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INTERNATIONAL PAPER

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December 22, 2003

Mr. Jonathan G. Katz
Secretary
U.S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

Re: File No. S7-19-03

Dear Mr. Katz:

I am submitting this letter in response to the Commission's request for comments on its proposal mandating that, when certain conditions are met, companies include shareholder nominees for director in company proxy materials.

For the last twenty years, I have had a deep professional involvement in corporate governance matters, having served as co-chair of the American Bar Association (A.B.A.) Section of Business Law's Committee on Corporate Governance, and, for three terms, as a member of that same section's Committee on Corporate Laws. As a member of that Committee, I have served on the task forces which have written the second, third and fourth (current) editions of the Corporate Director's Guidebook. I also served as a member of the A.B.A.'s select committee which worked on the development of the American Law Institute's Principles of Corporate Governance. In my corporate role, several years ago I chaired the Business Roundtable's Coordinating Committee for its Corporate Governance Task Force. Also, as a former general counsel at International Paper Company, I have attended every I.P. board of directors meeting for the last twenty years, and have witnessed first-hand how the role and responsibilities of the board and its committees have evolved over that period, with the most rapid and significant changes – really more revolutionary than evolutionary – coming in just the last two years.

The views I express in this letter, however, are my own, and I do not purport to speak for any professional or business association, or for International Paper from which I will be retiring in a few days. I write because I have a deep and abiding respect for the role which the Commission has played in making the U.S. securities markets, and the governance of the companies listed on those markets, the model for most of the rest of the world to emulate. It is principally for that reason that I am so disturbed by the Commission's most recent proposal, which I regard as misguided, fundamentally flawed, and likely to wreak substantial damage on a corporate governance system which, despite the relative handful of bad actors whose misdeeds we have recently witnessed, has generally worked well and which is currently undergoing significant improvement.

When the initial discussion of this proposal first began last spring, I understood that it was intended to address shareholder dissatisfaction and chagrin with the boards of those companies that had, not only failed to address the subject matter of shareholder precatory resolutions that had repeatedly passed, but also refused to engage in any kind of a meaningful dialogue with the proponents of those resolutions. Somehow, however, this relatively narrow issue has metamorphosed into one of the most contentious corporate governance disputes of recent years. A review of the comment letters filed to date is ample evidence that this proposal has stirred up the proverbial hornets' next, and threatens to polarize the boards of directors and the institutional shareholders of the thousands of publicly-held companies that would be affected by it.

Many others who have witnessed how proxy voting practices have developed, at least since the Labor Department's issuance of the Avon letter, share my conviction that the two "triggering" mechanisms which the Commission has proposed will result in a relatively small group of activist shareholders, many with an agenda unrelated to the maximization of shareholder value, launching campaigns to persuade institutional investors to support shareholder access measures, including at companies which have had an exemplary corporate governance record.

Surely the Commission is aware that Rule 14a-8 proposals are very frequently used as bargaining chits, in an effort to achieve some objective totally unrelated to the subject matter of the proposal For example, several years ago the representative of a union pension fund appeared at the International Paper annual shareholders' meeting to present a resolution filed by that pension fund dealing with a corporate governance matter. The representative was very disruptive, utilizing various parliamentary procedure tactics in an effort to impede the progress of the meeting. After the meeting had been adjourned, he approached the CEO of the company (whom I was standing next to) and said; "Now let me tell you want I really want." He then stated that he wanted the company to commit that it would not utilize non-union subcontractors in a series of construction projects in which the company was then engaged in its southern U.S. paper mills, and promised that, unless that occurred, he would be back the following year.

This is by no means an isolated example; I have been told that many other companies have had a similar experience. Yet the Commission is proposing to make available a much more potent bludgeon, in that a group of similarly-minded shareholders can band together and, if they represent more than 1% of the shareholders, can file a mandatory (as opposed to precatory) shareholder access proposal. International Paper, for example, has seventy-seven (77) shareholders which own at least a quarter of 1% of its shares. Many other large publicly-held companies are also principally owned by institutional investors, including union and state and municipal pension funds.

From personal experience, I have seen how effectively some of these funds utilize the Rule 14a-8 process. The more experienced proponents of shareholder proposals will tailor their resolutions to ensure that they will receive the support of Institutional Shareholder Services (I.S.S.). On a particular subject matter, I.S.S. generally will adopt an identical position and vote recommendation. In other words, the subject and text of the resolution is determinative, rather than the identity (or relative performance in maximizing shareholder value) of the company which has received the resolution.

