Three Months Ended	
	January 1, 2000	January 2, 1999
	-----	-----
Food Service	\$ 824.8	\$ 824.9
Consumer Products	537.7	521.4
International	187.6	151.0
Swine	32.1	21.6
Seafood	-	60.7
Other	196.5	245.1
	-----	-----
Total Net Sales	\$1,778.7	\$1,824.7
	=====	=====

The Company measures segment profit as gross profit less selling expenses. Segment profit and a reconciliation to income before taxes on income and minority interest are as follows: (in millions)

	Three Months Ended	
	January 1, 2000	January 2, 1999
	-----	-----
Food Service	\$ 69.6	\$ 95.6
Consumer Products	53.1	60.1
International	24.3	5.9
Swine	(1.0)	(21.9)
Seafood	-	3.8
Other	21.1	16.1
	-----	-----
Total Gross Profit less Selling Expense	167.1	159.6
Other Operating Expenses	44.2	41.2
Other Expense (Income)	30.9	26.8
	-----	-----
Income Before Taxes on Income and Minority Interest	\$ 92.0	\$ 91.6
	=====	=====

#### **Note 6: Comprehensive Income**

The only difference between total comprehensive income and net income reported on the Consolidated Condensed Statements of Income arises from foreign currency translation adjustment. The Company's total comprehensive income for the three months ended January 1, 2000 and January 2, 1999 was \$54.7 million and \$56.8 million, respectively.

#### **Note 7: Subsequent Event**

On January 31, 2000, AmeriServe Food Distribution, Inc. ("AmeriServe") filed for reorganization in Delaware under Chapter 11 of the federal Bankruptcy Code. AmeriServe is the nation's largest supplier to restaurants. Currently, the Company has approximately \$25 million in trade credit extended to AmeriServe, with approximately \$3.9 million resulting from sales prior to January 1, 2000. At January 1, 2000, the Company had approximately \$21.9 million in trade credit extended to AmeriServe, of which approximately \$18 million has been collected to date. Management believes the allowance for doubtful accounts reserve at January 1, 2000 is sufficient to cover the remaining \$3.9 million uncollected receivable balance at January 1, 2000. The Company is evaluating the impact of this event on results of operations and financial condition and cannot estimate at the date of this filing if a partial amount or any of the \$25 million receivable will be collected.

Subsequent to quarter end, weather related conditions have temporarily shut down 403 of the Company's 19,185 independent contract grower breeder and broiler houses. The Company estimates total losses, not including the cost of lost production (which can not currently be determined), of approximately \$4.5 million due to this weather related incident.

## **Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

### **FINANCIAL CONDITION**

For the three months ended January 1, 2000, net cash totaling \$205.3 million was provided by operating activities. Operations provided \$130.3 million in cash and \$75 million was provided by net changes in receivables, inventories, payables and other items. The Company used cash from operations to fund \$49 million of property, plant and equipment additions, to pay down total debt by \$78.7 million and to repurchase \$33.2 million of the Company's Class A common stock in the open market. The expenditures for property, plant and equipment were related to acquiring new equipment and upgrading facilities in order to maintain competitive standing and position the Company for future opportunities.

On January 31, 2000, AmeriServe Food Distribution, Inc. ("AmeriServe") filed for reorganization in Delaware under Chapter 11 of the federal Bankruptcy Code. AmeriServe is the nation's largest supplier to restaurants. Currently, the Company has approximately \$25 million in trade credit extended to AmeriServe, with approximately \$3.9 million resulting from sales prior to January 1, 2000. At January 1, 2000, the Company had approximately \$21.9 million in trade credit extended to AmeriServe, of which approximately \$18 million has been collected to date. Management believes the allowance for doubtful accounts reserve at January 1, 2000 is sufficient to cover the remaining \$3.9 million uncollected receivable balance at January 1, 2000. The Company is evaluating the impact of this event on results of operations and financial condition and cannot estimate at the date of this filing if a partial amount or any of the \$25 million receivable will be collected.

At January 1, 2000, working capital was \$632.6 million compared to \$739.9 million at 1999 fiscal year-end, a decrease of \$107.3 million. The current ratio at January 1, 2000 was 1.6 to 1 compared to 1.7 to 1 at October 2, 1999. Working capital has decreased since year-end primarily due to a decrease in other current assets and an increase in the current portion of long-term debt. The decrease in other current assets is due to the timing of certain prepaid assets. The increase in current portion of long-term debt relates to the timing of debt payments. Total debt, including current portion of long-term debt, has decreased since fiscal year end. At January 1, 2000, total debt was 44.6% of total capitalization compared to 45.9% at October 2, 1999. The Company's foreseeable cash needs for operations and capital expenditures will continue to be met through cash flows from operations and borrowings supported by existing credit facilities as well as additional credit facilities which the Company believes are available.

The Company has an unsecured revolving credit agreement totaling \$1 billion which supports the Company's commercial paper program. This \$1 billion facility expires in May 2002. At January 1, 2000, \$230.5 million in commercial paper was outstanding under this \$1 billion facility. Additional outstanding long-term debt at January 1, 2000 consisted of \$830.0 million of public debt, \$107.3 million of institutional notes, \$150.2 million in leveraged equipment loans and \$69.4 million of other indebtedness. The Company may use funds borrowed under its revolving credit facilities, commercial paper program or through the issuance of additional debt securities from time to time in the future to finance acquisitions as opportunities may arise, to refinance other indebtedness or capital leases of the Company and for other general corporate purposes.

