

## **TRANSLATION**

### **GENERAL INFORMATION**

1.	Ministry	:	Finance
2.	Department	:	Royal Malaysian Customs
3.	Meeting Title	:	Customs-Private Sector Consultative Panel Meeting No. 1/2007.
4.	Date	:	07 August 2007
5.	Time	:	10.00 a.m.
6.	Venue	:	Main Meeting Room, Royal Malaysian Customs Headquarters, Level 3 South, Ministry of Finance Complex, Precinct 2, Putrajaya.

### **MEETING AGENDA**

Agenda 1	:	Chairman's Speech
Agenda 2	:	Co-Chairman's Speech
Agenda 3	:	Confirmation of Minutes of Meeting No.2/2006
Agenda 4		Discussion of Matters Arising
Agenda 5		Discussion of New Issues

**ATTENDANCE LIST  
CUSTOMS-PRIVATE SECTOR CONSULTATIVE PANEL MEETING  
NO. 1/2007**

<i>BIL.</i>	<i>NAMA</i>	<i>JAWATAN/ PERTUBUHAN</i>
1.	Y.Bhg. Dato' Sri Hj. Abd. Rahman bin Abd. Hamid	Ketua Pengarah Kastam ( Pengerusi)
2.	YM Raja Dato' Abd. Aziz bin Raja Musa	Persekutuan Pekilang-Pekilang Malaysia (FMM) (Pengerusi Bersama)
3.	Y.Bhg. Dato' Hj. Ibrahim bin Hj. Jaapar	Timbalan Ketua Pengarah Kastam (Operasi)
4.	Y. Bhg. Dato' Hj. Mohamed Khalid bin Hj. Yusuf	Timbalan Ketua Pengarah Kastam (Pencegahan)
5.	Y. Bhg. Dato' Zaleha bt. Hamzah	Penasihat Kastam
6.	Y. Bhg. Dato' Hj. Sudin bin Sahak	Penasihat Kastam
7.	Y. Bhg. Dato' Hj. Abdul Karim bin Mohd Hanapiah	Penasihat Kastam
8.	Y. Bhg. Dato' Abdul Rahman bin Sebli	Pengarah Bahagian Undang-undang
9.	Y. Bhg. Dato' Ismail bin Ismail	Pengarah Bahagian Kastam
10.	Tuan Hj. Roslan bin Yusof	Pengarah Bahagian Perkhidmatan Teknik
11.	Y. Bhg. Datin Azizah bt. Idris	Pengarah Bahagian Cukai Dalam
12.	Tuan Tan Kwong Jin	Pengarah Bahagian Pencegahan

<i>BIL.</i>	<i>NAMA</i>	<i>JAWATAN/ PERTUBUHAN</i>
13.	Tuan Dzulkurnain bin Abd. Rahman	Timbalan Pengarah Kastam Cawangan Pengurusan Penilaian & Pasca Import
14.	Puan Jalilah bt. Mahdan	Timbalan Pengarah Kastam Cawangan Import /Eksport
15.	Tuan Hj. Shahrudin bin Ibarahim	Timbalan Pengarah Kastam Cawangan Cukai Perkhidmatan
16.	Tuan Sallehuddin bin Abdul Rahman	Timbalan Pengarah Kastam Cawangan Pengurusan Kewangan & Perolehan
17.	Tuan Mhd. Subre bin Ishak	Pengarah AKMAL
18.	Tuan Govinden a/l Mutosamy	Timbalan Pengarah Kastam Cawangan Pengurusan Penjenisan, Tarif, & Gubalan
19.	Tuan Hj. Mohamed bin Jaafar	Timbalan Pengarah Kastam Cawangan Perindustrian
20.	Puan Norlinda Lim bt. Abdullah	Timbalan Pengarah Kastam Cawangan Teknologi Maklumat
21.	Tuan Abdullah bin Sidik	Penolong Kanan Pengarah Kastam I Kastam Selangor
22.	Puan Mangaiyarkarasi a/p S. Manickam	Penolong Kanan Pengarah Kastam I Penumpang & Penggudangan
23.	Tuan Jeyasingan R.	Penolong Kanan Pengarah Kastam II Kastam Pulau Pinang
24.	Tuan Iskandar bin Jaafar	Penolong Kanan Pengarah Kastam II Unit Perhubungan Awam (Setiausaha)
25.	Tuan See Zoo Thai	Penguasa Kastam Unit Perhubungan Awam (Penolong Setiausaha)

<i>BIL.</i>	<i>NAMA</i>	<i>JAWATAN/ PERTUBUHAN</i>
26.	Tuan Jamaludin @ Jamal bin Jinal	Penguasa Kastam Unit Perhubungan Awam
27.	Encik Boon Oon Seang	Persekutuan Pekilang-Pekilang Malaysia (FMM)
28.	Puan Shamini Sakthinathan	Persekutuan Pekilang-Pekilang Malaysia (FMM)
29.	Encik Raja Kumaran	Dewan Perniagaan Dan Perindustrian Antarabangsa (MICCI)
30.	Puan Wong Hin Wei	Dewan Perniagaan Dan Perindustrian Antarabangsa (MICCI)
31.	Encik A. Jeyaratnam	Dewan Perniagaan Dan Perindustrian Antarabangsa (MICCI)
32.	Encik Eyun Chew	Dewan Perniagaan Dan Perindustrian Antarabangsa (MICCI)
33.	Encik Peter Lim Thiam Kee	Institut Setiausaha Dan Pentadbiran Berkanun Malaysia (MAICSA)
34.	Encik Meor Nasmi bin Meor Mohamed Albakri	Institut Setiausaha Dan Pentadbiran Berkanun Malaysia (MAICSA)
35.	Puan Lee Ah Yem	Deloitte KassimChan Tax Services Sdn. Bhd
36.	Encik Chan Chow Pong	Institut Akauntan Awam Bertauliah Malaysia (MICPA)
37.	Puan Suzana bt. Mohd Hulaimi	Institut Akauntan Awam Bertauliah Malaysia (MICPA)
38.	Dr. Veerinderjeet Singh	Institut Percukaian Malaysia (MIT)

<i>BIL.</i>	<i>NAMA</i>	<i>JAWATAN/ PERTUBUHAN</i>
39.	Mr. Wan Heng Choon	Institut Percukaian Malaysia (MIT)
40.	Cik Lim Jiew Yan	Institut Percukaian Malaysia (MIT)
41.	Encik Walter Culas	Airfreight Forwarders Association Of Malaysia (AFAM)
42.	Encik Zainal bin Abidin	Airfreight Forwarders Association Of Malaysia (AFAM)
43.	Encik Anuar bin Hj. Ashaari	Airfreight Forwarders Association Of Malaysia (AFAM)
44.	Encik Wong Yim Fatt	Gabungan Dewan-Dewan Perniagaan Dan Perindustrian Cina Malaysia (ACCCIM)
45.	Encik Loo Chea Hee	Gabungan Dewan-Dewan Perniagaan Dan Perindustrian Cina Malaysia (ACCCIM)
46.	Cik Ser Huey Cing	Gabungan Dewan-Dewan Perniagaan Dan Perindustrian Cina Malaysia (ACCCIM)
47.	Encik Victor Francis Beins	Persekutuan Penghantaran Fret Malaysia (FMFF)
48.	Encik Yap Kan Yap	Persekutuan Penghantaran Fret Malaysia (FMFF)
49.	Encik Krishnan Chelliah	Persekutuan Penghantaran Fret Malaysia (FMFF)
50.	Encik Vijayan a/l CPK Narayana	Persekutuan Penghantaran Fret Malaysia (FMFF)

