Representative, 600 17th Street, N.W., Washington, DC 20508.

SUPPLEMENTARY INFORMATION: At the request of India, a WTO dispute settlement panel will examine whether the United States application of a transitional safeguard on U.S. imports of woven wool shirts and blouses from India is consistent with U.S. obligations under the ATC. Effective July 17, 1995, the United States applied a restriction on imports of woven wool shirts and blouses from India (category 440) at a level of 76,698 dozen (60 FR 35899). The U.S. took this action because it determined that such imports were contributing to serious damage, or actual threat thereof, to the U.S. industry. The U.S. held consultations with India in April 1995 in accordance with Article 6.7 of the Uruguay Round Agreement on Textiles and Clothing (ATC). Because no mutually satisfactory solution was reached, the U.S. applied a safeguard restriction in accordance with Article 6.10 of the ATC. Article 6.10 provides that members taking unilateral action must do so within 30 days after a 60 day consultation period, which did not result in agreement. Also pursuant to Article 6.10 of the ATC, the WTO Textiles Monitoring Body (TMB) automatically reviewed the case. The TMB examined the matter on August 28–September 1, 1995. After its examination of the case, the TMB determined that there was no serious damage to U.S. industry. However, the TMB reached consensus that there was actual threat of serious damage to the U.S. industry and such threat was properly attributed to imports from India. On October 16, 1995, India informed the TMB that it could not conform with the TMB's recommendation. The TMB subsequently issued a report on December 8, 1995, affirming its original finding and noted that it could not make any additional recommendations concerning the conclusions it reached earlier. On March 14, 1996, pursuant to Article 8.10 of the ATC, India sent a letter to the Chairman of the WTO Dispute Settlement Body requesting that a panel review the matter.

Members of the panel are currently being selected. The panel will meet with the parties to the dispute twice at WTO headquarters in Geneva, Switzerland to examine the case. The panel is expected to issue a report detailing its findings and recommendations in six to nine months from the date the panel is established.

Major Issues Raised by India and Alleged Legal Basis of the Complaint

India has alleged that the U.S. safeguard restriction on woven shirts and blouses imported from India is inconsistent with Articles 6, 8 and 2 of the ATC; that the U.S. restriction nullifies or impairs benefits accruing to India under the Agreement Establishing the WTO, GATT 1994 and under the ATC in particular; and that the U.S. must withdraw the restraint. India also requested supplementary findings from the panel that the U.S. has to choose at the beginning of the process whether it will claim existence of serious damage or actual threat because they are not interchangeable (asserting that if serious damage is not found there can be no threat); and that the U.S. cannot impose a restraint with retrospective effective because there is no provision in the ATC addressing the matter.

Public Comment: Requirements for Submissions

Interested person are invited to submit written comments concerning the issues raised in the dispute. The provisions of 15 CFR § 2006.13 (a) and (c) (providing that comments received will be open to public inspection) and 2006.15 will apply to comments received. Comments must be in English and provided in fifteen copies. Pursuant to 15 CFR § 2006.15, confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page.

Pursuant to § 127(e) of the URAA, USTR will maintain a public file on this dispute settlement proceeding, which will include a list of comments received, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508. An appointment to review the docket (Docket WTO/D–5 ''India-United States: U.S. Safeguard Restrictions on Woven Wool Shirts and Blouses'') may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Irving Williamson,

Deputy General Counsel.

[FR Doc. 96–12121 Filed 5–14–96; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 21947; 812–9906; International Series Release No. 975]

Minorco S.A., Notice of Application

May 9, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Minorco S.A.

RELEVANT ACT SECTION: Order requested under section 3(b)(2) of the Act or, alternatively, under section 6(c) granting an exemption from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities or, alternatively, granting it an exemption from all provisions of the Act and the rules and regulations thereunder.

