

SAPPI LTD  
Form S-8  
December 15, 2004

As filed with the Securities and Exchange Commission on December 15, 2004  
Registration No. 333-

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

**FORM S-8**

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

**SAPPI LIMITED**

(Exact name of registrant as specified in its charter)

**Republic of South Africa**  
(State or other jurisdiction of  
incorporation or  
organization)

**NONE**  
(I.R.S. Employer Identification No.)

**48 Ameshoff Street  
Braamfontein,  
Johannesburg 2001  
Republic of South Africa**  
(Address to Principal Executive Offices) (Zip Code)

**The Sappi Limited 2004 Performance Share Incentive Plan**  
(Full title of the plan)

**Sarah Manchester, Esq.  
Sappi Fine Paper North America  
225 Franklin Street  
Boston, Massachusetts 02110**  
(Name and address of agent for service)  
**(617) 423-7300**  
(Telephone number, including area code, of agent for service)

**Copies to:  
Paul Michalski, Esq.  
Cravath, Swaine & Moore LLP  
Worldwide Plaza  
825 Eighth Avenue  
New York, NY 10019-7475**

**CALCULATION OF REGISTRATION FEE**

**Proposed      Proposed**

<b>Title of securities to be registered</b>	<b>Amount to be registered</b>	<b>maximum offering price per share(1)</b>	<b>maximum aggregate offering price(1)</b>	<b>Amount of registration fee (1)</b>
Ordinary Shares	250,000	\$13.80	\$3,450,305.14	\$406.10

(1) Pursuant to Rule 457(c) under the Securities Act of 1933, as amended, the registration fee for the ordinary shares registered hereunder is based upon the average of the high and low prices of Sappi Limited's ordinary shares reported on the Johannesburg Stock Exchange on December 13, 2004 of R79.15 per ordinary share translated into US dollars at the noon buying rate in New York City for cable transfers in Rand as certified for customs purposes by the Federal Reserve Bank of New York on December 13, 2004 of R5.735 per US\$1.00.

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**Part I**

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

**Item 1. Plan Information.**

Not required to be filed with the Securities and Exchange Commission (the Commission).

**Item 2. Registrant Information and Employee Plan Annual Information.**

Not required to be filed with the Commission.

**Part II**

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

**Item 3. Incorporation of Documents by Reference.**

The following documents are incorporated by reference herein and shall be deemed a part hereof:

- (a) The Annual Report of Sappi Limited (the Company) containing audited financial statements for the Company's fiscal year ended September 28, 2003, filed on December 19, 2003 pursuant to Section 13 of the Securities Exchange Act of 1934.
- (b) The Current Reports of the Company on Form 6-K dated August 26, 2004, June 2, 2004, May 21, 2004 and February 19, 2004; and
- (c) The description of the ordinary shares, par value Rand 1.00 per share, of the Company (the Ordinary Shares), contained in the Company's Current Report on Form 6-K dated December 15, 2004.

To the extent designated therein certain Current Reports of the Company furnished by the Company on Form 6-K, and all other documents filed by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934 (the Exchange Act), subsequent to the date hereof and prior to the filing of a post-effective amendment which indicates that all securities offered herein have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part hereof from the date of furnishing or filing of such documents.

Any statement contained 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 herein or in any other subsequently furnished or filed document which also is or 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.

**Item 4. Description of Securities.**

Not applicable.

**Item 5. Interests of Named Experts and Counsel.**

Not applicable.

**Item 6. Indemnification of Directors and Officers.**

Except to the extent indicated below, none of the Articles of Association of Sappi Limited nor any statute, contract or other arrangement contains any provision under which any controlling person, member of the Board of Directors or any officer of Sappi Limited is indemnified in any manner against any liability which he or she may incur in his or her capacity as such.

Each Director or Officer is indemnified against liabilities arising from acts or deeds performed by him as such Director or Officer.

Sappi Limited has purchased Directors and Officers Liability Insurance.

Directors of Sappi Limited who are also employees of subsidiaries of Sappi Limited may be entitled to indemnification from such subsidiaries for certain liabilities and expenses incurred as a result of serving as directors of Sappi Limited.

Directors of Sappi Limited who are also employees of shareholders of Sappi Limited may be entitled to indemnification from such shareholders for certain liabilities and expenses incurred as a result of serving as directors of Sappi Limited.