<i>BIL.</i>	<i>NAMA</i>	<i>JAWATAN/ PERTUBUHAN</i>
51.	Encik Ali bin Ahmad	Persekutuan Penghantaran Fret Malaysia (FMFF)
52.	Puan Noor Azlina bt. Abu Bakar	Institut Akauntan Malaysia (MIA)
53.	Encik Khadmudin bin Hj. Mohd Rafik	Malaysian Knitting Manufactures Association (MKMA)
54.	Encik Mohammad Salimi Ahamad	Malaysia Association Of Company Secretaries (MACS)
55.	Encik Ong Kian Yew	Persatuan Industri Komputer Dan Multimedia (PIKOM)
56.	Encik Low Sui Sem	Persatuan Industri Komputer Dan Multimedia (PIKOM)
57.	Encik Ralph Tay	Persatuan Industri Komputer Dan Multimedia (PIKOM)
58.	Tuan Hj. Abu Bakar bin Hussien	Persekutuan Perkapalan Wilayah Tengah (CRSA)
59.	Encik Abu Shariz bin Sarajun Haden	Persekutuan Perkapalan Wilayah Tengah (CRSA)
60.	Encik Ooi Lean Hin	Persatuan Pemilik-pemilik Kapal Antarabangsa Malaysia (ISOA)
61.	Encik Thum Hoong Yip	Persatuan Pemilik-pemilik Kapal Antarabangsa Malaysia (ISOA)
62.	Encik Ab Aziz bin Toha	Persatuan Pemilik-pemilik Kapal Antarabangsa Malaysia (ISOA)
63.	Encik Fong Keng Lun	Persatuan Pemilik-pemilik Kapal Antarabangsa Malaysia (ISOA)

<i>BIL.</i>	<i>NAMA</i>	<i>JAWATAN/ PERTUBUHAN</i>
64.	Encik Charles Subramaniam	Persatuan Pemilik-pemilik Kapal Antarabangsa Malaysia (ISOA)
65.	Encik Shamsudin Abd. Rahman	Persatuan Pengusaha Logistik Bumiputera Selangor
66.	Encik Saleh Mohd Ismail	Persatuan Pengusaha Logistik Bumiputera Selangor
67.	Encik V. Muthiah	Persekutuan Wakil-Wakil Perkapalan Malaysia (FOMSA)
68.	Encik Kamal Din bin Hussin Din	Majlis Perhubungan Industri NSDK (NSILC)

## **AGENDA 1**

### **CHAIRMAN'S SPEECH**

The Customs – Private Sector Consultative Panel no. 2/2006 was chaired by YBhg Dato' Sri Haji Abdul Rahman bin Abd. Hamid, Director General of the Royal Malaysian Customs Department and co-chaired by YM Raja Dato' Abd Aziz Raja Musa from FMM.

I wish to take this opportunity to welcome all of you to today's important meeting. I believe this meeting showcases that the smartpartnership spirit between Customs and the private sector as the main clients is still strong and functional.

I wish to apologise that the video clip on the ICTR was not clear due to technical problems. I believe the problem will not be repeated in future.

I believe this meeting has been long awaited by our clients. This is evident with the high number of issues to be discussed at this meeting. There are over 30 issues and outstanding matters which have been listed and we have gone through these issues the whole of yesterday. Basically there are issues which are not policy matters but operational issues which can be handled directly by the Division or respective stations.

So at the Pre-Panel meeting chaired by the Deputy Director General (Operations), these issues have been identified and have been conveyed to the Secretariat to be address directly with the parties involved. There are also urgent issues that require immediate attention and we note that these issues have been brought up at today's meeting. Therefore I am of the opinion that in future, for urgent issues, it has to be brought up to the notice of KDRM immediately through meetings with me and my officers in Head Office through round table discussions and these issues can be addressed together.

I do not know the level of the issues which have been brought up, but we think there are numerous issues which are very critical which can be brought up to our attention without waiting for this meeting. I welcome efforts made by various associations to meet me with their team to discuss issues which they view require immediate attention from the Department. The Department has over time provided the opportunity for round table discussions with our clients to discuss issues that the clients were dissatisfied with or require further clarifications from the Department. These round table discussions will also be organized in all levels including state level. A few important issues relating to claims for instance, we will send straight for claims purposes unless further discussions are required to ensure that both parties are satisfied with the outcome.

We have also urged the State Customs to convene similar Consultative Panel meetings and a few state have already organized the meetings. Therefore I believe there are ample opportunities for the private sector to highlight their issues aside from this Consultative Panel meeting. Only I hope that the organizations and the associations would use this opportunity to discuss and address their issues through smartpartnership and professionally so that Customs provides services with integrity.

To proof the Customs stand on service with integrity, in the last Budget, the Government introduced two other platforms for the private sector to voice their issues and problems which they do not agree with Customs.

For instance, Customs Rulings is now operational. My only comment is that clients even request for Customs rulings for coconut. I have directed my officers in the Technic Services Division (PERTEK) to settle day to day issues which can be addressed by PERTEK officers should be settled using normal processes and not wait for Customs rulings. Furthermore the stations have been equipped with Tariff Finder and 3G phones. We have also provided 3G phones for them to discuss with the Head Office, therefore no need to go through the Customs Ruling.

Only matters of pertinence, which has their justifications but cannot be agreed upon, then Customs Rulings should be used. This statement does not prevent Customs clients from using the aboved avenue.



Besides this, the Customs Appeal Tribunal, will be operational in the near future. For Customs, this issue has been addressed and understood. The members of the panel has been appointed and hopefully the Tribunal will be operational not long from now.

As a conclusion, Ladies and Gentlemen, the opportunity for the Clients to highlight their problems will always be available and is not restricted to this Customs –Private Sector Consultative Panel. This Panel should instead focus on the policy or matters of mutual interest.

Aside from this, I would like to touch on one other matter which is being carried out by the Department which is the efforts to ensure that the Department is moving forward to become an agency which is able to carry out its responsibility and the Government's needs in meeting the current and international global requirements. And as you are aware, globalization has created a condition where we have to compete with other countries. Trade today is constantly challenging and require Government's total commitment to ensure that the country is always competitive in meeting the challenges of the global environment. If Malaysia through its Government policies or governmental agencies is not able to response to these challenges, it would affect the country's prosperity and chances for traders in this country. In this context it is very important for not only the Customs Department and country but also the private sector to understand what the challenges are globally and together we should become stronger to compete locally.

One important aspect in the world of globalization is the need to establish a single regulation, international law which is backed by rich countries which has economic strength i.e. EU and US. The laws are forced to be internationally accepted. For instance, Framework of Standards (FOS) which has been set by WCO on the Port procedures, on the time release to be achieved, on security aspects to be established by Border Control agencies.

