KETERANGAN AM

1.	Kementerian	:	Kewangan
2.	Jabatan	:	Kastam Diraja Malaysia
3.	Tajuk Mesyuarat	:	Mesyuarat Panel Perundingan Kastam-Swasta, Bil. 2/2007.
4.	Tarikh	:	12 Disember 2007
5.	Masa	:	10.00 pagi
6.	Tempat	:	Bilik Gerakan, Ibu Pejabat Kastam Diraja Malaysia, Aras 3 Selatan, No. 3, Persiaran Perdana, Kompleks Kementerian Kewangan, Presint 2, Putrajaya.

AGENDA MESYUARAT

Agenda 1	:	Ucapan Pengerusi
Agenda 2	:	Ucapan Pengerusi Bersama
Agenda 3	:	Mengesahkan Minit Mesyuarat Bil.1/2007
Agenda 4		Membincangkan Perkara Berbangkit
Agenda 5		Membincangkan Usul-Usul Baru

SENARAI KEHADIRAN
MESYUARAT PANEL PERUNDINGAN KASTAM-SWASTA
BIL.2/2007

BIL.	*NAMA*	*JAWATAN/ PERTUBUHAN*
1.	Y.Bhg. Dato’ Hj. Ibrahim bin Hj. Jaapar	Timbalan Ketua Pengarah Kastam (Pengurusan) (Pengerusi)
2.	Mr. Boon Onn Seang	Persekutuan Pekilang-Pekilang Malaysia (FMM) (Pengerusi Bersama)
3.	Y.Bhg. Dato’ Hj. Mohamed Khalid bin Hj. Yusuf	Timbalan Ketua Pengarah Kastam (Operasi)
4.	Y. Bhg. Dato’ Abdul Rahman bin Sebli	Pengarah Bahagian Undang-undang
5.	Y. Bhg. Dato’ Md. Hassim bin Pardi	Pengarah Bahagian Perancangan Korporat
6.	Y. Bhg. Dato’ Harun bin Yacob	Pengarah Bahagian Pengurusan Sumber Manusia & Kewangan
7.	Y. Bhg. Dato’ Ismail bin Ibrahim	Pengarah Bahagian Kastam
8.	Tuan Hj. Roslan bin Yusof	Pengarah Bahagian Perkhidmatan Teknik
9.	Y. Bhg. Datin Azizah bt. Idris	Pengarah Bahagian Cukai Dalaman
10.	Y. Bhg. Dato’ Tan Kwong Jin	Pengarah Bahagian Pencegahan
11.	Tuan Mhd. Subre bin Ishak	Pengarah AKMAL

BIL.	*NAMA*	*JAWATAN/ PERTUBUHAN*
12.	Tuan Mohamed Sufian bin Damanhuri	Timbalan Pengarah Kastam Cawangan Perancangan Sumber Manusia & Pembangunan
13.	Tuan Hj. Shaharuddin bin Ibrahim	Timbalan Pengarah Kastam Cawangan Cukai Perkhidmatan
14.	Puan Norlia bt. Zamri	Timbalan Pengarah Kastam Cawangan Pengurusan Penilaian & Pasca Import
15.	Puan Norlinda Lim bt. Abdullah	Timbalan Pengarah Kastam Cawangan Teknologi Maklumat
16.	Tuan Govinden a/l Mutosamy	Timbalan Pengarah Kastam Cawangan Pengurusan Penjenisan, Tarif, & Gubalan
17.	Tuan Hj. Mohamed bin Jaafar	Timbalan Pengarah Kastam Cawangan Perindustrian
18.	Puan Che Mas bt. Hashim	Pegawai Yang Menjaga Unit Audit Dalam
19.	Tuan Ibrahim bin Sulaiman	Penolong Kanan Pengarah Kastam II Cawangan Perakaunan Hasil
20.	Tuan Martin Joseph	Penolong Kanan Pengarah Kastam II Cawangan Import/Eksport
21.	Tuan Hafiz bin Ishak	Penguasa Kastam Pegawai Teknikal MOF
22.	Puan Noorlida bt. Ibrahim	Penguasa Kastam Unit Perhubungan Awam
23.	Tuan Iskandar bin Jaafar	Penolong Kanan Pengarah Kastam II Unit Perhubungan Awam (Setiausaha)

BIL.	*NAMA*	*JAWATAN/ PERTUBUHAN*
24.	Tuan See Zoo Thai	Penguasa Kastam Unit Perhubungan Awam (Penolong Setiausaha)
25.	Puan Shamini Sakthinathan	Persekutuan Pekilang-Pekilang Malaysia (FMM)
26.	Encik S Raja Kumaran	Dewan Perniagaan Dan Perindustrian Antarabangsa (MICCI)
27.	Puan Wong Hin Wei	Dewan Perniagaan Dan Perindustrian Antarabangsa (MICCI)
28.	Encik A. Jeyaratnam	Dewan Perniagaan Dan Perindustrian Antarabangsa (MICCI)
29.	Cik Stephanie Ng	Dewan Perniagaan Dan Perindustrian Antarabangsa (MICCI)
30.	Encik Eyun Chew	Dewan Perniagaan Dan Perindustrian Antarabangsa (MICCI)
31.	Encik Peter Lim Thiam Kee	Institut Setiausaha Dan Pentadbiran Berkanun Malaysia (MAICSA)
32.	Encik Meor Nasmi bin Meor Mohamed Albakri	Institut Setiausaha Dan Pentadbiran Berkanun Malaysia (MAICSA)
33.	Puan Lee Ah Yem	Deloitte KassimChan Tax Services Sdn. Bhd
34.	Encik Chan Chow Pong	Institut Akauntan Awam Bertauliah Malaysia (MICPA)
35.	Puan Suzana bt. Mohd Hulaimi	Institut Akauntan Awam Bertauliah Malaysia (MICPA)

BIL.	*NAMA*	*JAWATAN/ PERTUBUHAN*
36.	Cik Tong Siew Choo	Institut Akauntan Awam Bertauliah Malaysia (MICPA)
37.	Cik Kulwant Kaur	Institut Percukaian Malaysia (MIT)
38.	Encik Walter Culas	Airfreight Forwarders Association Of Malaysia (AFAM)
39.	Encik Kenneth Tiong	Gabungan Dewan-Dewan Perniagaan Dan Perindustrian Cina Malaysia (ACCCIM)
40.	Encik Loo Chea Hee	Gabungan Dewan-Dewan Perniagaan Dan Perindustrian Cina Malaysia (ACCCIM)
41.	Cik Ser Huey Cing	Gabungan Dewan-Dewan Perniagaan Dan Perindustrian Cina Malaysia (ACCCIM)
42.	Encik Toon Teng Fatt	Persekutuan Penghantaran Fret Malaysia (FMFF)
43.	Cik Cheong Li Wei	Institut Akauntan Malaysia (MIA)
44.	Cik Sherlene Wong Pake Kuan	Institut Akauntan Malaysia (MIA)
45.	Encik Khadmudin bin Hj. Mohd Rafik	Malaysian Knitting Manufacturers Association (MKMA)
46.	Encik Law Haw Chong	Malaysia Association Of Company Secretaries (MACS)
47.	Tuan Hj. Osman bin Ujang	Malaysia Association Of Company Secretaries (MACS)
48.	Encik V. Muthiah	Persekutuan Wakil-Wakil Perkapalan Malaysia (FOMSA)

BIL.	*NAMA*	*JAWATAN/ PERTUBUHAN*
49.	Encik Thum Hoong Yip	Persatuan Pemilik-pemilik Kapal Antarabangsa Malaysia (ISOA)
50.	Encik Fong Keng Lun	Persatuan Pemilik-pemilik Kapal Antarabangsa Malaysia (ISOA)
51.	Encik Charles Subramaniam	Persatuan Pemilik-pemilik Kapal Antarabangsa Malaysia (ISOA)

AGENDA 1

UCAPAN PENGERUSI

Syukur Alhamdullillah kita dapat bersama- sama pagi ini dalam Mesyuarat Panel Perundingan Kastam-Swasta 2007.

Saya ucapkan terima kasih kepada pihak swasta dan saya ingin sampaikan salam YBhg. Dato' Sri yang tidak dapat bersama pada pagi ini kerana berada di luar negara. Beliau memohon saya untuk mempengerusikan mesyuarat ini bagi kita berbincang. W*e have about 37 new issues to discuss this morning, and about 12 outstanding issues from the last meeting, so in total we have about 49 issues to discuss this morning.*

Banyak isu telah dibangkitkan dalam ucaptama Ketua Pengarah Kastam di Mesyuarat yang lepas. Dalam ucapan beliau, perkara-perkara perkastaman telah pun disentuh dengan begitu luas sekali. Saya mengucapkan terima kasih di atas sokongan semua pihak termasuk pihak swasta yang telah membantu untuk mencapai matlamat kita mengadakan Mesyuarat Panel Perundingan Kastam-Swasta sebanyak dua kali pada tahun ini dan inilah kali ke-2 untuk tahun 2007, begitu juga dengan mesyuarat di negeri-negeri yang telah dibangkitkan dalam mesyuarat yang lepas. Kita telah memantau negeri supaya mengadakan mesyuarat dengan pihak swasta dan setakat ini respon dan maklumbalas yang kita terima oleh negeri-negeri boleh dikatakan sangat memuaskan. Dan kita telahpun menyatakan kekerapan yang telah dibuat di peringkat negeri dan kita telah edarkan jadual mesyuarat negeri tersebut unutk maklumat semua.

Selama ini saya memang berterima kasih atas sokongan tuan-tuan kerana membantu KDRM untuk melaksanakan tugasnya dengan teratur. Banyak inovasi yang telah KDRM buat walaupun banyak masalah yang kita hadapi dalam menjayakan program tersebut dan kita percaya program-program yang telah diatur oleh Jabatan adalah untuk memudahkan peranan Jabatan terhadap persatuan-persatuan perniagaan dan pelabur. Apa-apa program yang kita laksanakan sekiranya tidak memberi kesan yang begitu positif, kita akan minta maklumbalas dari pihak swasta seperti SMK, CVI dan sebagainya. Kalau program ini boleh memberi kebaikan kepada tuan-tuan, kita amatlah berbesar hati. Setelah saya berbincang dengan beberapa ahli pihak swasta, kita dapati banyak masalah pelaksanaan timbul di peringkat negeri. Jadi kalau ini dapat dimaklumkan kepada KDRM, kita akan membawa masalah ini ke Mesyuarat Pengarah-Pengarah yang diadakan setiap 3 bulan. Kalau ada masalah, masalah ini dapat dibentangkan dalam mesyuarat ini dan semua Pengarah Negeri dapat memberi ide/fikiran untuk menyelesaikan masalah tersebut. Ekoran daripada perbincangan itu, kita boleh pantau dan ambil tindakan yang sewajarnya. Mengenai isu *'paperless'* yang KDRM cuba laksanakan, KDRM menghadapi banyak masalah dan memerlukan sokongan daripada pihak swasta kerana kita tahu bahawa masalah ini sukar diatasi sepenuhnya tetapi kita boleh mengurangkan masalah tersebut.