Assuming that I.S.S. recommends a vote in favor of that type of resolution (e.g., eliminating a classified board, rescinding a "poison pill," or establishing pre-determined limits on severance agreements for senior executives), many institutional investors will just simply follow the I.S.S. recommendation. In the case of International Paper, for example, our proxy solicitor earlier this year advised us that, for our 75 largest shareholders (representing 74% of the total shares outstanding), 41% of those shares were routinely voted in accordance with I.S.S.'s recommendation. Again, I have had the personal experience of attempting to persuade the relatively junior level employees who vote the I.P. shares owned by some of our largest institutional investors to depart from the I.S.S. recommendation. In most cases, since I have had executive level responsibility for the International Paper investor relations function since 1987, I have known the buy-side analyst or portfolio manager who made the decision to invest in I.P. stock. However, these people, who know most about the company and its performance, do not make the voting decisions. Rather the people who do vote the shares do so according to pre-established guidelines, and vote hundreds or even thousands of company proxies in the several weeks of "proxy season." More than a few institutional investors have told me that, since they "don't get paid" by their clients for voting proxies but are required to do so by the Department of Labor regulations, they make it as mechanical an act as possible. In fact, in many instances the individuals who do vote the proxies won't even talk to the people within the company who are soliciting their proxies. Over the years I have been told by more than one that, since their internal regulations would require that they write a memo (for ERISA purposes) justifying any individual instance in which they departed from the pre-established guidelines, they simply don't do so.

So, based on some two decades of experience with how the proxy voting process actually functions, I am convinced that, if the Commission adopts the 1% "trigger" mechanism, activist groups which hold shares in many of the largest publicly traded companies will band together, and will file shareholder resolutions seeking access to the proxy. It will not be nearly as difficult as the Commission seems to believe for them to assemble the necessary 1%, and I would regard it as a virtual certainty that the I.S.S. will recommend a vote in favor of that resolution in all or the vast majority of the companies at which it is filed. Given the degree of control which the I.S.S. exerts over the voting policies of a large group of institutional investors, and the fact that even those investors (such as CalPERS, TIAA-CREF and Fidelity) which formulate their own proxy voting policies would find it difficult to vote against a shareholder access resolution, I believe that, within a year or two, there will be scores of instances in which such a resolution receives a majority of the votes cast. This will be particularly true if brokers are not permitted to vote the proxies of beneficial owners under NYSE Rule 452.

The second "trigger" mechanism, i.e., the 35% "withhold" vote, I find somewhat less disturbing provided (a) it were not abused, in the sense that votes are withheld from an individual director or directors, not because of concern about their performance or the performance of the company, but rather simply for the purpose of "pulling the trigger" to gain access to the proxy, and (b) the board were given an opportunity to "cure" widespread shareholder concern about an individual director by not re-nominating that individual. However, for all the reasons pointed out above, the Commission must recognize that, if its proposal is adopted, directors could be subjected to a "litmus test" devised by the I.S.S. in which, for example, the I.S.S. would recommend a "withhold" vote against any director who sits on a classified board. Were that to occur, the 35% threshold would not loom nearly as high as would be suggested by the historical data which the Commission cites in its release.

In short, I am concerned that a substantial number of institutional investors will regard the triggering mechanisms as just a means to an end, and will conclude that the end justifies the means. There is little reason, and even less empirical data, to assume that these investors will carefully distinguish among individual companies in deciding whether to vote for or against shareholder access. Witness the fact that, at a number of companies which have never had "poison pills," shareholder resolutions requiring that they be rescinded or redeemed have passed by a majority of the votes cast. If these two triggering mechanisms serve to pit institutional investors against the boards of directors of the companies whose shares they own – and I fear that they will – then I think they will undermine the fundamental alignment which must exist between shareholders and the board, and thereby do a great disservice to the improved corporate governance model which the Commission has sought to promote in the several regulations (including the revised stock exchange listing standards) it has adopted in the last two years. I would specifically urge that the Chairman and his fellow Commissioners, in reflecting on the comments received in response to this proposal, take note of the fact that, while the business community almost universally supported all of the Commission's recent corporate governance initiatives, that is decidedly not the case in the instance.

The 5% Shareholder Nomination Proposal

As stated above, what was conceived as an effort to exert pressure on boards which had repeatedly ignored precatory shareholder resolutions has now been transformed into a proposed Commission rule which would require companies (assuming either triggering mechanism had been satisfied) to list director candidates proposed by a 5% shareholder or a group of shareholders aggregating 5%. However, in its release, the Commission has set forth absolutely no data or evidence which would suggest that shareholders (a) have been attempting to nominate director candidates, or (b) have been rebuffed or ignored by the company's board or its nominating committee.