Customs role in security for instance has an FOS which Malaysia is required to comply if we want to become a country which is continuously competing in the international arena because the level of compliance by KDRM in this aspect will become a yardstick for traders to decide to trade with Malaysia. If Malaysia does not fulfill the FOS that are being set, therefore it is an inadequacy for Royal Malaysian Customs and Malaysia and would become a barrier to trade.

The second point is on the aspect of security. For instance previously our country is focussing on imports. But since the international threats, under the WCO's FOS, the attention is now on exports and we have to ensure that the goods from Malaysia is not of high risk and safely reached the import country. If we do not do this, our trade is affected. This pressure is felt by Customs Department through conditions and guidelines which is set by WCO. In fact the role of EC, US, Australia and other countries is very strong in ensuring we adhere with the requirements in order to trade with these countries. What is carried out by Customs directly or indirectly require the role and cooperation of the private sector. For instance on the issue of Rules Of Origin, when goods from China or Vietnam where our businessmen have invested due to the low production costs are brought to Free Zones for instance, and when there is break-bulking activities being carried out and relabeled Made in Malaysia, the items are found to be poor quality and Malaysia is often investigated. I myself have met two or three times with the EC panel to answer this issue. The private sector however failed to realize the requirements that need to be looked at together and finally the country will become ousted. The same is applied for Intellectual Property Rights which is now a popular issue.

These are some of the global challenges which KDRM would have to go through and we need the cooperation of our clients and the general public. Customs has made all efforts to carry out its development plans including the capacity building programme KDRM under the Columbus Declaration whereby now in the international arena there is an organization which oversees the capacity building development of the 172 members of the WCO and they have come to our country with their specialist to evaluate our capabilities. We are among the first countries to reach the second level that is to measure how Customs work procedures are carried out, whether it meets the international standard or not. In fact comments have been made because we do not use gloves, one of the minor issues that have been listed. KDRM is required

to carry out certain measures before the evaluators return for a second evaluation and to present their findings at the Policy Commission meeting to discuss their compliance level on what has been decided.

What we wish to convey in our ICTR video is that Customs is working very hard to ensure that the Department is moving forward with the other countries. For this we need to plan for change when seen from the contexts of the FOS is an effort to increase the standard of our relations, our performance but when seen from the context of Columbus Declaration is the effort in continuous Capacity Building.

We have implemented this programme continuously based on 4 main principles that is the development of I.C.T.R and we have identified these 4 items after studying the history of Customs from the Malacca Sultanate until now, why Customs fell and how Customs regain its standing. All is based on the 4 factors - I.C.T.R (Integrity, Core-business, Technology & Rakyat). Customs cannot continue to be a respected, recognized and world class Customs Administration, if integrity of Customs Officeres is being questioned. Customs cannot fulfil its objectives if Customs does not focus on the development of core business and Customs cannot do it if Customs pushes away technology. And the most important is that Customs will not become extraordinary if its employees work only for pay and wages.

They would need to become good citizens who love their country. What is most important is that we need to listen to the voice of the rakyat. Therefore these four factors is being instill and is now in its second year of implementation. Every year there are new programmes that we need to plan and implement. I believe we cannot succeed if we do not have the support of the private sector. Whatever is carried out by Customs directly and indirectly would affect the services of Customs towards its clients the private sector.

In the Customs context, it is called Organisational Development, which is a planned changed which is carried out continuously in the organization which will take 5 years from 2006 to 2010. KDRM management had clearly stated that we want a clean service, seen to be clean and smell clean, that is a clean reputation. This has materialized through our measures, for instance simple celebrations in the customs quarters areas which revolve around Customs staff. There is no more the concept of asking for donations and to carry out internal campaigns like 'saman pengurusan', 'saman perilaku' or campaign without gifts and others. What is most important is the firm actions by the Department toward complaints on insincere and unclear actions that are not sincere by the officers. This includes our move to change a unit in total if we find unhealthy elements. Our reason is to eliminate these activities and improvements can be made. Those that are sincere will be given promotions based on merits.

Recently there was an issue on an advertisement which involved internal associations in the Customs Department, I believe letters have been sent to all associations to explain Customs stand on the matter which states that I am not comfortable with the matter. As the Director General of Customs I wish to convey that this issue has been stopped for associations which I oversee, while for associations which I do not oversee, I wish to inform that the Organisation Act allows for such activities. However I wish to stress that it has nothing to do with this Department and we have brought it up to the Anti-Corruption Agency (ACA) to provide guidelines on these issues. Actually, this meeting will be handled by Deputy Director General (Operations) because I need to discuss with ACA to ensure that effective efforts can be made to ensure that the Customs services becomes a service that is not doubted. I therefore request the commitment from you today to assist and support Customs in this matter. Therefore let us develop a clean and effective service for the benefit of the country as a whole.

Ladies and Gentlemen,

I also would like to stress that efforts by Customs on Core business is with the objective to enable the private sector to realize the changes that is being made and what will be done in our dealings with the private sector. Firstly efforts to increase revenue and prevent loss in revenue as seen by the efforts by the Deputy Director General (Operations) and Deputy Director General (Enforcement) to work together in the Operasi Mesra Cukai where almost 5,000 new licensees have been identified, 3500 in-situ licensees and

the remaining register voluntarily. These efforts will be made continuously and to date no complaints have been highlighted to the Cabinet on this matter. Cooperation from everyone including from you and representatives from associations is needed to ensure the prosperity of the nation. Let's start from the 1<sup>st</sup> step. As we speak, our PASCA import and auditing team is visiting almost every bonded warehouse, excise warehouse to look into the accounts and through technology under the ICTR concept, has enable them to obtain information from the available resources. The e-license concept has been the reason why we manage to register over 5,000 licensees.

This Department has employed an addition of 1000 officers. There is still a demand for more staff, for instance LCCT requires hundreds of staffs. In order to ensure that our officers are always competent and able to carry out their responsibilities, we have introduced 153 e-learning modules related to trade (carried out by WCO), Malaysia is now the centre for E-learning in the Asia Pacific. Therefore I hope that the private sector should also be encouraged to ensure that the trading company competes in the knowledge base world. We do not want our traders to be left out with restricted knowledge and old working methods. Customs is also working with UUM to introduce life-long learning. In 2007, at least 38 officers will obtain their first degree in UUM, 20 will obtain their Master and 6 conferred their PHD. There are over 240 students going through the Customs Agent course in UUM.

Customs has introduced the Gold Collar Workers concept like that has been implemented by US in 1961 which caters for specialization. For instance in the areas of ASEAN enforcement, Malaysia is the leader. Our staff is also in the audit committee of the WCO. KDRM is also the chairman of the WCO Integrity Committee, The book Moving Forward would be launched on 15 August 2007 which indicates how Customs is moving forward where one of the clusters in the Gold Collar Workers concept is attachments with the private sector to ensure that the Customs understands the private sector culture. The composite form will be introduced not long from now. The proposal to renew licenses only once will be introduced. This is the commitment of Customs Department.