Dalam mesyuarat PEMUDAH yang dipengerusikan oleh Ketua Setiausaha Negara, YBhg. Dato' Hj. Mohamed Khalid bin Hj. Yusuf telah dipilih sebagai wakil Jabatan dalam mesyuarat berkenaan. Semasa KDRM menjalankan kajian untuk melaksanakan sesuatu keputusan PEMUDAH, kita memerlukan kerjasama dan maklumbalas daripada pihak swasta untuk kita mendapatkan satu penyelesaian bagi dimaklumkan dalam mesyuarat PEMUDAH. Jadi kita haraplah kalau ada maklumat-maklumat yang dapat membantu, tolong sampaikan dalam mesyuarat berkenaan.

Saya amat berterima kasih kepada pihak Jabatan atas sokongan dan juga pihak tuan-tuan kerana target kita tidak lain tidak bukan untuk mempermudahkan. *We know that customs matters is sometimes very technical and yet we try to make things difficult for clients.* Contohnya, seperti kita mengeluarkan ketetapan Kastam, saya difahamkan ada negeri-negeri yang tidak patuh kepada Ketetapan Kastam yang telah dikeluarkan. *So they make things difficult.* Jadi kalau ada Ketetapan Kastam yang telah pun dikeluarkan oleh Ibu Pejabat kepada tuan-tuan dan puan-puan semasa pengimportan barangan dan apabila tidak diterima oleh negeri, saya minta pihak swasta memaklumkan dengan segera kepada Ibu Pejabat.

Adakalanya ia perkara kecil, Pengarah pun tidak tahu dan tidak dimaklumkan dengan kadar segera. *This is an authority given and provided under the law and the decision already made by the Director General to decide for certain classifications on that particular goods and yet refuse to be accepted by our officers. Therefore we should tackle this problem immediately and don't wait for the next meeting. Please report to us immediately and we will try our best to solve these problems.*

Walaupun langkah-langkah, inisiatif dan program pembaharuan telah diambil oleh KDRM, pemantauan amat penting di peringkat Ibu Pejabat dan Negeri dan tindakan-tindakan susulan diambil oleh semua Pengarah-Pengarah.

Sekian, Terima Kasih.

AGENDA 2

UCAPAN PENGERUSI BERSAMA

A very Good Morning.

YM Raja Abd Aziz Raja Muda Musa, Co-Chairman of the Customs – Private Sector Consultative Panel meeting could not be present today and he has asked me to convey his message today.

On behalf of the private sector, I would like to thank the Royal Malaysian Customs for hosting the second Consultative Panel meeting this year.

The private sector is very appreciative of this opportunity to highlight our challenges and problems on policy related Customs matters. This panel is also the right platform for us to share our opinions for the improvement of the trading environment.

Ladies and Gentlemen,

Operating successfully within this new global environment requires industry to respond effectively to the new expectations dictated by technology, speed, innovation and more competitive prices. Recognising the need to brace the nation for the challenges ahead, several collaborative initiatives have been taken by the Malaysian government and the business community to facilitate trade. These measures, as you are aware, are largely aimed at simplification, harmonization, increasing the use of technology and addressing procedural and administrative impediments to trade.

Among the measures introduced to address procedural and administrative impediments to trade include the Customs Rulings and Customs Appeal Tribunal, two new Customs initiatives announced in the 2007 Budget which have been implemented this year. Other initiatives to simplify and harmonise trade within ASEAN and the world are the amendments in the Harmonied System 2007 beginning in 2008. I believe private sector representatives have been invited to attend this afternoon’s talk organize by Technical Division Headquarters on the implementation of the HS 2007 and the new 10 digit AHTN. I urge the private sector to use this avenue to obtain further clarification from Customs on the initiatives.

Ladies and Gentlemen,

We would like to reiterate our appreciation and thanks to Customs for their continuous support and dedication towards helping the Malaysian industry to compete on a more level playing field in the domestic market. We believe that Customs' customer friendly approach has further strengthened the relationship between Customs and the private sector in line with the Government's Malaysia Incorporated concept.

We would like to thank the Department again for organising this meeting and we hope that this meeting will produce positive results for the mutual benefit of all parties.

Thank you.

*** On the personal note, taking up from YBhg. Dato' Ibrahim bin Jaapar's message that Royal Malaysian Customs had been organizing facilitative measures/actions, I would strongly urge the private sector to give all the support to help improve industries. The Customs must always remember that the third objective of RMC is to facilitate and not to hinder industries. The powers given under the Customs Act 1967 is very discretionary, you have to make the decision. There is no such thing as black and white like in the Internal Revenue Board where they say you are given 15% and you get that amount. For example, Customs give you exemption, and if you don't claims exemption you don't get exemption. If you don't claim exemption you pay the duties. It is very important that Customs Officer must be trained to use the discretion judiciously.

Thank you.

AGENDA 3

MENGESAHKAN MINIT MESYUARAT BIL.1/2007

Pengesahan Minit Mesyuarat Bil.1/2007

Minit Mesyuarat Panel Perundingan Kastam-Swasta 1/2007 disahkan dengan rasminya.

Pencadang : Encik S Raja Kumaran dari MICCI.

Penyokong : Encik A. Jeyaratnam dari MICCI.

AGENDA 4

MEMBINCANGKAN PERKARA BERBANGKIT

BIL	PERKARA	KEPUTUSAN/TINDAKAN
1.	**Re-importation of Rejected Goods Requiring Import License** Rejected exported goods with quality or quantity defects are brought back into Malaysia for rework. Products that require Import Licenses (IL) i.e. steel, timber etc, however, cannot be cleared from the local port unless an IL is obtained. This hinders trade and reduces Malaysian manufacturers' competitiveness in the global market. **Recommendations** As the rejected goods are Malaysian products brought in only for a short period of time to be reworked, the requirement for an IL for importation of the product would further delay re-exportation of the product. It is recommended that Customs Department remove the requirement for IL for goods to be brought in for rework and re-exported within a stipulated period. To facilitate industries, Customs officers at the station should use their fair discretion when handling this issue.	**Usul oleh FMM** KDRM telah mengemukakan surat cadangan KE.HE.(44)669/15KLT.9(77) bertarikh 15 November 2007 kepada MITI berkenaan perkara ini. KDRM kini sedang menunggu hasil kajian yang telah dipersetujui oleh MITI dan juga keputusan muktamad daripada semua agensi berkaitan termasuk MITI bagi membolehkan KDRM mengambil tindakan-tindakan berikut sekiranya dipersetujui; i. Meminda perundangan Kastam yang berkaitan khususnya Perintah Kastam (Larangan Mengenai Import) 1998 ii. Membuat pindaan kepada Sistem Maklumat Kastam (SMK), jika perlu iii. Mengeluarkan surat pekeliling bagi memaklumkan kepada semua stesen Kastam KDRM akan menulis surat susulan mengenai perkara ini. **Tindakan : Bahagian Kastam**
2.	**Masalah *hanging forms* dalam SMK** Wakil dari FMFF memaklumkan bahawa masalah *hanging forms* masih wujud dalam sistem SMK.	**Usul oleh FMFF** Pada mesyuarat '*Trade Facilitation Action Council'* Bil.3/07 yang telah diadakan di MITI pada 1/11/07 dan mesyuarat susulan pada 15/11/07, pihak MITI bercadang untuk membawa masalah *hanging forms* kepada Kementerian Kewangan dengan mencadangkan satu sistem yang boleh membuat pindaan *online* untuk mengatasi masalah tersebut. MITI telah mengeluarkan surat MITI:ID/DPED(S)255/5-2 JLD.7(13) bertarikh 6 Disember 2007 kepada Ketua Setiausaha Perbendaharaan dan Ketua Pengarah Kastam yang mengesyorkan supaya : a) pindaan secara online dibenarkan sebelum ke peringkat kelulusan *(approval).* b) KDRM perlu mengenakan penalti yang tinggi sekiranya wujud penyalahgunaan *(abuse)* oleh agen Kastam di dalam SMK. c) meminda Akta Kastam 1967 selaras dengan

BIL	PERKARA	KEPUTUSAN/TINDAKAN
		keperluan semasa dan selari dengan keperluan pelaksanaan *National Single Window*. Keputusan akan dibuat dalam mesyuarat '*Trade Facilitation Action Council'* yang akan datang. Mesyuarat berasingan dengan FMFF akan diadakan pada masa terdekat bagi meyelesaikan masalah ini. **Tindakan : Bahagian Kastam**
3.	**Meningkatkan syarat pengisian Borang Kastam 1A, iaitu, barangan bernilai RM 10,000 ke RM100,000** Wakil dari FMFF memaklumkan bahawa syarat pengisian Borang K1A, iaitu, barangan bernilai RM10,000 adalah tidak sesuai. Beliau mencadangkan nilai itu patut ditingkatkan kepada RM100,000 bagi mengurangkan karenah birokrasi dan borang K!A	**Usul oleh FMFF** Cadangan pindaan kepada perkara 11A, Peraturan-Peraturan Kastam 1977 telah dikemukakan kepada Pasukan Kajian Pindaan Undang-Undang Jabatan pada 24.08.2007 untuk dipertimbangkan (Surat KE.HT(34)860/01 KULIT 2/(19) ada kaitan). Nilai yang dicadangkan ialah RM 20,000 selaras dengan perkembangan ekonomi negara. KDRM akan memantau dan memaklumkan kepada semua negeri setelah dipersetujui. **Tindakan : Bahagian Perkhidmatan Teknik**
4.	**Service Tax on bad debts** Pursuant to Section 14 of the Service Tax Act, 1975, Service Tax must be paid to the Customs Department when payment is received from the customers. Service Tax must be paid within 28 days after the end of a taxable period. If the licensee (taxable person) does not receive payment after the invoice is issued, Service Tax has to be paid within 28 days after the 12 months period from the date the invoice is issued. Following the 2007 budget proposal, Regulation 16A of the Service Tax Regulations 1975 had been amended to relax the conditions for refund of Service Tax on bad debts. A new condition is introduced where provision of doubtful debts in the accounts of the licensee is allowed as an alternative to the existing condition of writing off the bad debts. We would like to seek further clarification whether the Service Tax is still payable if a provision for doubtful debt has been made prior	**Usul oleh MIA** Berdasarkan peruntukan Seksyen 14(2) Akta Cukai Perkhidmatan 1975, jika bayaran tidak diterima dari pelanggan, Cukai Perkhidmatan menjadi kena dibayar setelah genap 12 bulan dari tarikh invois dikeluarkan. Samada tindakan hutang lapok telah diambil atau tidak, Seksyen 14 adalah tetap terpakai dan cukai perlu dijelaskan dalam tempoh yang telah ditetapkan.Tuntutan balik hutang lapok boleh dibuat selepas 6 bulan dari tarikh cukai dibayar setelah semua syarat-syarat tuntutan hutang ragu dipenuhi sebagaimana ditetapkan di Seksyen 21B Akta Cukai Perkhidmatan 1975. **Tindakan : Untuk makluman**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	to the due date of the payable Service Tax i.e. the day immediately after the expiration of the 12 month period from the issuance date of the invoice.	
5.	**Excise Duty is not refunded for returned damaged goods.** **Recommendations** Customs should consider allowing Excise Duty refund on returned damaged goods. **This will be in-line with the Government's current practice of allowing sales tax refund on returned damaged goods.** As damaged goods are not consumed or sold, imposing Excise Duty on these goods is not fair. Businesses will ultimately have to bear the costs on these goods in which they do not make profits on. As damaged goods are returned to the manufacturer, and that the Customs Officer has physical access to these goods, Customs can be assured that the returned damaged goods are genuine claims.	**Usul oleh MICCI** Satu perbincangan telah diadakan dengan Perbendaharaan (Panel Kajian Cukai Tak Langsung) pada 28.9.2007. Mesyuarat telah memutuskan agar peruntukan dalam ketiga-tiga perundangan (Akta Kastam 1967, Akta Cukai Jualan 1972 dan Akta Eksais 1976) berhubung pulangbalik duti/cukai diselaraskan. Panel Kajian Cukai Tak Langsung akan mengemukakan laporan serta pengesyoran kepada Menteri Kewangan untuk mendapat keputusan dasar. KDRM akan membuat susulan dan kajian mengenai perkara ini. **Tindakan : Bahagian Cukai Dalaman**
6.	**Payment of Excise Duties electronically for beer and stout products.** Currently Customs duties are paid twice daily via manual checks. This is very time consuming, cumbersome and a heavy burden on resources. Recommendations The Royal Malaysian Customs to discuss with the beer and stout manufacturers and set up a forum to enable electronic duty payment on a pre-determined frequency with comprehensive audit trial to guarantee compliance.	**Usul oleh MICCI** KDRM sedang membangunkan e PayCD untuk tujuan bayaran duti eksais / cukai jualan / cukai perkhidmatan. e PayCD akan dilaksanakan sepenuhnya mulai Ogos 2008. **Tindakan : Bahagian Cukai Dalaman**
7.	**Customs Ruling** With effect from April 1, 2007, a new regulation, Customs (Customs Rulings) Regulations 2007	**Usul oleh FMM & AFAM** Ketetapan Kastam bukanlah satu keperluan mandatori. Ia adalah satu fasilitasi yang diberi

