

**DECISION 2014 – 03 – 22**  
**TRAVEL AGENCY COMMISSIONER – AREA 3**

Jo Foged  
685 Remuera Road,  
Remuera, Auckland 1050,  
New Zealand

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**Applicant:**

La Maison de la Perle/TPV  
29, Rue de Sebastopol  
Noumea, New Caledonia  
Represented by Mr. Henri-Frederick Pujol, Proprietor

**Respondent:**

Agency Administrator, Geneva  
International Air Transport Association, IATA  
Represented by Mr. Nawaz Shaikh, Manager Agency Risk Management,  
IATA, Singapore.

**The Case and Decision:**

The points scored by the Agent's financial statements following assessment during the Annual Financial Review required the Agent to provide a financial security of XPF 61,572,000.

The Agent disputed the Global Assessor's findings as this was the first occasion on which a security was required and the statements were re-assessed with the same outcome. The deadline date for the submission of the security is 28 March 2014. The Agent approached the writer on 28 February 2014 with detailed arguments supporting its contention that it should have been granted more points than those identified by the assessment and hence should not have to provide a financial security and sought the intervention of the TAC.

Against an option where, as the writer is not an accountant or credit risk assessor, a mutually agreed third party auditor would be retained to assess the subject statements and whose finding would be final, the Agent opted to pursue the matter with IATA SIN.

Over a number of message exchanges and a phone call the Agent acknowledged that he could see IATA's point of view with regard to their application of the Financial Criteria for the French Overseas Territories. The Agent sought either time to submit its 2013 financial year statements some time in April 2014 for assessment as they would demonstrate an improved performance or be granted additional time beyond 28 March 2014 to arrange a bank guarantee.

As required by sub paragraph 2.3 of Resolution 820e both Parties have agreed to waive

their rights to an oral hearing and have allowed the writer to reach a decision based on the written information submitted.

In light of the fact that the Agent is currently not providing a security, IATA is reluctant to see interlocutory relief extended beyond 15 days.

In considering this matter it is obvious that the Agent had sincere motives in seeking reconsideration of the manner in which IATA had awarded points during the assessment of its 2012 year accounts. However, with its acknowledgement that the IATA assessment meets the financial criteria, it is reasonable to allow a period of time for arrangements to be made to submit the required bank guarantee of XPF 61,572,000. The Agent has sought a delay and proposed that its improved, in its opinion 2013 accounts be assessed; however, as this matter has been the source of dispute since June 2013 a conclusion to the current matter is overdue.

Consequently, based on the foregoing, it is hereby decided as follows:-

1. The Agent is granted interlocutory relief until Friday 11 April 2014.

Decided this 22<sup>nd</sup> day of March 2014 in Auckland

**Jorgen Foged**  
**Travel Agency Commissioner Area 3**

**Notes:**

1. As per Resolution 820e, Section 4, any Party has the right, if it considers itself aggrieved by this Decision, to seek review by Arbitration in accordance with the provisions of Resolution 824, Section 14.
2. The Parties are advised that effective from 1 June 2012, according to Subparagraph 2.10 of Resolution 820e, any of them may request an interpretation of this Decision, or for a correction of any error in computation, any clerical or typographical error, or any omission in this Decision. Such request must be made within 15 days of receipt of the electronic version of this Decision.