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The following members of the staff of The Brookings Institution
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After the book is approved by the Institute for publication a digest of it is placed before the Advisory Council of The Brookings Institution. The Advisory Council does not undertake to revise or edit the manuscript, but each member is afforded an opportunity to criticize the analysis and, if so disposed, to prepare a dissenting opinion for publication in the volume.

DIRECTOR'S PREFACE

This is the second of a series of studies of the NRA undertaken by the Institute of Economics under the immediate direction of Leverett S. Lyon. The first, *The Economics of Free Deals*, dealt with a specific controversial trade practice and the types of problems which the regulation of such a practice presented to trade and government officials. This volume, on the other hand, is a general introductory statement dealing with the National Industrial Recovery Act and the Recovery Administration during the first few months of their existence.

The Recovery Act occupies a central place in the President's recovery program. The administration of that Act has definitely affected not only every industry but almost every person in the economic life of America. Yet so energetic has been the execution of the NRA program and so quickly changing the aspects which have been brought to the public's attention that it has been difficult, if not impossible, even for interested persons to see the significance of the law as a whole or to observe its administration with proper perspective. In view of this difficulty, it is believed that this preliminary view of the NRA will be useful in furthering the Institute's object "of ascertaining the facts about current economic problems and of interpreting these facts for the people in the United States in the most simple and understandable form." It goes without saying that discussion of the results of the NRA program must be postponed

DIRECTOR'S PREFACE

until more time has passed and more study has been devoted to understanding them.

Charles L. Dearing, who is on leave from the Institution to act as an assistant deputy administrator of the NRA, completed the collection of data used in his part of this work before his duties at the NRA were begun. Harold G. Moulton and Arnold Bennett Hall have acted with the authors as a co-operative committee. We have also had the aid of an advisory committee of the Social Science Research Council.

EDWIN G. NOURSE

Director

Institute of Economics
February 1934

ACKNOWLEDGMENT

Acknowledgment is due to General Hugh S. Johnson, administrator of the National Recovery Administration, for making it possible to secure directly from the NRA much of the data used in this study.

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INTRODUCTION

The President of the United States, when affixing his signature to the National Industrial Recovery Act on June 16, 1933, declared:

History probably will record the National Industrial Recovery Act as the most important and far-reaching legislation ever enacted by the American Congress.

It represents a supreme effort to stabilize for all time the many factors which make for the prosperity of the nation and the preservation of American standards.

Its goal is the assurance of a reasonable profit to industry and living wages for labor, with the elimination of the piratical methods and practices which have not only harassed honest business but also contributed to the ills of labor.

That the President should so appraise one law in a year which saw the passage under his urgent influence of so much remarkable legislation shows with clearness that the law is regarded as central to the Roosevelt Administration's program. The Administration thus indicates the magnitude of the problems to which the law is directed and the deviation from past lines of economic policy which it represents.

The occasion for the National Industrial Recovery Act was the desperate business situation which existed in the spring of 1933, and the failure of the expedients theretofore experimented with to halt the downward course of industrial activity. Deflationary developments had carried economic maladjustments to a point where the experience of earlier depressions appeared to many observers to furnish no guidance. Faith in the "self-generating" forces of recovery had almost completely

vanished. The widespread belief that the government must intervene to rout the forces of depression, in a more comprehensive way than had ever before been attempted, opened the way for new and unconventional experiments in economic policy.

The Recovery Act went into operation under conditions more auspicious than those which prevailed when it was being considered. There appeared in the early spring of 1933 certain anticipatory evidence of business improvement. From the moment that President Roosevelt took steps to meet the banking crisis which faced him at his inauguration, popular feeling began to emerge from the passive despair which had developed. The attack upon fiscal problems, especially the budget, engendered new hope in business circles. The promise of large expenditures on public works and direct relief, financed by federal credit, promised stimulation to business. The agricultural relief measures raised the hopes of farmers. The monetary authority given the President by the Thomas amendment, raising as it did the prospect of monetary inflation, aroused a speculative interest in future prices. Backed as this prospect was by the President's expressed intention to raise prices, the declining foreign exchange value of the dollar after the abandonment of the gold standard further supported the rise in the prices of commodities entering into international trade. A rise of domestic prices began in conjunction with a speculative interest in commodities which led to a stepping up of industrial production in many lines. A stock-market boom accompanied the movement.

It was in this atmosphere of aroused hope, monetary uncertainty, and incipient business boom that the National Industrial Recovery Act went into effect. Widely

accepted as further evidence of the President's firm intention to break the depression, it perhaps accentuated the optimistic tone already developing. By directing popular interest to the idea of putting men back to work and increasing the flow of money to market, it commanded attention as a stroke at the root of the trouble. The Recovery Administration rapidly took the center of the stage, in part because of the colorful personality of General Johnson, the Administrator, but mainly because the organization of its activities came home in some way to every citizen.

The Act has now been a law of the land for some months, and a center of hopes and efforts for economic recovery. When the wings of the Blue Eagle spread over the daily activities of employers and workers in hundreds of trades and industries, they became the symbolic promise of prosperity. All the publicity and activity connected with putting the Act into operation have not, however, prevented confusion in the minds of people concerning what it means and what it may be expected to accomplish. Moreover, as developments have taken place under the Act, serious misgivings and controversies concerning its effects have arisen. In the following pages no attempt is made to dispose by critical appraisal of the points upon which controversy exists. That task is reserved for the future after more careful study. The more modest endeavor here is to be of assistance to thinking persons who wish to follow understandingly what happens under the Act.

Toward this end the first part of the book is devoted to an examination of the National Industrial Recovery Act itself.¹ The lines of thought which united to create

¹ While a brief historical statement deals with the Act as a whole, the study deals essentially with only Title I of the three which constitute the law.

the Congressional atmosphere in which it was fostered and passed are reviewed in order to give better insight into the broad administrative powers granted to the President by the terms of its provisions. These provisions are then briefly summarized and their major legal and economic implications set forth.

The wheels within wheels which have been at work since the inception of the recovery program are described in Part II. An effort has been made to explain in brief compass the vast net-work of government and private agencies which has made possible the administration of this gigantic undertaking. The President's Re-employment Agreement, the "Blue Eagle drive" to enlist nation-wide acceptance of the agreement, and the procedure through which it has been administered are described. The intricate process of making, administering, and enforcing codes which has so engrossed the attention of the public for the past eight months is then presented in some detail.

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APPENDIX A

PRESIDENT ROOSEVELT'S SPECIAL MESSAGE,
MAY 17, 1933

To the Congress:

Before the Special Session of the Congress adjourns, I recommend two further steps in our national campaign to put people to work.

My first request is that (I) the Congress provide for the machinery necessary for a great co-operative movement throughout all industry in order to obtain wide re-employment, to shorten the working week, to pay a recent wage for the shorter week and to prevent unfair competition and disastrous over-production.

Employers cannot do this singly or even in organized groups, because such action increases costs and thus permits cut-throat underselling by selfish competitors unwilling to join in such a public-spirited endeavor.

One of the great restrictions upon such co-operative efforts up to this time has been our anti-trust laws. They were properly designed as the means to cure the great evils of monopolistic price fixing. They should certainly be retained as a permanent assurance that the old evils of unfair competition shall never return. But the public interest will be served if, with the authority and under the guidance of government, private industries are permitted to make agreements and codes insuring fair competition. However, it is necessary, if we thus limit the operation of anti-trust laws to their original purpose to provide a rigorous licensing power in order to meet rare cases of non-co-operation and abuse. Such a safeguard is indispensable.

The other proposal (II) gives the executive full power to start a large program of direct employment. A careful survey convinces me that approximately \$3,300,000,000 can be invested

in useful and necessary public construction, and at the same time put the largest possible number of people to work.

Provisions should be made to permit states, counties and municipalities to undertake useful public works, subject, however, to the most effective possible means of eliminating favoritism and wasteful expenditures on unwarranted and uneconomic projects.

We must, by prompt and vigorous action, override unnecessary obstructions which in the past have delayed the starting of public works programs. This can be accomplished by simple and direct procedure.

In carrying out this program it is imperative that the credit of the United States government be protected and preserved. This means that at the same time we are making these vast emergency expenditures there must be provided sufficient revenue to pay interest and amortization on the cost and that the revenues so provided must be adequate and certain rather than inadequate and speculative.

Careful estimates indicate that at least \$220,000,000 of additional revenue will be required to service the contemplated borrowings of the government. This will of necessity involve some form or forms of new taxation. A number of suggestions have been made as to the nature of these taxes. I do not make a specific recommendation at this time, but I hope that the Committee on Ways and Means, of the House of Representatives, will make a careful study of revenue plans and be prepared by the beginning of the coming week to propose the taxes which they judge to be best adapted to meet the present need and which will at the same time be least burdensome to our people. At the end of that time, if no decision has been reached or if the means proposed do not seem to be sufficiently adequate or certain, it is my intention to transmit to the Congress my own recommendations in the matter.

The taxes to be imposed are for the purpose of providing re-employment for our citizens. Provision should be made for their reduction or elimination.

First—As fast as increasing revenues from improving business become available to replace them;

Second—Whenever the repeal of the 18th Amendment now pending before the States shall have been ratified and the repeal

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of the Volstead Act effected. The pre-prohibition revenue laws would then automatically go into effect and yield enough wholly to eliminate these temporary re-employment taxes.

Finally, I stress the fact that all of these proposals are based on the gravity of the emergency and that therefore it is urgently necessary immediately to initiate a re-employment campaign if we are to avoid further hardships, to sustain business improvement and to pass on to better things.

For this reason I urge prompt action on this legislation.

FRANKLIN D. ROOSEVELT.

The White House, May 17, 1933.

APPENDIX B

TITLE I—INDUSTRIAL RECOVERY ACT

(Only Title I of the Act is given, since it is the one with which this book is concerned.)

DECLARATION OF POLICY

SECTION 1. A national emergency productive of widespread unemployment and disorganization of industry, which burdens interstate and foreign commerce, affects the public welfare, and undermines the standards of living of the American people, is hereby declared to exist. It is hereby declared to be the policy of Congress to remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of co-operative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

ADMINISTRATIVE AGENCIES

SEC. 2. (a) To effectuate the policy of this title, the President is hereby authorized to establish such agencies, to accept and utilize such voluntary and uncompensated services, to appoint, without regard to the provisions of the civil service laws, such officers and employees, and to utilize such federal officers and employees, and, with the consent of the state, such state and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without

regard to the Classification Act of 1923, as amended, to fix the compensation of any officers and employees so appointed.

(b) The President may delegate any of his functions and powers under this title to such officers, agents, and employees as he may designate or appoint, and may establish an industrial planning and research agency to aid in carrying out his functions under this title.

(c) This title shall cease to be in effect and any agencies established hereunder shall cease to exist at the expiration of two years after the date of enactment of this Act, or sooner if the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by Section 1 has ended.

CODES OF FAIR COMPETITION

SEC. 3. (a) Upon the application to the President by one or more trade or industrial associations or groups, the President may approve a code or codes of fair competition for the trade or industry or subdivision thereof, represented by the applicant or applicants, if the President finds (1) that such associations or groups impose no inequitable restrictions on admission to membership therein and are truly representative of such trades or industries or subdivisions thereof, and (2) that such code or codes are not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of this title: *Provided*; That such code or codes shall not permit monopolies or monopolistic practices: *Provided further*, That where such code or codes affect the services and welfare of persons engaged in other steps of the economic process, nothing in this section shall deprive such persons of the right to be heard prior to approval by the President of such code or codes. The President may, as a condition of his approval of any such code, impose such conditions (including requirements for the making of reports and the keeping of accounts) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and may provide such exceptions to and exemptions from the provisions of such code, as the President in his discretion deems necessary to effectuate the policy herein declared.

(b) After the President shall have approved any such code, the provisions of such code shall be the standards of fair competition for such trade or industry or subdivision thereof. Any violation of such standards in any transaction in or affecting interstate or foreign commerce shall be deemed an unfair method of competition in commerce within the meaning of the Federal Trade Commission Act, as amended; but nothing in this title shall be construed to impair the powers of the Federal Trade Commission under such Act, as amended.

(c) The several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of any code of fair competition approved under this title; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations.

(d) Upon his own motion, or if complaint is made to the President that abuses inimical to the public interest and contrary to the policy herein declared are prevalent in any trade or industry or subdivision thereof, and if no code of fair competition therefor has theretofore been approved by the President, the President, after such public notice and hearing as he shall specify, may prescribe and approve a code of fair competition for such trade or industry or subdivision thereof, which shall have the same effect as a code of fair competition approved by the President under Sub-division (a) of this section.

(e) On his own motion, or if any labor organization, or any trade or industrial organization, association, or group, which has complied with the provisions of this title, shall make complaint to the President that any article or articles are being imported into the United States in substantial quantities or increasing ratio to domestic production of any competitive article or articles and on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of any code or agreement under this title, the President may cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this sub-section, and if, after such investigation and such public notice and hearing as he shall specify, the President shall find the existence of such facts, he shall, in order to effectuate the

policy of this title, direct that the article or articles concerned shall be permitted entry into the United States only upon such terms and conditions and subject to the payment of such fees and to such limitations in the total quantity which may be imported (in the course of any specified period or periods) as he shall find it necessary to prescribe in order that the entry thereof shall not render or tend to render ineffective any code or agreement made under this title. In order to enforce any limitations imposed on the total quantity of imports, in any specified period or periods, of any article or articles under this sub-section, the President may forbid the importation of such article or articles unless the importer shall have first obtained from the Secretary of the Treasury a license pursuant to such regulations as the President may prescribe. Upon information of any action by the President under this sub-section the Secretary of the Treasury shall, through the proper officers, permit entry of the article or articles specified only upon such terms and conditions and subject to such fees, to such limitations in the quantity which may be imported, and to such requirements of license, as the President shall have directed. The decision of the President as to facts shall be conclusive. Any condition or limitation of entry under this sub-section shall continue in effect until the President shall find and inform the Secretary of the Treasury that the conditions which led to the imposition of such condition or limitation upon entry no longer exists.

(f) When a code of fair competition has been approved or prescribed by the President under this title, any violation of any provision thereof in any transaction in or affecting interstate or foreign commerce shall be a misdemeanor and upon conviction thereof an offender shall be fined not more than \$500 for each offense, and each day such violation continues shall be deemed a separate offense.