Now there are 18 companies which have been granted the status of Customs Golden Clients. We are now opening up the policy to be based on compliance not only to companies but also to forwarding agents. KDRM is also sending information on CGC to China, Japan, Thailand and Indonesia where if they are granted CGC, will be given similar treatment over there. I hope that all companies that have good track records will apply for this status. KDRM is also introducing a Customs clearance system in ports based on the concept of priority that is those with high compliance will be granted special privileges will be considered as company that are no risk. In fact there will be those that will undergo documentary checks and some where their goods will be checked using x-ray scans and pictures would be recorded and considered as high risk.

Customs Verification Initiative (CVI) is now at the pilot stage in Johor where the system will tell which lorry or container will be checked. This is through the Framework of Standards WCO and with this system there would not be any issue of choosing sides.

The Rover system is a risk management system which will be introduced together with the normal inspection system at the entry and exit points. The Customs officers will evaluate the body language of the passengers and CCTV at the CIQ. The Green Lane system and Help Desk facility has been implemented and I am pleased that KDRM has obtained the highest ranking from the clients. SMK paperless will be implemented beginning from 1 January 2008 in KLIA and Penang.

This year KDRM will establish 2 attaché offices overseas as 7 overseas attaché offices had been approved. It is suggested that associations make a visit to the WCO. I have brought Dato' Dr. Ng Yen Yen to WCO and now I have a dream to bring this Council to WCO. There you will see how the meeting of members is being conducted in WCO. WCO is a bridge for us. We need to use this window of opportunity to see if our goods are the best in the world. Only when you open this window, do you see the world.

In technology, I know that clients do not know what Customs knows. Firstly, Revenue Monitoring System (RMS) which is developed by Customs can show the latest revenue collection online from the mobile phone. With CD Tech the Internal Tax team can know which company has been licensed and which have not been licensed, how much has been paid etc. Don't run as you will be running in circles surrounded by water. Delta Tax has also been introduced. The e-license system has also been introduced whereby CP and CJ license can be applied from home. KDRM has introduced e-payment system which will be implemented at the end of the year. Video conferencing system between the Head office and 14 states is developed and all these indicate that we are moving forward.

In the context of the Rakyat, KDRM has developed cultural shows and had organized religious seminars. The reason is so that the Customs become good citizens. Their quarters are very beautiful. My wish is that the officers love their Department making them not want to disrupt the reputation of the Department. RM1 billion has been approved for the development of Customs in the 9<sup>th</sup> Malaysian plan and 35% projects are in motions in the 2<sup>nd</sup> year. Many new offices will be built and improvements will be carried out in all Customs offices with the objective to make Customs offices of international level. So I hope that the associations will not only focus on issues in the meetings but also other issues directly or indirectly to propel KDRM and make it easier for the private sector to deal with Customs.

This is our hope and commitment which we have inherited since the day we understood our independence, that is, our country treats unity with great importance. We develop a Government based on the cooperation and unity because of this we are still progressing until today. This is what we wish at KDRM. This is only accomplished if there is unity which we inherited and work non-stop, that is to manage success – how to succeed. For instance, Buku Pengikraran Berkualiti Borang Kastam has been circulated free to you as clients. This was carried out during my tenure in Johor as the Head of Customs Department. We will continue to do until today because quality declarations is the basis for clients and was once successful and will be again. I once again call upon the private sector to work together with Customs to move forward.

## **AGENDA 2**

### **CO-CHAIRMAN'S SPEECH**

Bismillahir Rahmannir Rahim. Assalamualaikum warahmatullahi wabarakatuh dan selamat pagi.

I wish to thank YBhg. Dato' Sri Haji Abd. Rahman bin Abd. Hamid for the detail and comprehensive explanation on the measures taken by Customs Malaysia to move forward.

There are a few key words/phrases in YBhg. Dato' Sri's speech amongst them, mentioned about knowledge, services with integrity, high rating, paperless, use of technology, sense of belonging, which are very encouraging. Obviously, although there are problems along the way, however we are very encourage to know that YBhg. Dato' Sri has given importance to these matters and is working very hard to improve the Department. I wish to thank and congratulate Customs for taking these measures to improve their services.

This year after 50 years of Independence, Malaysia had moved forward - we are the 19<sup>th</sup> largest trading nation in the world, we are the 23<sup>rd</sup> most competitive economy in the world, we are the 26<sup>th</sup> most globally competitive economy in the world, we are the 19<sup>th</sup> most globalised economy, we are the 3<sup>rd</sup> most preferred global services location, and we have trade surplus of USD 39.5 billion at the end of 2006. We have in 2006 reach RM1 trillion in terms of trading which is equivalent to USD 300 billion, our exports had expanded by 10.3% and imports expanded by 10.7%.

Globalisation means the opening up of the country. In Malaysia, it means that the Rakyat chose who to be in the Government whereby it wish to provide the appropriate means and necessity to have good infrastructures to create the opportunity for the Rakyat to improve themselves to move up from the world of poverty to the world of the haves. If we have this aspiration, we have to keep pace with whats going on in the world. Therefore, it is most encouraging for me to set a vision to the expectations of YBhg. Dato' Sri and the steps taken to keep pace with the world.

Of course, there are various programmes to be carried out and programme such as this whereby we are here today to sit together to solve certain issues and understands guidelines that have been agreed. Private sector and Customs understand the standardized methods to overcome certain problems and it create transparency. If the problems are not clear and it call for discretion, and when there is discretion, there is always a lack of transparency. With this, it is most encouraging to see we continue to work together and once again, I would like to thank everyone of you from the private sector and Customs for being here today. On behalf of the private sector, I would like to congratulate Customs for the steps taken to improve the Department.

Thank you

### **AGENDA 3**

1. The Chairman informed that he had official matters which could not be avoided and handed over the chair to YBhg. Dato' Hj. Ibrahim bin Hj. Jaapar, Deputy Director General (Operations) to represent him to continue the meeting. To begin the meeting, the Chairman's representative informed that the various Divisions in KDRM will response directly to the issues raised by the Private sector.

#### **CONFIRMATION OF MINUTES OF MEETING 2/2006**

2. **Confirmation of Minutes of Meeting 2/2006**

The minutes of the Customs – Private sector Consultative Panel was confirmed as correct records.

Proposer : Encik Krishnan Chelliah dari FMFF

Supported : Supported by all present.