FILING DATE: The application was filed on December 14, 1995, and amendment on May 7, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 3, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, c/o Minorco (U.S.A.) Inc., 30 Rockerfeller Plaza, Suite 4212, New York, New York, 10112.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Senior Attorney at (202) 942–0579, or David M. Goldenberg, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application

may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Luxembourg corporation, is a foreign private issuer whose ordinary shares are listed on the Luxembourg, London, Johannesburg, and Paris stock exchanges. Applicant has a market capitalization of over $6 billion and reported net earnings of $365 million for calendar year 1995. Applicant, together with its consolidated subsidiaries (the ''Group''), has over 20,000 employees worldwide and is active in international natural resources with operations across a broad geographic and commodities spectrum. The Group operates five business segments: gold, base metals, industrial minerals, paper and packaging, and agribusiness.

2. Applicant is the successor to a line of companies that have been in existence since 1928 and that had their origin in the operation of copper mines. In 1987, the Group relocated its headquarters to Luxembourg and reorganized into a structure where applicant became the parent company of the Group. At that time, applicant held within the Group significant interests in operating companies involved in natural resources businesses. Applicant subsequently has focused on operating as a natural resources company by expanding its activities into the ownership and operation of, and direct participation in, resource-based assets, and deemphasizing passive investments. Since 1989, this strategy has resulted in approximately $5.1 billion being spent on acquisitions and other investments in operations (including capital expenditures on expansion of existing operations), and the disposition of approximately $1.9 billion of non-controlling interests. All of the acquisitions made by applicant since 1989 have been of controlling positions, or complete ownership, of operating companies, with the exception of two small strategic investments made in connection with larger transactions.

3. Applicant's natural resources business is operated worldwide through three major wholly-owned holding companies: Minorco (U.S.A.) Inc. (''Minorco USA''), AMSA Limited (''AMSA''), and Taurus Investments S.A. (''Taurus''). Applicant, either directly or through its wholly-owned subsidiaries, provides technical services, including experts in engineering, metallurgy, and geology, to its operating subsidiaries, maintains a human resources department to coordinate compensation and benefits among Group companies, and maintains a corporate finance department to provide financial analytical services to Group companies.

4. Applicant conducts its operations in the United States through Minorco USA and Taurus. Minorco USA wholly-owns Independence Mining Company Inc. (''IMC''), which operates various mines and processing facilities directly and indirectly through its wholly-owned subsidiary Pikes Peak Mining Company. IMC and its subsidiaries also conduct the Group's exploration programs in the United States and Mexico. Minorco USA and Taurus own 52.4% of Terra Industries Inc., a marketer of fertilizer and other agricultural products, and a producer of nitrogen products and methanol.

5. Through Taurus, applicant also owns 32% of Engelhard Corporation (''Engelhard''), a provider of specialty chemical products, engineered materials, and precious metal management services. Applicant is the largest shareholder of Engelhard's voting securities, with the next largest shareholder holding less than 7%. Applicant's directors hold four out of the ten seats on the board of directors of Engelhard and serve on several of its key board committees. Applicant states that its control position with respect to Engelhard has allowed it to actively participate in the selection of Engelhard's chief executive officer, and to regularly provide its views on strategic, policy, and management issues.

6. Applicant's European operations include the United Kingdom's only potash mine, as well as wholly-owned subsidiaries in Germany, Spain, and the United Kingdom that produce aggregates, burnt lime products, and ready-mixed concrete. The Group continues to look for growth in its European industrial minerals segment by acquisition. In 1995, the Group acquired a 100% interest in a German sand and gravel operation and a 100% interest in Tilcon Holdings Limited, the United Kingdom's seventh largest producer of aggregates. Applicant's paper and packaging business is held indirectly by Taurus and operated through Mondi European Holdings BV, incorporated in the Netherlands, and Mondi Paper (U.K.). The Group assumes management functions and provides operational advice to its subsidiaries in this segment, and participates in all important strategic decisions.