AGREEMENTS AND LICENSES

SEC. 4. (a) The President is authorized to enter into agreements with, and to approve voluntary agreements between and among, persons engaged in a trade or industry, labor organizations, and trade or industrial organizations, associations, or groups, relating to any trade or industry, if in his judgment such agreements will aid in effectuating the policy of this title

with respect to transactions in or affecting interstate or foreign commerce, and will be consistent with the requirements of Clause (2) of Sub-section (a) of Section 3 for a code of fair competition.

(b) Whenever the President shall find that destructive wage or price cutting or other activities contrary to the policy of this title are being practiced in any trade or industry or any subdivision thereof, and, after such public notice and hearing as he shall specify, shall find it essential to license business enterprises in order to make effective a code of fair competition or an agreement under this title or otherwise to effectuate the policy of this title, and shall publicly so announce, no person shall, after a date fixed in such announcement, engage in or carry on any business, in or affecting interstate or foreign commerce, specified in such announcement, unless he shall have first obtained a license issued pursuant to such regulations as the President shall prescribe. The President may suspend or revoke any such license, after due notice and opportunity for hearing, for violations of the terms or conditions thereof. Any order of the President suspending or revoking any such license shall be final if in accordance with law. Any person who, without such a license or in violation of any condition thereof, carries on any such business for which a license is so required, shall, upon conviction thereof, be fined not more than \$500, or imprisoned not more than six months, or both, and each day such violation continues shall be deemed a separate offense. Notwithstanding the provision of Section 2 (c), this sub-section shall cease to be in effect at the expiration of one year after the date of enactment of this Act or sooner if the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by Section 1 has ended.

SEC. 5. While this title is in effect (or in the case of a license, while Section 4 (a) is in effect) and for sixty days thereafter, any code, agreement, or license approved, prescribed, or issued and in effect under this title, and any action complying with the provisions thereof taken during such period, shall be exempt from the provisions of the anti-trust laws of the United States.

Nothing in this Act, and no regulation thereunder, shall prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof; nor shall anything

in this Act, or regulation thereunder, prevent anyone from marketing or trading the produce of his farm.

LIMITATIONS UPON APPLICATION OF TITLE

SEC. 6. (a) No trade or industrial association or group shall be eligible to receive the benefit of the provisions of this title until it files with the President a statement containing such information relating to the activities of the association or group as the President shall by regulation prescribe.

(b) The President is authorized to prescribe rules and regulations designed to insure that any organization availing itself of the benefits of this title shall be truly representative of the trade or industry or subdivision thereof represented by such organization. Any organization violating any such rule or regulation shall cease to be entitled to the benefits of this title.

(c) Upon the request of the President, the Federal Trade Commission shall make such investigations as may be necessary to enable the President to carry out the provisions of this title, and for such purposes the commission shall have all the powers vested in it with respect of investigations under the Federal Trade Commission Act, as amended.

SEC. 7. (a) Every code of fair competition, agreement, and license approved, prescribed, or issued under this title shall contain the following conditions: (1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

(b) The President shall, so far as practicable, afford every opportunity to employers and employees in any trade or industry or subdivision thereof with respect to which the conditions

referred to in clauses (1) and (2) of Sub-section (a) prevail, to establish, by mutual agreement, the standards as to the maximum hours of labor, minimum rates of pay, and such other conditions of employment as may be necessary in such trade or industry or subdivision thereof to effectuate the policy of this title; and the standards established in such agreements, when approved by the President, shall have the same effect as a code of fair competition, approved by the President under Sub-section (a) of Section 3.

(c) Where no such mutual agreement has been approved by the President he may investigate the labor practices, policies, wages, hours of labor, and conditions of employment in such trade or industry or subdivision thereof; and upon the basis of such investigations, and after such hearings as the President finds advisable, he is authorized to prescribe a limited code of fair competition fixing such maximum hours of labor, minimum rates of pay, and other conditions of employment in the trade or industry or subdivision thereof investigated as he finds to be necessary to effectuate the policy of this title, which shall have the same effect as a code of fair competition approved by the President under Sub-section (a) of Section 3. The President may differentiate according to experience and skill of the employees affected and according to the locality of employment; but no attempt shall be made to introduce any classification according to the nature of the work involved which might tend to set a maximum as well as a minimum wage.

(d) As used in this title, the term "person" includes any individual, partnership, association, trust, or corporation; and the terms "interstate and foreign commerce" and "interstate or foreign commerce" include, except where otherwise indicated, trade or commerce among the several states and with foreign nations, or between the District of Columbia or any territory of the United States and any state, territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any state or territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any territory or any insular possession or other place under the jurisdiction of the United States.

APPLICATION OF AGRICULTURAL ADJUSTMENT ACT

SEC. 8. (a) This title shall not be construed to repeal or modify any of the provisions of Title I of the Act entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes," approved May 12, 1933; and such Title I of said Act approved May 12, 1933, may for all purposes be hereafter referred to as the "Agricultural Adjustment Act."

(b) The President may, in his discretion, in order to avoid conflicts in the administration of the Agricultural Adjustment Act and this title, delegate any of his functions and powers under this title with respect to trades, industries, or subdivisions thereof which are engaged in the handling of any agricultural commodity or product thereof, or of any competing commodity or product thereof, to the Secretary of Agriculture.

OIL REGULATION

SEC. 9. (a) The President is further authorized to initiate before the Interstate Commerce Commission proceedings necessary to prescribe regulations to control the operations of oil pipe lines and to fix reasonable, compensatory rates for the transportation of petroleum and its products by pipe lines, and the Interstate Commerce Commission shall grant preference to the hearings and determination of such cases.

(b) The President is authorized to institute proceedings to divorce from any holding company any pipe-line company controlled by such holding company which pipe-line company by unfair practices or by exorbitant rates in the transportation of petroleum or its products tends to create a monopoly.

(c) The President is authorized to prohibit the transportation in interstate and foreign commerce of petroleum and the products thereof produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any state law or valid regulation or order prescribed thereunder, by any board, commission, officer, or other duly au-

thorized agency of a state. Any violation of any order of the President issued under the provisions of this sub-section shall be punishable by fine of not to exceed \$1,000, or imprisonment for not to exceed six months, or both.

RULES AND REGULATIONS

SEC. 10. (a) The President is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this title, and fees for licenses and for filing codes of fair competition and agreements, and any violation of any such rule or regulation shall be punishable by fine of not to exceed \$500, or imprisonment for not to exceed six months, or both.

(b) The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under this title; and each agreement, code of fair competition, or license approved, prescribed, or issued under this title shall contain an express provision to that effect.

Dated, 1933.

(Sign here).....
(Name)

.....
(Official position)

.....
(Firm and corporation name)

.....
(Industry or trade)

.....
(Number of employees at the date of signing)

.....
(Street)

.....
(Town or city)

.....
(State)

APPENDIX C

PRESIDENTIAL STATEMENT OUTLINING POLICIES OF THE NRA, JUNE 16, 1933

The law I have just signed was passed *to put people back to work*—to let them buy more of the products of farms and factories and start our business at a living rate again. This task is in two stages—first, to get many hundreds of thousands of the unemployed back on the pay roll by snowfall and second, to plan for a better future for the longer pull. While we shall not neglect the second, the first stage is an emergency job. It has the right of way.

The second part of the Act gives employment by a vast program of public works. Our studies show that we should be able to hire many men at once and to step up to about a million new jobs by October 1, and a much greater number later. We must put at the head of our list those works which are fully ready to start now. Our first purpose is to create employment as fast as we can but we should not pour money into unproved projects.

We have worked out our plans for action. Some of it will start tomorrow. I am making available \$400,000,000 for state roads under regulations which I have just signed and I am told that the states will get this work under way at once. I have also just released over \$200,000,000 for the Navy to start building ships under the London Treaty.

In my inaugural I laid down the simple proposition that nobody is going to starve in this country. It seems to me to be equally plain that no business which depends for existence on paying less than living wages to its workers has any right to continue in this country. By "business" I mean the whole of commerce as well as the whole of industry; by workers I mean all workers—the white-collar class as well as the men in overalls; and by *living* wages I mean more than a bare subsistence level—I mean the wages of *decent* living.

Throughout industry, the change from starvation wages and starvation employment to living wages and sustained employ-

ment can, in large part, be made by an industrial covenant to which all employers shall subscribe. It is greatly to their interest to do this because decent living, widely spread among our 125,000,000 people eventually means the opening up to industry of the richest market which the world has known. It is the only way to utilize the so-called excess capacity of our industrial plants. This is the principle that makes this one of the most important laws that ever came from Congress because, before the passage of this Act, no such industrial covenant was possible.

On this idea, the first part of the Act proposes to our industry a great spontaneous co-operation to put millions of men back in their regular jobs this summer. The idea is simply for employers to hire more men to do the existing work by reducing the work-hours of each man's week and at the same time paying a living wage for the shorter week.

No employer and no group of less than all employers in a single trade could do this alone and continue to live in business competition. But if *all* employers in each trade now band themselves faithfully in these modern guilds—without exception—and agree to act together and at once, none will be hurt and millions of workers, so long deprived of the right to earn their bread in the sweat of their labor, can raise their heads again. The challenge of this law is whether we can sink selfish interest and present a solid front against a common peril.

It is a challenge to industry which has long insisted that, given the right to act in unison, it could do much for the general good which has hitherto been unlawful. From today it has that right.

Many good men voted this new charter with misgivings. I do not share these doubts. I had part in the great co-operation of 1917 and 1918 and it is my faith that we can count on our industry once more to join in our general purpose to lift this new threat and to do it without taking any advantage of the public trust which has this day been reposed without stint in the good faith and high purpose of American business.

But industry is challenged in another way. It is not only the slackers within trade groups who may stand in the path of our common purpose. In a sense these groups compete with each other, and no single industry, and no separate cluster of industries, can do this job alone, for exactly the same reason that no

single employer can do it alone. In other words, we can imagine such a thing as a *slacker industry*.

This law is also a challenge to labor. Workers, too, are here given a new charter of rights long sought and hitherto denied. But they know that the first move expected by the nation is a great co-operation of all employers, by one single mass action, to improve the case of workers on a scale never attempted in any nation. Industries can do this only if they have the support of the whole public and especially of their own workers. This is not a law to foment discord and it will not be executed as such. This is a time for mutual confidence and help and we can safely rely on the sense of fair play among all Americans to assure every industry which now moves forward promptly in this united drive against depression that its workers will be with it to a man.

It is, further, a challenge to administration. We are relaxing some of the safeguards of the anti-trust laws. The public must be protected against the abuses that led to their enactment, and to this end we are putting in place of old principles of unchecked competition some new government controls. They must above all be impartial and just. Their purpose is to free business—not to shackle it—and no man who stands on the constructive forward looking side of his industry has anything to fear from them. To such men the opportunities for individual initiative will open more amply than ever. Let me make it clear, however, that the anti-trust laws still stand firmly against monopolies that restrain trade and price fixing which allows inordinate profits or unfairly high prices.

If we ask our trade groups to do that which exposes their business, as never before, to undermining by members who are unwilling to do their parts, we must guard those who play the game for the general good against those who may seek selfish gains from the unselfishness of others. We must protect them from the racketeers who invade organizations of both employers and workers. We are spending billions of dollars and if that spending is really to serve our ends it must be done quickly. We must see that our haste does not permit favoritism and graft. All this is a heavy load for any government and one that can be borne only if we have the patience, co-operation, and support of people everywhere.

Finally, this law is a challenge to our whole people. There is no power in America that can force against the public will such action as we require. But there is no group in America that can withstand the force of an aroused public opinion. This great co-operation can succeed only if those who bravely go forward to restore jobs have aggressive public support and those who lag are made to feel the full weight of public disapproval.

As to the machinery—the practical way of accomplishing what we are setting out to do, when a trade association has a code ready to submit and the association has qualified as truly representative, and after reasonable notice has been issued to all concerned, a public hearing will be held by the Administrator or a deputy. A Labor Advisory Board appointed by the Secretary of Labor will be responsible that every affected labor group, whether organized or unorganized, is fully and adequately represented in an advisory capacity and any interested labor group will be entitled to be heard through representatives of its own choosing. An Industrial Advisory Board appointed by the Secretary of Commerce will be responsible that every affected industrial group is fully and adequately represented in an advisory capacity and any interested industrial group will be entitled to be heard through representatives of its own choosing. A Consumers' Advisory Board will be responsible that the interests of the consuming public will be represented and every reasonable opportunity will be given to any group or class who may be affected directly or indirectly to present their views.

At the conclusion of these hearings and after the most careful scrutiny by a competent economic staff the Administrator will present the subject to me for my action under the law.

I am fully aware that wage increases will eventually raise costs, but I ask that managements give first consideration to the improvement of operating figures by greatly increased sales to be expected from the rising purchasing power of the public. That is good economics and good business. The aim of this whole effort is to restore our rich domestic market by raising its vast consuming capacity. If we now inflate prices as fast and as far as we increase wages, the whole project will be set at naught. We cannot hope for the full effect of this plan unless, in these first critical months, and, even at the expense of full initial profits, we defer price increases as long as possible. If we

can thus start a strong sound upward spiral of business activity our industries will have little doubt of black-ink operations in the last quarter of this year. The pent-up demand of this people is very great and if we can release it on so broad a front, we need not fear a lagging recovery. There is greater danger of too much feverish speed.

In a few industries, there has been some forward buying at unduly depressed prices in recent weeks. Increased costs resulting from this government inspired movement may make it very hard for some manufacturers and jobbers, to fulfill some of their present contracts without loss. It will be a part of this wide industrial co-operation for those having the benefit of these forward bargains (contracted before the law was passed) to take the initiative in revising them to absorb some share of the increase in their suppliers' costs, thus raised in the public interest. It is only in such a willing and considerate spirit, throughout the whole of industry, that we can hope to succeed.

Under Title I of this Act, I have appointed Hugh Johnson as Administrator and a special Industrial Recovery Board under the chairmanship of the Secretary of Commerce. This organization is now prepared to receive proposed codes and to conduct prompt hearings looking toward their submission to me for approval. While acceptable proposals of no trade group will be delayed, it is my hope that the 10 major industries which control the bulk of industrial employment can submit their simple basic codes at once and that the country can look forward to the month of July as the beginning of our great national movement back to work.

During the coming 3 weeks Title II relating to public works and construction projects will be temporarily conducted by Col. Donald H. Sawyer as administrator and a special temporary board consisting of the Secretary of the Interior as chairman, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of War, the Attorney General, the Secretary of Labor, and the Director of the Budget.