## AGENDA 4

### DISCUSSION OF MATTERS ARISING

No.	Issues	Decision / Action
1.	<p><b>Proposal to Establish Special Implementation Body by the Government</b></p> <p>The objective of establishing a Special Implementation Body is to study the implementation of the existing processes and procedures in the Customs Act not only involving Bumiputra equity condition but also on all procedures relating to Customs. We are of the opinion, that MoF should sit as an observer, while Customs as the implementer, while MITI observes and studies the entry of foreign investors and we the NGOs as observers as well and to disseminate information to all members / agents through this body. The establishment of this body will prevent any misunderstanding and manipulation by individuals as sometimes observed through the misinterpretation of the Bumiputra equity percentage which is still not addressed until today. Through this body, all parties may see for themselves if the Government policies have met their objectives through statistics and facts obtained.</p>	<p><b><u>Issue by Persatuan Pengusaha Logistik Bumiputra Selangor</u></b></p> <p>The meeting understands that MITI/ MIDA has tabled a working paper titled “Proposal To Streamline The Bumiputera Equity Requirement In Logistic Industry” to PEMUDAH.</p> <p>However the Association can discuss with KDRM if there are other issues which they wish to raise.</p> <p><b><u>For Information</u></b></p>
2.	<p><b>Standardised Procedures for Rejected Goods</b></p> <p>The Customs Act 1967 provides for Malaysian exported goods that have been rejected by importers to be exempted from import duty and sales tax when the goods are brought back into Malaysia for rework. This is with the condition that the goods are re-exported within a stipulated time frame and sufficient documentary evidence are shown as proof of originality.</p> <p>The above provision is currently not applied by Customs stations. Despite sufficient documentary evidence, rejected Malaysian goods brought back into Malaysia for rework are still subjected to import duty and sales tax.</p> <p><b>Recommendations</b></p>	<p><b><u>Issue by FMM</u></b></p> <p>A guideline through Customs Circular Bahagian Kastam Bil. 4/2007 dated August 6, 2007 – Prosedur Kawalan Pengecualian di bawah Butiran 68 &amp; 69 Perintah Duti Kastam (Pengecualian) 1988 dan Butiran 75 Perintah Cukai Jualan (Pengecualian) 1980 has been circulated to all State Customs Directors to explain the issue raised.</p> <p><b><u>For information</u></b></p>

No.	Issues	Decision / Action
	<p>Goods manufactured and exported by Malaysian companies should not be imposed with sales tax and import duty when the goods are brought back into Malaysia for rework. It is recommended that Customs Department standardise the existing procedures for rejected goods among the Customs stations. To facilitate industries, Customs officers at the station should use their fair discretion when handling this issue.</p>	
3.	<p><b>Re-importation of Rejected Goods Requiring Import License</b></p> <p>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.</p> <p><b>Recommendations</b></p> <p>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.</p>	<p><b><u>Issue by FMM</u></b></p> <p>This issue has been raised at the MITI Dialogue on 9-13 July 2007 and MITI agreed to study the matter. KDRM will propose to MITI that an import license be exempted under the Import Prohibition Order 1998.</p> <p><b><u>Action: Customs Division</u></b></p>
4.	<p><b>Proposal to Reactivate SMK Meeting</b></p> <p>FMFF representative proposed for the SMK meeting be reactivated to discuss issues and problems on the system to further improve the efficiency and effectiveness of the SMK system.</p>	<p><b><u>Issue by FMFF</u></b></p> <p>SMK-Dagang*Net Interface No. 1/2007 meeting was held on 30.1.2007. The second meeting No. 2/2007 will be held at the end of August 2007.</p> <p><b><u>For information</u></b></p>
5.	<p><b>Problems of hanging forms in SMK</b></p> <p>FMFF representative informed that the problem of hanging forms still exist in the SMK system.</p>	<p><b><u>Issue by FMFF</u></b></p> <p>A discussion was held on 25 May 2007 involving KDRM and DagangNet Technologies Sdn. Bhd.</p>



No.	Issues	Decision / Action
		<p>to resolve the problem. The main source of the problem that was identified was more than one declaration was made for the same goods. A directive on this matter will be issued soon. If the problem is due to weakness of the system than enhancements will be made.</p> <p><b><u>Action : Customs Division &amp; Information Technology Branch</u></b></p>
6.	<p><b>Permission for the Forwarding Agent to clear cargo for Direct User with the condition that a appointment letter is issued by the Direct User.</b></p> <p>FMFF representative informed that in Johor Direct User declare the Customs forms and clear their own cargo and clearance of cargo by the forwarding agent is not permitted. If the Direct User is using an agent to carry out clearance of cargo, the agent does not want to be responsible for wrong declaration by the direct user. In addition, Direct User could also include importers, transporters and manufacturers. The letter KE.HE(-)379/12 Klt.5 (14) dated 11 August 2005 issued by Customs Division in Headquarters has permitted forwarding agents to handle clearance of goods for the Direct User with the condition that an appointment letter is issued by the Direct User.</p>	<p><b><u>Issue by FMFF</u></b></p> <p>Direct User is responsible for the clearance of thier goods handled by the forwarding agent, This means that the forwarding agent is not responsible towards goods declared by the Direct Users. In addition in the Customs Form 1, no agent code but there is a Direct User code (DU).</p> <p><b><u>For information</u></b></p>
7.	<p><b>Increase the value of goods as the condition for filling of Customs Form 1A, from RM10,000 to RM100,000</b></p> <p>FMFF representative informed that the current conditions to complete Customs Form 1A, that is for goods valued at RM10,000 is not suitable. He suggested that the value be increased to RM100,000 to reduce the red tape and bureaucracy and Customs form K1A.</p>	<p><b><u>Issue by FMFF</u></b></p> <p>This proposal be considered and a workshop be conducted to study this issue. The early draft has been prepared to be tabled to KDRM management.</p> <p><b><u>Action: Technical Services Division</u></b></p>
8.	<p><b>Customs – Private Sector Consultative Panel Meeting at the state level</b></p> <p>FMFF representative propose that Customs – Private sector consultative panel meetings at the state level be held frequently.</p>	<p><b><u>Issue by FMFF</u></b></p> <p>Letter KE.HP(91)379/12 Klt.13(32) from the Secretariat dated 18 Jun 2007 was sent to all PKN to inform the issue. A meeting at the state</p>

No.	Issues	Decision / Action
		level will be held at least 2 times a year and not more than 4 times. For information, the diagram below shows the frequency and last date that meetings were held according to states.  <u>For information</u>

**Diagram Indicating the Frequency of the Customs – Private Sector Consultative Panel meeting at the state level**

State	Frequency	Last Meeting date	Remarks
W.P KUALA LUMPUR	2 times a year	20 JUNE 2007	
PAHANG	4 times a year	13 JUNE 2007	
KELANTAN	2 times a year	8 JANUARY 2007	
TERENGGANU	3 times a year	26 JULY 2007	
PERAK	2 times a year	24 APRIL 2007	
SARAWAK	2 times a year	29 DECEMBER 2006	
SELANGOR	2 times a year	20 JUNE 2007	
PULAU PINANG	2 times a year	4 APRIL 2007	
W.P LABUAN	4 times a year	19 JULY 2007	