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	has been enacted whereby a new system for application of Customs Rulings has been introduced. **Fees for Customs Rulings** Processing fees of RM200.00 will be imposed upon each application for Customs ruling. Analysis fees will be imposed on the applicant if the ruling request involves an analysis to be conducted by any third party. Upon issuance of the ruling, the applicant may request for a certified copy of the applicant's ruling which is subject to a fee of RM50.00 **Issuance of Customs Ruling** A Customs ruling will be issued within a period of ninety days upon receipt of the application and processing fees. Where an analysis is required to be conducted by any third party and an extended period is required to determine the ruling, the ruling will be issued within sixty days from the receipt of the analysis report and the analysis fee has been paid. **Recommendations** FMM is of the view that the introduction of the Customs Ruling system is timely due to the requirement by industries for binding rulings that are uniformly accepted by all Customs stations thus reducing the element of discretion. FMM, however would like to raise the following concerns on the implementation of the new system: Section 79 of the Customs Act 1967 indicates that Customs Declaration forms submitted by the trading community to provide the full and true account of the number and description of packages, of the description, weight, measure or quantity and value of all such dutiable goods, and of country of origin of such goods. Section 13 of the Customs Act 1967 specifies the role and function of the Technique Division whereby the proper officer of customs may in respect of dutiable goods or uncustomed goods, determine the class of goods and	kepada pelanggan untuk mengetahui lebih awal kod tarif atau kaedah penilaian. Ketetapan Kastam dilaksanakan oleh negara-negara maju sebagai satu sistem *'trade facilitation'.* Bukan semua negara yang memberi perkhidmatan ini secara percuma. Negara-negara seperti India (RM250.00 dikenakan) dan New Zealand mengenakan bayaran. Pada masa yang sama, satu arahan bertulis berkuatkuasa 17 September 2007 membenarkan Cawangan Teknik Negeri menerima pertanyaan penjenisan tanpa bayaran. Jika dari segi pelaksanaan, masih ada negeri yang meminta pengimport memohon Ketetapan Kastam, KDRM memohon jasabaik dan kerjasama Persatuan untuk memaklumkan kepada Bahagian Teknik dengan segera kerana khuatir ada pegawai yang masih salahfaham mengenai arahan ini. KDRM telah memasukkan keputusan Ketetapan Kastam ke dalam laman web Jabatan sejak Disember 2007. **Tindakan : Untuk makluman**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	examine the value, weigh, measure to ascertain the customs duties to be levied. The importer and exporter is required to complete the Customs declaration forms with a detail description of the products traded. However the onus is on Customs to determine the official ruling i.e. classification or valuation rulings for the goods. As the Customs Department is obliged to issue rulings for the trading community, therefore these rulings should be provided at no cost to the importers / exporters. Processing fees of RM200 per application is too high. The Customs Ruling would expedite cargo clearance and facilitate trade, however the high processing fees have discouraged companies that import numerous items with various tariff codes especially importers of spares and consumables from benefiting from this new initiative. As a trade facilitator, Customs Department should assist the trading community to reduce its operation costs by removing the processing fees. According to a study conducted by UNCTAD in October 2006, binding rulings are often issued free of charge, however some Customs Authorities charge the traders for added costs such as laboratory analysis and advice from technical experts. The period of 90 days is too lengthy and would prevent companies from obtaining rulings for urgent shipments. It is suggested that the issuance of the Customs ruling is done as soon as possible and no later than 90 days upon receipt of the application. To ensure transparency of the Customs Administration and uniform treatment of the trader, Customs Department should make Customs ruling decisions public by including the rulings in Customs website or developing a Customs database that is updated regularly and can be accessed freely by all.	
8.	**Tambahan Format Lampiran B4 PTK 45 (Permohonan Perlantikan Agen)** FMFF berpendapat pihak agen tidak boleh bertanggungjawab sepenuhnya keatas kesahihan maklumat pengimpot / pengekspot dari segi kewujudan syarikat, alamat & premis yang diikrarkan kepada pihak Kastam dalam urusan pelepasan dagangan import / eskport.	**<u>Usul oleh FMFF</u>** KDRM akan meminda ayat dalam Lampiran B4 PTK 45 seperti berikut : “Syarikat saya telah mengambil segala tindakan perlu untuk memastikan supaya pengimport /syarikat yang kami wakili adalah sebuah pengimport /syarikat yang wujud, beroperasi dan mempunyai pendaftaran yang sah dengan Suruhanjaya Syarikat Malaysia (SSM) /pihak berkuatkuasa

BIL	PERKARA	KEPUTUSAN/TINDAKAN
		/persatuan berkaitan yang bertanggungjawab untuk membuat pendaftaran sedemikian." **<u>Tindakan : Untuk makluman</u>**
9.	**Perjelasan keatas pelepasan pengimpotan / dagangan melalui syarikat kurier udara (*air courier*) seperti dalam Butiran 172 Perintah Duti Kastam 1988 (pengecualian)** Agen penghantaran kargo umum (*general cargo agent*) perlu menikmati kemudahan *Express Handling Unit* (EHU) seperti mana yang diperolehi oleh syarikat kurier. Syarikat kurier yang ada sekarang bukan lagi mengendalikan perkhidmatan kurier saja malah mengendalikan kargo umum dan kebanyakan syarikat kurier telah bergabung dengan syarikat kargo untuk bersaing dalam memberi perkhidmatan pada pelanggan masing-masing. FMFF mencadangkan kemudahan EHU hendaklah dibuka kepada semua Agen Penghantaran dan bukan terhad pada syarikat kurier saja.	**<u>Usul oleh FMFF</u>** Express Handling Unit adalah satu kemudahan khas yang diberikan kepada syarikat yang berdaftar dengan Suruhanjaya Komunikasi dan Multimedia (SKMM). Pengecualian ini adalah dibawah kuasa Menteri Kewangan dibawah Sekyen 14 (1), Akta Kastam 1967 dan dihadkan kepada Lapangan Terbang Antarabangsa Berhad (LTAB) tertentu sahaja untuk memberi sokongan dan pembangunan kepada LTAB. **<u>Tindakan : Untuk makluman</u>**
10.	**Kursus Asas Agen Kastam oleh UUM** We had presented to UUM our collaboration proposals and awaiting for their response. Since FMFF had been given up to June 2007 to conduct the KAAK course, we appreciate if FMFF can be given until end of the year to pursue conducting the course until the collaboration exercise has been concluded whichever comes first. RMC had appointed University Utara Malaysia, Sintok, Kedah without consulting AFAM (RMC letter "KE HG (63)464/14-34 (42) refers. Dated 19 October 2006). We have seen the Deputy Director General of Customs (Management) on 6th November to seek clarification and he promised to brief us but to-date he has not reverted. We have also written to Director General of Customs to seek clarification with regards to the course fee by UUM, which was increased from RM1350/- provided by AFAM to RM1980/- (an increase of RM630) but to-date	**<u>Usul oleh FMM & AFAM</u>** Perbincangan mengenai perkara diatas telah diadakan di Ibu Pejabat KDRM pada 16.8.2007 bersama-sama Pengarah Bahagian Undang-Undang, KDRM, UUM, AFAM, FMFF & PPLBS. Pengendalian KAAK oleh pertubuhan/ persatuan masih diteruskan sehingga 31.12.2007. (Surat Ibu Pejabat KE.HE(44)001/01-3/Klt. 15(46) bertarikh 14.9.2007 dan surat AKMAL KE.HI(65)17/769/18/2007/KLT.10/(36) bertarikh 21.9.2007 kepada pihak AFAM, FMFF & PPLBS ada kaitan). AKMAL telah menerima cadangan kos yuran pengendalian KAAK daripada Persatuan (yuran pengendalian AFAM-RM1350; FMFF-RM1,200; UUM-RM1,980) dan AKMAL akan mengadakan satu mesyuarat pada 14 Disember 2007 untuk membincangkan perkara ini. **<u>Tindakan : AKMAL</u>**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	he has not replied. **Recommendations** RMC to immediately terminate UUM as we were not briefed and the course of RM1980 is exorbitant.	
11.	***'Freight Forwarder'* tidak dikawal oleh KDRM** Wakil-wakil perkapalan dan penghantaran di Malaysia dikawal di bawah Seksyen 90(6) Akta Kastam 1967. Tetapi di Selangor *'freight forwarder'* tidak dikawal oleh KDRM dan dibenarkan mengendalikan daftar muatan kepada KDRM melalui sistem PKCS/SMK. Pihak KDRM akan mengambil tindakan terhadap wakil-wakil perkapalan dan penghantaran jika didapati melakukan kesilapan. Persolannya, apabila *'freight forwarder'* melakukan kesalahan, bagaimana pula pihak KDRM boleh mengesan dan mengambil tindakan keatas mereka. Industri ini memerlukan satu dasar yang boleh dilaksanakan di seluruh Malaysia.	**Usul oleh FMM & AFAM** KDRM bercadang untuk menubuhkan satu Jawatankuasa Petugas bersama-sama dengan ahli-ahli ISOA dan FOMSA untuk mengkaji isu '*freight forwarder'*. **Tindakan : Bahagian Kastam, ISOA & FOMSA**