During the next 2 weeks the Administrator and this board will make a study of all projects already submitted or to be submitted and, as previously stated, certain allotments under the new law will be made immediately.

Between these twin efforts—public works and industrial re-

employment, it is not too much to expect that a great many men and women can be taken from the ranks of the unemployed before winter comes. It is the most important attempt of this kind in history. As in the great crisis of the World War, it puts a whole people to the simple but vital test: "*Must we go on in many groping, disorganized, separate units to defeat or shall we move as one great team to victory?*"

APPENDIX D

PRESIDENT'S RE-EMPLOYMENT AGREEMENT

(Authorized by Section 4(a) National Industry Recovery Act)

During the period of the President's emergency re-employment drive, that is to say, from August 1 to December 31, 1933, or to any earlier date of approval of a code of fair competition to which he is subject, the undersigned hereby agrees with the President as follows:

(1) After August 31, 1933, not to employ any person under 16 years of age, except that persons between 14 and 16 may be employed (but not in manufacturing or mechanical industries) for not to exceed 3 hours per day and those hours between 7 A.M. and 7 P.M. in such work as will not interfere with hours of day school.

(2) Not to work any accounting, clerical, banking, office, service, or sales employees (except outside salesmen) in any store, office, department, establishment, or public utility, or on any automotive or horse-drawn passenger, express, delivery, or freight service, or in any other place or manner, for more than 40 hours in any 1 week and not to reduce the hours of any store or service operation to below 52 hours in any 1 week, unless such hours were less than 52 hours per week before July 1, 1933, and in the latter case not to reduce such hours at all.

(3) Not to employ any factory or mechanical worker or artisan more than a maximum week of 35 hours until December 31, 1933, but with the right to work a maximum week of 40 hours for any 6 weeks within this period; and not to employ any worker more than 8 hours in any 1 day.

(4) The maximum hours fixed in the foregoing paragraphs (2) and (3) shall not apply to employees in establishments employing not more than two persons in towns of less than 2,500 population which towns are not part of a larger trade area; nor to registered pharmacists or other professional persons employed in their profession; nor to employees in a managerial or execu-

tive capacity, who now receive more than \$35 per week; nor to employees on emergency maintenance and repair work; nor to very special cases where restrictions of hours of highly skilled workers on continuous processes would unavoidably reduce production but, in any such special case, at least time and one third shall be paid for hours worked in excess of the maximum. Population for the purposes of this agreement shall be determined by reference to the 1930 federal census.

(5) Not to pay any of the classes of employees mentioned in paragraph (2) less than \$15 per week in any city of over 500,000 population, or in the immediate trade area of such city; nor less than \$14.50 per week in any city of between 250,000 and 500,000 population, or in the immediate trade area of such city; nor less than \$14 per week in any city of between 2,500 and 250,000 population, or in the immediate trade area of such city; and in towns of less than 2,500 population to increase all wages by not less than 20 per cent, provided that this shall not require wages in excess of \$12 per week.

(6) Not to pay any employee of the classes mentioned in paragraph (3) less than 40 cents per hour unless the hourly rate for the same class of work on July 15, 1929, was less than 40 cents per hour, in which latter case not to pay less than the hourly rate on July 15, 1929, and in no event less than 30 cents per hour. It is agreed that this paragraph establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of a time rate or on a piece-work performance.

(7) Not to reduce the compensation for employment now in excess of the minimum wages hereby agreed to (notwithstanding that the hours worked in such employment may be hereby reduced) and to increase the pay for such employment by an equitable readjustment of all pay schedules.

(8) Not to use any subterfuge to frustrate the spirit and intent of this agreement which is, among other things, to increase employment by a universal covenant, to remove obstructions to commerce and to shorten hours and to raise wages for the shorter week to a living basis.

(9) Not to increase the price of any merchandise sold after the date hereof over the price on July 1, 1933, by more than is made necessary by actual increases in production, replacement,

or invoice costs of merchandise, or by taxes or other costs resulting from action taken pursuant to the Agricultural Adjustment Act, since July 1, 1933, and, in setting such price increases, to give full weight to probable increases in sales volume and to refrain from taking profiteering advantage of the consuming public.

(10) To support and patronize establishments which also have signed this agreement and are listed as members of NRA (National Recovery Administration).

(11) To co-operate to the fullest extent in having a code of fair competition submitted by his industry at the earliest possible date, and in any event before September 1, 1933.

(12) Where, before June 16, 1933, the undersigned had contracted to purchase goods at a fixed price for delivery during the period of this agreement, the undersigned will make an appropriate adjustment of said fixed price to meet any increase in cost caused by the seller having signed this President's Re-employment Agreement or having become bound by any code of fair competition approved by the President.

(13) This agreement shall cease upon approval by the President of a code to which the undersigned is subject; or, if the NRA so elects, upon submission of a code to which the undersigned is subject and substitution of any of its provisions for any of the terms of this agreement.

(14) It is agreed that any person who wishes to do his part in the President's re-employment drive by signing this agreement, but who asserts that some particular provision hereof, because of peculiar circumstances, will create great and unavoidable hardship, may obtain the benefits hereof by signing this agreement and putting it into effect and then, in a petition approved by a representative trade association of his industry, or other representative organization designated by NRA, may apply for a stay of such provision pending a summary investigation by NRA, if he agrees in such application to abide by the decision of such investigation. This agreement is entered into pursuant to Section 4 (a) of the National Industrial Recovery Act and subject to all the terms and conditions required by Sections 7 (a) and 10 (b) of that Act.

APPENDIX E

SAMPLE CODES AND CODE PROVISIONS

I. THE COTTON TEXTILE INDUSTRY CODE

(This code was the first one approved and illustrates a relatively simple form of code.)

EXECUTIVE ORDER

The cotton textile code, a stenographic transcript of the hearing thereof, a report and recommendations of the National Recovery Administration thereon (including a special statistical analysis of the industry by the Division of Planning and Research), and reports showing unanimous approval of such report and recommendations by each the Labor Advisory Board, the Industrial Advisory Board, and the Consumers' Advisory Board, having been submitted to the President, the following are his orders thereon.

In accordance with Section 3 (a), National Industrial Recovery Act, the cotton textile code submitted by duly qualified trade associations of the cotton textile industry on June 16, 1933, in full compliance with all pertinent provisions of that Act, is hereby approved by the President subject to the following interpretations and conditions:

(1) Limitations on the use of productive machinery shall not apply to production of tire yarns or fabrics for rubber tires for a period of three weeks after this date.

(2) The Planning Committee of the industry, provided for in the code, will take up at once the question of employee purchase of homes in mill villages, especially in the South, and will submit to the Administration before January 1st, 1934, a plan looking toward eventual employee home ownership.

(3) Approval of the minimum wages proposed by the code is not to be regarded as approval of their economic sufficiency but is granted in the belief that, in view of the large increase in wage payments provided by the code, any higher minima at

this time might react to reduce consumption and employment, and on the understanding that if and as conditions improve the subject may be reopened with a view to increasing them.

(4) That office employees be included within the benefits of the code.

(5) The existing amounts by which wages in the higher-paid classes, up to workers receiving \$30 per week, exceed wages in the lowest paid class, shall be maintained.

(6) While the exception of repair shop crews, engineers, electricians and watching crews from the maximum hour provisions is approved, it is on the condition that time and one-half be paid for overtime.

(7) While the exception of cleaners and outside workers is approved for the present, it is on condition that the Planning and Supervisory Committee provided by Section 6 prepare and submit to the Administration, by January 1, 1934, a schedule of minimum wages and of maximum hours for these classes.

(8) It is interpreted that the provisions for maximum hours establish a maximum of hours of labor per week for every employee covered, so that under no circumstances will such an employee be employed or permitted to work for one or more employers in the industry in the aggregate in excess of the prescribed number of hours in a single week.

(9) It is interpreted that the provisions for a minimum wage in this code establish a guaranteed minimum rate of pay per hour of employment regardless of whether the employee's compensation is otherwise based on a time rate or upon a piece-work performance. This is to avoid frustration of the purpose of the code by changing from hour to piece-work rules.

(10) Until adoption of further provisions of this code necessary to prevent any improper speeding up of work to the disadvantage of employees ("stretch-outs") and in a manner destructive of the purposes of the National Industrial Recovery Act, it is required that any and all increases in the amount of work or production required of employees over that required on July 1, 1933, must be submitted to and approved by the agency created by Section Six of the code and by the Administration and if not so submitted such increases will be regarded as a *prima facie* violation of the provision for minimum wages.

(11) The code will be in operation as to the whole industry

but, opportunity shall be given for administrative consideration of every application of the code in particular instances to any person directly affected who has not in person or by a representative consented and agreed to the terms of the code. Any such person shall be given an opportunity for a hearing before the Administration or his representative, and for a stay of the application to him of any provision of the code, prior to incurring any liability to the enforcement of the code against him by any of the means provided in the National Industrial Recovery Act, pending such hearing. At such hearing any objection to the application of the code in the specific circumstances may be presented and will be heard.

(12) This approval is limited to a four months' period with the right to ask for a modification at any time and subject to a request for renewal for another four months at any time before its expiration.

(13) Section 6 of the code is approved on condition that the Administration be permitted to name three members of the Planning and Supervisory Committee of the industry. Such members shall have no vote but in all respects shall be members of such Planning and Supervisory Committee.

(Signed) FRANKLIN D. ROOSEVELT.

CODE OF FAIR COMPETITION

To effectuate the policy of Title I of the National Industrial Recovery Act, during the period of the emergency, by reducing and relieving unemployment, improving the standards of labor, eliminating competitive practices destructive of the interests of the public, employees, and employers, relieving the disastrous effects of over-capacity, and otherwise rehabilitating the cotton textile industry and by increasing the consumption of industrial and agricultural products by increasing purchasing power, and in other respects, the following provisions are established as a code of fair competition for the cotton textile industry:

I. *Definitions.*—The term "cotton textile industry" as used herein is defined to mean the manufacture of cotton yarn and/or cotton woven fabrics, whether as a final process or as a part of a larger or further process. The term "employees" as used herein shall include all persons employed in the conduct of such operations. The term "productive machinery" as used herein is defined

to mean spinning spindles and/or looms. The term "effective date" as used herein is defined to be July 17, 1933, or if this code shall not have been approved by the President two weeks prior thereto, then the second Monday after such approval. The term "persons" shall include natural persons, partnerships, associations, and corporations.

II. On and after the effective date, the minimum wage that shall be paid by employers in the cotton textile industry to any of their employees—except learners during a six-weeks' apprenticeship, cleaners, and outside employees—shall be at the rate of \$12 per week when employed in the Southern section of the industry and at the rate of \$13 per week when employed in the Northern section for 40 hours of labor.

III. On and after the effective date, employers in the cotton textile industry shall not operate on a schedule of hours of labor for their employees—except repair shop crews, engineers, electricians, firemen, office and supervisory staff, shipping, watching and outside crews, and cleaners—in excess of 40 hours per week and they shall not operate productive machinery in the cotton textile industry for more than 2 shifts of 40 hours each per week.

IV. On and after the effective date, employers in the cotton textile industry shall not employ any minor under the age of 16 years.

V. With a view of keeping the President informed as to the observance or non-observance of this code of fair competition, and as to whether the cotton textile industry is taking appropriate steps to effectuate the declared policy of the National Industrial Recovery Act, each person engaged in the cotton textile industry will furnish duly certified reports in substance as follows and in such form as may hereafter be provided:

(a) *Wages and hours of labor.*—Returns every four weeks showing actual hours worked by the various occupational groups of employees and minimum weekly rates of wage.

(b) *Machinery data.*—In the case of mills having no looms, returns should be made every four weeks showing the number of spinning spindles in place, the number of spinning spindles actually operating each week, the number of shifts, and the total number of spindle hours each week. In the case of mills having no spinning spindles, returns every four weeks showing

the number of looms in place, the number of looms actually operated each week, the number of shifts and the total number of loom hours each week. In the case of mills that have spinning spindles and looms, returns every four weeks showing the number of spinning spindles and looms in place; the number of spinning spindles and looms actually operated each week, the number of shifts, and the total number of spindle hours and loom hours each week.

(c) *Reports of production, stocks, and orders.*—Weekly returns showing production in terms of the commonly used unit, i.e., linear yards, or pounds or pieces; stocks on hand both sold and unsold stated in the same terms and unfilled orders stated also in the same terms. These returns are to be confined to staple constructions and broad divisions of cotton textiles. The Cotton Textile Institute, Inc., 320 Broadway, New York City, is constituted the agency to collect and receive such reports.

VI. To further effectuate the policies of the Act, the Cotton Textile Industry Committee, the applicants herein, or such successor committee or committees as may hereafter be constituted by the action of the Cotton Textile Institute, the American Cotton Manufacturers Association, and the National Association of Cotton Manufacturers, is set up to co-operate with the Administrator as a planning and fair-practice agency for the cotton textile industry. Such agency may from time to time present to the Administrator recommendations based on conditions in the industry as they may develop from time to time which will tend to effectuate the operation of the provisions of this code and the policy of the National Industrial Recovery Act, and in particular along the following lines:

1. Recommendations as to the requirements by the Administrator of such further reports from persons engaged in the cotton textile industry of statistical information and keeping of uniform accounts as may be required to secure the proper observance of the code and promote the proper balancing of production and consumption and the stabilization of the industry and employment.

2. Recommendations for the setting up of a service bureau for engineering, accounting, credit, and other purposes to aid the smaller mills in meeting the conditions of the emergency and the requirements of this code.

3. Recommendations (1) for the requirement by the Admin-

istrator of registration by persons engaged in the cotton textile industry of their productive machinery, (2) for the requirement by the Administrator that prior to the installation of additional productive machinery by persons engaged or engaging in the cotton textile industry, except for the replacement of a similar number of existing looms or spindles or to bring the operation of existing productive machinery into balance, such persons shall secure certificates that such installation will be consistent with effectuating the policy of the National Industrial Recovery Act during the period of the emergency, and (3) for the granting or withholding by the Administrator of such certificates if so required by him.

4. Recommendations for changes in, or exemptions from the provisions of this code as to the working hours of machinery which will tend to preserve a balance of productive activity with consumption requirements, so that the interests of the industry and the public may be properly served.

5. Recommendations for the making of requirements by the Administrator as to practices by persons engaged in the cotton textile industry as to methods and conditions of trading, the naming and reporting of prices which may be appropriate to avoid discrimination, to promote the stabilization of the industry, to prevent and eliminate unfair and destructive competitive prices and practices.