7. The Group has a 50% joint venture interest in the Lisheen Joint Venture, which owns a zinc/lead deposit in Ireland, and also owns 24.5% of Ivernia West PLC, the owner of the other 50% joint venture interest. The Group is the manager of the joint venture.

8. Applicant's gold, base metals, and industrial minerals operations in South America are conducted through AMSA, a South American mining business whose administration is centered in Brazil. AMSA owns and operates, either directly or in associations with local partners, a range of resource companies, and is developing projects in Argentina, Brazil, Chile, Peru, and Venezuela.

9. In Brazil, the operations of the Group are conducted through AMBRAS Participações Ltda. (''AMBRAS''), a wholly-owned subsidiary of AMSA, in association with Cia. Bozano Simonsen Comercio e Industria and its subsidiaries (the ''Bozano Simonsen Group''). The operations consist of a gold mining complex, several base metal producers, and, in the industrial minerals sector, an integrated petrochemical plant and phosphate mining operation. The vehicle for the association in Brazil between the Group and the Bozano Simonsen Group is MMV Participações Minerais (''MMVPM''). The Bozano Simonsen Group owns an indirect minority interest in MMVPM and acts in conjunction with the Group in a joint venture so that the Group and the Bozano Simonsen Group jointly control companies within the MMVPM group in which the Group's shareholdings are non-voting. Joint control is established by an arrangement under which 50% of MMVPM's board of directors is composed by the Group's representatives, and decisions of the board require the favorable vote of a majority of directors. All officer positions of the operating companies within the MMVPM group are occupied by the Group's representatives, so that the Group ultimately is responsible for the management and conduct of the operations. The arrangements confer upon applicant, through its majority-owned subsidiaries, the ability to manage and control its natural resources business in Brazil.

10. Applicant holds its interests in Brazil through AMBRAS and through its association with the Bozano Simonsen Group in order to reduce the impact of restrictions (which are no longer in effect) upon remittance of capital and dividends, to obtain favorable tax treatment with respect to the Group's activities outside Brazil, and to accommodate the joint venture activities of applicant's majority-owned subsidiaries.

11. In Chile, AMSA holds a 74.9% interest in Empresa Minera de Mantos Blancos S.A. (''Mantos Blancos''), the only Chilean copper producer listed on

the Santiago stock exchange. Mantos Blancos owns and operates copper mines and also owns controlling interests in important gold deposits in Chile. Applicant, through its majority-owned subsidiaries, appoints the majority of the board members of these mining operations and exercises exclusive management over their operations. The Group also currently holds a 50% interest in the Collahuasi copper project in Chile, a joint venture operation with Falconbridge Limited, which is expected to be one of the largest copper mines in the world. The Group jointly controls the management of the operations of the venture, and has three seats on the six member board.

12. In addition to the operations described above, various projects are in the course of development in South America. These include a gold and silver project in Argentina for which the Group is contributing substantial management of the project during production, and a nickel mining project in Venezuela in which the Group has an 85% equity interest and will exercise full control over the project. Applicant also holds indirectly, through wholly-owned subsidiaries and joint ventures, minority interests in certain companies and projects that are of strategic importance to the operating business of the Group.

13. Applicant states that the Group's hands-on involvement is consistent with the background, training, experience, and expertise of applicant's officers and directors in the various natural resources and related sectors. Applicant believes that the various joint ventures in which the Group has interests are characterized by the Group's economic influence and its management of the operations. Applicant asserts that the Group's complex holding company structure reflects, among other things, the manner in which natural resources companies tend to spread risk, as well as the laws and business customs of many of the countries where the Group carries on its businesses. To the extent that applicant has minority voting interests in intervening holding companies, those minority interests are in closely held companies where the majority interest is owned by applicant's joint venture partner in order to comply with former restrictions on foreign investment in Brazil. This structure, however, poses the issue of whether applicant would be considered an investment company within the meaning of the Act.