AGENDA 5

MEMBINCANG USUL-USUL BARU

BIL	PERKARA	KEPUTUSAN/TINDAKAN
1.	**Customs Compound** Customs are imposing stringent regulation on manifest. Most of the errors or non-adherence were committed by the forwarding agents/forwarders. Customs often compound the lines citing the Customs Act 1967 that the lines are responsible. This issue was raised on several occasions and Customs verbally agreed that they will investigate on a case-by-case basis. However, experiences showed that Customs still compound the lines instead. **Recommendations** The Customs Act 1967 must be amended to meet the needs of the present operating environment. While waiting for the amendment to the Customs Act (Akta Kastam), Customs should issue a circular, with procedures to all its stations to compound only the party that committed the error or non-adherence.	**Usul oleh ISOA** Kompaun hanya dikenakan ke atas seseorang yang dibuktikan telah melakukan kesalahan termasuk 'shipping owner'. KDRM tidak boleh membuat satu dasar yang bertentangan dengan undang-undang di mana 'shipping owner' tidak boleh dikompaun. Jika 'shipping owner' yang dikenakan kompaun merasakan mereka tidak bersalah, rayuan atau aduan boleh dikemukakan kepada Ibu Pejabat. Justeru itu, Akta Kastam 1967 tidak akan dipinda kerana perundangan yang ada sekarang sudah mencukupi dan KDRM tidak akan mengeluarkan surat pekeliling mengenai perkara ini. Kastam Selangor bercadang untuk menyewa tempat untuk menyimpan barang rampasan Kastam. KDRM akan mengkaji perkara ini dalam Jawatankuasa Tindakan Bersama (Task Force) mengenai Seksyen 52, Akta Kastam 1967 **Tindakan : Bahagian Pencegahan**
2.	**Long Detention of Containers by Customs** Despite having raised this issue at the past several Kastam-Swasta Dialogues, ISOA members still faced the problem of containers being detained by Customs for a long period. Again, the Customs Act 1967 was referred to as a justification for the long detention. Some of the long detained containers are attached for you attention. **Recommendations** The Customs Act 1967 must be amended to reflect the needs of the current operating environment. While awaiting for the Customs Act 1967 to be amended, ISOA request Kastam Putrajaya to issue an instruction to all its stations that all detained containers are to be released within 2 months from the date of detention. Two	**Usul oleh ISOA** Penyitaan kontena adalah berlandaskan undang-undang di bawah Seksyen 114 Akta Kastam 1967. KDRM telah mengeluarkan dasar di mana 'public transport' termasuk kontena boleh dilepaskan dengan bon dalam tempoh masa 3 bulan di bawah Seksyen 115(1)(a) Akta Kastam 1967 kecuali bagi kontena-kontena yang dipercayai terlibat secara langsung dalam pelakuan kesalahan (seperti mempunyai 'special compartment' untuk penyembunyian dan lain-lain). Dua surat arahan kepada semua negeri berhubung perkara ini telah dikeluarkan oleh TKPK(Pencegahan) dan Pengarah Bhg.Pencegahan Ibu Pejabat. Walau bagaimanapun, tidak dinafikan

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	months should be sufficient for the investigation Customs Officer to complete his investigation.	bahawa terdapat sebilangan kes tidak dapat disempurnakan dalam tempoh 3 bulan yang ditetapkan kerana : (a) siasatan yang rumit dan tidak dapat dirungkaikan dalam tempoh 3 bulan (b) pihak tuanpunya kontena gagal memberi kerjasama yang sepatutnya semasa siasatan dilakukan. Senarai kontena yang telah lama ditahan telah dihantar oleh Urusetia Panel kepada Bahagian Pencegahan Ibu Pejabat pada 6 November 2007 untuk tindakan selanjutnya. Sebagai maklumat tambahan, Kastam Selangor telah berbincang dengan pihak swasta untuk menyewa setor bagi menyimpan barang-barang rampasan. Bahagian Pencegahan akan berbincang dengan ISOA mengenai perkara ini termasuk kegagalan memberi kerjasama daripada tuanpunya kontena. **Tindakan : Bahagian Pencegahan**
3.	**e-Manifest at Penang and Johore** **Recommendations** Now that e-manifest has stabilised in Port Klang, it is time for Customs to consider implementing the same model and specification in Penang and Johore, as standardisation will facilitate the lines and merchants.	**Usul oleh ISOA** Perkara ini akan dibincangkan di peringkat yang lebih tinggi bersama-sama ahli-ahli industri yang terlibat kerana e-Manifest masih belum stabil di Pelabuhan Klang. KDRM belum bersedia untuk meluaskan sistem ini ke tempat-tempat lain. **Tindakan : Untuk Makluman**
4.	**Pre-Clearance for Laden & Empty Containers** **Recommendations** ISOA propose to adopt pre-clearance procedure for laden and empty import containers even before receiving the import manifest from shipping lines. This will facilitate fast clearance at the port.	**Usul oleh ISOA** Perkara ini akan dibincang dan dikaji dengan pihak ISOA. **Tindakan : Bahagian Kastam**
5.	**Contract/toll manufacturers to continue enjoying the import duty/sales tax exemption facilities** As provided in the Sales Tax Act 1972, a licensed manufacturer is eligible to apply for	**Usul oleh MIA** Satu garipanduan akan dikeluarkan oleh KDRM untuk panduan pengilang/pengimport.

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	sales tax exemption for goods used in manufacturing. Similarly, a company with Licensed Manufacturing Warehouse ("LMW") status is given the same treatment under the Customs Act 1967. With multi-national companies moving their manufacturing process to Malaysia, it is common for our local manufacturers to assume the roles of a contract/toll manufacturer i.e. the local manufacturers receive materials from their customers and provide manufacturing services. The current provisions in the sales tax and customs legislation have no "restrictions" on the ownership of the goods used in manufacturing i.e. such goods need not be owned by the sales tax licensed manufacturer or the LMW. **Recommendations** In order to better reflect the non restriction under the current import duty/sales tax exemption framework for sales tax licensed companies and companies with LMW status, the Institute proposes that a guideline be issued to clarify that contract/toll manufacturers will continue to be given import duty/sales tax exemption facilities.	**Tindakan : Bahagian Cukai Dalaman & Bahagian Kastam**
6.	**Sales of taxable goods by licensed manufacturer to exempt person** There is no specific exemption facilities to allow licensed manufacturer under the Sales Tax Act, 1972 to supply goods without sales tax to exempt person where sales are made via trading companies. **Recommendations** Licensed manufacturer should be allowed to supply goods without sales tax if it can be substantiated by the licensed manufacturer with documentary evidence that the goods are consigned to exempt person and guidelines should be made available setting out the criteria to be met.	**Usul oleh MIA** KDRM akan menkaji perkara ini. **Tindakan : Bahagian Cukai Dalaman**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
7.	**Service tax refund** The duration taken by the Customs to process applications for service tax refunds is too long, despite the submission of the complete information/documentation. More often than not, the application process drags from 6 months to one year and beyond. From the commercial perspective, the time taken by Customs is not acceptable. **Recommendations** It is proposed that the duration taken to process the application for refund as per the client's charters be strictly adhered to. Alternatively, taxpayers may be allowed to offset the amount of service tax refund against the future service tax payable without any written approval from the Customs but subject to Customs audit subsequently.	**Usul oleh MIA & MICPA** KDRM mengambil maklum mengenai kelewatan dalam proses permohonan yang dibangkitkan. Kenyataan mengenai kelewatan tidak disertakan dengan fakta tuntutan-tuntutan yang terlibat serta stesen yang berkaitan. Semakan telah dibuat dan didapati sebahagian permohonan 'refund' telah diproses dalam tempoh yang ditetapkan dan terdapat juga permohonan-permohonan yang lewat diproses. Dicadangkan sekiranya terdapat permohonan yang lewat diproses, pihak persatuan boleh menulis kepada Ibu Pejabat untuk diberi perhatian. KDRM akan memberi prioriti kepada tuntutan amaun yang besar dan melibatkan negeri berkaitan. KDRM akan membuat naziran mengenai isu ini. Cadangan untuk 'offset' tuntutan dengan cukai yang kena dibayar adalah tidak menepati prosedur kewangan negara dan tidak dapat dilaksanakan. **Tindakan : Bahgian Cukai Dalaman**
8.	**Lampiran A of CP3** Submission of the service tax return (CP 3) is to be accompanied by the "Lampiran A", setting out the details of the daily collection of the taxable transactions as well as the collection in respect of invoices issued more than 12 months ago. Lampiran A" is meant for Customs to monitor the collection of invoices issued more than 12 months ago but the format of the same will not enable any effective monitoring by Customs. The completion of "Lampiran A" is also cumbersome for the taxable persons. **Recommendations** It is proposed that the requirement to submit "Lampiran A" to the CP 3 be done away with. Alternatively, we propose that Lampiran A be simplified e.g for the licensee to submit total monthly figures rather than daily.	**Usul oleh MIA** KDRM akan mengkaji perkara ini dengan tujuan untuk memudahkan Lampiran A. **Tindakan : Bahagian Cukai Dalaman**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
9.	**Disbursements/out-of-pocket expenses** Under the Service Tax Act 1975, Customs allows that service tax is levied on fees only exclusive of disbursements/out-of-pocket expenses. In other words, service tax is not levied on disbursements/out-of-pocket expenses. In relation to the calculation of annual sales turnover under Regulation 3A of the Service Tax Regulations 1975, it has always been the understanding that disbursements/out-of-pocket expenses are not included in the calculation of the annual sales turnover. However, there are cases where disbursements/out-of-pocket expenses and value of materials (e.g. paper, printing ink etc used in the provision of advertising services) are included in the calculation of annual sales turnover by Customs. **Recommendations** To avoid any confusion, the Institute would like to confirm that disbursements/out-of-pocket expenses be not included in the calculation of the annual sales turnover.	**Usul oleh MIA & MICPA** KDRM telah memutuskan bahawa pengiraan threshold (‘annual sales turnover’) tidak termasuk ‘disbursement’ atau ‘out of pocket expenses’. Pengiraan threshold adalah atas perkhidmatan yang kena dibayar cukai sahaja. ‘Disbursement’ atau ‘out of pocket expenses’ yang telah diputuskan tidak diambil kira dalam pengiraan threshold perbelanjaan fotostat, tambang pengkangkutan, makanan, penginapan, telefon, faks, pos dan bayaran wajib yang dibayar dibawah peruntukan undang-undang lain yang berkuatkuasa pada masa ini. Amaun ‘disbursement’ ini hendaklah ditunjukkan secara berasingan dalam invois yang dikeluarkan kepada pelanggan. ‘Disbursement’ bukanlah merupakan perolehan jualan atau perkhidmatan kerana ia bukan ‘charge’ atau ‘fee’ perkhidmatan. Surat rujukan KE.HF(11) 664/01Klt. 14(43) bertarikh 22 Februari 2003 ada kaitan. **Tindakan : Untuk makluman**
10.	**Refund of bad debts** Under the Sales Tax Act 1972 and Service Tax Act 1975, refund of sales tax and service tax as a result of bad debts are allowed. However, the requirements imposed by Customs in Regulation 16A of the Service Tax Regulations 1975 as well as the guidelines are extremely onerous and impossible to satisfy Customs to obtain refunds of sales tax and service tax for genuine cases of bad debts. **Recommendations** It is proposed that the requirements and guidelines in relation to refund of bad debts be reviewed by the Customs with the input from the private sector. In addition, it is also proposed that “offset” be allowed as an alternative choice available to taxpayers besides refund of bad debts.	**Usul oleh MIA & MICPA** KDRM akan membincang perkara ini bersama-sama dengan pihak swasta. **Tindakan : Bahagian Cukai Dalaman**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
11.	**Clear definition of taxable services in Second Schedule of the Service Tax Regulations, 1975** Many of the taxable services such as consultancy and management services in Second Schedule of the Service Tax Regulations, 1975 are not clearly defined leading to different interpretations by different officers. **Recommendations** To reduce inconsistency, new rulings/decisions which result in changes to the Customs practices should be published and made known to the public on time without disclosing the identity of the taxpayers concern. Similar to the Inland Revenue Board (IRB), it is proposed that a public ruling framework be adopted by the Customs to address its position on indirect tax issues, especially since customs (private) ruling would not be published.	**Usul oleh MIA** KDRM akan 'revise' surat pekeliling dan buku-buku panduan Jabatan yang telah dikeluarkan dan akan memasukkan keputusan-keputusan yang telah dibuat berhubung dengan Cukai Perkhidmatan untuk diedarkan kepada pelesen-pelesen untuk dijadikan rujukan dan panduan. Dengan itu, tafsiran-tafsiran dapat diseragamkan. **Tindakan : Bahagian Cukai Dalaman**
12.	**Restriction in the usage of Item No. 58 Customs Duties (Exemption) Order, 1988 (and Item No. 62 Sales Tax (Exemption) Order, 1980).** The above allows for import/export exemption of duty/sales tax for goods that are solely for the purpose of propaganda, research or demonstration. The importer/exporter is required to obtain an authorization from the Director General of Customs certifying that the goods are intended for the abovementioned purposes. In issuing the authorization, the Director General of Customs may impose such conditions as deemed necessary. However, in practice the Customs treats this facility as a "temporary import". Such practice defeats the purpose of the legally allowed exemption. **Recommendations** The Institute is of the view that the above practice should be reviewed and the facility should be allowed since it has been legally provided for.	**Usul oleh MIA** KDRM akan mengkaji perkara ini. **Tindakan : Bahgian Cukai Dalaman dan Bahagian Kastam**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
13.	**Refund of duty/tax paid** The Customs have refused to process refund duty/taxes/penalties in cases where remission of duties/taxes/penalty have been approved by Minister of Finance but there is no specific mention of refund to be given. **Recommendations** It is proposed that a refund of duties/taxes/penalties where approval for remission has been granted by the Minister of Finance be expedited in light of the fact that with the remission, the company, in effect, is not required to pay the duty/taxes/penalties involved.	**<u>Usul oleh MIA</u>** Satu surat arahan KE.HM(90)685Klt.15(13) bertarikh 7 Disember 2007 telah dikeluarkan oleh Cawangan Perakaunan Hasil, Bahagian Perkhidmatan Teknik kepada semua negeri untuk memproses tuntutuan pulangbalik cukai/duti/penalti yang telah dibayar jika remisi telah diluluskan oleh Menteri Kewangan dimana tuntutan diproses dan dibayar di peringkat negeri dan tidak perlu dihantar ke Ibu Pejabat untuk kelulusan. **<u>Tindakan : Untuk Makluman</u>**
14.	**Importer and exporter of record** The term importer/exporter of record has created some uncertainty amongst the Customs officers and companies which undertake cross borders business arrangements which involve amongst others consignment sales. The relevant definitions as per the legislation are provided as below: "importer" includes and applies to any owner or other person for the time being possessed of or beneficially interested in any goods at and from the time of importation thereof until such goods are duly removed from customs control. "exporter" includes any person by whom any goods (including goods transferred from an importing aircraft or ship) are exported from Malaysia or supplied for use as aircraft's or ship's stores, and also the owner, or any person acting on his behalf, and any person who for customs purposes signs any document relating to goods exported or intended for exportation or supplied or intended for supply as aircraft's or ship's stores as aforesaid. As the concept of importer/exporter of record is not clearly spelt out, the clearance of goods from customs control could be an issue to the importers where: -	**<u>Usul oleh MIA</u>** Definasi 'importer' tidak sesuai dipinda kerana sudah menyeluruh. Jika dipinda mengikut cadangan kemungkinan menimbulkan isu 'liability'. Diakui terdapatnya urusniaga secara 'consignment' ini di mana pengimport bukannya 'owner' barang yang import dan hanya mengetahui harga 'retail' barang itu, tetapi kebiasaannya akan terdapat 'Invoice for customs purpose' di mana harga yang diikrar berdasarkan invois itu. Terpulanglah kepada Kastam untuk menerima atau menggunakan kaedah lain dalam penilaian. KDRM akan membincangkan perkara ini dengan lebih terperinci bersama MIA sebelum garispanduan dapat dibuat. **<u>Tindakan : Bahagian Kastam</u>**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	• the importers are not the owner of the goods • the owners are overseas entities/individuals who do not have physical presence in Malaysia. **Recommendations** With the increase in cross border transactions, it is common for inventories to be brought into and subsequently exported from Malaysia on a consignment basis. The current definition of importer and exporter under the Customs Act 1967 does not pose any restrictions on who may be importer of record and exporter of record. In order to better reflect the non restriction under the current importer and exporter framework, it is proposed that the Customs issue an interpretation statement whereby Customs officers may be guided on how to react to different business arrangements to enable facilitation of trade.	
15.	**Time frame for approval of Sales Tax exemption** The approval for sales tax exemptions such as CJ5, CJ5A, CJ5B and CJ Pentd. No.2 is very discretionary and takes up to two weeks which is of grave concern. **Recommendations** The Institute is of the opinion that this facility is important to manufacturers and approvals should be given within two working days without any queries by Customs. Frequent audits can be conducted to ensure compliance if necessary.	**Usul oleh MIA** Mengikut piagam pelanggan, masa yang diperuntukan ialah 7 hari bagi permohonan pertama dan 2 hari bagi pembaharuan. Bagaimanapun, terdapat negeri-negeri yang telah mengambil inisiatif setelah mengambilkira beban tugas di negeri masing-masing menetapkan piagam pelanggannya mengikut kesesuaian masing-masing dengan menetapkan masa yang lebih singkat daripada piagam yang ditetapkan. Mohon MIA menyatakan secara khusus mengenai soalan kes yang timbul dan negeri/stesen mana yang terlibat supaya kajian dan pemantauan dapat dibuat. **Tindakan : Bhg. Cukai Dalaman & MIA**
16.	**Sales Tax officers are unfamiliar with procedures** Some sales tax officers are not well-versed with sales tax procedures often resulting in different officers giving differing opinions.	**Usul oleh MIA** Memang terdapat masalah seperti yang dibangkitkan tetapi ianya tidaklah menyeluruh. KDRM akan mengambil langkah menyediakan “helpdesk” dengan meletakkan pegawai-pegawai yang

