

UNITED TECHNOLOGIES CORP /DE/
Form S-8
December 22, 2008

As filed with the Securities and Exchange Commission on December 22, 2008

Registration No.

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT

Under

THE SECURITIES ACT OF 1933

UNITED TECHNOLOGIES CORPORATION

(Exact name of issuer as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

One Financial Plaza, Hartford, Connecticut 06101

(Address of principal executive offices, including Zip Code)

06-0570975
(I.R.S. Employer
Identification No.)

UNITED TECHNOLOGIES CORPORATION REPRESENTED

EMPLOYEE SAVINGS PLAN

(Full title of the Plan)

KATHLEEN M. HOPKO, Esq.

Secretary

One Financial Plaza

Hartford, Connecticut 06101

(860) 728-7000

(Name, address and telephone number of agent for service)

CALCULATION OF REGISTRATION FEE

| Title of Securities to be Registered | Amount to be Registered | Proposed Maximum Offering Price Per Share (2) | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|--|--------------------------------|--|--|-----------------------------------|
| Common Stock, par value \$1.00 per share (1) | 5,000,000 shares (3) | \$49.49 | \$247,450,000.00 | \$9,724.79 |

- (1) Includes pursuant to Rule 416(c) under the Securities Act of 1933, as amended (1933 Act), an indeterminate amount of plan participation interests.
- (2) Estimated solely for the purpose of calculating the registration fee, based in accordance with Rule 457(h) under the 1933 Act on the average of the high and low prices on the New York Stock Exchange, Inc. on December 15, 2008.
- (3) Pursuant to Rule 416(a) under the 1933 Act, the number of shares registered hereunder includes such additional number of shares of Common Stock as are required to prevent dilution resulting from a stock split, stock dividend or similar transaction that result in an increase in the number of outstanding shares of Common Stock.

PART I

Omitted pursuant to the Note to Part I of Form S-8.

PART II

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE

The following documents are hereby incorporated by reference:

- (1) the Annual Report on Form 10-K of United Technologies Corporation (the Corporation) filed with the Securities and Exchange Commission (the Commission) for the year ended December 31, 2007;
- (2) the Quarterly Reports on Form 10-Q of the Corporation filed with the Commission for the quarters ended March 31, 2008, June 30, 2008 and September 30, 2008;
- (3) Current Reports filed with the Commission on Form 8-K filed on April 11, 2008, September 15, 2008, October 10, 2008, and December 12, 2008;
- (4) the Annual Report on Form 11-K for the United Technologies Corporation Represented Employee Savings Plan (the Plan) for the year ended December 31, 2007; and
- (5) the description of the shares of the Corporation s common stock, par value \$1.00 per share (Common Stock) contained in the Corporation s Registration Statement filed with the Commission pursuant to Section 12 of the Securities Exchange Act of 1934, as amended (the Exchange Act), including any amendment or report subsequently filed for the purpose of updating that description.

All documents filed by the Corporation pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of this Registration Statement, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents. Any statement contained in this Registration Statement or in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained or incorporated by reference herein or in any subsequently filed document which is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The financial statements, financial statement schedule and management s assessment of the effectiveness of internal control over financial reporting (which is included in Management s Report on Internal Control over Financial Reporting), incorporated in this Registration Statement by reference to the Annual Report on Form 10-K of United Technologies Corporation for the year ended December 31, 2007, and the financial statements incorporated in this Registration Statement by reference to the Annual Report on Form 11-K of the United Technologies Corporation Represented Employee Savings Plan for the year ended December 31, 2007 have been so incorporated in reliance on the reports of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

With respect to the unaudited financial information of United Technologies Corporation as of September 30, 2008 and for the three and nine-month periods ended September 30, 2008 and 2007, as of June 30, 2008 and for the three and six-month periods ended June 30, 2008 and 2007, and as of March 31, 2008 and for the three-month periods ended March 31, 2008 and 2007, incorporated by reference in this Registration Statement, PricewaterhouseCoopers LLP reported that they have applied limited procedures in accordance with professional standards for a review of such information. However, their separate reports dated October 21, 2008, July 22, 2008 and April 22, 2008, respectively, incorporated by reference herein state that they did not audit and they do not express an opinion on that unaudited financial information. Accordingly, the degree of reliance on their reports on such information should be restricted in light of the limited nature of the review procedures applied. PricewaterhouseCoopers LLP is not subject to the liability provisions of Section 11 of the Securities Act of 1933 for their reports on the unaudited financial information because none of those reports is a report or a part of the registration statement prepared or certified by PricewaterhouseCoopers LLP within the meaning of Sections 7 and 11 of the Act.