6. Recommendations for regulating the disposal of distress merchandise in a way to secure the protection of the owners and to promote sound and stable conditions in the industry.

7. Recommendations as to the making available to the suppliers of credit to those engaged in the industry of information regarding terms of, and actual functioning of any or all of the provisions of the code, the conditions of the industry and regarding the operations of any and all of the members of the industry covered by such code to the end that during the period of emergency available credit may be adapted to the needs of such industry considered as a whole and to the needs of the small as well as to the large units.

8. Recommendations for dealing with any inequalities that may otherwise arise to endanger the stability of the industry and of production and employment.

Such recommendations, when approved by the Administrator,

shall have the same force and effect as any other provisions of this code.

Such agency is also set up to co-operate with the Administrator in making investigations as to the functioning and observance of any of the provisions of this code, at its own instance or on complaint by any persons affected, and to report the same to the Administrator.

Such agency is also set up for the purpose of investigating and informing the Administrator on behalf of the cotton textile industry as to the importation of competitive articles into the United States in substantial quantities or increasing ratio to domestic production on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of this code and as an agency for making complaint to the President on behalf of the cotton textile industry, under the provisions of the National Industrial Recovery Act, with respect thereto.

VII. Where the costs of executing contracts entered into in the cotton textile industry prior to the presentation to Congress of the National Industrial Recovery Act are increased by the application of the provisions of that Act to the industry, it is equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts to reflect such increased costs be arrived at by arbitral proceedings or otherwise, and the Cotton Textile Industry Committee, the applicant for this code, is constituted an agency to assist in effecting such adjustments.

VIII. Employers in the cotton textile industry shall comply with the requirements of the National Industrial Recovery Act as follows: "(1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours

of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President."

IX. This code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Clause 10 (b) of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation, issued under Title I of said Act, and specifically to the right of the President to cancel or modify his approval of this code or any conditions imposed by him upon his approval thereof.

X. Such of the provisions of this code as are not required to be included therein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated as changes in circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this code or additional codes will be submitted for the approval of the President to prevent unfair competition in price and other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act consistent with the provisions hereof.

EXECUTIVE ORDER, JULY 15, 1933

A code of fair competition for the cotton textile industry has been heretofore approved by order of the President dated July 9, 1933, on certain conditions set forth in such order. The applicants for said code have now requested the withdrawal of condition 12 of said order providing for the termination of approval at the end of four months unless expressly renewed, have accepted certain other conditions, have proposed amendments to the code to effectuate the intent of the remaining conditions, and have requested that final approval be given to the code as so amended and on such conditions.

Pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, on the report and recommendation of the Administrator and on consideration.

It is ordered that the condition heretofore imposed as to the termination of approval of the code is now withdrawn and that the code of fair competition for the cotton textile in-

dustry is finally approved with the conditions so accepted and with the amendments so proposed, as set forth in Schedule A attached hereto.

Schedule A

Application to the President by the Cotton Textile Industry Committee for Final Approval of Code of Fair Competition for the Cotton Textile Industry

The Cotton Textile Industry Committee, the applicant for the approval of the code of fair competition for the cotton textile industry, submitted for the approval of the President June 16, 1933, and as revised June 30, 1933, accepts the interpretations and conditions to the approval thereof set forth in paragraphs 1, 3, 7, 8, 9, and 13 of the order of the President dated July 9, 1933, and asks the approval of the President to the following amendments to such code as properly complying with and effectuating the conditions provided for in paragraphs 2, 4, 5, 6, 10, and 11 of said order of approval, and asks for the final approval by the President of the code of fair competition for the cotton textile industry as so amended, and on the conditions so accepted and with the omission of the condition in paragraph 12 of such order as to the termination of the approval at the end of four months.

1. It shall be one of the functions of the planning and fair practice agency provided for in Section 6 of the code to consider the question of plans for eventual employee ownership of homes in mill villages and submit to the Recovery Administration prior to January 1, 1934, its report in the matter.

2. On and after July 31, 1933, the maximum hours of labor for office employees in the cotton textile industry shall be an average of forty hours a week over each period of six months.

3. The amount of differences existing prior to July 17, 1933, between the wage rates paid various classes of employees (receiving more than the established minimum wage) shall not be decreased—in no event, however, shall any employer pay any employee a wage rate which will yield a less wage for a work week of 40 hours than such employee was receiving for the same class of work for the longer week of 48 hours or more prevailing prior to July 17, 1933. It shall be a function of the planning

and fair practice agency provided for in paragraph 6 of the code to observe the operation of these provisions and recommend such further provisions as experience may indicate to be appropriate to effectuate their purposes.

4. On and after the effective date the maximum hours of labor of repair shop crews, engineers, electricians and watching crews in the cotton textile industry shall, except in case of emergency work, be forty hours a week with a tolerance of 10 per cent. Any emergency time in any mill shall be reported monthly to the planning and fair practice agency provided for in paragraph 6 of the code, through the Cotton Textile Institute.

5. Until adoption of further provisions of this code that may prove necessary to prevent any improper speeding up of work (stretch-outs), no employee of any mill in the cotton textile industry shall be required to do any work in excess of the practices as to the class of work of such employee prevailing on July 1, 1933, or prior to the share-the-work movement, unless such increase is submitted to and approved by the agency created by Section 6 of the code and by the National Recovery Administration.

6. This code shall be in operation on and after the effective date as to the whole cotton textile industry except as an exemption from or a stay of the application of its provisions may be granted by the Administrator to a person applying for the same or except as provided in an executive order. No distinction shall be made in such exemptions between persons who have and have not joined in applying for the approval of this code.

Respectfully submitted,

THE COTTON TEXTILE INDUSTRY COMMITTEE,
GEORGE A. SLOAN, *Chairman.*

DATED JULY 15, 1933.

AMENDMENT TO THE CODE

To make proper provision with regard to the stretch-out (or specialization) system or any other problem of working conditions in the cotton textile industry, it is provided:

1. There shall be constituted by appointment of the Administrator a Cotton Textile National Industrial Relations Board, to be composed of three members, one to be nominated by the

Cotton Textile Industry Committee to represent the employers, one to be nominated by the Labor Advisory Board of the National Recovery Administration to represent the employees, and a third to be selected by the Administrator. This National Board shall be provided by the National Recovery Administration with a per diem for actual days engaged in its work and with such secretarial and expert technical assistance as it may require in the performance of its duties.

2. The Administrator, upon the nomination of the Cotton Textile National Industrial Relations Board shall appoint in each state in which the cotton textile industry operates a state cotton textile industrial relations board composed of three members, one of whom shall be selected from the employers of the cotton textile industry, one from the employees of the cotton textile industry, and a third to represent the public.

3. Whenever, in any cotton textile mill, a controversy shall arise between employer and employees as to the stretch-out (or specialization) system or any other problem of working conditions, the employer and the employees may establish in such mill an industrial relations committee chosen from the management and the employees of the mill and on which the employer and the employees shall have equal representation of not more than three representatives each. If such a committee is not otherwise established, the employer or the employee, or both, may apply to the State Industrial Relations Board for assistance and co-operation in the establishment in such mill of such industrial relations committee. The term of service of each such mill committee shall be limited to the adjustment of such controversy or problem of working conditions for the adjustment of which the committee was created.

If the representatives of the employers and of the employees in such industrial relations committee are unable to arrive at an agreement and united action with respect to such differences of opinion, the representatives of the employers or of the employees, or both, may appeal to the State Industrial Relations Board for co-operation and assistance in arriving at an agreement and united action.

It shall be the duty of such industrial relations committee to endeavor to adjust such controversy. In cases where such committee reaches agreement with respect to any such controversy,

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such agreement shall be final except that it shall be submitted to the Cotton Textile National Industrial Relations Board for review and approval under such regulations as such National Board may establish.

This provision for such industrial relations committee within the particular mills shall be without prejudice to the freedom of association of employees and the other provisions of Section 7, of the Industrial Recovery Act.

4. It shall be the duty of the State Industrial Relations Board, where their assistance is requested, as provided in Sub-section 3, to co-operate with employers and employees in organizing industrial relations committees in individual cotton textile mills and to co-operate with such committees in the development of conference procedures and in the adjustment of differences of opinions with respect to the operation or introduction of the stretch-out system and other problems of working conditions.

In the event that the State Industrial Relations Board is unable to bring about agreement and united action of labor and management in a controversy so appealed to it, such State Industrial Relations Board shall present the controversy to the National Industrial Relations Board for hearing and final adjustment.

5. The National Industrial Relations Board shall hear and finally determine all such questions brought before it on appeal by the state industrial relations boards and certify its decisions to the Administrator and shall have authority to codify the experience of the industrial relations committees of the various mills and state boards with a view to establishing standards of general practice with respect to the stretch-out (or specialization) system or other problems of working conditions.

[A supplementary code, dated January 24, 1934, contains trade practice provisions for the sale and distribution of the products of the industry. Additional amendments are dated November 8 and December 27, 1933.]

2. THE LUMBER AND TIMBER PRODUCTS INDUSTRIES CODE

(The code is perhaps as comprehensive in its terms and as complex in its administrative features as any of the approved codes.)

STATEMENT IN TRANSMITTAL

The National Lumber Manufacturers Association, representing manufacturers of lumber and timber products throughout the United States, pursuant to the authority of the National Industrial Recovery Act and for the purposes of eliminating unfair competitive practices, reducing and relieving unemployment, improving standards of labor, maintaining standards of quality, rehabilitating the lumber and timber products industries, bringing about sustained yield forest management and permanent sources of employment, conserving natural resources, and otherwise effectuating the policy of the Act, hereby submits for the approval of the President the following code of fair competition for lumber and timber products industries.

By resolution of the Board of Directors July 1, 1933. Concurred in by the following Associations: [48 associations are listed.]

CODE OF FAIR COMPETITION

ART. I. *Purpose.*—This is an undertaking in industrial self-government under such public sanctions as are necessary to carry out in the lumber and timber products industries the purposes of the National Industrial Recovery Act. It is the declared purpose of the lumber and timber products industries and of the adherents to this code, to reduce and relieve unemployment in said industries; to improve the standards of labor therein; to maintain a reasonable balance between the production and the consumption of lumber and timber products; to restore the prices thereof to levels which will avoid the further depletion and destruction of capital assets; and to conserve forest resources and bring about the sustained production thereof.

ART. II. *Definitions.*—(a) "Lumber and timber products" as used herein is defined to include (1) logs, poles and piling; (2) sawn lumber and products of planing mills operated in conjunction with sawmills; (3) shingles; (4) woodwork (mill-

work) including products of planing mills operated in conjunction with retail lumber yards; (5) hardwood flooring; (6) veneers; (7) plywood; (8) kiln dried hardwood dimension; (9) lath; (10) sawed boxes, shooks and crates; (11) plywood, veneer and wirebound packages and containers; and (12) in respect of any division or subdivision additional timber products as enumerated in Schedule A.

(b) "Person" as used herein includes, without limitation, any individual, firm, partnership, corporation, association, trust, trustee, or receiver subject to the jurisdiction of this code.

(c) "Divisions" and "subdivisions" as used herein refer to the several administrative units of the lumber and timber products industries which are established and are defined in Schedule A hereof. The divisions and subdivisions initially established are as follows, provided, however, that any division or subdivision, as initially established herein, or as may be established hereafter, or any substantial group in such division or subdivision of the industry as herein defined, may be exempted from the provision of this code by the President or by the Administrator under the provisions of Article XII of this code:

Cypress Division.

Hardwood Division:

Appalachian and Southern Hardwood Subdivision.

Mahogany Subdivision.

Philippine Mahogany Subdivision.

Walnut Subdivision.

Northern Hardwood Subdivision.

North Central Hardwood Subdivision.

Northeastern Hardwood Subdivision.

Northern Hemlock Division.

Northern Pine Division.

Redwood Division.

Northeastern Softwood Division.

Southern Pine Division:

Southern Rotary Cut Lumber Subdivision.

West Coast Logging and Lumber Division.

Douglas Fir Plywood Subdivision.

Douglas Fir Door Subdivision.

Western Pine Division.

Woodwork Division:

Stock Manufacturers Subdivision.
Wholesale Distributors Subdivision.
Special Woodwork Subdivision.

Wooden Package Division:

Sawed Box, Shook, Crate, and Tray Subdivision.
Plywood Package Subdivision.
Standard Container Subdivision.
Pacific Veneer Package Subdivision.
Egg Case Subdivision.
Wirebound Package Subdivision.
Veneer Fruit and Vegetable Package Subdivision.

Red Cedar Shingle Division:

Stained Shingle Subdivision.

Oak Flooring Division.**Veneer Division.****Maple Flooring Division.****Hardwood Dimension Division.**

ART. III. Administration.—(a) The applicant organizations shall, with the approval of the President, establish and empower a suitable agency named "Lumber Code Authority, Incorporated" hereinafter referred to as the authority to administer this code in conformity with the provisions of the National Industrial Recovery Act under the authority of the President. Said agency shall be a body incorporated not for profit. Provision shall be made for membership of representatives of the principal divisions of the industries, and provision shall also be made for three non-voting members to be appointed by and to act as advisory representatives of the President.

(b) The authority shall issue and enforce such rules, regulations, and interpretations, and impose upon persons subject to the jurisdiction of this code such restrictions as may be necessary to effectuate the purposes and enforce the provisions of this code.

(c) The authority is authorized and instructed, with respect to the rules of fair trade practice set forth in Schedule B attached hereto, to devise and apply such further requirements or prohibitions, including unfair trade practices, applicable to the industries, which have been specifically condemned by the Federal

Trade Commission, as may conduce to the orderly operation of the lumber and timber products industries, not inconsistent with the provisions of the National Industrial Recovery Act, and with due consideration of the rights of employees in said industries and of the consumers of the products of said industries. Such requirements or prohibitions, when adopted by the authority, shall be submitted to the President for approval and if approved by him shall then be deemed to be supplements to and amendments of Schedule B of this code.

(d) The authority may establish divisions and subdivisions of the industries and shall designate appropriate agencies, and the governing bodies thereof, for the administration of this code in each division and subdivision; the authority may delegate to said agencies all necessary power and authority for the administration of this code within the divisions and subdivisions, including the adoption of division and subdivision code provisions within the scope of the power granted under this code and not inconsistent with it; but the authority shall reserve the power and duty to enforce the provisions of this code. The agencies initially so designated and the governing bodies thereof are set forth in Schedule A.