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	Recommendations To facilitate compliance and to promote consistency for all Customs practices/procedures, help desk which should be manned by well-trained and knowledgeable officers should be set up in each Customs station to handle public enquiries.	berpengalaman. Buku-buku panduan juga akan disediakan. Mohon MIA menyatakan secara khusus di mana kes ini berlaku supaya kajian dan pemantauan dapat dibuat. **Tindakan : Bhg. Cukai Dalaman & MIA**
17.	**Option of security for the duty/tax payable/General Bond** Currently, businesses are not given an option to provide to the Customs authority a security in the form of a general bond to cover the duty/tax payable. In addition, different practices are being followed at different stations. **Recommendations** In order to facilitate the business community, it is proposed that option be given to them to provide a security in the form of bank guarantee OR general bond to cover the duty/tax payable.	**Usul oleh MIA & MICPA** Bon Am tidak boleh digunakan sebagai jaminan untuk pembayaran cukai/duti. Sekuriti samada dalam bentuk Bon Am atau Jaminan Bank bergantung kepada jenis barangan samada kritikal atau bukan kritikal dan jenis lesen. Sebagai tambahan, semua Bahagian di Ibu Pejabat perlu mengeluarkan surat yang menyenaraikan aktiviti-aktiviti yang memerlukan penggunaan Bon Am dan Jaminan Bank kepada semua negeri. **Tindakan : Bahagian Kastam, Cukai Dalaman & Perkhidmatan Teknik**
18.	**Private Bonded Warehouse** a) Recently companies which have been approved with "private bonded warehouse" status have been required by the Customs authority to sign an "undertaking letter" to observe compliance with the customs requirements. b) Many companies in Malaysia applied to Customs to set up their own private bonded warehouse but most applications have been rejected by Customs. c) According to the Royal Malaysian Customs, imported goods that are kept in Private Bonded Warehouses for more than 2 years have to settle all relevant duties and taxes on them.	**Usul oleh MIA, MICPA & MICCI** (a) Surat Bahagian Kastam Ibu Pejabat KE.HE(-)669/01-2(17) bertarikh 4 Oktober 2007 telah dikeluarkan dan diedarkan kepada beberapa persatuan dan semua Pengarah Kastam Negeri memaklumkan bahawa semua lesen gudang berlesen persendirian hendaklah diluluskan serta merta, iaitu, dalam tempoh satu hari dari tarikh penerimaan permohonan. Pemohon tidak lagi perlu kemukakan akujanji tidak pernah melanggar peruntukan dibawah Akta Kastam 1967 dan Akta Eksais 1976 serta peraturan-peraturan yang dikuatkuasakan oleh Jabatan (b) Daripada semakan yang telah dibuat, semua permohonan GBP yang dikemukakan oleh syarikat kepada Pusat Perlesenan Bersetempat negeri akan diterima dan disemak. Jika

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<tr><th>BIL</th><th>PERKARA</th><th>KEPUTUSAN/TINDAKAN</th></tr>
<tr>
<td></td>
<td>Recommendations
(a) The Institute is of the view that the undertaking letter is redundant as the customs legislation has sufficient provisions to cater for non compliance. In this regard, it is proposed that the requirement for any company operating such warehouse to sign such undertaking letter be withdrawn.
(b) We would like to seek clarifications from Customs as to why the applications were rejected. Private Bonded Warehouse should be allowed to encourage more FDIs in to Malaysia
(c) No time limit on how long the goods can be kept in Private Bonded Warehouses. As long as the goods are not removed or used, duties and taxes should not be imposed. Most Private Bonded Warehouses are strictly supervised and checked by Customs, hence likelihood of goods being released out without Customs' knowledge is low. To allow for more flexibility in terms of the amount and kinds of inventory kept by manufacturers.</td>
<td>permohonan lengkap ianya akan diproses dan dikemukakan ke Ibu Pejabat untuk kelulusan. Walau bagaimanapun sekiranya permohonan tidak lengkap, permohon tersebut akan di KIV sehingga pemohon/syarikat mengemukakan dokumen-dokumen tambahan yang diperlukan bagi melengkapkan permohonannya.
<u>Statistik Permohonan GBP yang ditolak</u>.
<table>
<tr><td>Tahun</td><td>2005</td><td>2006</td><td>2007</td></tr>
<tr><td></td><td>1/6</td><td>1/4</td><td>5/25</td></tr>
</table>
Sebab-sebab ditolak:-
1. Tidak menyimpan barang sendiri.
2. Premis yang dicadangkan tidak sesuai.
3. Tidak mematuhi syarat yang ditetapkan (Perintah Tetap Kastam bil.53)
c. Tiada tempoh masa untuk menyimpan barangan didalam Gudang Berlesen Persendirian (GBP). Pihak swasta perlu memaklumkan kepada KDRM kes yang berlaku di Kastam Wilayah Persekutuan KL.
<u>Tindakan : Bahagian Kastam</u></td>
</tr>
<tr>
<td>19.</td>
<td>Time frame taken for the refund of drawback
Taxpayers are required to submit the original documents as supporting document for the refund of drawback. Despite the fact of full submission of the original documents, it still takes very long time in the confirmation and verification process before the drawback could be refunded to taxpayers.
Recommendations
To expedite the processing of the refund, it is proposed that the verification process be carried out by Customs on a sampling basis.</td>
<td><u>Usul oleh MIA</u>
Masa yang diambil untuk memproses permohonan dan membayar pulangbalik adalah 21 hari daripada tarikh penerimaan permohonan dengan dokumen yang lengkap. Cawangan Industri, Bahagian Kastam Ibu Pejabat sedang menjalankan kajian terperinci bagi mempercepatkan proses pembayaran disamping menjaga kepentingan dan keselamatan hasil Negara dan akan mengkaji samada pemprosesan pusat (centralized processing) boleh dibuat.
<u>Tindakan : Bahagian Kastam</u></td>
</tr>
</table>