Applicant's Legal Analysis

1. Applicant seeks an order under section 3(b)(2) of the Act declaring that it is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities, and therefore, is not an investment company as defined in the Act, or in the alternative, an order under section 6(c) of the Act exempting it from all provisions of the Act.

2. Under section 3(a)(3), an issuer is an investment company if it ''is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.'' Section 3(a) defines ''investment securities'' to include all securities except Government securities, securities issued by employees' securities companies, and securities issued by majority-owned subsidiaries of the owner which are not investment companies.

3. Applicant states that it is not primarily engaged in the business of investing, reinvesting, or trading in securities. Certain of applicant's businesses, however, are conducted through a controlled company, and a significant portion of the Group's assets currently consist of highly liquid investment grade securities pending use in operations and for acquisitions. Thus, approximately 30% of applicant's total assets are held in investment securities within the meaning of section 3(a)(3). If applicant's South American joint venture interests were characterized as securities, however, applicant might be deemed to own investment securities equal to approximately 52% of the value of its assets on an unconsolidated basis. Applicant, therefore, may be deemed an investment company within the meaning of section 3(a)(3).

4. Section 3(b)(2) provides that notwithstanding section 3(a)(3), the Commission may issue an order declaring an issuer to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly, through majority-owned subsidiaries, or through controlled companies conducting similar types of businesses. Applicant believes that it meets the requirements of section 3(b)(2) exempting it from the definition of an investment company because it primarily engaged, through its wholly-owned or majority-owned subsidiaries, or through companies which it primarily controls, in the business of a natural resources group focused on gold, base metals, industrial minerals, paper and packaging, and agribusiness.

5. In determining whether a company is ''primarily engaged'' in a non-investment company business under section 3(b)(2), the Commission considers the following factors: (a) the issuer's historical development; (b) its public representations of policy; (c) the activities of its officers and directors; (d) the nature of its present assets; and (e) the sources of its present income.[1]

a. Historical Development. Applicant is the successor to a line of companies that have been in existence since 1928 and that had their origin in the operation of copper mines. Although applicant contends it always has maintained significant influence over its natural resources operating companies, applicant has not always held itself out as a holding company exercising direct control over the operating businesses of the Group. Applicant states that the process of becoming a ''hands on'' operating group began in 1987 with the relocation of applicant's headquarters to Luxembourg, a reorientation of its asset holdings into the ownership and operation of, and direct participation in, resource-based assets, and the disposition of non-controlling passive investments. At that time, applicant articulated a strategy to focus on direct participation in operating businesses, and, since 1989, has made a series of acquisitions of controlling interests in natural resources companies with the result that applicant believes it now has established itself as an operating group. Applicant asserts that the Group today exercises primary or joint control over virtually all of its constituent companies, either through direct voting control, management agreements, or cross directorships.

b. Public Representations of Policy. Applicant states that it does not hold itself out as an investment company within the meaning of the Act, and has never been a registered investment company (or subject to any analogous regulatory scheme). Applicant further states that it consistently represents itself to its shareholders and the public as an international natural resources group. This is supported by, among other things, statements in its annual reports, news articles, and analyst reports. Applicant's 1995 annual report, for example, discusses its operations and projects, and states that applicant is continuing to expand in its five operating business segments: gold, base metals, industrial minerals, paper and packaging, and agribusiness.

c. Activities of Officers and Directors. Applicant states that its management,

[1] *Tonopah Mining Company of Nevada,* 26 S.E.C. 426, 427 (1947).

on the whole, spends substantially all of its time actively involved in the natural resources business of the Group. Of applicant's twenty-two directors, only one director, who serves as applicant's Finance Director, spends any meaningful amount of his time (approximately 5%) monitoring the Group's securities holdings and cash management activities, and that time is spent mostly on administrative and supervisory matters. Applicant's five executive directors have been with the Group for a significant amount of time and have substantial experience in applicant's natural resources operations. Of applicant's thirteen principal officers, only the Treasurer spends any time (approximately 60%) on cash management.[2] Applicant is represented by its directors and officers on many of the boards of directors of its subsidiaries and its controlled company. In many of those companies, applicant's directors and officers play a leading role in management's strategic decision making or in other essential operational functions.