(e) The governing body of the agency of each designated division or subdivision shall be fairly representative of each group, including any substantial minority group within the division or subdivision, classified by regions, types of manufacture, or other appropriate considerations. The authority shall have the power and duty to establish and maintain the representative character of such governing body and on the failure of any designated agency to be representative, as prescribed herein, the authority shall, unless the designated agency shall comply with such instructions as the authority may give, remove such agency and designate or cause to be designated a different agency for such division or subdivision.

(f) The authority shall co-ordinate the administration of this code with such codes, if any, as may affect any division or subdivision of the lumber and timber products industries or any related industry, with a view to promoting joint and harmonious action upon matters of common interest; it shall receive, and, if it shall approve, shall present for the approval of the Presi-

dent, any proposals for supplementary provisions or amendments of this code or additional codes applicable to the lumber and timber products industries or the various divisions and subdivisions thereof with respect to wages, hours, trade practices, or any other matters affecting such industries or any division or subdivision thereof. Upon approval by the President, such supplementary provisions or amendments of this code or such additional codes shall thereupon have full force and effect and shall be considered as integral parts of this code.

(g) The authority shall admit or cause to be admitted to participation in any division or subdivision to which he belongs, any persons on terms of equality with all other persons participating therein.

ART. IV. *Code reports and fees.*—In order that the President may be informed of the extent of observance of the provisions of this code and of the extent to which the declared policy of the National Industrial Recovery Act as stated herein is being effectuated in the lumber and timber products industries, the authority shall make such reports as the Administrator may require, periodically, or as often as he may direct, and each person shall make such sworn or unsworn reports to the authority, periodically, or as often as it may direct, on wages, hours of labor, conditions of employment, number of employees, production, shipments, sales, stocks, prices, and other matters pertinent to the purposes of this code as the authority may require, and each person subject to the jurisdiction of this code and accepting the benefits of the activities of the authority hereunder shall pay to the authority his proportionate share of the amounts necessary to pay the cost of assembly, analysis, and publication of such reports and data, and of the maintenance of the said authority and its activities. Said proportionate share shall be based upon value of sales or footage of production, as the authority may prescribe for each division or subdivision. The authority may conduct such investigations as are necessary to discharge its duties hereunder.

ART. V. *Labor provisions.*—(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their

agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

(d) No individual under 18 years of age shall be employed, except that boys 16 years and over may be employed in the Wooden Package Division and in non-hazardous occupations during school vacations or if there are no wage earners of 18 years or over in their families.

ART. VI. *Hours of labor.*—(a) General provisions and exceptions:

(1) No employee shall be permitted to work for two or more employers for a longer period in any week than specified herein for a single employer.

(2) Exceptions to the standards in respect to maximum hours of labor specified herein are authorized as follows:

A. Executive, supervisory, traveling sales force, and camp cooks.

B. Regular employment in excess of such standards, for employees, such as watchmen, firemen, and repair crews, where required by the nature of their work, for not more than 10 per cent of the employees in any operation, but time and a half shall be paid for weekly overtime.

C. Temporary employment in case of emergency.

D. *Seasonal operations.*—Seasonal operations are defined as those which on account of elevation or other physical conditions or dependence upon climatic factors are ordinarily limited to a period of ten months or less of the calendar year.

The administrative agency of a division or subdivision may authorize employment in a seasonal operation for a maximum number of hours not exceeding 48 hours in any week, with the exception of parts of an operation depending on climatic con-

ditions, such as stream driving and sled hauling, in which a greater excess may be authorized; provided, that the average employment in any seasonal operation in any calendar year shall not exceed the standard schedule.

E. Manufacturers of wooden packages for perishable fruits and vegetables may be authorized by the administrative agency of the Wooden Package Division to depart from the standard schedule of maximum hours applicable to said manufacturers for a period not to exceed four weeks for any one crop, when necessary to furnish packages for any perishable crop; provided that the average employment of any individual in any calendar year shall not exceed the standard schedule.

(b) Subject to the foregoing exceptions, the maximum hours of employment in the respective divisions and subdivisions shall be 40 hours per week.

ART. VII. *Minimum wages.*—(a) General provisions:

(1) The minimum compensation for workers employed on piecework or contract basis shall not be less than the minimum wage hereunder for the number of hours employed.

(2) The existing amounts by which minimum wages in the higher paid classes, up to workers receiving \$30.00 per week exceed minimum wages in the lowest paid classes, shall be maintained.

(3) Charges to employees for rent, board, medical attendance, and other services shall be fair.

(b) Subject to the foregoing provisions, the minimum wages which shall be paid by persons under the jurisdiction of this code shall not be less than 40 cents per hour, unless in any division or subdivision of the industries the prevailing hourly rate for the same class of employees on July 15, 1929, as determined by the Administrator on statistical evidence, was less than 40 cents per hour, in which case the rate shall not be less than said prevailing hourly rate so determined, plus fifteen per cent if said hourly rate on July 15, 1929, was less than 30 cents per hour, provided, however, that for wages per hour between 20 cents and 29 cents, inclusive, on July 15, 1929, with wages of less than 20 cents per hour on that date being considered as 20 cents, the percentage of increase shall diminish one

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and one half per cent for each cent that wages per hour exceeded 20 cents, in accordance with the following schedule:

Wages per Hour, July 15, 1929 <i>Cents</i>	Increase under Proposed Schedule <i>Per cent</i>	Wages per Hour under Proposed Schedule <i>Cents</i>
20	15	23
21	13½	24
22	12	24.5
23	10½	25.5
24	9	26
25	7½	27
26	6	27.5
27	4½	28
28	3	29
29	1½	29.5
30	0	30

(c) No minimum rate of wages for any division or subdivision shall be less than that proposed for such division or subdivision by the applicant industries in the code filed July 10, 1933.

(d) Minimum rates of wages so determined in the respective divisions and subdivisions shall be as follows: [Two pages of divisional minimum rates are listed].

In the Wooden Package Division minimum wage rates below those shown in the schedule shall be permitted in the case of boys and girls less than 20 years of age, provided that not more than 20 per cent of the total number of employees of any one plant shall be so classified; and provided further that the differential shall not exceed 3 cents if the rate after subtracting the differential is 27 cents or less, but in no case shall the differential exceed 5 cents.

ART. VIII. *Control of production.*—(a) To effectuate the declared purposes of this code in respect of maintaining a reasonable balance between the production and the consumption of lumber and timber products and to assure adequate supplies thereof, the authority shall determine, and from time to time revise, not less frequently than each three months, estimates of expected consumption, including exports, of lumber and timber products of each division and subdivision; and based thereon

it is empowered to establish, and from time to time revise, production quotas for any division or subdivision of the lumber and timber products industries. Allotments within each division and subdivision, for the persons therein, shall be made, subject to the supervision of the authority, by the agencies designated by it. Said quotas as between such divisions or subdivisions shall be in proportion to the shipments of the products of each during a representative recent past period to be determined by the authority; but the authority may modify said proportions if warranted by evidence. In case of divisions or subdivisions, the raw material of which is imported, the quotas and allotments may be in terms of imports, so far as may be consistent with the provisions of Section 7 (a) of the National Industrial Recovery Act.

(b) Each person in operation shall be entitled to an allotment. Each person known to any division or subdivision agency to be in operation *shall be registered* by such agency immediately and shall be assigned an allotment. The agency shall also immediately give public notice reasonably adapted to reach all persons operating or desiring to operate, stating the date on which the allotments will be determined; and any person desiring to operate who shall give the agency written notice of such desire ten days before the allotment date, supported by acceptable evidence of ability to operate, *shall be registered* by the agency and assigned an allotment. Any person so registered shall be deemed an "eligible person" for the purposes of this article.

(c) The allotment for each eligible person shall be determined from time to time for a specified period not exceeding three (3) months and, except as may be permitted under the provision of Section (d) hereof, shall be as follows:

(1) That proportion of a specified percentage, determined as provided in Sections (d) and (e) of this article, of the division or subdivision quota which his greatest average hourly production in the hours operated during any three calendar years since December 31, 1924, is of the aggregate of such hourly production of all eligible persons within the division or subdivision.

(2) That proportion of a specified percentage, determined as provided in Sections (d) and (e) of this article, of the division or subdivision quota which his greatest average yearly pro-

duction for any three calendar years since December 31, 1924. is of the aggregate of such yearly production of all eligible persons within the division or subdivision.

(3) That proportion of a specified percentage, determined as provided in Sections (d) and (e) of this article, of the division or subdivision quota which the greatest average number of his employees during any three calendar years since December 31, 1924, is of the aggregate of such number of employees of all eligible persons within the division or subdivision.

(4) That proportion of not to exceed ten (10) per cent of the division or subdivision quota which the amount of taxes paid by him, except federal taxes, taxes on ore, coal, petroleum, ships, retail yards, and timber not set apart for the operation, during the next preceding calendar year is of the total amount of such taxes paid by all eligible persons within the division or subdivision.

(5) That proportion of not to exceed fifteen (15) per cent of the division or subdivision quota which the quantity of reserve standing timber allocated to his operations within said division or subdivision, and at the time the allotment is made, owned by him in fee or under contract is of the total quantity of such reserve standing timber owned in fee or under contract by all eligible persons within the division or subdivision.

(d) (1) Exceptions to or changes in any allotment thus established shall be made only for special, accidental, or extraordinary circumstances, or, in any division or subdivision, for other factors peculiar to a limited group of operations. Exception may be made only on application to the designated division or subdivision agency by an eligible person who must submit evidence in support of his application, and the exception may be granted only upon a published finding and statement of reasons therefor.

(2) A person conducting seasonal operations as defined in Article VI (a) (2) (D) hereof shall be entitled, on application to his division or subdivision agency, to produce during his period of operation not only amounts allotted to him during his period of operation but also amounts allotted to him under Section (c) hereof since the termination of his previous operating period.

(3) In the case of any person (a) who produced during less

than three calendar years since December 31, 1924, and before December 31, 1930, or (b) who is entitled to an allotment for operation of new, additional, or restored facilities, which were not in operation for such three calendar years, or (c) for whom for any other reason such three calendar years are not reasonably representative of his present circumstances, his average hourly production, his average yearly production, and his average number of employees shall be determined by the division or subdivision agency on an equivalent basis by comparison with substantially equal facilities already established and in like regions or conditions.

(4) On application of a division or subdivision, the authority may authorize the allotment of production therein on any one or more of the bases provided in Sub-sections (1), (2), and (3) of Section (c) hereof in such relative proportions as the authority may approve; and including or not the bases, or either of them, provided in Sub-sections (4) and (5) of said Section (c).

(e) In the absence of an approved application from any division or subdivision for the assignment of allotments under the provisions of Sub-section (4) of Section (d) hereof, the authority may direct that allotments within said division or subdivision be assigned in accordance with the provisions of Section (c) in the following relative proportions:

- Sub-section (1), hourly production, 40 per cent;
- Sub-section (2), yearly production, 30 per cent;
- Sub-section (3), number of employees, 15 per cent;
- Sub-section (4), taxes paid, 5 per cent;
- Sub-section (5), standing timber, 10 per cent;

unless the division or subdivision shall elect to accept the average relative proportions of the divisions or subdivisions whose allotments have been theretofore approved.

(f) The basis for determination of division and subdivision quotas and of individual allotments and any revisions thereof, all quotas, all allotments, and all appeals therefrom and all decisions on appeals shall be published.

(g) Allotments from two or more divisions or subdivisions to the same person shall be separate and distinct and shall not be interchangeable. Allotments shall not be cumulative except

as authorized in specific cases under Section (d) (1) of this article, or in cases of seasonal operations of a division or subdivision under Section (d) (2) of this article, and shall not be transferable except as between operations under the same ownership within the same division or subdivision.

(h) Whenever in the case of any eligible person it shall be necessary, in order to accept and execute orders for export, to have an addition to his regular allotment, provision for such necessary excess shall be made by the division or subdivision agency, provided that any excess above his allotment shall be deducted from his subsequent allotment or allotments.

(i) The authority may modify, or cause to be modified, production quotas and allotments determined hereunder, and the bases therefor, in such manner and to such extent as may be necessary to effectuate the provisions of the code in respect of the conservation and sustained production of forest resources. Such modification shall not be made effective prior to the next succeeding allotment date.

(j) The basis of allotments as provided in Sections (c), (d), and (e) hereof is tentative and is subject to revision. When in the judgment of the authority revision of the bases of allotments is desirable, whether by changing the proportions of the factors in determining allotments enumerated in Section (c), Sub-sections 1, 2, 3, 4, and 5, of this article, in accordance with the procedure established in Sections (d) and (e) hereof, or by the addition of other factors, consideration shall be given to the inclusion of practicable and equitable measures, subject to the approval of the President, for increasing allotments of persons whose costs are below the weighted average defined in Section (a) of Article IX.

(k) The authority, as promptly as practicable after its action pursuant to Art. X hereof, shall submit for the approval of the President appropriate changes in the bases of allotments.

(l) Except as otherwise provided in Section (h) of this article, no person shall produce or manufacture lumber or timber products in excess of his allotment. If any person shall exceed his allotment the division or subdivision agency shall diminish the subsequent allotment or allotments of the offender in an amount equal to such excess.

(m) The authority shall issue interpretations and shall pro-

mulgate rules and regulations necessary for the enforcement of this article, to prevent evasion and secure equitable application thereof, and assign quotas to each division and subdivision which shall become effective on the date specified by the authority. Each division and subdivision shall assign allotments to all eligible persons effective on the dates specified by the authority.

Interim Article.—Pending the effective date of placing Article VIII or any part thereof in execution in any division or subdivision, the authority may authorize the designated agency of such division or subdivision to assign to eligible persons production allotments in hours of allowable operation.

ART. IX. *Cost protection.*—(a) Whenever and so long as the authority determines that it will contribute toward accomplishment of the declared purposes of the code, and whenever it is satisfied that it is able to determine cost of production as defined in this Section (a), the authority is authorized to establish and from time to time revise minimum prices f.o.b. mill, to protect the cost of production of items or classifications of lumber and timber products. Such minimum prices shall be established with due regard to the maintenance of free competition among species, divisions, and subdivisions, and with the products of other industries and other countries, and to the encouragement of the use of said products; and except for export sales shall be not more than cost of production, determined as provided in this Section (a), nor less than such cost of production after deducting the capital charges specified in items 11 and 12 (b) of this Section (a).