## **RESULTS OF OPERATIONS**

Sales for the first quarter of fiscal 2000 decreased 2.5% from the same period of fiscal 1999. This decrease is mainly due to the sale of the seafood group on July 17, 1999 and other divested businesses which were a part of Hudson Foods, Inc. ("Hudson"). Comparable sales for the quarter increased 4.1% on a volume increase of 5.2% compared to the same period last year. The oversupply of chicken in the market has negatively impacted sales prices. The Company has initiated a 3% reduction in future production in an attempt to reduce some of the oversupply of chicken. Additionally, subsequent to quarter end, weather related conditions have temporarily shut down 403 of the Company's 19,185 independent contract grower breeder and broiler houses. The Company estimates total losses, not including the cost of lost production (which can not currently be determined), of approximately \$4.5 million due to this weather related incident.

Food Service first quarter sales were comparable to the same period last year, with a 3.5% increase in volume offset by a 3.4% decrease in average sales prices. Segment profit for Food Service, defined as gross profit less selling expenses, decreased \$26 million from the same period last year due primarily to lower market prices resulting from an oversupply of chicken.

Consumer Products first quarter sales increased 3.1% over the same period last year, with a 0.7% increase in volume and a 2.5% increase in average sales prices. Consumer Products segment profit decreased \$7 million from the same period last year, as product mix improvements were offset by low market prices.

International first quarter sales increased 24.2% over the same period last year, with a 23.1% increase in volume and a 1% increase in average sales prices. International segment profit increased \$18.4 million over the same period last year due to the increase in volume as well as a shift in the product sales mix toward value added products.

Swine first quarter sales increased 48.6% over the same period last year, with a 75.7% increase in average sales prices offset somewhat by a 15.5% decrease in volume. Swine segment loss improved \$20.9 million over the same period last year due to the increase in average sales prices.

Other first quarter sales decreased 19.8% from the same period last year mostly due to the sale of certain non-core businesses at the end of the first quarter of fiscal year 1999. Other segment profit increased \$5 million over the same period last year.

Cost of goods sold decreased 3.5% for the first quarter of fiscal 2000 as compared to the same period last year. This decrease is mainly the result of the decrease in sales. As a percent of sales, cost of sales was 82.4% for the first quarter of fiscal 2000 compared to 83.3% for the same period last year.

Operating expenses increased 1.8% for the first quarter of fiscal 2000 over the same period last year. Selling expense, as a percent of sales, was 8.2% for the first quarter of fiscal 2000 and 8.0% for the first quarter of fiscal 1999. Total selling expense dollars were comparable to the same period last year. General and administrative expense, as a percent of sales, was 2.0% in the first quarter of fiscal 2000 and 1.8% in the first quarter of fiscal 1999. The increase in general and administrative expenses is mostly due to professional fees related to litigation costs. Amortization expense, as a percent of sales, was 0.5% in the first quarter of fiscal 2000 and fiscal 1999.

Interest expense decreased 8.3% for the first quarter of fiscal 2000 compared to the same period last year primarily as a result of an 11.8% decrease in the Company's average indebtedness over the same period last year. Although short-term rates were slightly higher than last year, the overall weighted average borrowing rate decreased to 6.7% compared to 6.8% primarily as a result of paying off more expensive long-term debt.

The effective income tax rate for the first quarter of fiscal 2000 was 35.7% compared to 35.8% for the same period last year. The Company's foreign subsidiary earnings are taxed at the applicable foreign rate.

## **IMPACT OF YEAR 2000**

The Company has completed its Year 2000 Project as scheduled. As of February 15, 2000, the Company's products, computing, and communications infrastructure systems have operated without Year 2000 related problems and appear to be Year 2000 ready. The Company is not aware that any of its major customers or third-party suppliers have experienced significant Year 2000 related problems.

The Company believes all its critical systems are Year 2000 ready. However, there is no guarantee that the Company has discovered all possible failure points including all systems, non-ready third parties whose systems and operations impact the Company, and other uncertainties.

Because many of the systems were already compliant, did not require significant modifications to make them compliant, or were replaced for other business reasons, the costs incurred specifically to address Year 2000 readiness are not material to the Company. Since 1996, the expenses that resulted from Year 2000 readiness activities have been absorbed through the annual Management Information Systems operational budget and funded from internally generated funds. These costs can be primarily described as personnel costs and have increased each year since 1996 because of increased activity from testing. The costs incurred since 1996 are approximately \$1.5 million. No projects under consideration by the Company have been deferred because of Year 2000 efforts. In certain instances, software was purchased to provide new functionality for the Company replacing software that was not compliant. An example of this is the implementation of new accounting software from SAP that the Company installed at the beginning of fiscal year 1999. These purchases were not

predicated by the Year 2000 issue; however, the result is that the new systems are compliant and non-compliant systems were ultimately retired.

## **FUTURE ACCOUNTING REQUIREMENTS**

In June 1998, the Financial Accounting Standards Board ("FASB") issued Statement No. 133 ("FAS No. 133"), Accounting for Derivative Instruments and Hedging Activities. In May 1999, the FASB voted to delay the effective date of FAS No. 133 by one year. The Company will be required to adopt FAS No. 133 in the first quarter of fiscal year 2001. This statement establishes accounting and reporting standards which require that all derivative instruments be recorded on the balance sheet at fair value. This statement also establishes "special accounting" for fair value hedges, cash flow hedges, and hedges of foreign currency exposures of net investments in foreign operations. The Company has not completed its determination of the impact of the adoption of this new accounting standard on its financial position and results of operations.