**Item 7. Exemption from Registration Claimed.**

Not applicable.

**Item 8. Exhibits.**

<u>Exhibit Number</u>	<u>Description</u>
4.1	Memorandum and Articles of Association of the Company (incorporated by reference to Exhibit 1.1 to the Company's Annual Report on Form 20-F for the fiscal year ended September 28, 2003, filed December 19, 2003 (File No. 1-14872)).
4.2	Specimen Ordinary Share Certificate (incorporated by reference to Exhibit 2.1 to the Company's Registration Statement on Form 20-F filed October 22, 1998 (File No. 1-14872)).
4.3	Form of the Sappi Limited Performance Share Incentive Plan.
5	Opinion of Werksmans Inc. as to the legality of the Ordinary Shares.



<u>Exhibit Number</u>	<u>Description</u>
23.1	Consent of Werksmans Inc. (included in Exhibit 5).
23.2	Consent of Deloitte & Touche.
24	Powers of Attorney (included on the signature pages hereof).

**Item 9. Undertakings.**

The undersigned registrant hereby undertakes:

(a)(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;
- (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 this registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) (§230.424(b) of this chapter) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and
- (iii) To include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement;

provided, however, that paragraphs (a)(1)(i) and (a)(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 Exchange Act that are incorporated by reference in this registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, 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.

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

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities 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 Securities Act and will be governed by the final adjudication of such issue.

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**SIGNATURES**

**The Registrant.** Pursuant to the requirements of the Securities Act, 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 Johannesburg, South Africa, on December 15, 2004.

SAPPI LIMITED

By

/s/ Donald Gert  
Wilson

Name: Donald Gert Wilson

Title: Executive Director - Finance

Date: December 15, 2004

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**POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS, that each of the undersigned directors and officers and the authorized representative in the United States of the registrant hereby severally constitutes and appoints Donald Gert Wilson and John Leonard Job, and each of them, as attorneys-in-fact for the undersigned, in any and all capacities, with full power of substitution and resubstitution, to sign any or all amendments to this Registration Statement (including post-effective amendments), and any or all amendments to such Registration Statement (including post-effective amendments), and to file the same with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that each said attorney-in-fact, or any of them, or his or her or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Jonathan Leslie</u> Jonathan Leslie	Chief Executive Officer and Director (Principal Executive Officer)	December 14, 2004
<u>/s/ Donald Gert Wilson</u> Donald Gert Wilson	Executive Director - Finance and Director (Principal Financial Officer and Principal Accounting Officer)	December 15, 2004
<u>/s/ Eugene van As</u> Eugene van As	Chairman of the Board of Directors	December 15, 2004
<u>/s/ David Charles Brink</u> David Charles Brink	Director	December 15, 2004
<u>/s/ Meyer Feldberg</u> Meyer Feldberg	Director	December 15, 2004
<u>Monter Roy Haymon</u> Monter Roy Haymon	Director	_____
<u>/s/ James Edward Healy</u> James Edward Healy	Director	December 14, 2004



<u>/s/ Klaas de Kluis</u> Klaas de Kluis	Director	December 15, 2004
_____ Deenadayalen Konar	Director	_____
_____ Helmut Mamsch	Director	_____
_____ Wolfgang Pfarl	Director	_____
_____ Bridgette Radebe	Director	_____
_____ Franklin Abraham Sonn	Director	_____
<u>/s/ Sarah Manchester</u> Sarah Manchester	Authorized Representative in the United States	December 13, 2004

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**EXHIBIT INDEX**

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**Exhibit 4.3**

**FORM OF THE SAPPI LIMITED PERFORMANCE SHARE INCENTIVE PLAN**

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**PART 1 - INTRODUCTION**

**1 DEFINITIONS AND INTERPRETATION**

1.1 In this Deed, unless expressly stipulated to the contrary or unless the context clearly indicates a contrary intention, the following words and expressions shall bear the following meanings (and cognate words and expressions shall bear corresponding meanings) -

1.1.1 **"Act"** - the RSA Companies Act 61 of 1973;