The current weighted average cost of production of persons in operation in a division or subdivision, or where necessary in a group of persons within a division or subdivision, as defined by the authority, shall be established by uniform accounting practices, and shall include—

1. Wages.
2. Materials and supplies.
3. Overhead and administration, including trade association dues and code fees.
4. Shipping, including grading and loading.
5. Selling, not including advertising or trade promotion.
6. Maintenance.

7. Insurance, including compensation and employee insurance, but not including insurance on standing timber.

8. Taxes, including taxes on timber tributary to and allocated to an existing mill or logging operation, not to exceed a twelve-year supply therefor.

9. Interest paid on indebtedness representing plant, facilities, and working capital necessary for mills actually operating or capable of operating, including mills, equipment, logging facilities, docks, inventory, accounts receivable, and timber tributary to and allocated to any existing mill or logging operation, not to exceed a twelve-year supply therefor.

10. Discounts, claims paid, and losses on trade accounts.

11. Depreciation: On straight-line method, and based on the fair value or the cost, whichever is lower, on operating mills and on mill and logging equipment, including mills and equipment capable of operation, plus amortization of investments in logging railroads, docks, and other logging and plant facilities.

12. Raw material: (a) Logs, flitches, lumber, and other partially manufactured material purchased, at actual cost, and standing timber cut under contract of purchase, at actual cost.

(b) Standing timber carried in capital account, cut for operations, at fair current value to be determined by the Administrator, without regard to greater original cost, higher book value, or accumulated carrying charges.

13. Conservation and reforestation: (a) Costs of protection of timbered and cut-over lands, including fire protection and slash disposal, and protection from insects and disease.

(b) Additional costs when incurred under instructions from the authority, in such an amount as is warranted by market conditions, to be specifically devoted to timber conservation and reforestation in accordance with regulations prescribed by the authority, up to the amount estimated by the authority to be necessary to reproduce the equivalent of the timber converted.

(b) Until such time as the authority shall have formulated and secured the general application by the several divisions and subdivisions of methods of accounting by which item 11 of Section (a) hereof may be accurately ascertained, said item may not be included in the determination of cost of production for the purposes of this article.

(c) Cost of production for each species, determined as pro-

vided in Section (a), including or not including as the case may be, or in whole or in part, capital charges for stumpage and depreciation, shall be allocated by the authority to the several items or classifications of lumber or other products thereof for which minimum prices are established, in proportion to their relative market prices over a representative period. Such allocation may be changed by the authority from time to time as may be found necessary to avoid shortages or excessive accumulations, within any division or subdivision of particular items or classifications of lumber and timber products; but the weighted average minimum price of all items and classifications for each species shall not be more than cost of production as determined in Section (a) nor less than said cost after deducting the capital charges specified in items 11 and 12 (b) of said Section (a).

(d) In determining minimum prices for any division or subdivision the authority shall establish equitable price differentials for products below accepted standards of quality, as prescribed by the authority, such as the products of some small mills.

(e) No person shall sell or offer for sale lumber or timber products upon which minimum prices have been established at prices less than those so established. No person shall sell or offer for sale lumber or timber products to wholesale or other distributors who have been found by the Administrator to have violated any of the provisions of the rules of fair trade practice incorporated in this code as Schedule B, except upon such terms and conditions as the Administrator in accordance with law shall prescribe.

(f) No person shall sell or offer for sale non-standard grades, sizes, dimensions, or classifications of lumber or timber products for the purpose of evading the provisions of this article.

(g) In the case of imported lumber and timber products, minimum prices for domestic sale shall be determined by the authority, and such minimum prices shall be equivalent to the minimum prices determined and approved for the same or similar or competing items, grades, sizes, and species of lumber and timber products of domestic production.

(h) The authority shall secure current information concerning the competition in domestic markets of imported lumber and timber products, and if it shall find that such products are being imported into the United States in substantial quantities or in-

creasing ratio to domestic production and on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of this code, it shall complain to the President pursuant to the provisions of Section 3 (e) of the National Industrial Recovery Act and petition for suitable restrictions on the importation of such lumber and timber products.

(i) The authority shall issue interpretations and shall promulgate rules and regulations necessary for the enforcement of this article, to prevent evasion and secure equal application thereof.

(j) Minimum prices established in accordance with the provisions of this article shall become effective ten (10) days after publication thereof by the authority.

ART. X. Conservation and sustained production of forest resources.—The applicant industries undertake, in co-operation with public and other agencies, to carry out such practicable measures as may be necessary for the declared purposes of this code in respect of conservation and sustained production of forest resources. The applicant industries shall forthwith request a conference with the Secretary of Agriculture and such state and other public and other agencies as he may designate. Said conference shall be requested to make to the Secretary of Agriculture recommendations of public measures with the request that he transmit them, with his recommendations, to the President; and to make recommendations for industrial action to the authority, which shall promptly take such action, and shall submit to the President such supplements to this code, as it determines to be necessary and feasible to give effect to said declared purposes. Such supplements shall provide for the initiation and administration of said measures necessary for the conservation and sustained production of forest resources, by the industries within each division, in co-operation with the appropriate state and federal authorities. To the extent that said conference may determine that said measures require the co-operation of federal, state, or other public agencies, said measures may to that extent be made contingent upon such co-operation of public agencies.

ART. XI. Special agreements.—Voluntary agreements, or proposed voluntary agreements, between and among persons engaged in the logging of timber or the production and distribution

of lumber and timber products, or between and among organizations or groups in the lumber and timber products industries, or in which such persons, organizations, or groups propose to participate, proposed to be submitted to the President for approval under Section 4 (a) of the National Industrial Recovery Act, shall not be in conflict with the provisions of this code or with any approved rule issued thereunder. Such agreements or proposed agreements shall be submitted to the authority and if not disapproved by it within thirty days as being in conflict with the provisions of this code, they may thereafter be submitted to the President for approval; but no person engaged in the production and distribution of lumber and timber products shall participate in any such agreement which has been determined by the authority to be in conflict with the provisions of this code.

ART. XII. *Cancellation or modification.*—(a) The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under Title I of the National Industrial Recovery Act in respect of this code.

(b) Any decision, rule, regulation, order, or finding made or course of action followed pursuant to the provisions of this code, may be cancelled or modified by the Administrator whenever he shall determine such action necessary to effectuate the provisions of Title I of the National Industrial Recovery Act.

ART. XIII. *Monopolies.*—(a) This code shall not be construed, interpreted, or applied so as to promote or permit monopolies or monopolistic practices, and shall not be availed of for that purpose.

(b) The provisions of this code shall not be so interpreted or administered as to eliminate or to oppress or to discriminate against small enterprises.

ART. XIV. *Division and subdivision code provisions.*—Code provisions affecting or pertaining to divisions and subdivisions of the lumber and timber products industries are contained in Schedule "A" attached hereto, which is specifically made a part of this code, in so far as they relate to description of the respective divisions and subdivisions, identification of persons and products subject to their jurisdiction, and designation of admin-

istrative agencies. Additional code provisions affecting or pertaining to divisions and subdivisions may be filed with the authority and if not inconsistent with the provisions of this code may be recommended by it to the President. When approved by the President such provisions shall have the same force and effect as any other provisions of this code.

ART. XV. *Violations.*—Violation by any person of any provision of this code or of any rule or regulation issued thereunder and approved by the President, or of any agreement entered into by him with the authority so observe and conform to this code and said rules and regulations or by any importer of any agreement entered into by him with the said authority for the restriction of importation of lumber and timber products, or any false statement or report made to the President or to the authority or to the governing body or agency of any designated division or subdivision, after decision by the Administrator thereon pursuant to Article XVII of this code or otherwise, shall constitute an unfair method of competition, and the offender shall be subject to the penalties imposed by the National Industrial Recovery Act.

ART. XVI. *Rules of fair trade practice.*—(a) The rules of fair trade practice for the lumber and timber products industries, as set forth in Schedule "B" attached hereto, are specifically made a part of this code. The authority shall make such additions to or exceptions from said rules, as the agencies of the respective divisions or subdivisions may request, applicable in the respective divisions and subdivisions, provided the authority finds said additions and exceptions are not unfair to persons in other divisions or subdivisions or their employees, or to consumers, and not inconsistent with the other provisions of this code, or with the National Industrial Recovery Act. Upon approval of such additions and exceptions by the Administrator said rules shall take precedence in the respective divisions and subdivisions in respect of the subject matter of said additions and exceptions, and shall be effective concurrently with the rules so added or excepted to.

(b) The applicant industries undertake to adopt, apply, and enforce branding or marking or marking of lumber and timber

products. Subject to Section (c) hereof, all timbers, all seasoned lumber except factory and shop lumber, all flooring and all shingles and lath shipped to markets within the United States, not including export shipments, shall be branded by the manufacturer or producer thereof or by his agent in such manner as will indicate (1) its species, except as otherwise determined by the authority; (2) its grade; (3) whether it is of standard or sub-standard dimensions; (4) whether it is seasoned or unseasoned. All shipments except export shipments, by rail or water of timber, lumber, flooring, shingles, and lath shall be accompanied by a certificate of the originating shipper showing the quantity and grade thereof.

(c) The authority shall submit to the President, not later than January 1, 1934, provisions, including proposed rules and regulations, necessary to effectuate the requirements of this article and to establish other desirable certification of products, to prevent evasion and to secure equitable application thereof; and the said provisions when approved shall be a part of this code, or of the rules of fair trade practice, and shall be effective not more than thirty (30) days thereafter.

ART. XVII. *Appeals*.—(a) Any interested party shall have the right of complaint to the designated agency of any division or subdivision and of prompt hearing and decision thereon in respect of any decision, rule, regulation, order, or finding made by such agency. Such complaint must be filed in writing with the said agency within a reasonable period of time after said decision, rule, regulation, order, or finding is issued. The decision of said agency may be appealed by any interested party to the authority.

(b) Any interested party shall have the right of complaint to the authority and of prompt hearing and decision thereon, under such rules and regulations as it shall prescribe, in respect of any decision, rule, regulation, order, or finding made by the authority.

(c) Any interested party shall have the right of appeal to the Administrator of the National Industrial Recovery Act, under such rules and regulations as he shall prescribe, in respect of any decision, rule, regulation, order or finding made by the authority.

ART. XVIII. *Jurisdiction.*—This code, when approved by the President, shall apply to all persons engaged in the lumber and timber products industries as defined herein.

ART. XIX. *Effective date and termination.*—(a) The provisions of this code in respect of maximum hours and minimum wages shall be in effect beginning three days after its approval by the President; and other provisions of the code, unless specifically provided otherwise, ten days after approval by the President; Schedule B shall be in effect at such date as may be specified by the authority; but not later than November 1, 1933.

(b) This code shall terminate on June 16, 1935, or on such earlier date as the National Industrial Recovery Act may cease to be effective.

(c) This code shall continue in effect for a period of six (6) months after the date of approval thereof by the President in order to afford to the President an opportunity to determine upon the recommendations of his representatives on the authority, which recommendations shall be made periodically or as often as the said representatives deem necessary or advisable but in any event not later than six months after the date of approval of this code by the President, whether its provisions will effectuate the purposes of Title I of the National Industrial Recovery Act, subject, however, to amendment at any time, as hereinbefore provided, and subject also to the reserved power of the President to cancel or modify his approval thereof. This code shall continue in effect after the expiration of said period of six (6) months in the absence of the exercise of such reserved right on the part of the President.

Schedule A

Division and Subdivision—Code Provisions

(Parenthetical references in these provisions refer to articles of the code)

1. Cypress Division.
2. Hardwood Division:
 3. Appalachian and Southern Hardwood Subdivision.
 4. Mahogany Subdivision.
 5. Philippine Mahogany Subdivision.

6. Walnut Subdivision.
7. Northern Hardwood Subdivision.
8. North Central Hardwood Subdivision.
9. Northeastern Hardwood Subdivision.
10. Northern Hemlock Division.
11. Northern Pine Division.
12. Redwood Division.
13. Northeastern Softwood Division.
14. Southern Pine Division:
15. Southern Rotary Cut Lumber Subdivision.
16. West Coast Logging and Lumber Division:
17. Douglas Fir Plywood Subdivision.
18. Douglas Fir Door Subdivision.
19. Western Pine Division.
20. Woodwork Division:
21. Stock Manufacturers Subdivision.
22. Wholesale Distributors Subdivision.
23. Special Woodwork Subdivision.
24. Wooden Package Division:
25. Sawed Box, Shook, Crate, and Tray Subdivision.
26. Plywood Package Subdivision.
27. Standard Container Subdivision.
28. Pacific Veneer Package Subdivision.
29. Egg Case Subdivision.
30. Wirebound Box Subdivision.
- 30a. Veneer Fruit and Vegetable Package Subdivision.
31. Red Cedar Shingle Division.
32. Stained Shingle Subdivision.
33. Oak Flooring Division.
34. Veneer Division.
35. Maple, Beech, and Birch Flooring Division.
36. Hardwood Dimension Division.

I. CYPRESS DIVISION

Division (Art. II c).—The Cypress Division consists of producers and manufacturers of lumber and timber products of Tidewater Red Cypress in the states of Florida, Georgia, Louisiana, and South Carolina, and does not include white and yellow cypress or the small amount of red cypress produced by hardwood mills.

Products (Art. II a).—Lumber and Timber products under the jurisdiction of this division include all tidewater red cypress logs, poles, and piling; sawn lumber; planing mill products, except those of planing mills operated in conjunction with retail lumber yards; shingles, flooring, veneers; plywood; lath; boxes and crates.

Administrative agency (Art. III).—The Southern Cypress Manufacturers' Association is designated as the agency of the authority for the administration of the code in this division. Said association, through its board of directors, is authorized to make rules and regulations necessary to administer the code in this division, and shall designate and authorize such agencies as may be required for this purpose.

2. HARDWOOD DIVISION

Division (Art. II c).—(a) The Hardwood Division consists of producers, manufacturers, importers, and distributors of hardwood lumber and timber products, in the following subdivisions:

- Walnut Subdivision.
- Southern and Appalachian Hardwood Subdivision.
- North Central Hardwood Subdivision.
- Mahogany Subdivision.
- Northeastern Hardwood Subdivision.
- Northern Hardwood Subdivision.
- Philippine Mahogany Subdivision.

(b) Jurisdiction shall also extend to wholesalers, exporters, and distributors of such hardwood products to the extent provided for in the code, in this or any subdivision code provisions, and in the rules of fair trade practice appended in Schedule B.

(c) The territory and person subject to the jurisdiction of the seven subdivisions shall be defined by the Hardwood Co-ordinating Committee hereinafter designated. Other subdivisions may be established upon application to the authority through the Hardwood Co-ordinating Committee.

