

# FEDERAL MARITIME COMMISSION

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Fact Finding Investigation No. 28

## CONDITIONS AND PRACTICES RELATING TO DETENTION, DEMURRAGE, AND FREE TIME IN INTERNATIONAL OCEANBORNE COMMERCE

Served: December 17, 2018

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**BY THE COMMISSION:** Michael A. KHOURI, *Acting Chairman* and Rebecca F. DYE, *Commissioner*.

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### ORDER

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On March 5, 2018, the Federal Maritime Commission initiated a non-adjudicatory investigation into the practices of vessel operating common carriers and marine terminal operators relating to U.S. demurrage, detention, and per diem charges. The Commission designated Commissioner Rebecca F. Dye the Fact-Finding Officer and directed her, with the assistance of Commission staff members assigned to the investigation, to develop a record. The Commission also delegated the authority to the Fact Finding Officer to hold public or nonpublic sessions and authorized the issuance of interim and final reports and recommendations.

The Fact Finding Officer conducted the investigation in two phases, and on December 3, 2018, the Fact Finding Officer issued a Final Report. This report recommended that the Commission organize Innovation Teams of industry leaders to meet on a limited, short-term basis to refine commercially viable demurrage and detention approaches to: (a) standardized language; (b) clear, simplified, and accessible billing and dispute resolution practices; (c) guidance on evidence relevant to dispute resolution; and (d) consistent notice to cargo interests of container availability. The Commission accepted this report and approved the recommendations therein on December 7, 2018.<sup>1</sup>

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<sup>1</sup> The Order of Investigation provided that the fact-finding proceeding would be discontinued upon Commission acceptance of the report and recommendations, unless otherwise ordered by the Commission.

To facilitate the Innovation Teams, the Commission **ORDERS** that Fact Finding Investigation No. 28 be continued until September 3, 2019, such that Commissioner Dye, as Fact Finding Officer, with the assistance of Commission staff, may organize and lead teams composed of industry leaders to further investigate and refine the commercial viability of the four approaches set forth in the December 2018 report.

It is further **ORDERED** that the Fact Finding Officer report on the Innovation Teams' efforts and any further possible recommendations derived from the Fact Finding record no later than September 3, 2019.

By the Commission.

Rachel E. Dickon  
Secretary