## AGENDA 5

### DISCUSSION OF NEW ISSUES

BIL	Issues	Decision/ Actions
1.	<p><b>Customs Appeal Tribunal (CAT)</b></p> <p>As the Royal Malaysian Customs (RCM) and the Inland Revenue Board (IRB) are both under the Ministry of Finance, the Institute is of the view that the fundamental operational procedures of the CAT should be similar to that of the Special Commissioners of Income Tax. Such consistency would be beneficial so that the public would be able to easily understand the appeal procedures for both the Customs and Income Tax matters. Otherwise, it would be strange to the public for separate pieces of tax legislation having differing procedures.</p> <p>In view of the above, the Institute is of the opinion that a prescribed fee should not be imposed on any appeals made to the CAT. To facilitate the proceedings, the Institute would urge that the practices followed by the Tribunal should generally be consistent with that adopted by the Special Commissioners of Income Tax.</p>	<p><u>Notes:</u></p> <p>Issues 1 – 6 was explained by Y.Bhg. Dato' Zaleha binti Hamzah, KDRM Advisor as Tax Review Panel member, Ministry of Finance and in the explanation, Dato' Zaleha informed that the members observed the implementation of the "Customs Appeal Tribunal (CAT)" first and any weaknesses in the implementation will be rectified later.</p> <p>Clarification on the issues raised from no. (1) – (6) is as stated below:</p> <p><b><u>Issue by MIA</u></b></p> <p>It is in line with the practice of other Tribunals in Malaysia. The amount is minimal and is to cover administrative costs only.</p> <p><b><u>For Information</u></b></p>
2.	<p><b>Section 141Q - No advocate and solicitor at hearing (CAT)</b></p> <p>Advocate and solicitor shall not be allowed at any hearing of an appeal before the Tribunal.</p> <p>If under Section 141K the decision of the Tribunal is deemed to be an order of a Sessions Court, advocates and solicitors should be allowed to represent the appellant as it would be in the Sessions Court.</p> <p>The hearing before the Tribunal would involve consideration of points of law and any restriction on legal representation for the taxpayer reduces the credibility of the Tribunal as an appeal body. The restriction on advocates and solicitors should be removed</p>	<p><b><u>Issue by MIA &amp; MIT</u></b></p> <p>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 an 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.</p> <p>Section 141 C provides that members of the Tribunal shall be appointed by the Minister. To ensure its independence and credibility, the Chairman and Deputy Chairman will be from the Judicial and Legal Service while the other members will be persons having customs and taxation experience.</p> <p><b><u>For Information</u></b></p>

BIL	Issues	Decision/ Actions
3.	<p><b>Submission of appeal (CAT)</b></p> <p>Proof of payment of duty/tax is to be furnished.</p> <p>The requirement to show proof of payment would prevent an application for a hearing if the tax in dispute has not been paid. The collection of tax should not be a condition for a hearing by the Tribunal.</p>	<p><b><u>Issue by MIT</u></b></p> <p>This provision is in accordance with Section 103(1) of Income Tax Act 1967(ACT 53). The said Act does also provide that the tax payable under assessment shall be due and payable on the date whether or not that person appeals against the assessment.</p> <p><b><u>For Information</u></b></p>
4.	<p><b>Scope of argument (CAT)</b></p> <p>Except with the leave of the Tribunal and subject to terms as may be determined by the Tribunal, the appellant may not rely on grounds other than those stipulated in the petition of appeal.</p> <p>The restriction on the grounds of appeal is unreasonable. There is no reason to prevent the appellant from modifying changing or adopting new grounds. Suggest that the provisions under the Income Tax Act 1967 be followed where the appellant may rely on grounds of appeal other than those stated in the petition of appeal and may vary any ground of appeal.</p>	<p><b><u>Issue by MIT</u></b></p> <p>Under the Customs (Appeal Tribunal) Regulations 2007, such a provision has not been included.</p> <p><b><u>For Information</u></b></p>
5.	<p><b>Representation and attendance (CAT)</b></p> <p>Director General may be represented by an authorized officer or a legal officer.</p> <p>This provision accentuates the inequitable position of not allowing legal representation for tax payers.</p> <p>Representation by legal officer is accepted at every level of the courts, including industrial court. Even for income tax appeals to the Special Commissioner, the appellant is allowed to be represented by legal officer. Rather than amending or removing this provision, the restriction on legal representation for tax payers should be removed.</p>	<p><b><u>Issue by MIT</u></b></p> <p>Under the Customs (Appeal Tribunal) Regulations 2007, the Director General may be represented by an authorized officer appointed by him.</p> <p><b><u>For Information</u></b></p>

BIL	Issues	Decision/ Actions
6.	<p><b>Further appeal - Section 141W of the Customs Act 1967 allows for further appeal to the High Court on decisions of the Tribunal. (CAT)</b></p> <p>Suggest that the framework in the Income Tax Act be adopted where the Tribunal is required to state a case for the opinion of the High Court setting forth :</p> <p>(i) The facts as found by the Tribunal (ii) The deciding order and the grounds for their decision</p>	<p><b><u>Issue by MIT</u></b></p> <p>Unlike Income Tax where appeals are based on case stated only, under the Customs (Appeal Tribunal) Regulations 2007, any aggrieved person by the decision of the Tribunal may file their appeal to the High Court on any question of law or of mixed question of law.</p> <p><b><u>For Information</u></b></p>
7.	<p><b>Service Tax on bad debts</b></p> <p>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.</p> <p>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.</p> <p>We would like to seek further clarification whether the Service Tax is still payable if a provision for doubtful debt has been made prior 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.</p>	<p><b><u>Issue by MIA</u></b></p> <p>The issue of doubtful debts will be studied and the Internal Tax Division would inform MIA on this issue.</p> <p><b><u>Action : Internal Tax Division</u></b></p>

BIL	Issues	Decision/ Actions
8.	<p><b>Service tax on employment services excluding supply or secondment of employees to another person for a period of time</b></p> <p>The scope of taxable employment services was amended with effect from 1 January 2003 to <u>exclude</u>, among others, “secondment of employees to another person for a period of time”.</p> <p>Customs’ road-show in 2003 explained that the exclusion in the above amendment with effect 1 January 2003 would not cover “secondment of staff involving taxable service e.g. secondment of engineers”, meaning that supply or secondment of employees involving taxable services would still be taxable.</p> <p>Recommendations</p> <p>For the sake of clarity, it is recommended that Customs confirm/clarify the following regarding the above:</p> <p>Confirm that the supply or secondment of employees by entities which are NOT employment agencies would NOT be taxable before as well as after 1 January 2003.</p> <p>Confirm that the supply or secondment of employees even by employment agencies would NOT be taxable with effect from 1 January 2003.</p> <p>Clarify the meaning of the statement in Customs’ road-show in 2003 that service tax is to be imposed on “secondment of staff involving taxable service e.g. secondment of engineers”. Does it mean that service tax is to be imposed where the nature of the service provided by the service-provider is not truly supply or secondment of employees (e.g. engineers) but instead other taxable services e.g. supply of engineering service using the service-provider’s engineers?</p>	<p><b><u>Issue by MIT &amp; MICCI</u></b></p> <p>Based on the 2<sup>nd</sup> Schedule Service Tax Regulations 1975.... Any persons that is preparing employment and reaches the threshold (RM150,000.00) will be subject to Service Tax.</p> <p>Therefore any person supplying employees will be subject to Service Tax. Supply of workers based on loan basis will not be subject to Service Tax effective 1 January 2003.</p> <p>On the issue of ‘site supervision’ in the engineering services, ‘site supervision’ is not a employment services. It is when the engineering consultant sends its workers to the site to supervise engineering work that is being carried out. That service is part of engineering services and will be subject to Service tax.</p> <p>If the engineering company also supplies workers to other companies, these services is the supply of workers and are subjected to Service Tax.</p> <p><b><u>For Information</u></b></p>
9.	<p><b>Current single-stage concept of sales tax disadvantages local manufacturers of non-taxable goods for the domestic market vis-a-vis imported non-taxable goods</b></p> <p><u>Single-stage concept before 24.10.1987</u></p>	<p><b><u>Issue by MICCI</u></b></p> <p>1. The concept of single stage tax was introduced effective 24.10.1987 (Budget 1988) which cancelled the provision Sub-section 13(2), Sales Tax Act 1972. This means that</p>