Products (Art. II a).—Hardwood logs, sawn ties, timber and lumber, lath, dimension cut from the log, and products of planing mills operated in conjunction with sawmills and in

respect of any subdivision such additional hardwood timber products as it may enumerate.

Administrative agencies (Art. III).—(a) The administrative agencies in the respective subdivisions shall be as follows:

Walnut Subdivision, American Walnut Manufacturers Association.

Southern and Appalachian Hardwood Subdivision, Hardwood Manufacturers Institute.

North Central Hardwood Subdivision, Indiana Hardwood Lumbermen's Association.

Mahogany Subdivision, Mahogany Association.

Northeastern Hardwood Subdivision, Northeastern Lumber Manufacturers Assn.

Northern Hardwood Subdivision, Northern Hemlock & Hardwood Manufacturers Association.

Philippine Mahogany Subdivision, Philippine Mahogany Manufacturers Import Association.

(b) The Hardwood Co-ordinating Committee, established by the above administrative agencies in conjunction with the National-American Wholesale Lumber Association, the National Hardwood Lumber Association, and the National Lumber Exporters Association, is designated as the agency of the authority for the administration of the code in this division, through and by means of this administrative agency herein designated for each subdivision.

(c) Said committee shall issue and enforce such rules, regulations, and interpretations, including trade practices, impose upon persons subject to the jurisdiction of this division such restrictions and designate such agents and delegate such authority to them as may be deemed necessary; but shall reserve the power and duty to enforce the provisions of the code in this division. The committee may delegate any of its authority to its representatives, selected from its membership, or the membership of the authority, who are hereby empowered to act for the division conclusively in respect of all matters coming before the authority. Such representatives shall constitute the Hardwood Executive Committee. All matters of interest to the division or any subdivision requiring action by the authority shall first be presented to the Hardwood Executive Committee.

(d) Each subdivision shall, under authority of the Hardwood Co-ordinating Committee, select its own administrative agencies. Each subdivision shall be independent and self-governing in respect of all conditions and problems relating to the said subdivision exclusively. Proposals in respect of matters affecting more than one subdivision may be initiated by any subdivision and shall be submitted to the Hardwood Co-ordinating Committee.

[Similar provisions are included in the code for each of the other 34 divisions.]

Schedule B

Rules of Fair Trade Practice for the Lumber and Timber Products Industries

SECTION I. *Definitions.*—(a) A manufacturer is a person who operates a mill converting logs or lumber into lumber and/or timber products.

(b) The term "sales company" used in this code is a company organized or owned by manufacturers to sell their own or other manufacturers' lumber through salaried salesmen, wholesalers, or commission men.

(c) A *wholesaler* is a person actively and continuously engaged in buying, assembling, or rehandling lumber and timber products from manufacturers or other wholesalers in quantity lots and selling it principally to wholesalers, retailers, and recognized wholesale trade, who maintains a sales organization for this purpose, assumes credit risks and such other obligations as are incident to the transportation and distribution of lumber and timber products. Wholesale assembling and distributing yards as defined in divisional rules and regulations shall also be classed as wholesalers.

(d) A *commission man* is a person located in the territory which he serves, who regularly sells in wholesale quantities for manufacturers or wholesalers to recognized wholesale trade and who is paid a stipulated amount (known as a commission) on each individual sale and holds a relation to the seller similar to that of a salaried salesman.

(e) A *retailer* is one who maintains adequate and permanent storage and handling facilities, a sales organization for the con-

sumer trade and carries a well assorted stock adapted to the normal needs of the consumers in his sales territory.

(f) *Industrial*.—The term “industrial” as used in these rules includes wood fabricators, box and crating manufacturers and users, and users of lumber and timber products in part or all of their manufacturing and shipping processes.

(g) An *exporter* is a manufacturer or sales company or wholesaler with definite foreign connections or established agencies, maintaining a permanent office in the U. S. A., continuously selling and shipping lumber and timber products to foreign countries (Canada and Mexico excepted) in substantial quantities.

(h) An *importer* is a person of any nationality who brings goods, or causes them to be brought, into the United States from any foreign country, whether in bond or not, and whether he is already the owner of the goods before they arrive or purchases them on delivered terms.

SEC. 2. *Wholesalers*.—The lumber wholesaler is an economic factor in the distribution of lumber and it is recognized that he is entitled to compensation for his distribution services.

(a) Each division, and each subdivision, through its designated agency, shall establish for its members and file with the authority a schedule of maximum discounts to be allowed to wholesalers for distribution services. Said discounts when approved by the authority shall remain in effect until changes are approved by it.

(b) As a condition of the grant of wholesale discounts, the wholesaler shall not rebate or allow any part of said discount to any customer, or sell or offer to sell any item of lumber or timber products under the minimum prices established as provided in this code, except to another wholesaler or manufacturer; and he shall conform to all provisions of this code, as they apply to him in the sale and distribution of each species.

SEC. 3. *Commission men*.—The lumber commission man, as an agent of the seller, is entitled to compensation (commission) for his distribution services.

(a) Each division, and each subdivision, through its designated agency, shall establish for its members and file with the

authority a schedule of maximum commissions to be paid to commission men for distribution services. Said commissions when approved by the authority shall remain in effect until changes are approved by it.

(b) As a condition of the payment to him of commissions, the commission man shall not split commissions with any customer nor shall he sell or offer to sell any item of lumber and timber products under the minimum prices established as provided in this code, and he shall conform to all provisions of this code as they apply to him in the sale and distribution of each species.

(c) No manufacturer or wholesaler shall be permitted to have more than one commission representative for each species calling on the same trade in the same territory.

SEC. 4. (a) Buyers' agents who act for the purchaser shall not be entitled to any discounts or allowances on any lumber or timber products sold to their customer stockholders, owners, partners, or parties otherwise interested.

(b) No manufacturer shall give discounts to others than wholesalers or greater in amount than those established and filed in accordance with Section 3 (b) of these rules, or commissions to others than commission men or greater than those established or filed in accordance with Section 4 (b) of these rules, and no manufacturer shall give allowances of any character otherwise than in accordance with standard terms of sale as set forth in Section 5 of these rules.

(c) Direct inter-manufacturer purchases or exchanges of stock, between mills of the same division, for the filling of orders sold on a wholesale basis, shall not be considered as coming under the provisions of this code as regards minimum prices.

(d) Contractual relations between a manufacturer and his sales company, acting as sales agent or outlet at cost, shall not come under the provisions of this code as to wholesale allowances or commissions, but the sales of any such sales company however made shall be in accordance with all provisions of this code.

SEC. 5. *Sales, orders, and invoices.*—(a) Except for water shipment, where the credit risk is satisfactory to the seller, lum-

ber and timber products sold by manufacturers and wholesalers shall not be more liberal to the buyer than as follows:

(1) To retailers—60 days net from date of invoice, or a cash discount of 2 per cent of the net amount after deducting actual freight if paid within 5 days after arrival of car.

(2) To wholesalers—80 per cent of the net amount after deducting estimated freight within 15 days from date of invoice, balance less 2 per cent of total net after deducting actual freight within 60 days from date of invoice.

(3) To industrials and buyers not otherwise classified—60 days net from date of invoice or a cash discount of 2 per cent of the net amount after deducting freight if paid within 10 days after arrival of car.

(4) Prepaid freight shall be net and subject to sight draft, or to payment upon receipt of invoice.

(b) No lumber and timber products on which minimum prices have been established under this code shall be sold for less than the said established prices, except when sold to wholesalers under provisions of Section 2.

(c) No lumber or timber products shall be sold with any guarantee against decline in price before or after delivery.

(d) Except for water shipment, manufacturers and wholesalers shall not make contracts with retailers and/or wholesalers for future shipment to retailers at current prices for shipment over a longer period than 30 days from date of order. Except as specifically authorized by the division or subdivision authority, manufacturers and wholesalers shall not make contracts with industrials and/or wholesalers for shipments to industrials at current prices for a longer period than three months from date of order, except when said contracts contain a provision for a price adjustment to be effective for each succeeding ninety-day period, which revised prices shall be not less than the established minimum prices at the time of each adjustment. The foregoing restrictions shall not apply to lumber or timber products sold for a specific construction job on a contract not subject to cancellation. Complete specifications covering all orders for rail or water shipments shall be furnished to the seller within ten days from date of order.

(e) In figuring delivered prices for rail shipment, by adding

freight charges to mill prices, the seller shall use the established schedule of weights for the species sold.

(f) Prices shown on order and invoice shall not include any manufacturer's sales, excise, privilege, or other tax, freight surcharge or charge imposed upon or incident to said transaction, or by reason thereof, by any governmental authority, either by present or future enactment, and no such tax, surcharge or charge shall be deductible from invoice by buyer in making remittance to either manufacturer or wholesaler.

(g) All quotations shall include a definite limit of time for acceptance, but in no case shall quotations be for a period longer than 15 days from date of quotation, except on special construction projects, not to exceed 60 days.

(h) No manufacturer or wholesaler shall make a carload sale that requires invoicing and delivery to more than three retailers or more than one stop-over at origin and one stop-over at destination. Pool car sales of less than 10,000 feet to any one customer shall be subject to such service charge as may be established by each of the several divisions. Stop-over charges, if any, shall be paid by the buyer or buyers in addition to the invoice price.

(i) Orders and invoices shall show terms of sales, association grade, species, quantities, sizes, and price of each item for agreed delivery. In respect to lumber and timber products not of American Lumber standard size and/or association grade both order and invoice shall show the nominal and finished sizes and the grade sold by reference to some non-association specification on file with the division, or completely stating the specifications. Orders and invoices shall state whether the stock is green, air dried, or kiln dried.

(j) Neither manufacturers nor wholesalers shall place stock in transit via rail. Neither manufacturers nor wholesalers (except such wholesalers as have acquired full and unconditional title to the stock prior to shipment) shall place unsold stock in transit via water. Neither manufacturers nor wholesalers shall place stock on consignment.

(k) In respect of lumber special non-standard sizes and grades may be manufactured and sold under special contract, but grade, size, both rough and dressed, and price must be detailed in both order and invoice. The manufacture, purchase and/or sale of non-standard sizes, grades, and classifications of lumber and

timber products for the purposes of evading any of the provisions of this code is hereby prohibited.

SEC. 6. *Grading and inspection.*—(a) In the absence of an express sales agreement all lumber and timber products shall be manufactured and graded in accordance with official published manufacturers association grading and inspection rules applicable thereto. In the absence of an express sales agreement, trade terms, definitions, and all other terms, words or phrases, and regulations relating to the manufacture, sale, invoicing, and shipment of lumber are understood to be interpreted and applied in accordance with the applicable provisions of the official manufacturers association grading rules in effect at the time of sale.

(b) Manufacturers and wholesalers shall not alter grades by taking out either the poorest or the best material or by adding lower or higher grade material for the purpose of evading the provisions of the code.

(c) If lumber is grade marked or species marked only the standard manufacturers association grade marks and species marks wherever established shall be used.

(d) Manufacturers and wholesalers shall not misbrand or invoice falsely any lumber as to quantity, size, grade, origin, species, or condition of dryness.

(e) Official inspection, when required by either buyer or seller, shall be made only by an official inspector of the manufacturers association issuing the official grading rules for the species to be inspected, applying the rules agreed to at the time of sale, or, in the event of no such agreement, the official manufacturers association grading rules and regulations under which the lumber or timber products are commonly bought and sold.

(f) Except for water shipment as certification of quantity and grade of lumber and timber products shipped, an official manufacturers association car card (shippers certificate) shall be placed in each car shipped; such certificate shall not disclose the name of the originating manufacturer but shall carry such marks or number as will enable the division or subdivision to trace the shipment. For shipments requiring official inspection at point of origin the official certification of the manufacturers association inspection agencies shall be furnished.

(g) All lumber and timber products either rough or dressed

manufactured to sizes below American Lumber standards and/or manufacturers association standards sold on standard nominal size shall be branded "sub-standard" and such brand shall not be obliterated or removed.

SEC. 7. *Arbitration.*—Any dispute between parties coming within the provisions of this code involving \$50.00 or more and arising out of transactions in respect to the sale of lumber and timber products, except as to grade or tally, may be referred to an arbitration committee. For this purpose the disputants agreeing to arbitration shall sign an arbitration agreement approved by the authority for which application may be made to any division. In the event of the failure of the disputants to agree as to the arbitration agency the authority may designate an agency to conduct the arbitration. The findings and award of said arbitration through said agency shall be final and binding upon both parties.

SEC. 8. *Policing.*—The authority shall establish such agencies generally distributed through the United States as it may deem necessary to provide for such prompt relaxation of these rules and/or interpretation thereof as may be necessary to prevent these rules from promoting monopolies or eliminating or oppressing small enterprises or operating to discriminate against them, and shall invest such agencies with all power and authority necessary or appropriate to secure prompt decision of such questions.

SEC. 9. *Export business.*—These rules shall not apply to export business which shall be subject to the supplemental rules of fair trade practice of each division or subdivision.

3. TRADE PRACTICE PROVISIONS OF THE RUBBER TIRE MANUFACTURING INDUSTRY CODE

(The list of unfair trade practices is illustrative of similar lists in many codes, though rather more comprehensive than most such lists.)

ARTICLE VI

A. Trade Practices

SECTION I. No member shall use advertising (whether printed, radio, display, or of any other nature) or other representation which is inaccurate in any material particular or which

refers inaccurately to competitors or their commodities, prices, values, credit terms, policies, or services. No member shall, in any way, misrepresent any commodity (including its use, trade mark, grade, quality, quantity, origin, size, specifications) or his credit terms, values, policies, services, or the nature or form of the business conducted.

SEC. 2. No member shall use advertising or selling methods or credit terms which tend to deceive or mislead a customer or prospective customer.

SEC. 3. No member shall publish or circularize unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harassing competitors or intimidating their customers.

SEC. 4. No member shall secretly offer or make any payment or allowance of a rebate, refund, commission, credit, unearned discount or excess allowance, whether in the form of money or otherwise, for the purpose of influencing a sale; nor shall a member secretly extend to any customer any special service or privilege not extended to all customers of the same class.

SEC. 5. No member shall give, permit to be given, or offer to give anything of value for the purpose of influencing or rewarding the action of any employee or agent of another, in relation to the business of the employer of such employee, or the principal of such agent without the knowledge of such employer or principal.