## **CAUTIONARY STATEMENTS RELEVANT TO FORWARD-LOOKING INFORMATION FOR THE PURPOSE OF "SAFE HARBOR" PROVISIONS OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995**

The Company and its representatives may from time to time make written or oral forward-looking statements, including forward-looking statements made in this report, with respect to their current views and estimates of future economic circumstances, industry conditions, company performance and financial results. These forward-looking statements are subject to a number of factors and uncertainties which could cause the Company's actual results and experiences to differ materially from the anticipated results and expectations, expressed in such forward-looking statements. The Company wishes to caution readers not to place undue reliance on any forward-looking statements, which speak only as of the date made. Among the factors that may affect the operating results of the Company are the following:

(i) fluctuations in the cost and availability of raw materials, such as feed grain costs in relation to historical levels; (ii) changes in the availability and relative costs of labor and contract growers; (iii) market conditions for finished products, including the supply and pricing of alternative proteins, all of which may impact the Company's pricing power; (iv) effectiveness of advertising and marketing programs; (v) the ability of the Company to make effective acquisitions and successfully integrate newly acquired businesses into existing operations; (vi) risks associated with leverage, including cost increases due to rising interest rates; (vii) changes in regulations and laws, including changes in accounting standards, environmental laws, occupational, health and safety laws; (viii) issues related to food safety, including costs resulting from product recalls, regulatory compliance and any related claims or litigation; (ix) access to foreign markets together with foreign economic conditions, including currency fluctuations; and (x) the effect of, or changes in, general economic conditions.

### **Item 3. Quantitative and Qualitative Disclosure About Market Risks**

There have been no significant changes in market risk or market risk factors since the 1999 annual report to shareholders.

## PART II. OTHER INFORMATION

### Item 1. Legal Proceedings

On June 22, 1999, eleven current and/or former employees of the Company filed the case of "M.H. Fox, et al. v. Tyson Foods, Inc." in the United States District Court for the Northern District of Alabama (Fox v. Tyson) claiming the Company violated requirements of the Fair Labor Standards Act. The suit alleges the Company failed to pay employees for all hours worked and/or improperly paid them for overtime hours. The suit generally alleges that (i) employees should be paid for time taken to put on and take off certain working supplies at the beginning and end of their shifts and breaks and (ii) the use of "mastercard" or "line" time fails to pay employees for all time actually worked. Plaintiffs seek to represent themselves and all similarly situated current and former employees of the Company. At filing 159 current and/or former employees consented to join the lawsuit and, to date, approximately 4,500 consents have been filed with the court. Discovery in this case is in initial stages. A hearing is set for March 6, 2000 to consider the plaintiff's request for collective action certification and court-supervised notice. The Company believes it has substantial defenses to the claims made and intends to vigorously defend the case. However, neither the likelihood of unfavorable outcome nor the amount of ultimate liability, if any, with respect to this case can be determined at this time.

Substantially similar suits have been filed against three other integrated poultry companies. In addition, organizing activity conducted by representatives or affiliates of the United Food and Commercial Workers Union against the poultry industry has encouraged worker participation in Fox v. Tyson and the other lawsuits.

On February 9, 2000 the U.S. Department of Labor (DOL) began a nationwide audit of wage and hour practices in the poultry industry. The DOL began this audit at 17 poultry plants, five of which are Company owned facilities, and expects to audit 51 poultry plants in total. The DOL audit is examining pay practices relating to both processing plant and catching crew employees and includes practices which are the subject of Fox v. Tyson discussed above.

On February 20, 1998, the Company and others were named as defendants in a putative class action suit brought on behalf of all individuals who sold beef cattle to beef packers for processing between certain dates in 1993 and 1998. This action, captioned "Wayne Newton, et al. v. Tyson Foods, Inc., et al.", U.S. District Court, Northern District of Iowa, Civil Action No. 98-30, asserts claims under the Racketeer Influenced and Corrupt Organizations statute as well as a common-law claim for intentional interference with prospective economic advantage. Plaintiffs allege that the gratuities which were the subject of a prior plea agreement by the Company resulted in a competitive advantage for poultry products vis-a-vis beef products. Plaintiffs' request trebled damages in excess of \$3 billion, plus attorney's fees and costs. The U.S. District Court for the Northern District of Iowa granted the Company's Motion to Dismiss on March 26, 1999, holding that plaintiffs lacked standing to sue. Plaintiffs timely appealed to the U.S. Court of Appeals for the Eighth circuit. The Company is vigorously contesting the case. Briefing of the appeal was completed in August 1999, oral argument was completed in January 2000 and the Company is currently awaiting the ruling of the Court of Appeals. Based on the

current status of the matter, the Company does not believe any significant exposure exists.

On January 20, 2000, McCarty Farms, Inc. (McCarty), a former subsidiary of the Company which has been merged into the Company, was indicted in the United States District Court for the Southern District of Mississippi, Jackson Division, for conspiracy to violate the federal Clean Water Act. The alleged conspiracy arises out of McCarty's partial ownership of Central Industries, Inc. (Central), which operates a rendering plant in Forest, Mississippi. Also indicted were Central, the other shareholders of Central and a former chairman of Central. In addition to the conspiracy count, the indictment alleges (although not with respect to McCarty) (i) knowing violations of Central's wastewater discharge permit, (ii) negligent discharge of pollutants and (iii) knowing violations of Central's permitted wastewater volumes. All allegations arose from the operation of Central's rendering plant during the summer of 1995, prior to the Company's purchase of McCarty in September of 1995. Neither the likelihood of unfavorable outcome nor the amount of ultimate liability, if any, with respect to this case can be determined at this time.