Even before the Commission's late November 2003 adoption of the amendments to Schedule 14A, Item 7 requiring additional disclosures to increase the transparency of the director nominating process, many companies had gone way beyond the boilerplate proxy disclosure requirements of what is currently Schedule 14A, Item 7 (d) (2) as a way of signaling their receptiveness to consider shareholder recommendations of director candidates. For instance, on its corporate governance website (www.internationalpaper.com), International Paper states that any shareholder may nominate a person for election to the board, and sets forth the procedures to be followed (see attached pages). At I.P., I cannot recall any shareholder nominations, other than self-nominations, over a twenty year period. And in calling on large investors in my investor relations capacity, I have on occasion, particularly when I was aware of an imminent retirement on the board, asked those investors whether they were aware of anyone whom they felt would be a good director. In those instances they have been unwilling to recommend any individual, including anyone outside their firm, because of concerns that they could be accused of having inside information which might interfere with their trading flexibility.

With the new amendments to Schedule 14A, Item 7 (d) (2) (ii) becoming effective on January 1, 2004, within the next two years the Commission will presumably have access to reliable data indicating whether 5% shareholders, or a group aggregating to 5%, are in fact proposing candidates for election to the board of the companies they own, and will know what action the nominating committees of those companies have taken. In fact, in many if not most instances, they will know (i) who the candidate was, (ii) the identity of the security holder or security holder group that recommended the candidate, and (iii) whether the nominating committee chose to recommend the nominee. Only at that point will the Commission have the requisite knowledge and information required to determine whether a rule mandating shareholder access to the proxy statement is needed at all (assuming for this purpose that the Commission has the legal authority to promulgate one).

A Better Approach

In view of all of the above, I would urge that the Commission not take any further action at this time, but instead monitor whether 5% shareholders, or groups of shareholders aggregating 5%, are in fact taking advantage of the opportunity to put forward director candidates of which it is safe to assume they are now all acutely aware. I recognize that it will take the Commission some two years to gather meaningful data on this subject, but I submit that is preferable to taking action now (i) when there is absolutely no evidence that further Commission rule-making is needed to ensure meaningful consideration of shareholder-nominated candidates for the board of directors, (ii) when it is likely to precipitate what could be a very divisive battle with the business community, which until now has been almost universally supportive of the Commission's recent corporate governance initiatives, and (iii) when there is a very real possibility that adoption of the rule as proposed will lead to lengthy, expensive and resource-consuming litigation, in which both the procedural aspects of the Commission's action as well as its substantive authority to take that action will be challenged.

Should, however, the Commission elect to press forward on this subject at this point in time, then I would urge that the Commission reissue the proposed rule (a) eliminating the triggering mechanisms, but (b) raising the threshold of share ownership needed to bypass the nominating committee to any 10% shareholder, or 20% aggregation of shareholdings. In my mind that would accomplish two purposes:

(a) It would avoid what I view as the probability that, over the next few years, there will be hundreds of attempts to use one of the two triggering mechanisms to gain shareholder access. These efforts will not be limited to those companies which have failed to respond to shareholder resolutions in the past. The effect will be to polarize corporate boards from their institutional shareholders, with a resultant detrimental effect on the willingness of directors to serve (or to run for election) and therefore on corporate governance generally.

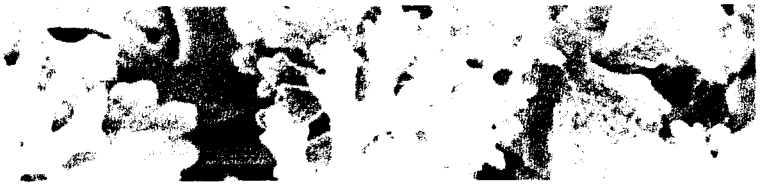
(b) It would ameliorate at least some of the angst now circulating in the business community that a relatively small group of activist shareholders, pursuing their own agenda but at virtually no cost, will be able to utilize the 5% rule to foment proxy contests which will constitute a huge distraction from what the board ought to be focusing on, viz. overseeing the business strategy and operational direction of the company in the interest of maximizing shareholder value. The higher thresholds will make it less likely that a proxy context will occur unless there is widespread dissatisfaction among shareowners with the financial performance or business ethics of the company, and less likely that a special interest group will be able to achieve the necessary level of support to get a director candidate on the company's proxy. At the same time, however, the Commission will have the mechanism in place, by virtue of its amendments to Schedule 14A, Item 7(d) (2) (ii), to monitor those instances in which shareholders who do meet essentially the same 5% threshold as is proposed in this rule are unable to get the company's board to nominate their recommended candidates.