1.1.2 **"ADSs"** - American Depository Shares each of which represent one Share or the right to receive one Share. It is recorded that American Depository Shares are evidenced by American Depository Receipts ("**ADRs**") issued by the Bank of New York ("**the Depository**") in terms of the provisions of the Amended and Restated Deposit Agreement, dated 23 October 1993 and amended and restated as of 26 October 1999, between the Company, the Depository and all owners from time to time of ADRs, as the same may be amended, modified or restated from time to time;

1.1.3 **"Allocation Date"** - the date on which the Board resolves to award a Conditional Contract to an Eligible Employee;

1.1.4 **"Applicable Laws"** - all and any -

1.1.4.1 statutes, subordinate legislation and common law;

1.1.4.2 regulations;

1.1.4.3 ordinances and by-laws;

1.1.4.4 directives, codes of practice, circulars, guidance notices, judgements and decisions of any competent authority,

compliance with which is mandatory in relation to the participation in this Plan by any Eligible Employee and/or any Group Company;

- 1.1.5                                    **"Arbitration Act"** - the RSA Arbitration Act 42 of 1965;
- 1.1.6 **"Board"** - the board of directors of the Company acting either itself or through any committee of its members appointed by it from time to time which is charged with the administration of the Plan;
- 1.1.7                                    **"Change of Control"** - means -
- 1.1.7.1                                all circumstances where a party (or parties acting in concert), directly or indirectly, obtains -
- 1.1.7.1.1                               de facto control of the Company; or
- 1.1.7.1.2                               beneficial ownership of the specified percentage or more of the Company's issued Shares; or
- 1.1.7.1.3                               control of the specified percentage or more of the voting rights at meetings of the Company; or
- 1.1.7.1.4                               the right to control the management of the Company or the composition of the Board; or
- 1.1.7.1.5                               the right to appoint or remove directors holding a majority of voting rights at Board meetings; or
- 1.1.7.2                               the approval by the Company's shareholders of, or the consummation of, a merger or consolidation of the Company with any other business or entity, or upon a sale of the whole or a major part of the Company's assets or undertaking.

For the purposes of this 1.1.7 the expression "specified percentage" shall bear the meaning assigned to it from time to time in the Code read with the Act, presently being 35%;

- 1.1.8 "**Code**" - the Securities Regulation Code and Rules of the Securities Regulation Panel, promulgated under section 440C of the Act;
- 1.1.9 "**Company**" - Sappi Limited (registration number 1936/008963/06), a company incorporated in accordance with the laws of the RSA;
- 1.1.10 "**Conditional Award**" - an award of a Conditional Contract made to an Eligible Employee pursuant to 13.1 and 13.2;
- 1.1.11 "**Conditional Contract**" - a contract between the Company and a Participant which comes into existence as a result of the acceptance by an Eligible Applicant of a Conditional Award;
- 1.1.12 "**Date of Termination of Employment**" - the earlier of the date on which -
- 1.1.12.1 the contract of employment (whether oral or written) of a Participant with a Group Member is terminated; or
- 1.1.12.2 the Participant leaves the service of a Group Member;
- provided that where the employment of a Participant is terminated (irrespective of the reason therefor) and that Participant is serving out a notice period, then the Date of Termination of Employment shall be deemed to be the date on which such notice period commences;
- 1.1.13 "**Deed**" - this Deed, as amended from time to time;
- 1.1.14 "**Eligible Employee**" - an officer or other employee of a Group Member (including any director holding salaried employment or office);

- 1.1.15 "**Existing Plan**" - the Sappi Limited Share Incentive Scheme adopted by the Company on 5 March 1997, as amended from time to time;
- 1.1.16 "**Fair Market Value**" - in relation to a Share on any particular day, shall be the closing price at which Shares are traded on the JSE on the trading day immediately preceding such date; provided that if such trading day falls between the date on which the Company declared a dividend on its Shares and the last day for registration to participate in such dividend, the closing price shall be reduced by an amount equal to the amount of such dividend;
- 1.1.17 "**Group**" - the Company and any other company, body corporate or other undertaking which is or would be deemed to be, a subsidiary of the Company in terms of the Act;
- 1.1.18 "**Group Member**" - means any company, body corporate or other undertaking which forms part of the Group;
- 1.1.19 "**JSE**" - the JSE Securities Exchange South Africa;