**Item 2. Changes in Securities and Use of Proceeds**

Not Applicable

**Item 3. Defaults Upon Senior Securities**

Not Applicable

#### Item 4. Submission of Matters to a Vote of Security Holders

The following directors were elected at the annual meeting of shareholders held January 14, 2000:

DIRECTORS	VOTES FOR	VOTES WITHHELD
Wayne Britt	1,126,827,308	2,549,572
Neely Cassidy	1,126,862,994	2,560,255
Lloyd V. Hackley	1,126,876,477	2,546,772
Gerald M. Johnston	1,126,851,869	2,571,380
Jim Kever	1,126,754,541	2,668,708
Shelby Massey	1,126,869,974	2,553,275
Joe F. Starr	1,126,834,574	2,588,675
Leland Tollett	1,126,871,539	2,551,710
Barbara Tyson	1,126,825,833	2,597,416
Don Tyson	1,126,836,894	2,586,355
John Tyson	1,126,827,308	2,595,941
Fred S. Vorsanger	1,126,859,787	2,563,462
Donald E. Wray	1,126,855,765	2,567,484

A shareholder proposal to recapitalize the Company's equity structure to result in one share, one vote for all outstanding stock failed by a vote of 54,729,451 votes for the proposal, 1,052,383,619 votes against the proposal and 21,814,369 non-votes.

No other items were voted on at the annual meeting of shareholders or during the quarter ended January 1, 2000.

#### Item 5. Other Information

#### Item 6. Exhibits and Reports on Form 8-K

(a) Exhibits:

The exhibits filed with this report are listed in the exhibit index at the end of this Item 6.

(b) Reports on Form 8-K:

On December 15, 1999, the Company filed a current report on Form 8-K related to the termination of negotiations on the sale of the Pork Group with Smithfield Foods, Inc.

On February 7, 2000, the Company filed a current report on Form 8-K related to the bankruptcy filing of the Company's customer, AmeriServe Food Distribution, Inc.

## EXHIBIT INDEX

The following exhibits are filed with this report.

Exhibit No. -----	Page ----
3.1 Restated Certificate of Incorporation of the Company (previously filed as Exhibit 3.1 to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 1998, Commission File No. 0-3400, and incorporated herein by reference).	
3.2 Second Amended and Restated Bylaws of the Company	19-31

27 Financial Data Schedule

**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.

**TYSON FOODS, INC.**

*Date: February 15, 2000*  
-----

*/s/ Steven Hankins*  
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*Steven Hankins  
Executive Vice President and  
Chief Financial Officer*

*Date: February 15, 2000*  
-----

*/s/ James G. Ennis*  
-----

*James G. Ennis  
Vice President, Controller and  
Chief Accounting Officer*

**SECOND AMENDED AND RESTATED BY-LAWS**

**OF**

**TYSON FOODS, INC.**

**ARTICLE I  
OFFICES**

Section 1. Registered Office. The registered office of Tyson Foods, Inc. (the "Corporation") shall be at the Corporation Trust Company, 100 West Tenth Street, in the City of Wilmington, County of New Castle, State of Delaware.

Section 2. Other Offices. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine.

**ARTICLE II  
MEETINGS OF STOCKHOLDERS**

Section 1. Meetings. Meetings of the stockholders for the election of directors or for any other purpose shall be held at such time and place, either within or without the State of Delaware as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting or in a duly executed waiver of notice thereof. The Chairman of the Board of Directors of the Company shall act as Chairman of, and establish the agenda and rules for, all meetings of stockholders. The Secretary of the Company shall serve as Secretary for all meetings of stockholders.

Section 2. Annual Meetings. The Annual Meetings of Stockholders shall be held on such date and at such time as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting, at which meetings the stockholders shall elect a Board of Directors and transact such other business as may properly be brought before the meeting. Written notice of the Annual Meeting stating the place, date and hour of the meeting shall be given to each stockholder entitled to vote at such meeting not less than ten nor more than sixty days before the date of the meeting.

Section 3. Special Meetings. Unless otherwise prescribed by law or by the Certificate of Incorporation, Special Meetings of Stockholders, for any purpose or purposes, may be called by either the Senior Chairman of the Board of Directors, the Chairman, the Chief Executive Officer, or the President, and shall be called by any such officer at the request in writing of a majority of the Board of Directors or at the request in writing of stockholders owning a majority of the stock of the Corporation issued and outstanding and entitled to vote. Such request shall state the purpose or purposes of the proposed meeting. Written notice of a Special Meeting stating the place, date and hour of the meeting and the purpose or purposes for which the meeting is called shall be given not less than ten nor more than sixty days before the date of the meeting to each stockholder entitled to vote at such meeting.

Section 4. Quorum. Except as otherwise provided by law or by the Certificate of Incorporation, the holders of a majority of the stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business. If, however, such quorum shall not be present or represented at any meeting of the stockholders, the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented; provided, however, that if the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder entitled to vote at the meeting. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed.

