

21 May 1970

Mr. Arthur W. Fuzak
Vice President-Administration
Tridair Industries
2500 Compton Boulevard
Redondo Beach, California 90278

Dear Mr. Fuzak:

We refer to your letter of 14 April 1970 which requested an opinion by our office as to whether certain products manufactured by your company would be recordable under the provisions of Section 503 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1403). The products to which you refer are pallets and containers utilized for the transportation by air of various items of cargo. As such, they would not be permanently attached as a part of an aircraft but rather would be temporarily placed into, and removed from, the aircraft in connection with the cargo which is contained therein.

Section 503(a) of the Federal Aviation Act of 1958, as amended, sets forth those items which are eligible for recording at the FAA Aircraft Registry. Subparagraphs (a)(1) and (2) refer solely to aircraft and specifically described aircraft engines. Subparagraph (a)(3) refers not only to aircraft engines but also to "propellers, or appliances maintained by or on behalf of an air carrier certificated under Section 604(b) of this Act for installation or use in aircraft, aircraft engines, or propellers, or any spare parts maintained by or on behalf of such an air carrier * * *". Thus, the subject pallets and containers would have to qualify under this latter quoted subparagraph if they were to be recordable under Section 503.

After carefully reviewing both the language and the legislative history of Section 503(a)(3) of the Federal Aviation Act of 1958, we conclude that the items referred to above would be recordable as "appliances" under the provisions of that section. The term "appliances" is defined in Section 101(11) of the Federal Aviation Act of 1958 as meaning

" . . . instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines, or propellers."

The material forwarded by your letter of April 7, 1970 indicates that the subject pallets and containers would fall within this definition. In addition, recordation of the pallets and containers would seem to be in accordance with the legislative history of Section 503(a)(3). That section was enacted in 1948 as Public Law 692, Chapter 523 of the 80th Congress, Second Session. As such, it was an amendment to the Civil Aeronautics Act of 1938 which was the predecessor to the present act. The reports on the 1948 amendment may be found in 2 U.S.C. Congressional Service (1948) 1896. These reports make it clear that Congress intended these recordation privileges for the purpose of enabling carriers to secure better credit conditions on parts and appliances "maintained for installation in aircraft." In effect, the section was intended to protect sellers of parts and appliances retaining security interests in the form of blanket mortgages only while such parts and appliances are stored by or for air carriers for future use. It is considered that the recording of such pallets and containers would tend to serve the purpose of the 1948 amendment.

However, we should also note several limitations on the protection afforded by recordation under Section 503(a)(3). That section requires the designation of the location or locations where the spare parts are to be maintained by or on behalf of the air carrier. The word "location" has been defined as a fixed place located on the earth's surface which is used to keep or store the appliances in question. In addition, Section 503(d) of the Act provides that the recordation "pursuant to Section 503(a)(3) shall be effective only with respect to those of such items which may from time to time be situated at the designated location or locations and only while so situated." Thus, once the pallets or containers are moved from the specified location to any other location, or placed in an aircraft operated from such location, you would no longer be protected by the recordation.

We trust that this will be of assistance to you. In the event you have any further question, please feel free to contact us.

Sincerely,

ORIGINAL SIGNED BY
JOSEPH T. BRENNAN

JOSEPH T. BRENNAN
Aeronautical Center Counsel, AC-7

cc:
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