

Policy Issues for Customs-Private Sectors Consultative Panel Meeting No.2/2014

1. Legality of K1/K2 'Chit' document

Where DagangNet e-Declare is used, users has option of printing a 'chit' in respect of completed import or export declarations instead of the prescribed Customs Form No.1 or Form No.2 set out in Second Schedule of Customs Regulations 1977. A question that often arise is whether these 'chits' print-outs are considered equal to the prescribed Customs Form No.1 and Form No.2 from a legal viewpoint (e.g. in particular in duty refund/drawback applications), since customs laws does not make reference to document generated from Dagang Net explicitly.

Recommendation

While trade community welcome initiatives to go paperless and use of technology, it would be beneficial for Customs to issue an official statement/circular to assure the community that the 'K1/K2 Chits' document are considered equal to the prescribed Customs Forms as mandated by Section 78 and Section 80 of Customs Act 1967 in all circumstances, or, if not, specify the circumstances where Customs expects importers and exporters to produce prescribed forms instead of the 'chits' print-outs. Clarity from Customs will facilitate companies to improve their record keeping policy, in particular companies that have introduced Internal Compliance Programme (ICP) and Standard Operating Procedures (SOP) in setting out clearly Customs' requirements in this regard.

2. Filing of Customs No.1A

There have been reports from importers that their agents are either unable to, or had advised them it is not necessary to lodge Customs Form No.1A as mandated under Rule 11A Customs Regulation 1977 in situation where goods are viewed by Customs as 'same as previous imports where same Customs Form No.1A had already been lodged'. Although in practice it is logical that continuingly filing a document that carry exactly the same content does not make sense, it is nonetheless a mandatory requirements under the law. This matter frequently arise during internal audit where subsidiaries operating in Malaysia are unable to provide satisfactory answer nor furnish any written confirmation from Customs to satisfy internal auditors' question that it is not an offence under Malaysian Customs laws for not complying with requirements of Rule 11A.

Recommendation

Consider introducing a proviso/'escape clause' to Rule 11A to grant leave to importers in situation where Customs deem fit and just to do so.