Section 5. Voting. When a quorum is present at any meeting, the affirmative vote of a majority of the votes cast shall decide any question brought before such meeting, unless the question is one upon which by express provision of Delaware law or of the Certificate of Incorporation a different vote is required, in which case such express provision shall govern and control the decision of such question. Each holder of the Corporation's Class A Common Stock ("Class A Stock") represented at a meeting of stockholders shall be entitled to cast one vote for each share of Class A Stock entitled to vote thereat held by such stockholder. Each holder of the Corporation's Class B Common Stock ("Class B Stock") represented at a meeting of stockholders shall be entitled to cast ten votes for each share of Class B Stock entitled to vote thereat held by such stockholder. Such votes may be cast in person or by proxy but no proxy shall be voted on or after three years from its date, unless such proxy provides for a longer period. The Board of Directors, in its discretion, or the officer of the Corporation presiding at a meeting of stockholders, in his discretion, may require that any votes cast at such meeting shall be cast by written ballot.

At any meeting of the Stockholders, the Senior Chairman of the Board of Directors shall preside over a proxy committee which shall be composed of one or more persons as deemed necessary and appropriate by the Senior Chairman, in the exercise of his or her discretion, to facilitate the voting of shares underlying proxies solicited from the Stockholders. At such meetings of the Stockholders, any proxies received in the name of or on behalf of the Stockholders shall be voted by the Senior Chairman of the Board of Directors presiding over such proxy committee, and in the event of the absence of such Senior Chairman, the Board of Directors, in its discretion, may designate one or more persons to serve on such proxy committee who shall vote any proxies received in the name of or on behalf of the Stockholders.

Section 6. Consent of Stockholders in Lieu of Meeting. Unless otherwise provided in the Certificate of Incorporation, any action required or permitted to be taken at any Annual or Special Meeting of Stockholders of the Corporation, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon

were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

**Section 7. List of Stockholders Entitled to Vote.** The officer of the Corporation who has charge of the stock ledger of the Corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder of the Corporation who is present.

**Section 8. Stock Ledger.** The stock ledger of the Corporation shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list required by Section 7 of this Article II or the books of the Corporation, or to vote in person or by proxy at any meeting of stockholders.

**Section 9. Stockholder Nominations for Director.** Any stockholder wishing to nominate a person to serve as a candidate for election to the Board of Directors must submit the name of such candidate in writing to the current Board of Directors on or before September 30 of any year.

**Section 10. Business to be Conducted.** At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must (a) be specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (b) be otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (c) satisfy the notice requirements set forth below in this Section 10 and otherwise be properly brought before the meeting by a stockholder.

For business to be brought before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in writing to the secretary of the Corporation. To be timely, a shareholder's notice must be delivered to or mailed and received at the principal executive office of the Corporation not less than 75 days nor more than 100 days prior to the meeting; provided, however, that in the event that less than 85 days' notice or prior public disclosure of the date of the meeting is given or made to stockholders, notice by the stockholder to be timely must be so received not later than the close of business on the 10th day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure was made. A stockholder's notice to the secretary shall set forth as to each matter the stockholder proposes to bring before the annual meeting (a) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (b) the name and address, as they appear on the Corporation's books, of the stockholder proposing such business, (c) the class and number of shares of the Corporation which are beneficially

owned by the stockholder, and (d) any material interest of the stockholder in such business.

Notwithstanding anything in these By-Laws to the contrary, no business shall be conducted at an annual meeting except in accordance with the procedures set forth in this Section 10. The chairman of an annual meeting shall, if the facts warrant, determine and declare at the meeting that a matter of business was not properly brought before the meeting in accordance with the provisions of Section 10 of this Article II or otherwise, and if he should so determine, he shall so declare at the meeting that any such business not properly brought before this meeting shall not be transacted.

### **ARTICLE III DIRECTORS**

Section 1. Number and Election of Directors. The number of persons which shall constitute the Board of Directors of the Corporation shall be such number as initially fixed by the Incorporator and thereafter from time to time by resolution of the Board of Directors. Except as provided in Section 2 of this Article, directors shall be elected by a majority of the votes cast at Annual Meetings of Stockholders, and each director so elected shall hold office until the next Annual Meeting and until his successor is duly elected and qualified, or until his earlier resignation or removal. Any director may resign at any time upon written notice to the Corporation. Directors need not be stockholders.

Section 2. Vacancies. Vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, though less than a quorum, and each of the directors so chosen shall hold office until the next Annual Meeting of Stockholders and until his successor is elected and qualified or until his earlier resignation or removal.

Section 3. Duties and Powers. The business of the Corporation shall be managed by or under the direction of the Board of Directors which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these By-Laws directed or required to be exercised or done by the stockholders.

Section 4. Meetings. The Board of Directors of the Corporation may hold meetings, both regular and special, either within or without the State of Delaware. Regular meetings of the Board of Directors may be held without notice at such time and at such place as may from time to time be determined by the Board of Directors. Special meetings of the Board of Directors may be called by the Chairman, if there be one, the Chief Executive Officer, the President, or any two directors. Notice thereof stating the place, date and hour of the meeting shall be given to each director either by mail not less than forty-eight (48) hours before the date of the meeting, by telephone or telegram on twenty-four (24) hours' notice, or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances. The notice need not specify the business to be transacted. In the event of an emergency which in the judgment of the Chairman, Chief Executive Officer or President requires immediate action, a special meeting may be convened without notice, consisting of those directors who are immediately available

in person or by telephone and can be joined in the meeting in person or by conference telephone. The actions taken at such a meeting shall be valid if at least a quorum of the directors participates either personally or by conference telephone.