BIL	PERKARA	KEPUTUSAN/TINDAKAN
20.	**“Statement of value” in lieu of invoices for consignment goods.** Currently, the Customs request for invoices for the consignment goods in determining the value of customs duty to be imposed on the consignment goods. In practice, the importers would not be able to produce invoices for consignment goods imported as there is no transaction when the goods are being imported into Malaysia. **Recommendations** In view that the valuation of consignment goods for customs duty is normally based on the computed or deductive method, it is proposed that the Customs allow for a “statement of value” in lieu of invoices. This “statement of value” should be formalised and standardised in all stations.	**<u>Usul oleh MIA & MICPA</u>** Goods imported on consignment refer to goods dispatched to the country of importation not as a result of a sale, but with the intention that they would be sold for the account of the supplier, at the best price obtainable. At the time of importation no sale has taken place, and the goods remain the property of the foreign supplier until, after importation. Hence there is no transaction value for these goods at the time of importation, valuation of consignment goods for customs duty is normally based on other methods of valuation. So, it is proposed that the customs not to allow for a “statement of value” in lieu of invoices. KDRM akan membincang perkara ini dengan lebih lanjut. **<u>Tindakan : Bhg. Perkhidmatan Teknik</u>**
21.	**Sales Tax – Tax Credit (CJ5A)** Many small and medium-sized manufacturers in Malaysia purchase their raw materials, components and packing materials from wholesalers who have already paid sales tax when they purchased these goods. These wholesalers are reluctant to apply for CJ5A or endorse their sales invoice for their customers to enjoy the credit system. As such many manufacturers are paying sales tax twice. **Recommendations** We suggest that the Customs allow these manufacturers to deduct the sales tax paid automatically as long as the inputs are subject to sales tax. We would also like to seek confirmation from the Customs on the reasonable grounds for credit or exemption given to the manufacturers.	**<u>Usul oleh MICPA</u>** Kemudahan yang sedia ada mencukupi dan mudah. Sekiranya pihak pemborong/trader tidak setuju menggunakan sistem vendor, pengilang berlesen khususnya industri kecil sederhana (‘small manufacturing industries’-SMI) boleh memilih menggunakan kemudahan sistem kredit (CJ10) dibawah Seksyen 31(A), Akta Cukai Jualan 1972 dimana pelesen boleh kontra elemen cukai yang telah dibayar dalam penyata CJ3 menggunakan formula dibawah Peraturan 19(a) Peraturan-Peraturan Cukai Jualan 1972. **<u>Tindakan : Untuk Makluman</u>**
22.	**Sales Tax CJ5** Presently a Sales Tax licensed manufacturer is required to apply for CJ5 on a yearly basis or on the expiry of the amount approved. This application is to be submitted to Customs one day	**<u>Usul oleh MICCI</u>** Kemudahan CJ5 yang diberi kepada pengilang lesen Cukai Jualan bertujuan untuk mengelak pembayaran cukai dua kali. Pengilang boleh dan wajar membuat

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	before the due date and is required to submit together stock records with the following information ie opening stock, purchases, stock in hand and projected purchases. As the date to make application is one month prior to expiry, manufacturers will have to make estimates and at time of future audits by Customs are unable to tire/tally with actual numbers. Furthermore, manufacturers have to collect a lot of information at every renewal. **Recommendations** A one-time approval be granted to CJ5 at time of issuance of Sales Tax license as the manufacturer is required to submit the list of raw materials on license application. The manufacturer should only be required to submit the stock records within 3 months from end of their accounting period. Customs use this information for tracking and audit purposes. This would reduce time and cost of manufacturers.	permohonan pengecualian input mengikut perancangan pengilangannya. Mohon pihak MICCI memberi penjelasan mengenai negeri/stesen mana yang mengamalkan peraturan seperti yang dinyatakan supaya kajian dan pemantauan dapat dibuat. KDRM akan membuat kajian mengenai *‘one-time approval’.* **Tindakan : Bahagian Cukai Dalaman**
23.	**Definition of the word “Use” for Goods Taxable** Section 6 of the Sales Tax Act, 1972 provides that sales tax shall be charged and levied on all taxable goods : (a) manufactured in Malaysia, or acquired under the provision of section 9, by a taxable person and sold, **used** or disposed of by him, otherwise than by sale or disposal to a licensed manufacturer authorized by the Director General to acquire such goods without payment of tax;… The words “…**used** or disposed of by him, otherwise than by sale…” have resulted in erroneous interpretations by the Customs. For example, in a case where “sales of taxable goods” manufactured by a company are delivered to company outlets (licensed for service tax) for sale, such delivery to one’s own outlets is deemed by Customs as “**used**” in the context of Section 6(a). Therefore, the company was required to charge sales tax to its outlets when making the delivery. **Recommendations** We propose that the word “**used**” in Section 6(a)	**Usul oleh MICPA** KDRM akan membuat kajian mengenai perkara ini dengan lebih lanjut. **Tindakan : Bahagian Cukai Dalaman**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	of the Sales Tax Act, 1972 be discussed and explained clearly in the Customs guidelines and made known to tax payers. The “delivery” in the example above is **not** a sale!	
24.	**Service Tax Intra Group** The service tax intra group “exemption” has the following criteria: • Where a company holds between 20% to 50% of the issued share capital of another Company, the first mentioned company would need to demonstrate that it has exercisable power to appoint or remove all or majority of directors in the board of directors in the second mentioned company in order to be eligible for service tax intra group “exemption”. The appointment of company directors is generally based on voting by shareholders during an AGM. Thus, when the shareholdings in the second mentioned company, by the first mentioned company are less than 50%, the first mentioned company will be required to provide “evidence” to conclusively show that it has exercisable power to remove all or majority of directors in the board of directors of the second mentioned company. • In addition, shares held through nominees are not considered as shares held for the purpose of determining the eligibility for service tax intra group “exemption”. • Where the selected taxable services are rendered by the taxable persons to another person outside the group of companies, the same taxable services provided to any company outside or within the group of companies shall be taxable. We are of the view that the above requirements are too rigid and many companies have not been able to enjoy the “exemption” and this had led to increase cost of doing business in Malaysia. **Recommendations** We propose that the criteria for intra group service	**Usul oleh MICPA** Pelaksanaan pengecualian Cukai Perkhidmatan syarikat dalam kumpulan yang sama adalah berasaskan dasar yang telah ditetapkan melalui ‘preamble’ Jadual Kedua Peraturan-Peraturan Cukai Perkhidmatan 1975. Di antara kriteria/syarat utama pengecualian yang ditetapkan adalah seperti berikut; i. Memiliki saham melebihi 50% ii. Memilik saham 20%-50% dengan syarikat mempunyai kuasa melantik atau memecat ahli lembaga pengarah iii. Saham tidak dipegang melalui nominee. Sekiranya perkhidmatan yang sama diberikan kepada syarikat di luar kumpulan, perkhidmatan tersebut adalah kena cukai perkhidmatan termasuk perkhidmatan di dalam syarikat. KDRM akan mengkaji perkara ini. **Tindakan : Bahagian Cukai Dalaman**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	tax exemption shall be as follows: • The above mentioned requirements should be reviewed to encourage the provision of services within groups of companies; • If the first mentioned company can exercise significant influence over the financial, business and operating policies of the second mentioned company instead of the evidence to demonstrate exercisable powers to remove all or majority of the board of directors of the second company; • Shares holds through nominees, trustees or beneficial owner are to be considered as shares held for the purpose of determining the eligibility for service tax intra group "exemption". • Only the portion of services provided to companies outside the group shall be taxable when the company provides services to intra group and also to companies outside the group. We also propose that the above intra group service tax exemption be extended to partnership and companies held by common shareholders who can demonstrate influence over the financial, business and operating policies of those companies.	
25.	**Withdrawal of requirement to submit photographs of directors** It is the practice of Customs to request for the submission of the photographs of the applicants/directors of the company in relation to the submission of applications by the company on customs related matters. The photograph is not relevant to the application as the approvals are issued to legal entities. Furthermore individuals on the board of such entities are not permanent fixtures. **Recommendations** It is proposed that the requirement to submit photographs be done away with as the approvals are issued to legal entities.	**Usul oleh MIA & MICPA** Jawapan Bahagian Kastam - Tiada halangan ke atas usul menarikbalik keperluan gambar pengarah syarikat semasa mengemukakan apa-apa permohonan lesen kastam. Jawapan Bahagian Cukai Dalaman – KDRM bersetuju dengan cadangan ini dan hanya kad pengenalan photosat diperlukan. KDRM akan mengeluarkan surat arahan kepada negeri mengenai perkara ini. **Tindakan : Bahagian Cukai Dalaman & Bahagian Kastam**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
26.	**Licensed Manufacturing Warehouse** Currently, Licensed Manufacturing Warehouses (LMW) who want to engage in value added activities such as trading, research & development, marketing distribution etc. need to apply to Customs to obtain permission for such activities. Most of the time, Customs was reluctant to grant permission. The Customs was inflexible in granting facilities to these LMW. This defeats the purpose of setting up LMWs. In addition, different states have different practices relating to this matter. **Recommendations** We suggest that more flexibility is exercised in granting the above mentioned facilities to the LMW and also the standardisation of the rules and regulations in granting such facilities in all states.	**<u>Usul oleh MICPA</u>** Kemudahan GPB adalah untuk pengilangan yang berorientasikan eksport 80% keatas. Ianya melibatkan pengecualian cukai/duti keatas bahan mentah, komponen dan peralatan yang digunakan didalam pengilangan. Merujuk kepada 'value-added activities', aktiviti berkenaan mesti **diluluskan oleh Bahagian Kastam, Ibu Pejabat berpandukan kepada Surat Pekeliling Bahagian Kastam Bil. 6/2004.** Kelulusan adalah berasaskan kepada ulasan dan sokongan stesen yang mengawal serta hubungkait aktiviti yang berkenaan dengan aktiviti pengilangan yang diluluskan didalam lesen GPB. **<u>Tindakan : Untuk Makluman</u>**
27.	**Customs rulings** (a) Meaning of "each particular goods/services" An application form is required to be completed when applying for a ruling. According to: - note 10 of the form, the fee for each application is RM200 in relation to "each particular goods or services". - the "Brief Guide to Customs Ruling", published by Customs, "each application is limited to one product, activity, service". (b) Whether the practice of obtaining non-binding "opinion" or "confirmation" from Customs will still be allowed? **Recommendations** (a) The Institute would like to seek clarification from the Customs of the meaning of "each particular goods/services" and "one application for one product, activity, service". The	**<u>Usul oleh MIA</u>** Permohonan untuk mendapatkan Ketetapan Kastam dibuat dibawah Seksyen 10A (1) Akta Kastam 1967. Dibawah Jadual A (Nota 10) – Peraturan-Peraturan Kastam (Ketetapan Kastam) 2007, fi bagi setiap permohonan Ketetapan Kastam ialah RM200.00 yang berhubungan dengan setiap barang atau perkhidmatan tertentu. Berdasarkan kepada keperluan undang-undang, Buku Panduan Ringkas mengenai Ketetapan Kastam telah diedarkan yang menyatakan setiap permohonan hanya dihadkan kepada satu produk, aktiviti atau perkhidmatan sahaja. Namun demikian jika terdapat borang di mana model yang berbeza tetapi mempunyai ciri dan fungsi yang sama, Urusetia Ketetapan Kastam menerima satu permohonan bagi beberapa barangan atau produk. Tetapi jika produk barangan berbeza misalnya televisyen dan tepung susu, permohonan hendaklah dibuat secara berasingan. Amalan untuk mendapatkan 'Pertanyaan Penjenisan' masih dibenarkan dan Bahagian Perkhidmatan Teknik Negeri telah

