

1 7 FEB 1958

B-30-32

Mr. E. W. Galbraith
Manager, Airmail & Facilitation
CP Air
One Grant McConachie Way
Vancouver International Airport
British Columbia, Canada V7B 1V1

Dear Mr. Galbraith:

Your letter to Mr. Edward B. Gable, Jr., Chief, Carrier Rulings Branch, U.S. Customs Service, has been referred to this office for reply. You request an opinion as to whether a truck-air movement of containerized cargo from a U.S. point to Honolulu, via Vancouver, with the air portion of the journey commencing in Vancouver, would be lawful under the cabotage prohibitions of section 1108(b) of the Federal Aviation Act (49 U.S.C. 1508(b)). You state that "CP Air would intend to move containerized freight, of US origin, via a trucking company, into Vancouver, B.C. for furtherence via CP Air to Honolulu." You note that a US ICC trucking company would be used, and that there would be separate, but cross referenced, bills of lading, with the CP Air airwaybill indicating a pick-up charge from the shipper.

In our view the described operation would constitute a violation of the cabotage prohibition of section 1108(b) of the Act. Section 1108(b) provides in pertinent part that a foreign air carrier "shall not take on at any point within the United States, persons, property or mail carried for compensation or hire and destined for another point within the United States" Since CP Air would, under the circumstances you describe, be actively participating in the transborder truck shipment to Vancouver for onward shipment to Honolulu, we would consider that CP Air was providing transportation partially by truck and partially by air between the US point of origin and Honolulu, and that such an operation would constitute a violation of section 1108(b) of the Act. We do not mean to imply, however, that the Board would necessarily take any enforcement action under section 1108(b) of the Act in a case involving such a truck-air movement, where CP Air neither actively solicited nor participated in the transborder truck shipment to Vancouver for onward air transport by CP Air from Vancouver to Honolulu. In this respect, we do not deem it incumbent upon a foreign air carrier to inquire into the initial origin of cargo or persons tendered to or boarding a Canadian air carrier in Canada.

Mr. E. W. Galbraith (2)

You will recognize, of course, that the above views are those of this office, and do not necessarily represent the views of the Civil Aeronautics Board.

Sincerely,



Ivars V. Mellups
Acting General Counsel

cc: Edward B. Gable, Jr.
Chief, Carrier Rules Branch
U.S. Customs Service

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cc: B-25(2)(w/inc) **OGC-23-83**
B-30
B-32(w/cy/inc)



DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

WASHINGTON



JAN 24 1983

REFER TO

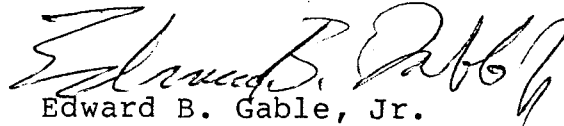
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Dear Mr. Mellups:

In agreement with a telephone conversation of January 14, 1983, between Mr. Peter Schwarzkopf of your office and Mr. John Mathis of my staff, we are enclosing a copy of a letter dated December 22, 1982, from Canadian Pacific Air Lines, Limited, Vancouver, British Columbia, concerning the movement of merchandise which might constitute a violation of the cabotage provisions of title 49, United States Code, section 1508(b).

The possible violation involves the transportation of merchandise from a point in the United States to Canada by truck, and subsequent transportation of the merchandise to a second point in the United States on a foreign civil aircraft. We would appreciate a copy of your final ruling on this matter.

Sincerely,



Edward B. Gable, Jr.
Chief
Carrier Rulings Branch

Mr. Ivars B. Mellups
General Counsel
B-30 Civil Aeronautics Board
Washington, D.C. 20428

Enclosure

CP Air

One Grant McConachie Way
Vancouver International Airport
British Columbia, Canada V7B 1V1
Tel: (604) 270-5211 Telex 043-55587



December 22, 1982

File: 25-5-2

Mr. Edward Gable
Carrier Ruling Branch
Room 2146
US Customs Service
1301 Constitution Avenue NW
Washington, D.C. 20229

Dear Mr. Gable:

I refer to our recent telephone discussion on the subject of cabotage.

Circumstances involving the movement of goods from the State of Washington to Honolulu via Vancouver Canada were described to you and an opinion on the legalities of such a movement under Section 1508(b) title 49 requested. Without the opportunity of a detailed and careful examination of perhaps all the relevant facts you believed that cabotage was not involved.

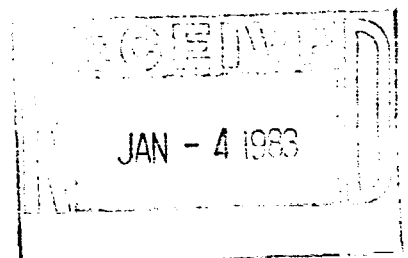
CP Air wishes to participate in the transportation of goods under identical circumstances. I have laid out all facets of the operation below and request a formal written opinion from your Department.

CP Air would intend to move containerized freight, of US origin, via a trucking company, into Vancouver, B.C. for furtherance via CP Air to Honolulu. The trucking company is registered in the United States and is I.C.C. approved. The trucking company would move the containers on their truck bill of lading and transfer the containers over to us at Vancouver in bond. Our airwaybill will show Vancouver as airport of origin, cross-referencing the truck bill and indicating a pick-up charge from the shipper. Shipper and consignee will be shown as per usual airwaybill completion procedures.



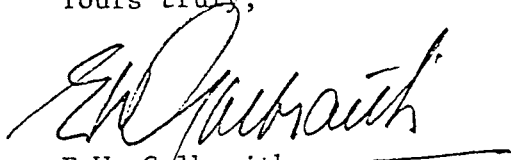
Canadian Pacific
100 Years
Yesterday
Today, and
Tomorrow

105955



Your letter of approval of this operation will constitute our authority to proceed as described.

Yours truly,

A handwritten signature in cursive script, appearing to read "E.W. Galbraith". The signature is written in dark ink and is positioned above the typed name.

E.W. Galbraith
Manager, Airmail & Facilitation

EWG/cm