d. Nature of Assets. As of December 31, 1995, applicant had total assets of $5,162 million.[3] For purpose of analysis under section 3(b)(2), 63% of applicant's total assets were operating assets attributed to its majority-owned subsidiaries (including wholly-owned subsidiaries), its controlled company, Engelhard, and applicant's interests in its joint ventures.

e. Sources of Income. As of December 31, 1995, applicant derived approximately 66% of its income from its operating businesses and approximately 34% from its investment activities. With respect to income earned by the Group's operations, applicant's majority-owned subsidiaries (including wholly-owned subsidiaries) accounted for approximately 26% of its income, Engelhard accounted for approximately 12% of its income, and its joint venture interests accounted for approximately 28% of its income.

6. In the alternative to exemptive relief under section 3(b)(2), applicant requests an order under section 6(c) exempting applicant from all provisions of the Act and the rules and regulations thereunder. Section 6(c) authorizes the Commission to issue a conditional or unconditional exemption from any provision of the Act or rule thereunder if the exemption is ''necessary or appropriate in the public interest'' and is ''consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act].'' Applicant states that it was structured for valid economic and legal reasons and not with the Act in mind. Consequently, applicant believed that it would be inappropriate and detrimental to applicant and its shareholders to be treated as an investment company and made subject to the Act. Furthermore, applicant believes that it is not the type of company and does not engaged in the activities the Act was designed to regulate. Accordingly, applicant submits that the requested exemption is necessary and appropriate in the public interest, is consistent with the protection of investors, and is consistent with the purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12128 Filed 5–14–96; 8:45 am]

BILLING CODE 8010–01–M

[2] Approximately 40% of applicant's cash management activities are conducted through outside managers on a fully discretionary basis.

[3] The methods used in the valuation of applicant's assets were in accordance with section 2(a)(41) under the Act.

[Release No. 34–37179; File No. SR–Amex–96–11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by the American Stock Exchange, Inc., To Establish a Firm Facilitation Exemption

May 8, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 1996, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[3]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rules 904, 905, 904C, and 906G to provide for an exemption from standardized equity and index and Flexible Exchange option position and exercise limits for member firms seeking to facilitate customer orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex is proposing to establish a firm facilitation exemption[4] for all non-multiply-listed Exchange option classes. This exemption would be available to the Exchange's standardized equity and index and Flexible Exchange option classes. In addition, the firm facilitation exemption will be twice the standard limit.

Under the proposal, the procedures set forth in Exchange Rule 950(d) Commentary .02 for crossing a customer order with a firm facilitation order must be followed. In this regard, before a customer order can be crossed with a firm facilitation order, the trading crowd must be given a reasonable opportunity to participate. Moreover, only after it has been determined that the trading crowd will not fill the order, may the firm's customer order be crossed with the firm's facilitation order.

The Amex notes that the firm facilitation exemption will be in addition to and separate from the standard limit, as well as other exemptions available under the Exchange's position limit rules. For example, if a firm desires to facilitate customer orders in the XYZ option

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4 (1994).

[3] On May 2, 1996, the Amex filed Amendment No. 1 to the proposed rule change to include within the rule text the requirement that if the Exchange grants a facilitation exemption on the basis of oral representations, the member organization must file the appropriate forms and documentation substantiating the basis for the exemption within either two business days or a period of time to be designated by the Exchange (''Amendment No. 1''). *See* Letter from Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, Derivatives Regulation, Division of Market Regulation, Commission, dated May 2, 1996.

[4] The Commission notes that a facilitation trade is defined as a transaction that involves crossing an order of a member firm's public customer with an order for the member firm's proprietary account.