Section 5. Quorum. Except as may be otherwise specifically provided by law, the Certificate of Incorporation or these By-Laws, at all meetings of the Board of Directors one-third of the full number of directors shall constitute a quorum for the transaction of business, and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 6. Actions of Board Without a Meeting. Unless otherwise provided by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all the members of the Board of Directors or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Directors or committee.

Section 7. Meetings by Means of Conference Telephone. Unless otherwise provided by the Certificate of Incorporation or these By-Laws, members of the Board of Directors of the Corporation, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors or such committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 7 shall constitute presence in person at such meeting.

Section 8. Committees. The Board of Directors may, by resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of any such committee. In the absence or disqualification of a member of a committee, and in the absence of a designation by the Board of Directors of an alternate member to replace the absent or disqualified member, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any absent or disqualified member. Any committee, to the extent allowed by law and provided in the resolution establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation. Each committee shall keep regular minutes and report to the Board of Directors when required.

Section 9. Executive Committee. The Board of Directors shall establish an Executive Committee of its members to consist of not less than three directors, which group shall include the Senior Chairman of the Board of Directors, and may authorize the delegation to any such committee of any of the authority of the Board of Directors in the management of the

ordinary business affairs of the Corporation. The Executive Committee shall not, however, be authorized to amend the Certificate of Incorporation or the By-Laws of the Corporation; to adopt an agreement of merger or consolidation pursuant to Sections 251 and 252 of the Delaware Corporation Law; to recommend to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, or to recommend to the stockholders a dissolution of the Corporation or a revocation of a dissolution. The Executive Committee may, to the extent authorized by the Board of Directors in a resolution providing for the issuance of shares of stock, fix the designations and any of the preferences or rights of such shares relating to dividends, redemption, dissolution, any distribution of assets of the Corporation or the conversion into, or the exchange of such shares for shares of any other class or classes or any other series of the same or any other class or classes of stock of the Corporation, or fix the number of shares of any series of stock or authorize the increase or decrease of the shares of any series. The Executive Committee may, if so authorized by a resolution of the Board of Directors, declare dividends, authorize the issuance of stock, and adopt a certificate of ownership and merger pursuant to Section 253 of the Delaware Corporation Law with respect to the Corporation's 90%-owned subsidiaries. The Executive Committee shall serve at the pleasure of the Board of Directors and shall act only in intervals between meetings of the Board of Directors, and shall in all respects be subject to the control and direction of the Board of Directors. The Executive Committee may act by a majority of its members at a meeting or informally without a meeting, provided that all members thereof sign a writing reflecting such informal action. Any act or authorization of any act by the Executive Committee, within the authority delegated above, shall be as effective for all purposes as the act or authorization of the Board of Directors; provided that the designation of such an Executive Committee and the delegation of authority thereto shall not operate to relieve the Board of Directors of any responsibility imposed upon it by law.

Section 10. Compensation. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as director. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

Section 11. Interested Directors. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee thereof which authorizes the contract or transaction, or solely because his or their votes are counted for such purpose if (i) the material facts as to his or their relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; or (ii) the material facts as to his or their relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote

thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (iii) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified, by the Board of Directors, a committee thereof or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

#### **ARTICLE IV OFFICERS**

Section 1. General. The officers of the Corporation shall be chosen by the Board of Directors and shall be a President, a Secretary and a Treasurer. The Board of Directors, in its discretion, may also choose a Senior Chairman and Chairman of the Board of Directors (each of whom must be a director), one or more Vice Chairmen of the Board of Directors, a Chief Executive Officer, a Chief Operating Officer, one or more Vice Presidents, Controller, Assistant Controllers, Assistant Secretaries, Assistant Treasurers, and any other officers deemed to be necessary. In addition to any powers expressly provided by these By-laws, the Senior Chairman of the Board of Directors shall, without limitation, have all powers of a vice chairman of a board of directors under Delaware General Corporate Law. Any number of offices may be held by the same person, unless otherwise prohibited by law, the Certificate of Incorporation or these By-Laws. The officers of the Corporation need not be stockholders of the Corporation nor, except in the case of the Chairman of the Board of Directors, need such officers be directors of the Corporation.

Section 2. Election. The Board of Directors at its first meeting held after each Annual Meeting of Stockholders shall elect the executive officers of the Corporation, who shall be comprised of the President, the Secretary, the Treasurer and, if there be such, the Chief Executive Officer, the Chief Operating Officer, and any Executive or Senior Vice Presidents. Such executive officers shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors. The President of the Corporation shall have the authority to appoint such other officers as he may in his discretion deem necessary to carry out the business of the Corporation, including, but not limited to, Group Vice Presidents, Vice Presidents, Controller, Assistant Controllers, Assistant Secretaries, Assistant Treasurers and any other officers. All officers of the Corporation shall hold office until their successors are chosen and qualified, or until their earlier resignation or removal. Any officer elected by the Board of Directors may be removed at any time by the Board of Directors. Any officer appointed by the President may be removed at any time by the President. Any vacancy occurring in any executive office of the Corporation shall be filled by the Board of Directors. Any vacancy occurring in any other office of the Corporation shall be filled by the President.