SEC. 6. No member shall, directly or indirectly, give or permit to be given or offer to give, money or anything of value, to any customer or prospective customer, or to anyone else upon the instigation and for the benefit of any customer or prospective customer, to induce such customer or prospective customer to purchase tires or tubes from such members.

SEC. 7. No member shall secure confidential information concerning the business of a competitor by a false or misleading statement or representation, by a false impersonation of one in authority by bribery, or by any other unfair method.

SEC. 8. No member shall unfairly attempt to induce the breach of an existing contract between a competitor and his employee or customer or source of supply; nor shall any such

member unfairly interfere with or obstruct the performance of such contractual duties or services.

SEC. 9. No member shall brand or mark or pack any commodity in any manner which tends to deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, or specification of such commodity.

SEC. 10. After February 1, 1934, no member shall manufacture any automobile, truck, and/or bus pneumatic tires which do not clearly indicate on the side wall of the casing and on the label the number of cord plies from bead to bead, built into the casing. Breaker strips shall not be construed as plies for side wall or label marking. Plies extending from the heel of one bead to the heel of the other bead, if of substantially the same construction as other plies in the tire, shall not be construed as breaker strips. The code authority may designate such markings for purposes of this section.

SEC. 11. The unauthorized use by any member either in writing or oral form, of trade marks, trade names, or slogans identical with or in imitation of, those already in use by any other member, shall be prohibited.

SEC. 12. No member shall withhold from or insert into any invoice anything which would make the invoice a false record, wholly or in part, of the transaction to which it refers, or make any arrangement which contemplates payment or settlement contrary to the face of the invoice. No member shall postdate or predate orders, invoices, or contracts. This section shall not prohibit the granting of a bonus in accordance with any member's regular program.

SEC. 13. Within ten days after the effective date of this code, each member shall file with the association all consumers' preferred wholesale and state lists. The consumers' lists shall be the lists from which dealer and/or jobber discounts shall be applicable and shall apply to the sale of tires and/or tubes to owners of less than five vehicles. The preferred wholesale lists shall apply to commercial operators of five or more vehicles. The state lists shall apply to all state, county, and municipal accounts. These lists shall be effective immediately upon such filing.

(a) Thereafter, no member shall change such lists without filing new lists with the association, stating the effective date of such changes; provided that if such change involves a reduction such effective date shall be not less than ten days from a date of filing of the new lists.

(b) The association shall, promptly after receipt of such revised lists, notify all members affected. Such affected members may thereupon file with the association revisions of their lists which, if filed prior to the date when the revised lists first filed shall go into effect, may become effective on said date.

(c) No member shall fill at old prices orders received or showing postmark after 12:01 A.M. of the day upon which his new lists become effective. No member shall give any information to any class of trade regarding price changes prior to the date of filing thereof with the association.

SEC. 14. No member shall solicit the reinstatement of any order previously cancelled, at other than his own current prices.

SEC. 15. Effective immediately upon the signing of this code by the President, no member shall sell or offer for sale any tires or tubes which have been, or should be, properly classified as "seconds," except to employees for their own personal use and not for resale purposes. No member shall sell "firsts" as "seconds" under any circumstances.

SEC. 16. No member shall sell or dispose of any tires or tubes of obsolete, discontinued design or change-overs at special prices without first

(a) Notifying the code authority two (2) weeks in advance of the number of tires or tubes to be so disposed of, with the reasons therefor.

(b) Stating discount below the regular established price at which they are to be sold.

(c) Branding such tires, other than change-overs, so to be sold with a suitable design that shall be designated by the code authority.

(d) Obtaining the approval of the code authority for such disposal. If the code authority denies approval or fails to notify such member of its decision within ten (10) days, such member may appeal to the Administrator who shall have power to grant

approval. The code authority shall advise all members of the industry simultaneously of such authorizations.

SEC. 17. For the purposes of Sections 15 and 16 herein, "seconds," obsolete and discontinued designs and change-overs shall be defined as follows:

(a) "Seconds" shall be defined as all tires and/or tubes which have become defective in the course of manufacture.

(b) Obsolete and discontinued designs shall be defined as all tires and/or tubes which have actually been discontinued from production.

(c) Change-over tires shall be defined as original equipment tires which have been removed from new vehicles and which are practically new or show only slight wear.

SEC. 18. No member shall extend dealers' prices to persons other than dealers as herein defined. If the application of this definition in any particular case should work an unjust hardship on any member of the industry or customer, such member or customer may appeal to the code authority which shall have power to make such exception as justice may require.

SEC. 19. No member shall extend jobbers' prices to dealers as herein defined. If the application of this section in any particular case should work an unjust hardship on any member of the industry or customer, such member or customer may appeal to the code authority which shall have power to make such exception as justice may require.

SEC. 20. No member shall take over from any dealer or jobber, either by purchase or exchange, any tires and/or tubes of other members.

SEC. 21. No member shall offer or give any tires or tubes, or sell any such tires or tubes at reduced prices, for test purposes without prior approval by the code authority,

SEC. 22. No member shall offer to a dealer the discounts and/or allowances given to a warehouse dealer unless the dealer shall be required to perform the services of a warehouse dealer.

SEC. 23. The code authority shall within thirty (30) days after the effective date, obtain from the Tire Committee of the Tire and Rim Association standard specifications for the industry covering cross sectional diameters, anti-skid depths, total

tread thicknesses and such other specifications as in their judgment will standardize manufacturing tolerances within the industry. When these standards shall have been submitted to the industry and approved in accordance with Article X, the association shall send a copy of such standards to every member of the industry. Such standards shall become effective ninety (90) days thereafter and any deviation in the manufacture of any tires beyond the maximum so established, shall constitute an unfair trade practice unless such tires which exceed these specifications shall be sold at a proportionately higher price which truly reflects their higher cost. The code authority upon request of any member shall investigate and rule upon any disputed cases. Should the application of this section in any particular case work an unjust hardship on any member of the industry, such member may appeal to the Administrator who shall have power to grant such exception as justice may require.

SEC. 24. Effective immediately upon the signing of this code by the President no member shall accept written or verbal orders, agreements, or contracts for the sale of tires or tubes to any commercial and/or national account, the effect of which is to guarantee prices on future deliveries.

SEC. 25. Effective immediately upon the signing of this code by the President no member shall use terms of payment to national or commercial accounts exceeding the customary 10th proximo terms or renew or extend existing orders, agreements, or contracts as a subterfuge, in violation of Section 24. For purposes of interpretation of Section 24 orders delivered within thirty (30) days after date of order may be construed as "immediate delivery"; deliveries after such thirty (30) days' period shall be construed as "future delivery" and billed at prices in effect on delivery date.

SEC. 26. No member shall offer for sale a rebuilt and/or re-treaded tire without marking on the sidewall thereof a suitable design to be approved by the code authority.

SEC. 27. Violation of any of the provisions of Article VI shall be considered an unfair trade practice and subject to the penalties of the Act.

4. PLANT OPERATION, ACCOUNTING, SELLING, AND STATISTICAL REPORTING PROVISIONS OF THE ENVELOPE INDUSTRY CODE

(The following code provisions, in particular the "open-price" system of price quotation, are of special interest and are typical of numerous codes.)

ARTICLE VI—PLANT OPERATION

1. Subject to the exceptions contained in Sections 2 and 3 hereof, no member shall operate any manufacturing plant in excess of 40 hours per week averaged over a period beginning with the effective date of this code and ending on the 30th day of June, 1934, and thereafter over each successive period of six months beginning on July first and January first of each year or more than 1,040 hours in any such period of six months.

2. For the purposes of the foregoing section, the operating time of any unit of productive machinery in any plant shall be regarded as the operating time of the entire plant, provided, however, that the operating time of not more than one-third of the total number of envelope folding machines in the plant, but not in any case more than three envelope folding machines and/or their necessary complementary equipment, on emergency work, as the same may be defined by the code authority, shall not be counted as plant operating time.

3. If, for a period of one year prior to the 16th day of June, 1933, or for the entire period of time prior to such date that any plant may have been in operation, such plant shall have been steadily operated with one or more extra shifts, employing thereon not less than one-half the number of folding-machine operators employed on the day shift, then said plant may continue to be operated with such extra shift or shifts until May 1st, 1934.

4. The limitations on plant operation may be modified, suspended, or removed by the Administrator at any time if he shall determine that such limitations have reduced or will tend to reduce unduly the supply of envelopes or are for any other reason contrary to public interest.

ARTICLE VII—ACCOUNTING—SELLING

1. The code authority shall, as soon as practicable, formulate a standard method of accounting and costing for the industry and submit the same to the Administrator. When it shall have been approved by the Administrator, every member shall use an accounting and costing system which conforms to the principles of, and is at least as detailed and complete as, such standard method.

2. The code authority may from time to time determine that an open-price plan of selling such product or products of the industry as it shall specify shall be put into effect on such date as it shall fix. Notice of such determination shall be announced to all known members of the industry who manufacture such products not less than 30 days prior to the date so fixed.

3. At least ten days prior to such date, every such member shall file with the code authority a schedule of prices and terms of sale for all such products or, in the alternative, shall be deemed to have filed a schedule conforming in respect to price and terms of sale with the schedule at any time on file which states the lowest price and the most favorable terms.

4. All such schedules shall be in such form as the code authority shall prescribe and shall contain all information necessary to permit any interested person to determine the exact net price per unit after all discounts or other deductions have been made, whether pertaining to a single order, a commitment for future delivery, or a contract. All such original schedules shall become effective on the date fixed by the code authority as provided in Section 2 hereof. Any such schedule, or any price therein, may apply nationally or may be limited to one or more geographical divisions created as provided in Section 7 of Article II hereof.

5. An original schedule, a revised schedule or schedules, or a new schedule or schedules, or a notice of withdrawal of a schedule previously filed may be filed by a member with the code authority at any time, provided, however, that any member who withdraws a schedule without substituting a new schedule therefor shall be deemed to have filed a schedule conforming in respect to price and terms of sale with the schedule at any time thereafter on file which states the lowest price and the most favorable terms. Any schedule or notice filed hereunder, shall become effec-

tive five days after the date of filing, provided, however, that an increased price may become effective at such earlier date as the member filing the same shall fix.

6. The code authority shall promptly supply all members of the industry, who manufacture any particular product, with copies of all schedules, revised schedules, and notices of withdrawal, which pertain to such product. Immediately upon receipt of information relative to the withdrawal of a price for any product, any member may file notice of withdrawal of his own price for the same product effective as of the same date as the notice of withdrawal of such other member. Immediately on receipt of information that a schedule then on file has been revised, or that a new schedule has been filed, any member may file a revised schedule conforming as to price and terms to the schedule of such other member, and effective on the same date, or may notify the code authority that he adopts as his own the schedule of such other member. In the latter event, he shall be deemed to have filed a revised schedule conforming to the revised schedule of such other member.

7. No such schedule of prices and terms of sale filed by any member, or in effect at any time, shall be such as to permit the sale of any product at less than the cost thereof to such member determined in the manner provided in Section XI hereof, provided, however, that any member may by notice to the code authority, adopt as his own a lower price filed by another designated member. Such adoption shall become automatically void upon the withdrawal or revision upward of the price adopted.

8. No member who shall have filed a price, or adopted as his own, a price filed by another member for any product of the industry, shall sell such product for less than such price or upon terms or conditions more favorable than stated in such price schedule. No member, who shall have failed to file a price for any product for which the open price plan is in effect, shall sell such product at a lower price or on terms more favorable than the lowest price and most favorable terms stated in any price schedule for such product then on file.

9. The code authority shall furnish at cost to any person concerned, whether member or non-member, requesting them, copies of any price schedules which have been filed with it. Such price

schedules shall be made available to non-members at the same time that they are sent to members.

10. No member shall sell any product of the industry for which no open-price plan is in effect at less than the cost thereof to such member, determined as provided in Section 11 hereof, except to meet the price of a competitor whose price does not violate this section.

11. Cost, for the purposes of this article, shall be determined pursuant to the method of accounting and costing prescribed as provided in Section 1 hereof as soon as such method is adopted and approved, and theretofore pursuant to the method employed by such member subject to such preliminary rules as the code authority shall from time to time prescribe with the approval of the Administrator.

12. Every member filing a schedule or notice hereunder shall deliver to the code authority without expense such number of copies thereof as shall be necessary to enable the code authority to supply one copy thereof to each member of the industry and no such schedule or notice shall be deemed to have been filed until such number of copies shall have been received by the code authority.

13. The code authority may at any time suspend the open-price plan of selling either in its entirety or in so far as it applies to any specified product or products of the industry.

14. For the purpose of determining whether Sections 7, 8, 10 and 11 hereof have been complied with, every member shall upon the request of the code authority furnish a designated agency of the code authority, in respect to closed transactions only, with complete information in regard to any quotation, order, contract, or sale of any product of the industry, including information as to specifications, quantities, price, conditions of storage, transportation, or delivery, terms of billing, cash or trade discounts allowed and other pertinent facts relating to such quotation, contract, or sale.

15. Nothing herein contained shall be construed to prevent the disposition of distress merchandise required to be sold to liquidate a defunct or insolvent business in such manner at such price and such terms and conditions as the code authority may approve.

16. Nothing herein contained shall be construed to prevent

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the fulfillment of a bona fide contract existing on the effective date of this code. The code authority may require members of the industry to file with its designated agency and in such manner as it shall prescribe such data as it may require in respect of contracts for future deliveries existing on the effective date of this code.

ARTICLE VIII—REPORTS AND STATISTICS

1. Each member shall prepare and file with an impartial agent designated by the code authority at such times and in such manner as it may prescribe, such statistics, data, and information relating to plant capacity, volume of production, volume of sales in units and dollars, orders received, unfilled orders, stocks on hand, inventory, both raw and finished, number of employees, wage rates, employee earnings, hours of work, and other matters, as the code authority or the Administrator may from time to time require. Any or all information so furnished by any member shall be subject to checking for the purpose of verification by an examination of the books and accounts and records of such member by any disinterested accountant or accountants or other qualified person or persons designated by the code authority.

2. Except as otherwise provided in the Act, or in this code, all statistics, data, and information filed or required in accordance with the provisions of this code hereof shall be confidential and the statistics, data, and information of one member shall not be revealed to another member. No such data or information shall be published except in combination with other similar data and in such a manner as to avoid the disclosure of confidential information. The code authority shall arrange for the publication currently to members of such statistics of the industry as the code authority may determine to be necessary.

3. The code authority shall make such reports to the Administrator as he may from time to time require.

4. In addition to information required to be submitted to the code authority there shall be furnished to the government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

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