ITEM 4. DESCRIPTION OF SECURITIES

Not applicable.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL

Not applicable.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Pursuant to Section 102 of the General Corporation Law of Delaware, the Corporation has adopted a provision in its Certificate of Incorporation eliminating the personal liability of its directors for monetary damages to the Corporation and its stockholders for any breach of their fiduciary duties as directors of the Corporation, except for their liability due to (1) breach of loyalty to the Corporation, (2) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (3) any transaction from which the director derived an improper personal benefit or (4) any payment of unlawful dividends or an unlawful stock repurchase or redemption.

Section 145 of the Delaware General Corporation Law permits a Delaware corporation to indemnify any person who is or was a party to any actual or threatened legal action, whether criminal, civil, administrative or investigative, because of his or her service as an officer, director or agent of the corporation against expenses, judgments, fines and settlement payments actually and reasonably incurred by him or her in connection with such proceeding, if he acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe was unlawful, except that, (i) to the extent a present or former director or officer has been successful on the merits or otherwise in the legal action, indemnification for expenses actually and reasonably incurred is mandatory and (ii) with respect to any legal action by or in the right of the corporation itself, an officer, director or agent of the corporation is not entitled to indemnification if adjudged liable to the corporation, except for expenses actually and reasonably incurred if approved by the court. Section 6.5 of the Corporation's Bylaws provides that the Corporation is required to indemnify officers, directors, employees, fiduciaries and agents (and their heirs and legal representatives) of the Corporation or any constituent corporation absorbed in a consolidation or merger, or persons who serve as such with another corporation, partnership, joint venture, trust or other enterprise at the request of the Corporation or any such constituent corporation, to the full extent permitted by Delaware law. The Corporation maintains insurance coverage for the purpose of providing indemnification benefits in certain circumstances.

ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED

Not applicable

ITEM 8. EXHIBITS

See Exhibit Index

Pursuant to the instruction to Item 8 of Form S-8, no opinion of counsel as to the legality of the shares of Common Stock registered by this Registration Statement is furnished because no original issue shares are being registered.

United Technologies Corporation has received a determination letter from the Internal Revenue Service dated April 28, 2003 that the Plan is a qualified plan under the Internal Revenue Code of 1986, as amended (the Code). The Corporation hereby undertakes to submit any amendments to the Plan to the Internal Revenue Service in a timely manner and will make all changes required under the Code to maintain the tax qualification of the Plan.

ITEM 9. UNDERTAKINGS

The undersigned registrant hereby undertakes:

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

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

(ii) to reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement:

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

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

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

The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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

SIGNATURES

The Registrant: Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8, and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Hartford, and State of Connecticut, on this 22nd day of December, 2008.

UNITED TECHNOLOGIES CORPORATION

By /s/ Gregory J. Hayes
 Gregory J. Hayes
 Senior Vice President & Chief Financial Officer

Pursuant to the requirements of the Securities Act of 1933, the Registration Statement has been signed below by the following persons in the capacities indicated on this 22nd day of December, 2008.

| Signature | Title |
|---|--|
| /s/ Louis R. Chênevert LOUIS R. CHÊNEVERT | Director, President and Chief Executive Officer (principal executive officer) |
| /s/ Gregory J. Hayes GREGORY J. HAYES | Senior Vice President & Chief Financial Officer (principal financial officer) |
| /s/ Margaret M. Smyth MARGARET M. SMYTH | Vice President, Controller (principal accounting officer) |
| GEORGE DAVID* (George David) | Director |
| JOHN V. FARACI* (John V. Faraci) | Director |
| JEAN-PIERRE GARNIER* (Jean-Pierre Garnier) | Director |
| JAMIE S. GORELICK* (Jamie S. Gorelick) | Director |
| EDWARD A. KANGAS* (Edward A. Kangas) | Director |
| CHARLES R. LEE* (Charles R. Lee) | Director |
| RICHARD D. MCCORMICK* (Richard D. McCormick) | Director |
| HAROLD W. MCGRAW III* (Harold W. McGraw III) | Director |
| RICHARD B. MYERS* (Richard B. Myers) | Director |

EXHIBIT INDEX

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| 4(a) --Restated Certificate of Incorporation, incorporated by reference to Exhibit 3(i) of the Corporation's Annual Report on Form 10-K for the year ended December 31, 2007. | |
| 4(b) --Bylaws as amended and restated effective December 10, 2008, incorporated by reference to Exhibit 3(ii) to the Corporation's Current Report on Form 8-K filed December 12, 2008. | |
| 15 --Letter of PricewaterhouseCoopers LLP concerning unaudited interim financial information dated December 22, 2008. | |
| 23(a) --Consent of PricewaterhouseCoopers LLP. | |
| 24 --Powers of Attorney. | |