Section 3. Voting Securities Owned by the Corporation. Powers of attorney, proxies, waivers of notice of meeting, consents and other instruments relating to securities owned by the Corporation may be executed in the name of and on behalf of the Corporation by the Chief Executive Officer, the President and Chief Operating Officer, or any Vice President, and any such officer may, in the name of and on behalf of the Corporation, take all such action as any such officer may deem advisable to vote in

person or by proxy at any meeting of security holders of any company in which the Corporation may own securities and at any such meeting shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Corporation might have exercised and possessed if present. The Board of Directors may, by resolution, from time to time confer like powers upon any other person or persons.

**Section 4. Chief Executive Officer.** The Chief Executive Officer of the Corporation shall have, subject to the supervision and direction of the Board of Directors or of the Executive Committee, if any, general supervision of the business, property, and affairs of the Corporation and the powers vested in him by the Board of Directors, by law or by these By-Laws or which usually attach or pertain to such office, including, but not limited to, the authority to sign documents on behalf of the Corporation the effect of which shall be legally binding upon the Corporation. During the absence or disability of the Chairman of the Board of Directors, the Chief Executive Officer shall preside at meetings of the stockholders and of the Board of Directors. During the absence or disability of the President, the Chief Executive Officer shall exercise all the powers and discharge all the duties of the President.

**Section 5. President.** The President shall, subject to the control of the Board of Directors and the Chief Executive Officer, have general supervision of the business of the Corporation and shall see that all orders and resolutions of the Board of Directors are carried into effect. He shall execute all bonds, mortgages, contracts and other instruments of the Corporation requiring a seal, under the seal of the Corporation, except where required or permitted by law to be otherwise signed and executed and except that the other officers of the Corporation may sign and execute documents when so authorized by these By-Laws, the Board of Directors or the Chief Executive Officer. In the absence or disability of the Chief Executive Officer, the President shall preside at all meetings of the stockholders and the Board of Directors. The President shall also perform such other duties and may exercise such other powers as from time to time may be assigned to him by these By-Laws, the Board of Directors or by the Chief Executive Officer.

**Section 6. Chief Operating Officer.** The Chief Operating Officer shall answer directly to the President and shall perform any and all acts under the direction and supervision of the President as the President may require in connection with the execution of the general business of the Corporation.

**Section 7. Vice Presidents.** At the request of the President and Chief Operating Officer or in his absence or in the event of his inability or refusal to act (and if there be no Chief Executive Officer), the Vice President or the Vice Presidents if there is more than one (in the order designated by the Board of Directors) shall perform the duties of the President and Chief Operating Officer, and when so acting shall have all the powers of and be subject to all the restrictions upon the President and Chief Operating Officer.

**Section 8. Secretary.** The Secretary shall attend all meetings of the Board of Directors and all meetings of stockholders and record all the proceedings thereat in a book or books to be kept for that purpose; the Secretary shall also perform like duties for the standing committees when

required. The Secretary shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors, the Chief Executive Officer or the President and Chief Operating Officer, under whose supervision he shall be. If the Secretary shall be unable or shall refuse to cause to be given notice of all meetings of the stockholders and special meetings of the Board of Directors, and if there be no Assistant Secretary, then either the Board of Directors or the President may choose another officer to cause such notice to be given. The Secretary shall have custody of the seal of the Corporation, and the Secretary or any Assistant Secretary, if there be one, shall have authority to affix the same to any instrument requiring it and when so affixed, it may be attested by the signature of the Secretary or by the signature of any such Assistant Secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Corporation and to attest the affixing by his signature. The Secretary shall see that all books, reports, statements, certificates and other documents and records required by law to be kept or filed are properly kept or filed, as the case may be.

Section 9. Treasurer. The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and the Board of Directors, at its regular meetings, or when the Board of Directors so requires, an account of all his transactions as Treasurer and of the financial condition of the Corporation. If required by the Board of Directors, the Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his office and for the restoration to the Corporation, in case of his death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Corporation.

Section 10. Assistant Secretaries. Except as may be otherwise provided in these By-Laws, Assistant Secretaries, if there be any, shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors, the Chief Executive Officer, the President and Chief Operating Officer, any Vice President, if there be one, or the Secretary, and in the absence of the Secretary or in the event of his disability or refusal to act, shall perform the duties of the Secretary, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Secretary.

Section 11. Assistant Treasurers. Assistant Treasurers, if there be any, shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors, the Chief Executive Officer, the President and Chief Operating Officer, any Vice President, if there be one, or the Treasurer, and in the absence of the Treasurer or in the event of his disability or refusal to act, shall perform the duties of the Treasurer, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Treasurer. If required by the

Board of Directors, an Assistant Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his office and for the restoration to the Corporation, in case of his death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Corporation.

Section 12. Other Officers. Such other officers as the Board of Directors or President may choose shall perform such duties and have such powers as from time to time may be assigned to them. The Board of Directors may delegate to any other officer of the Corporation the power to choose such other officers and to prescribe their respective duties and powers.

## **ARTICLE V STOCK**

Section 1. Form of Certificates. Every holder of stock in the Corporation shall be entitled to have a certificate signed, in the name of the Corporation (i) by the Senior Chairman or Chairman of the Board of Directors, by the Chief Executive Officer, by the President and Chief Operating Officer, or by a Vice President and (ii) by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Corporation, certifying the number of shares owned by him in the Corporation.

Section 2. Signatures. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

Section 3. Lost Certificates. The Board of Directors may direct a new certificate to be issued in place of any certificate theretofore issued by the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issue of a new certificate, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate, or his legal representative, to advertise the same in such manner as the Board of Directors shall require and/or to give the Corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost, stolen or destroyed.