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	Institute would like to highlight that each description of goods may have different models/variants e.g. television and milk powder; and a contract may have various services. In this regard, the Institute would appreciate it if the Customs could reconsider the fee of RM200 for each application as it would be a burden to taxpayers e.g. if one application is required for one model and there are many models involved, or, one contract involves various services and one application is required for each service. It is proposed that the Customs to discuss this issue with the private sector in greater detail. (b) The Institute would like to seek clarification whether the Customs will continue to issue non-binding "opinion" or "confirmation" on matters including classification, and arrangements with the ruling framework. The Institute would like to highlight that it may not be practical and efficient for all decisions to be made under the ruling framework as some may turn out to be simple matters. Taxpayers should not be denied the right to write in for non-binding opinions, especially if the cost would be prohibitive (i.e. RM200 for one product, activity, service).	diarahkan untuk menerima pertanyaan penjenisan mulai 17 September 2007. Ketetapan Kastam merupakan satu fasilitasi yang diberi kepada pedagangan bagi barangan yang masih belum diimport atau perkhidmatan yang masih belum dimulakan. **Tindakan : Untuk Makluman**
28.	**Preparing Amendment in HS2007** **Recommendations** A grace period should be stated and allowed for before the implementation of HS 2007. The Royal Malaysian Customs Department to consider the following: • publish the "Correlation Table – HS 2007" in their website to create greater public awareness; • establish a "hotline" for a specific period of time in order to handle queries from the public re HS 2007;	**Usul oleh MICCI** (a) "Correlation Table" - HS 2007 telah pun siap dan telah dimasukkan ke dalam laman web Jabatan setelah deraf Perintah Duti Kastam dan AHTN 2007 diluluskan oleh Peguam Negara. (b) Akan mewujudkan 'hotline' setelah deraf Perintah Duti Kastam 2007 diluluskan oleh Peguam Negara. **(c)** Buku Panduan mengenai HS 2007 telah pun dicetak dan akan diedarkan kepada orang awam

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	- publish an article to highlight the significant changes arising from the implementation of HS 2007 and how it would affect the trade of goods.	kelak. **<u>Tindakan : Bhg. Perkhidmatan Teknik</u>**
29.	**Security Mark System vs Tax Stamps for Domestic Manufactured Cigarettes Beyond August 2009** <u>Security Mark System</u> In 2003, the Government had mandated that all cigarettes that are manufactured and sold in the domestic market be printed with a "Security Mark". This "Security Mark" has overt (visible) and covert (invisible) features, and this will allow Government enforcement officers to differentiate between genuine excise paid cigarettes and illegal non-duty paid cigarettes. It is hoped that with the security marks, illicit trade can be curbed and Government can recover an estimated RM1 billion in lost tobacco tax revenues. All the domestic cigarette manufacturers were very supportive of the Government's intent to curb illicit trade and therefore complied with the Government's directive to print security marks on its product. From August 2004 onwards, all cigarette packs sold in the domestic market are now printed with security marks. To print security marks, all the domestic cigarette manufacturers collectively invested about RM 50 million in Security Marks printing equipment. In addition, manufacturers spent an additional RM 40 to 50 million annually on security ink, which is used to print the security marks. <u>Tax Stamps</u> In July 2006, the Royal Malaysian Customs announced that with effect from 1 August 2006, all cigarettes manufactured and sold locally must be applied with tax stamps. However, Customs also gave an extension of up to 3 years (until 1 August 2009), to domestic manufacturers to continue using security marks before they have to switch to tax stamps. If domestic manufacturers are to switch to tax stamps in 2009, manufacturers would have to write-off more than RM50 million worth of printing equipment, after only using them for 5 years. In	**<u>Usul oleh MICCI & FMM</u>** KDRM telah menerima arahan dari pihak Perbendaharaan melalui surat bil: SK.KEW/PK/KP/9999/221000/57/194 Jld.10(12) bertarikh 11 Mei 2006 bahawa kaedah setem cukai (banderol) digunapakai ke atas rokok yang diimport dan rokok keluaran tempatan. Bagi rokok keluaran tempatan, arahan tersebut bermula 1 Ogos 2006 tetapi pengilang-pengilang rokok tempatan diberi tempoh peralihan sehingga tiga (3) tahun mulai tarikh tersebut untuk bertukar daripada penggunaan sistem dakwat keselamatan kepada label cukai. Harga untuk tanda dakwat keselamatan bagi rokok keluaran tempatan telah ditetapkan pada harga 4.5 sen bagi satu cetakan bagi tempoh 1.8.2006 hingga 31.7.2009 (3 tahun) melalui surat Perbendaharaan bil: 0.3865/42(SJ.23)VOL.2 (23) bertarikh 27 Februari 2007. Cadangan sebaliknya perlu dikemukakan kepada Menteri Kewangan untuk pertimbangan dan keputusan. **<u>Tindakan : Bahagian Cukai Dalaman</u>**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	addition, manufacturers will have to invest another RM20-30 million on tax stamps applicators. **Recommendations** Studies by the Confederation of MalaysianTobacco Manufacturers (CMTM) had shown that the compliance rate and effectiveness of security marks is high, when compared to tax stamps. Therefore, the industry hopes that the Government can continue allowing the domestic cigarette manufacturers to continue using security marks, so that the Industry does not have to write-off expensive equipment and to purchase new ones. In addition, the manufacturers also hope that the Government can consider reducing the re-current cost of security ink, which is on the very high side. Currently, the 3 biggest cigarette manufacturers in Malaysia are multi-national companies, and they are British American Tobacco Malaysia Berhad (BATM), JT International Berhad (JTI) and Philip Morris International (PMI). These 3 companies had invested over RM1 billion in Foreign Direct Investment (FDI) over the past 10 years in Malaysia. For Malaysia to continue to be competitive and business friendly, the Government's policies and regulations have to be consistent, and the Government has also to be mindful of reducing the cost of doing business. The continued usage of security marks beyond 2009 is the right step in this direction.	
30.	**Forms CJ5, CJ5A, CJ5B** **Recommendations** Upgrade the forms to computer readable forms.	**Usul oleh MICCI** Cadangan ini telah diambilkira dalam Projek Portal Kastam yang akan dilaksanakan apabila kelulusan diperolehi daripada pihak Perbendaharaan. **Tindakan : Untuk Makluman**
31.	**Pengendalian Kursus Asas Agen Kastam** **Cadangan** Di peringkat sijil, KAAK dikendalikan oleh	**Usul oleh PPLBS** KDRM telah menandatangan MOU dengan UUM pada bulan Jun 2006 memberi kebenaran kepada UUM menjalankan

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	Persatuan-persatuan termasuk Persatuan Pengusaha Logistik Bumiputera (PPLBS). Di peringkat diploma pula, KAAK dikendalikan oelh Universiti Utara Malaysia (UUM). **Alasan** PPLBS mencadangkan kursus di peringkat sijil tersebut dikendalikan oleh persatuasn-persatuan kerana merasakan di peringkat sijil tidak perlu menggunakan khidmat tenaga akademik tetapi cukup dengan mengambil tenaga pelajar yang telah mempunyai pengalaman di dalam industri ini. Lagipun para peserta akan hanya terdiri daripada kakitangan yang sedang berkhidmat di dalam industri ini. Manakala di peringkat diploma, pihak Universiti boleh mendapatkan pelajar-pelajar yang bukan sahaja di kalangan kakitangan yang berada dalam industri ini malahan pelajar yang mengikuti kursus-kursus yang lain tetapi dimasukkan subjek berkenaan didalam kursus berkenaan.	program sijil, termasuk KAAK, Diploma hingga PhD. Hasrat ini selari dengan WCO-PICARD. Pandangan Ketua Pengarah Kastam akan didapati bagi membincangkan perkara ini dengan lebih lanjut. **Tindakan : AKMAL**
32.	**Customs Appeal Tribunal** (a) In Agenda 5 of the minutes of the Private Sector Customs Consultative Dialogue 2/2006, in relation to the question of “who is able to represent the taxpayers/companies in the Customs Appeal Tribunal (CAT)”, Customs responded that the representative must not be a practicing lawyer. The taxpayer/companies are able to be represented by a full time employee including a qualified legal officer in the employment of the taxpayer. **Recommendations** In this regard, we would like to confirm that taxpayers can be represented by well qualified, experienced tax consultants (who is not a practicing lawyer) since this will be professionally beneficial to both the taxpayers/companies and Customs. (b) In Agenda 5 of the minutes of the Private	**Usul oleh MIA & MICPA** (a) There is no expressed provision in the law for the representation by Tax Practitioner and there is also no expressed prohibition as in the case of advocate and solicitor. (b) The main objective of setting up the Tribunal, besides providing impartially of treatment on appeals, is also to assist the appellant in getting fast decisions and reducing any financial burden. The proceedings before The Tribunal shall be conducted in atmosphere of less formality and technicality .Even though section 141Q does not allow advocate and solicitor , the same section do allow for the appellant to be represented. Section 141 C provides that members of the Tribunal shall be appointed by the Minister. To ensure its equity and justice, the Chairman and Deputy Chairman will be from the Judicial