It is of course likely that this is not the last time in the history of the Commission that it will address this subject, but the step it is now proposing is a giant leap into the unknown, with no data to warrant the need for it. This is not an experiment or a pilot program; were the Commission to take this action, from a political standpoint there is realistically no going back. From a public policy standpoint it is the functional equivalent of mandating the universal application of an unproven vaccine of such potency that it could itself cause serious illness in the hope of ameliorating the effect of some malady afflicting only an infinitesimal proportion of the population. As someone who regards himself as a supporter of the Commission and its mission, I firmly believe the adoption of this proposed rule would be a huge mistake.

Very truly yours,

Attachments

cc: Hon. William H. Donaldson, Chairman, Securities and Exchange Commission
Hon. Paul S. Atkins, Commissioner
Hon. Roel C. Campos, Commissioner
Hon. Cynthia A. Glassman, Commissioner
Hon. Harvey J. Goldschmid, Commissioner
Giovanni P. Prezioso, General Counsel
Alan L. Beller, Director, Division of Corporation Finance



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Governance

John Faraci on Corporate Governanc

At International Paper, we believe that g corporate governance is the foundation ι we build and achieve our goals and prov our shareholders, customers and the cor in which we live. We uphold the highest standards and are accountable for all thε

International Paper Principles of Corporate Governance

The Company's Principles of Corporate Governance have been approved by the board of directors and, along with the charters and key practices of the board committees, provide the framework for the governance of International Paper.
« Corporate Governance Principles

International Paper Cod Business Ethics

The Company's Code of Bus applies to all International F employees and has been ad the board of directors as the Company's Code of Ethics fc Executive Officer and Senioı Officers.
« Ethics and Business Practice

Stockholder Nominations For Board of Directors

Stockholders may nominate a person for election to the board by following certain procedures specified in the by-laws.
« Procedures for Stockholder Nominations

Board of Directors Adopt on Executive Compensat

At the May, 2003 Annual M stockholder resolution askiı Board impose certain limita any future termination agre change in control agreemeı into with a senior executive Company was approved by a majority vote of the stock voting on that resolution. Iı consideration of that vote a due consideration, the Boaı at its October, 2003 meetir the following two policies:
« Board Policy on Severance Agr Senior Executives
« Board Policy on Change of Con Agreements

International Paper Board Committees

Audit and Finance Committee
Chaired by Charles R. Shoemate. Other members of the Audit and Finance

Governance Committee
Chaired by Donald F. McHer members of the Governance

Committee are Robert J. Eaton, Samir G. Gibara, James A. Henderson and Robert D. Kennedy.
« Charter

Management Development and Compensation Committee
Chaired by Robert Eaton. Other members of the Management Development and Compensation Committee are James A. Henderson, Robert D. Kennedy, Donald F. McHenry and Charles R. Shoemate.
« Charter

Committee are Samir G. Gil
Patrick F. Noonan and Jane
« Charter

Public Policy and Enviro Committee
Chaired by Patrick Noonan.
members of the Public Polic
Environment Committee ar
Faraci, W. Craig McClelland
C. Pfeiffer.
« Charter

Stockholder Nominations for Election to the Board of Directors

The by-laws of International Paper provide that any stockholder who meets certain ownership requirements may nominate a person or persons for election to the Board of Directors. The stockholder making the nomination must be a stockholder of record as of the date on which he or she makes the nomination, and must remain so through the record date for the determination of stockholders entitled to vote at the meeting at which directors are to be elected.

There will be an election of directors at the 2004 Annual Meeting, now scheduled for May 11, 2004. The by-laws require that any stockholder wishing to nominate a person for election as a director at that meeting must so notify the Secretary of the Corporation, Maura A Smith, in writing between January 12 and February 11, 2004. Normally the Corporate Governance Committee of the Board would decide which nominees to recommend to the Board of Directors at its February meeting, which in 2004 is scheduled for February 10, so it is requested that nominations be submitted prior to date.

The notification delivered to the Secretary must contain certain information concerning the nominee, all of which is set forth in Article II, Section 9 of the by-laws (a copy of which is available upon request). It must also be accompanied by the written consent of each proposed nominee to serve as a Director of the Corporation.