Section 4. Transfers. Stock of the Corporation shall be transferable in the manner prescribed by law and in these By-Laws. Transfers of stock shall be made on the books of the Corporation only by the person named in the certificate or by his attorney lawfully constituted in writing and upon the surrender of the certificate therefor, which shall be canceled before a new certificate shall be issued.

Section 5. Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty days nor less than ten days before the date of such meeting, nor more than sixty days prior to any other action. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 6. Beneficial Owners. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and to hold liable for calls and assessments a person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by law.

## **ARTICLE VI NOTICES**

Section 1. Notices. Whenever written notice is required by law, the Certificate of Incorporation or these By-Laws, to be given to any director, member of a committee or stockholder, such notice may be given by mail, addressed to such director, member of a committee or stockholder, at his address as it appears on the records of the Corporation, with postage thereon prepaid, and such notice shall be deemed to be given at the time when the same shall be deposited in the United States mail. Written notice may also be given personally or by telegram, telex or cable.

Section 2. Waivers of Notice. Whenever any notice is required by law, the Certificate of Incorporation or these By-Laws, to be given to any director, member of a committee or stockholder, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

## **ARTICLE VII GENERAL PROVISIONS**

Section 1. Dividends. Dividends upon the stock of the Corporation, subject to the provisions of the Certificate of Incorporation, if any, may be declared by the Board of Directors at any regular or special meeting, and may be paid in cash, in property, or in shares of the Corporation's stock. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors from time to time, in its absolute discretion, deems proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for any proper purpose, and the Board of Directors may modify or abolish any such reserve.

Section 2. Disbursements. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 3. Fiscal Year. The fiscal year of the Corporation shall end on the Saturday nearest the 30th day of September of each year.

Section 4. Corporate Seal. The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization and the words "Corporate Seal, Delaware." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

#### ARTICLE VIII

#### INDEMNIFICATION

Section 1. Indemnification Rights. Every person who was or is a party or is threatened to be made a party to or is involved in any action, suit, or proceedings, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director or officer of another corporation, or as its representative in a partnership, joint venture, trust, or other enterprise, shall be indemnified and held harmless to the fullest extent legally permissible under and pursuant to any procedure specified in the General Corporation Law of the State of Delaware, as amended from time to time, against all expenses, liabilities, and losses (including attorney's fees, judgments, fines, and amounts paid or to be paid in settlement) reasonably incurred or suffered by him in connection therewith. Such right of indemnification shall be a contract right that may be enforced in any lawful manner by such person. Such right of indemnification shall not be exclusive of any other right which such directors or officers may have or hereafter acquire and, without limiting the generality of such statement, they shall be entitled to their respective rights of indemnification under any agreement, vote of stockholders, provision of law, or otherwise, as well as their rights under this paragraph.

Section 2. Insurance. The Board of Directors may cause the Corporation to purchase and maintain insurance on behalf of any person who is or was a director or officer of the Corporation, or is or was serving at the request of the Corporation as a director or officer of another corporation, or as its representative in a partnership, joint venture, trust, or other enterprise against any liability asserted against such person and incurred in any such capacity or arising out of such status, whether or not the Corporation would have the power to indemnify such person.

Section 3. Advance Payment of Expenses. Expenses incurred by a director or officer of the Corporation in defending a civil or criminal action, suit or proceeding by reason of the fact that he is or was a director or officer of the Corporation (or was serving at the Corporation's request as a director or officer of another corporation, or as its representative in a partnership, joint venture, trust or other enterprise) shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized by relevant sections of the General Corporation Law of Delaware.

**ARTICLE IX  
AMENDMENTS**

Subject to provisions contained in the Certificate of Incorporation pertaining to amendment of the Corporation's By-Laws, these By-Laws may be altered, amended or repealed, in whole or in part, or new By-Laws may be adopted by the stockholders of the Corporation. The Board of Directors by a unanimous vote of the whole Board at any meeting may amend these By-laws, including By-laws adopted by the stockholders.

**APPROVED this 14th day of January, 2000.**

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**Chairman of the Board of Directors**

**Attest:**

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**Secretary**

**ARTICLE 5**

THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM THE QUARTERLY FINANCIAL STATEMENTS FOR THE PERIOD ENDED JANUARY 1, 2000 AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.

CIK: 0000100493

NAME: TYSON FOODS, INC.

MULTIPLIER: 1,000,000

PERIOD TYPE	3 MOS
FISCAL YEAR END	SEP 30 2000
PERIOD END	JAN 01 2000
CASH	59
SECURITIES	0
RECEIVABLES	580
ALLOWANCES	0
INVENTORY	1,029
CURRENT ASSETS	1,684
PP&E	2,180
DEPRECIATION	0
TOTAL ASSETS	5,031
CURRENT LIABILITIES	1,051
BONDS	1,387
PREFERRED MANDATORY	0
PREFERRED	0
COMMON	24
OTHER SE	2,118
TOTAL LIABILITY AND EQUITY	5,031
SALES	1,779
TOTAL REVENUES	1,779
CGS	1,466
TOTAL COSTS	1,466
OTHER EXPENSES	2
LOSS PROVISION	0
INTEREST EXPENSE	29
INCOME PRETAX	92
INCOME TAX	33
INCOME CONTINUING	57
DISCONTINUED	0
EXTRAORDINARY	0
CHANGES	0
NET INCOME	57
EPS BASIC	0.25
EPS DILUTED	0.25

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