EXECUTIVE COMMITTEE MEETING

New York, N. Y. February 14, 1934.

A meeting of the Executive Committee of the Lead Industries Association was held on Wednesday, February 14, 1934, at 2:30 P.M., at the Board Room of the National Lead Company, 111 Broadway, New York, N. Y.

Present	Representing
Charles Earl	American Smelting & Refining Co.
W. C. Beschorman	National Lead Company
I. H. Cornell	St. Joseph Lead Company
F. F. Colcord	United States Smelting Refining & Mining Co. Inc.

F. E. Wormser, Secretary.

Mr. F. E. Wormser occupied the chair.

The Secretary requested action by the Committee upon a proposal to add a Section 5 to Article XI of the Code, as set forth in an unsigned copy of a letter from Mr. McFarland, received by the Secretary and addressed to Mr. George A. Ellis, dated February 9, and attached hereto. Section 5 follows:

> When any metal or material other than lead is produced by any member of the Lead Industry as a by-product, such by-product shall not be sold in contravention of the fair trade practice and marketing provisions of the Code of Fair Competition for the industry which produced such metal or materials as its preponderant activity and the producer thereof shall comply with such other requirements of such other codes as relate to statistical reports.

After careful consideration the Committee authorized the Secretary to write a letter to Mr. Janssen, stating that the Lead Industries Association desired to adhere to Article XI as submitted in the draft of the Code dated February 6, and did not wish to include the proposed Section 5 as noted above. Copy of letter to Mr. Janssen follows:

> We have received a carbon copy of a letter dated February 9, 1934, from Mr. McFarland to Geo. A. Ellis, Esq., attorney for United Verde Copper Company, requesting the insertion of an additional section in the coordination clause of the Copper Code entitled, "Application of Code to Operations Wherein Other Metals Are Produced", and expressing the desire that the same addition should be made to

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the corresponding clause of the Lead Code. The Lead Industries Association has not, however, received any official request that this addition be made.

At a meeting of the Executive Committee of the Lead Industries Association, attention was called to Mr. McFarland's suggestion but all those present opposed its inclusion.

After much labor and innumerable conferences and discussions, the terms of a code have finally been settled and embodied in draft dated February 6, 1934, which has been formally submitted to you by the Lead Industries Association, with a resolution authorizing its submission, and this Code we understand is now awaiting formal approval by the President or the Administrator.

The Secretary presented an invitation from General Johnson, dated February 10, to attend a public hearing on March 5 to 8 inclusive, in Washington, on code matters. The Secretary was requested to affix the names of the Executive Committee members to the acknowledgment blank attached to the invitation.

The meeting adjourned at 3:45 P.M.

F. E. Wormser

Secretary.

C O P Y

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February 9, 1934.

NATIONAL RECOVERY ADMINISTRATION

George A. Ellis, Esq.
Messrs. Clark, Carr & Ellis
120 Broadway
New York, N. Y.

Dear Mr. Ellis: Re: Copper Code

The other day, Mr. Wormser, Secretary of the Lead Industries Association, who has been working with me on the Lead Code, called me and stated that he was in conference with some members of the Copper Industry in regard to the Article which we are proposing for the Lead, Copper and Zinc Codes concerning the applicability of the code. Mr. Wormser stated over the telephone that he had several changes in our proposed Article which the Copper people were asking him to make. These changes were wholly improper since the net effect thereof would be to have certain operations of a member of the industry be under two or more different codes, namely, the labor provisions of one code and the administrative and other provisions of another code be applicable. This would, of course, result in a hopeless situation.

The theory of all these extractive metal codes is that they will adhere to and be governed by the code which governs the production of the metal which is the preponderant commercially recoverable constituent of their operations. This is covered by the first section of the proposed Article. It is recognized, however, that there may be a particular part of any one member of the industry's operations which are capable of isolation and which have to do only with the production of metal other than that which is preponderant as to that particular member of the industry; therefore, the proposed Article gives machinery for that member of the industry transferring that part of his operations to the government of that other code. It is also recognized that there may be several border line cases and the proposed Article has machinery whereby they can be handled.

The real point which Mr. Wormser and the Copper people were driving at and the only point which is not fully covered by the proposed Article is the manner in which the by-product will be handled after it is produced so as to avoid confusion in the industry and in the administration of the code which would have covered that by-product if it had been produced by one who was preponderantly producing that particular metal. It would be impossible of course, for example, for the Zinc Code to try to tell the Copper and Lead people how they would handle their zinc; however, it is perfectly practicable for the Zinc Code to provide that members of the Zinc Industry in the production of metals other than zinc will abide by the fair trade practice, marketing and statistical provisions of the other codes covering such metals which the member of the Zinc Industry may product as a by-

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product. Then if the Copper and the Lead people will all make similar provisions, the exact goal desired by everyone will be accomplished in a perfectly valid manner.

Therefore, we have proposed to the Zinc people that they include as an additional Section 5 to their Article on applicability the following provision:

> "When any metal or material other than zinc is produced by any member of the Zinc Industry as a by-product, such by-product shall not be sold in contravention of the fair trade practice and marketing provisions of the Code of Fair Competition for the industry which produced such metal or materials as its preponderant activity and the producer thereof shall comply with such other requirements of such other codes as relate to statistical reports."

It is therefore now requested that this additional section be inserted in the appropriate Article in both the Copper and the Lead Codes. I will appreciate it if you will transmit this to the Code Committee handling the Copper Code.

Very truly yours,

W. M. McFarland
Assistant Counsel.

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