BIL	Issues	Decision/ Actions
	<p>The former Section 13(2) of the Sales Tax Act 1972 allowed the sales tax licensing of persons who were NOT required to be licensed under the Sales Tax Act 1972 (e.g. manufacturers of sales tax-exempted goods (non-taxable goods)).</p> <p>The previous existence of Section 13(2) of the Sales Tax Act 1972 indicated that the original single-stage concept of Sales Tax was intended to apply only to the manufacture of taxable goods i.e. sales tax is only imposed at the 'single stage' of output by licensed manufacturers of taxable goods only. Manufacturers of non-taxable goods could still be licensed under Section 13(2) and enjoy sales tax-free facilities for input materials, in line with the single-stage concept.</p> <p><u>Single-stage concept wef 24.10.1987</u></p> <p>Section 13(2) of the Sales Tax Act 1972 was deleted with effect 24 October 1987. The purpose of the deletion of Section 13(2) was to effectively alter the single-stage concept to one where sales tax is either to be paid on output taxable goods (by licensed manufacturers of taxable goods) or input materials (by, inter alia, manufacturers of non-taxable goods for domestic market who acquire these input taxable materials).</p> <p>In view of current economic factors, non-taxable goods imported from certain regional countries have the advantage of lower cost compared to non-taxable goods manufactured in Malaysia. The deletion of Section 13(2) of the Sales Tax Act 1972 means that the Sales Tax cost on taxable materials used to manufacture non-taxable goods for the local market would translate to higher prices of domestically manufactured non-taxable goods vis-à-vis imported non-taxable goods.</p> <p><b>Recommendations</b></p> <p>To level the playing field for imported and locally manufactured non-taxable goods, it is recommended that the Government consider re-introducing Section 13(2) to allow local</p>	<p>there is no provision to license manufacturers who are manufacturing goods exempted from tax and manufacturers will have to pay taxes on the purchase of raw materials.</p> <p>2. The proposal had been submitted to MoF in 1998 to exclude all goods from Schedule C, Sales Tax (Exemption) Order 1980 where all manufactured goods can be granted exemption on raw materials. However the proposal has been rejected.</p> <p>3. A few alternative proposals were submitted in 2004. MoF still upholds the decision which was made that any company can apply for exemption as suggested on a case per case basis with MoF.</p> <p><b><u>For information</u></b></p>

BIL	Issues	Decision/ Actions
	<p>manufacturers of non-taxable goods for domestic market to be allowed to be licensed for Sales Tax purposes and enjoy sales tax-free manufacturers. This would help improve the competitiveness of domestic manufacturers of non-taxable goods against imported non-taxable goods.</p>	
10.	<p><b>Current Excise Duty rate on cigarettes (HS Code 2402.20.900) is RM120 per 1000 sticks + 20%.</b></p> <p><b>Recommendations</b></p> <p>MICCI proposed that the current 20% ad-valorem rate on cigarettes' Excise Duty be replaced with an equivalent specific rate. This 20% is currently imposed on the ex-factory price of the cigarettes if the cigarettes are manufactured in Malaysia. On the other hand, if the cigarettes are imported, then the 20% will be imposed on the total of the CIF value of the cigarettes and the Import Duty on the imported cigarettes.</p> <p>With Excise Duty having an ad-valorem rate of 20%, the calculation of Excise Duty becomes more time-consuming and prone to error. This is because every brand and pack size of cigarette has either differing ex-factory prices or CIF values.</p> <p>The 20% ad-valorem rate may lead to issues of valuation between Customs and cigarette manufacturers and importers.</p> <p>We therefore recommend to the Customs that this 20% ad-valorem rate be replaced with an equivalent specific rate.</p>	<p><b><u>Issue by MICCI</u></b></p> <p>Specific rates are needed to standardize minimum price while ad-valorem rates is to differentiate taxes on cigarettes (high value cigarettes) and those of lower price.</p> <p>Therefore the current tax rate will remain.</p> <p><b><u>For Information</u></b></p>
11.	<p><b>Excise Duty is not refunded for returned damaged goods.</b></p> <p><b>Recommendations</b></p> <p>Customs should consider allowing Excise Duty refund on returned damaged goods. <b>This will be in-line with the Government's current practice of allowing sales tax refund on returned damaged goods.</b></p>	<p><b><u>Issue by MICCI</u></b></p> <p>Under Excise laws there are no provision to allow for refund on Excise Duties paid for goods moved from the licensed premises. Cigarettes and beer are critical items and for the time being KDRM cannot consider refunds on damaged goods due to expiry date.</p> <p>Even Section 31B, Sales Tax Act 1972 and</p>



BIL	Issues	Decision/ Actions
	<p>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.</p> <p>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.</p>	<p>Regulations 19C, Sales Tax Regulations allow for refunds of sales tax damaged goods returned, however it is for genuine damaged goods or goods that had been allowed for by MoF.</p> <p>KDRM will study the issue which was raised.</p> <p><b><u>Action: Internal Tax Division</u></b></p>
12.	<p><b>Payment of Excise Duties electronically for beer and stout products.</b></p> <p>Currently Customs duties are paid twice daily via manual checks. This is very time consuming, cumbersome and a heavy burden on resources.</p> <p>Recommendations</p> <p>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 trail to guarantee compliance.</p>	<p><b><u>Issue by MICCI</u></b></p> <p>KDRM is in the process of discussing with vendors to implement online payment of duty (e-Payment). KDRM is working to enable payment of duty electronically is carried out in stages before end of 2007.</p> <p><b><u>For Information</u></b></p>
13.	<p>Under Section 93 of Customs Act 1967, only nine-tenths of Import Duty paid can be drawn back for goods which have been imported and subsequently re-exported.</p> <p>Recommendations</p> <p>MICCI proposed 100% Import Duty drawback for goods imported and subsequently re-exported. By allowing 100% duty drawback and easing cash flow for businesses through timely repayment of drawback, this will encourage the development of regional businesses as well as increase Foreign Direct Investments (FDI).</p> <p>The Government should also consider a system to allow timely payment of duty drawback. For example, Import Duty that is paid for goods imported and subsequently re-exported, should be put into an escrow</p>	<p><b><u>Issue by MICCI</u></b></p> <p>This proposal was studied and accepted by the Tax Review Panel, MoF.</p> <p><b><u>For information</u></b></p>