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	Sector-Customs Consultative Dialogue 2/2006, we noted that the Customs has stated that the person who are representing the taxpayers / companies in the Customs Appeal Tribunal (CAT)", must not be a practicing lawyer. The taxpayer / companies are able to be represented by a full time employee including a qualified legal officer in the employ of the taxpayer / companies. **Recommendations** In the interest of equity and justice, we recommend that the Customs should not restrict the right of the taxpayers / companies as to who can represent them at the Customs Appeal Tribunal. We are of the view that the taxpayers / companies should be allowed to get assistance from a suitable person, be it a legal counsel or otherwise.	and Legal Service while the other members will be persons having customs and taxation experience. **Tindakan : Untuk Makluman**
33.	**Acknowledge Receipt** **Recommendations** Customs should acknowledge receipt of any application made and the officer responsible is to be indicated in the acknowledgement.	**Usul oleh MICCI** Dalam Minit Mesyuarat Panel Perundingan Kastam-Swasta Bil 1/2005, KDRM ada menyatakan bahawa satu surat edaran bertarikh 17 Januari 2005 telah dikeluarkan kepada semua Pengarah Ibu Pejabat dan Pengarah Kastam Negeri untuk mengambil tindakan seperti yang dicadangkan oleh MIT, iaitu, menjawab pertanyaan/permohonan orang awam dalam masa satu (1) minggu dari tarikh surat diterima dengan menyatakan nama pegawai serta nombor telefon untuk dirujuk bagi tujuan susulan. Sebagai langkah penambahbaikan, Urusetia mencadangkan satu format standard yang mudah dikeluarkan bagi menjawab pertanyaan/permohonan dengan merujuk contoh beberapa agensi lain sebagai 'benchmarking'. **Tindakan : Unit Perhubungan Awam**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
34.	**Export Services** Scenario A company in a free zone (FZ) provides Information and Communication Technology (ICT) equipment and services including ICT-related consultancy and management services to customers in the principal customs area (PCA). The FZ company is not required to license for service tax purposes as FZ is outside Malaysia for service tax purposes and hence the FZ company will not charge service tax on the consultancy and management services provided to customers in the PCA. The FZ company subcontracts the provision of the consultancy and management services to a subcontractor in the PCA who is licensed for service tax. The PCA subcontractor would carry out the consultancy and management services in the FZ company's customers' premises in the PCA. The PCA subcontractor's contract is with the FZ company and invoice is issued by the PCA subcontractor to the FZ company for the consultancy and management services. Issue Whether the PCA subcontractor's consultancy and management services provided under contract with the FZ company and invoiced to the FZ company would be considered 'export services' and hence not subject to service tax. The above scenario clearly shows that service tax is not chargeable by the FZ company on the services provided to PCA customers. Therefore, service tax should not be chargeable when the FZ company subcontracts the services to the PCA subcontractor. Service tax is based on contractual transactions evidenced by invoices issued to customers. As far as the PCA subcontractor is concerned, the customer (consumer) of its services is the FZ company under the subcontract. *Conflicting views of Customs* Customs officers have recently expressed views that consultancy and management services	**Usul oleh MICCI** Setelah menyemak minit Mesyuarat Penal Perunding Kastam- Swasta Bil.1/2003 didapati minit yang dicatit adalah bertentangan dengan perundangan yang berkuatkuasa mulai 1.1.03. Takrif 'export services' telah dibatalkan mulai 1.1.2003. Semua 'exclusion' (perkhidmatan tidak kena cukai) telah dinyatakan secara spesifik di dalam Jadual Kedua Peraturan-peraturan Cukai Perkhidmatan 1975 mengikut jenis perkhidmatan. Bagi perkhidmatan perundingan dinyatakan seperti berikut; Penyediaan semua jenis perkhidmatan perundingan yang tidak disebut secara khusus dalam Peraturan-peraturan ini **TIDAK TERMASUK;** i. Perkhidmatan perundingan yang berhubungan dengan rawatan perubatan dan pembedahan yang disediakan oleh klinik persendirian atau klinik pakar; atau' ii. Penyediaan perkhidmatan perundingan yang dibekalkan berkaitan dengan; **(A) Barang atau tanah yang terletak di luar Malaysia;** **(B) Selain daripada perkara-perkara yang berhubung dengan (A) terletak di luar Malaysia**. Isu invois kepada siapa bukan merupakan kriteria menentukan samada sesuatu perkhidmatan itu bercukai atau tidak. Sekiranya perundingan tersebut adalah berkaitan barang, tanah atau perkara yang melibatkan Malaysia, perkhidmatan tersebut adalah kena cukai perkhidmatan.Dicadangkan pihak indusri terlibat berbincang secara langsung dengan Bahagian Cukai Dalaman untuk penjelasan

<table>
<tr><th>BIL</th><th>PERKARA</th><th>KEPUTUSAN/TINDAKAN</th></tr>
<tr><td></td><td>
<p>provided to FZ would not be taxable only if the following criteria, enacted with effect from 1 January 2003, under the Second Schedule to the Service Tax Regulations 1975, are fulfilled i.e. that such services are provided in connection with:</p>

goods or land outside Malaysia; or
any other matter outside Malaysia.

<p>It should be noted that, the criterion of “any other matter outside Malaysia” was not in the definition of “exported taxable service”, which was in force before 1 January 2003.</p>
<p>Further, the above views of Customs officers are contrary to what has been agreed by Customs in past minutes of Customs-Private Sector Consultative Panel Meeting, in relation to the implication of the abolition of “exported taxable service”, effective from 1 January 2003 (see below extract from the relevant Minutes of the Customs-Private Sector Consultative Panel Meeting 1/2003 held on 4 June 2003 (“the 2003 Meeting”)).</p>
<table>
<tr><th>Item</th><th>Outcome</th></tr>
<tr><td>Exported taxable services

The MIT requested an explanation as to whether consultancy services rendered to persons outside Malaysia in relation to land, goods and other articles in Malaysia are subject to service tax as there has been some confusion after the abolishment of the term "exported taxable services".</td><td>Services related to consultancy services rendered directly to persons outside Malaysia in relation to land, goods and other articles <u>in</u> Malaysia is <u>not</u> subject to service tax when the invoice is issued directly to the recipient of the service outside the country.</td></tr>
</table>
<p>Recommendations</p>
<p>The recent views of Customs officers could result in back taxes and penalties being imposed on businesses which had placed reliance on the minutes of the 2003 Meeting.</p>
<p>For certainty to businesses, Customs should be</p>
</td><td>
<p>lebih terperinci.</p>
<p><u>Tindakan : Untuk Makluman</u></p>
</td></tr>
</table>

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	consistent with what has been agreed in the past. To avoid conflicting views by Customs due to the lack of clarity in the law, Customs should recommend to the Minister of Finance for amendment to be made to the criteria in the Second Schedule to the Service Tax Regulations 1975 to reflect what has been agreed by Customs in the 2003 Meeting.	
35.	**Exempt domestic manufactured products meant for export markets from security ink markings** Currently, all domestic manufactured cigarettes and beer which are to be sold in the domestic market have to be printed with security marks. It is hoped that with the security marks, illicit trade can be curbed and Government can recover lost tobacco tax revenues. As domestic manufacturers were very supportive of the Government's intent to curb illicit trade, they complied with the Government's directive to print security marks on domestic manufactured products bound for the domestic market. However, the Government had also directed that security marks be printed on domestic manufactured products that are bound for export markets. The consequences are the following: ▪ The security mark is a Malaysian Government mark. If it appears on a products that are meant to be sold overseas, the overseas customers will reject the product and foreign governments are also likely to reject the product. ▪ Malaysian manufacturers export business will face serious problems given that overseas customers will reject the Malaysian manufactured products. The consequence is loss in profits and loss of confidence in the business environment and possible dissipation of Foreign Direct Investment (FDI). ▪ The security mark also infringes the intellectual property rights of the packs which are sold overseas.	**Usul oleh FMM** Perkara ini telah dibincang dan dibawa ke Perbendaharaan untuk pertimbangan. **Tindakan : Bahagian Cukai Dalaman**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	▪ If the Government wishes to increase enforcement on exported products in the domestic market, this can be done without the product having the Malaysian security ink mark. This is because enforcement agencies can easily identify these products by their foreign health warnings or foreign labels. **Recommendations** Government to remove or exempt the requirement that security marks be printed on locally manufactured beer and cigarettes that are bound for overseas markets (Exports).	
36.	**Excise Duties (Exemption) Order, 1977** Excise Duties (Exemption) Order, 1977 have not incorporate imported goods subject to excise duty. As such, there are instances where imported goods are exempted from payment of Import duty and Sales Tax but not the excise duty (e.g. Item 58 of Custom Duties Exemption Order and Item 62 of Sales Tax Exemption Order – that exempt both import duty and sales tax for goods that are imported or purchased from licensed manufacturer for the purpose of propaganda, research or demonstration). No similar item is available in the Excise Duties Exemption Order. **Recommendations** It is proposed that the exemption order for excise duty purposes be updated accordingly to take into consideration items that are currently granted with exemption under both Customs Duty and Sales Tax.	**Usul oleh FMM** Deraf pindaan Perintah Duti Eksais (Pengecualian) 1977 sedang disediakan untuk dimajukan ke Perbendaharaan. **Tindakan : Bahagian Cukai Dalaman**
37.	**Submission of Inward Manifest 24 hours before vessel arrival** Section 52 of the Customs Act 1967 indicate that shipping lines are required to submit the shipping inward manifest within 24 hours after vessel arrival and before any cargo is unshipped. Although Customs still accepts shipping manifest from shipping lines before the vessel arrival, section 52 gives shipping lines the flexibility to	**Usul oleh FMM** Perkara ini telah dimasukkan ke dalam cadangan pindaan Akta Kastam 1967. **Tindakan : Bahagian Kastam**

BIL	PERKARA	KEPUTUSAN/TINDAKAN
	submit the shipping manifest after the vessel has arrived in local ports. **Recommendations** Terminal operators in Port Klang has recently proposed to reduce the free storage period at ports from the current 5 days to 3 days. FMM has objected to the move to reduce the free storage period as many parties in the supply chain including Customs are not able provide faster clearance time due to restrictions in existing policies and procedures. In this regard, it is proposed that Customs to revise the Customs Act to accept shipping manifest 24 hours before vessel arrival for expedient customs clearance.	

Nota : Usul-usul yang telah dihantar oleh Persatuan/Pertubuhan kepada pihak Urusetia dan tidak dibincangkan di dalam Mesyuarat Panel Perundingan Kastam-Swasta Bil.2/2007 akan dijawab secara terus kepada Persatuan/Pertubuhan berkenaan oleh Urusetia.

UCAPAN PENUTUP
PENGERUSI BERSAMA

Encik Boon Oon Seang selaku Pengerusi Bersama merakamkan terima kasih kepada semua pihak dan berharap dalam membuat kajian, pihak KDRM akan melibatkan atau mengambilkira pandangan pihak swasta.

UCAPAN PENUTUP
PENGERUSI

Pengerusi memohon kerjasama daripada Pengarah-Pengarah Ibu Pejabat untuk mengambil tindakan susulan seperti menubuhkan Jawatankuasa Petugas (Working Committee) atau Jawatankuasa Tindakan Bersama (Task Force) terhadap isu-isu yang telah dibincangkan. Daripada isu-isu yang dibangkitkan oleh pihak swasta, kebanyakannya adalah masalah implementasi oleh pihak KDRM dan bagi isu-isu yang ada '*general statements'*, beliau memohon pihak swasta memaklumkan kepada KDRM Ibu Pejabat dan Kastam Negeri secara spesifik contoh-contoh kes yang berlaku di stesen yang berkenaan.

Nota : Wakil dari FOMSA, Encik V. Muthiah ingin merakamkan ucapan tahniah dan terima kasih kepada KDRM kerana dapat menyelesaikan isu lesen perkapalan dalam masa 24 jam.

PENANGGUHAN MESYUARAT

Penangguhan	:	Mesyuarat ditangguhkan pada jam 1.25 petang.
Mesyuarat Akan Datang	:	Akan dianjurkan oleh KDRM. Tarikh dan Tempat akan ditentukan kemudian.

Disediakan oleh :	Disemak oleh :
……………………………………..	……………………………………………..……………
(ISKANDAR BIN JAAFAR)	**(DATO' HJ. IBRAHIM BIN HJ. JAAPAR)**
Setiausaha, Mesyuarat Panel Perundingan Kastam-Swasta, 2/2007.	Pengerusi, Mesyuarat Panel Perundingan Kastam-Swasta, 2/2007.
Tarikh: 16 Januari 2008	Tarikh: 16 Januari 2008