BIL	Issues	Decision/ Actions
	account. Once the goods have been exported, refunds can be made within a reasonable timeframe.	
14.	<p><b><u>Customs Ruling</u></b></p> <p>With effect from April 1, 2007, a new regulation, Customs (Customs Rulings) Regulations 2007 has been enacted whereby a new system for application of Customs Rulings has been introduced.</p> <p><b>Fees for Customs Rulings</b></p> <p>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</p> <p><b>Issuance of Customs Ruling</b></p> <p>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.</p> <p><b>Recommendations</b></p> <p>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.</p> <p>FMM, however would like to raise the following concerns on the implementation of the new system:</p> <p>Section 79 of the Customs Act 1967 indicates that Customs Declaration forms submitted by the trading community to provide the full and</p>	<p><b><u>Issue by FMM &amp; AFAM</u></b></p> <p>Customs Ruling is a facilitation which is granted to importers to obtain rulings before the goods are imported. The power to classify goods still is in the hand of Import Officer under Section 13, Customs Ruling, Customs Act 1967. The fee of RM200 is imposed to ensure only genuine importers use this facility.</p> <p>Since implementation on 1.4.2007, on the average Customs Rulings are issued within 14 days from the date of receipt of application and the longest within 54 days.</p> <p>A database system will be introduced for the information of Customs clients and would be included in the Department's website.</p> <p>A circular will be issued to all states on the role and work procedures of the State Classification Offices to provide advice on the classification of the goods and Customs ruling facility.</p> <p>A directive will also be issued to all stations that goods with direct tariff codes do not require Customs rulings.</p> <p><b><u>Action : Technical Services Division</u></b></p>

BIL	Issues	Decision/ Actions
	<p>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 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.</p> <p>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.</p> <p>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.</p>	

BIL	Issues	Decision/ Actions
15.	<p><b><u>Sales Tax on Non-Wooden Pallets</u></b></p> <p>With effect from November 23, 2006, the Sales Tax of 10% on wooden pallets were removed. However other non-wooden pallets i.e. plastic, steel and paper pallets are still subject to Sales Tax. As there is no clear classification ruling on non-wooden pallets under the Harmonised System of Customs Codes (HS) the different type of pallets are placed under different HS codes that incur Sales Tax.</p> <p><b>Recommendations</b></p> <p>FMM request for the abolishment of Sales Tax on non-wooden pallets based on the following: Pallets be it wooden or non-wooden pallets (plastic, steel, paper etc. pallets) have the same function that is platforms to transport goods and used repeatedly in the process of packaging and shipping. The Sales Tax of 10% on wooden pallets have been abolished since November 23, 2006. FMM is requesting that the same should be applied on non-wooden pallets as the pallets perform the same function.</p> <p>Pallets are capital equipment used repeatedly in the process of packaging and shipping and therefore would pose as a problem to Customs in monitoring and collection of the Sales Tax. Currently only 2% of pallets utilised by industries are non-wooden pallets and therefore the removal of the tax would not have a great impact on the Government revenue.</p> <p>The introduction of the International Standard for Phytosanitary Measures (ISPM) No. 15 in 2004 makes it compulsory for manufacturers to utilize fumigated pallets to transport their products. Due to the sensitivity of certain products when in contact with fumigation gases i.e. food, furniture, textile and agricultural produce, these goods cannot use fumigated wooden pallets to transport their products. The imposition of Sales Tax on these pallets would further increase their operations costs.</p> <p>Due to the high costs of fumigating wooden pallets under the ISPM No. 15, more shippers' are opting to transport their products on non-wooden pallets in order to remain competitive. However these cost savings are negated by the imposition of Sales Tax on the non-wooden pallets.</p>	<p><b><u>Issue by FMM</u></b></p> <p>FMM is encouraged to raise this issue on the elimination of sales tax on 'non-wooden pallets' directly with the Ministry of Finance that has this authority.</p> <p>KDRM supports this issue and will extend the issue to the MoF.</p> <p><b><u>For Information</u></b></p>

BIL	Issues	Decision/ Actions
16.	<p><b>Customs Golden Client (CGC)</b></p> <p>The CGC permits imports and exports and movement of goods via automatic green lane clearance facilities.</p> <p>The eligibility criteria are as follows:</p> <p><b>International Procurement Centers – IPC</b> (Pusat Perolehan Antarabangsa), <b>Regional Distribution Centers – RDC</b> (Pusat Pengedaran Serantau) or <b>Operational Headquarters</b> (Ibu Pejabat Operasi) with an annual turnover of more than RM50 million.</p> <p><b>Licensed Manufacturing Warehouse</b> with an annual turnover of more than RM25 million</p> <p><b>Corporation that carries out import /export activities</b> and having an annual turnover of more than RM50 million.</p> <p><b>Recommendations</b></p> <p>Currently only a small number of companies (to date 13 companies have the CGC status), mainly large foreign companies, are able to meet such stringent conditions of CGC. In addition, companies taking up CGC would also need put up some initial investment (between RM50,000 – RM100,000) for consultant's fees to set-up the system.</p> <p>In order to have an efficient delivery system and in establishing Malaysia as a global trading nation, FMM is of the view that the Customs Department should revise the annual turnover conditions to enable more local manufacturers, including Small and Medium Industries (SMIs) to benefit from such facilities. To ensure the credibility of these companies, Customs should consider the SMI company profile and its track record when granting the CGC. Among conditions that could be considered are as follows:</p> <p>Any company with more than RM15 million sales turnover.</p> <p>Legitimate companies with good track record (based on Customs audit trail) of up to 5 years.</p> <p>To assist the SMIs to establish this system, the start-up costs should also be minimised.</p> <p>Other countries have implemented similar schemes for their trading community including</p>	<p><u><b>Issue by FMM</b></u></p> <p>KDRM is reviewing the eligibility criteria for a fairer criteria for all types of businesses.</p> <p>KDRM is presently proposing to give the CGC status to all types of businesses including forwarding agents based on their level of compliance toward Customs laws and would carry out a study for each sector.</p> <p><u><b>For Information</b></u></p>

BIL	Issues	Decision/ Actions
	<p>for their SMIs. European Union for instance have introduced its Authorised Economic Operators (AEO) scheme. Eligibility conditions of EU AEO include</p> <p>An appropriate record of compliance with customs requirements. A satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls. Where appropriate, proven financial solvency and where applicable, appropriate security and safety standards.</p>	
17.	<p><b>Addition to Format Appendix B4 PTK 45 (Application for Appointment of Agent)</b></p> <p>FMFF is of the opinion that the agent should not be fully responsible towards the accuracy of the information provided by the importer / exporter on the existence of the company, address and premise declared in the business of import and export clearance.</p>	<p><b>Issue by FMFF</b></p> <p>KDRM will revise the directive.</p> <p><b><u>Action : Customs &amp; Technical Services Divisions</u></b></p>
18.	<p><b>Explanation on Clearance of Imports / Goods through Air Courier as indicated in Butiran 172 Customs Duties Order 1988 (Exemption)</b></p> <p>General cargo agent request to be granted similar advantages of the Express Handling Unit (EHU) facility as experienced by courier services. Courier companies no longer only handle courier services per se in fact also handle general cargo as most courier companies have merged with general cargo companies to compete and provide services to their respective clients.</p> <p>FMFF proposes that the EHU facility is opened to all forwarding agents and not limited to courier companies only.</p>	<p><b><u>Issue by FMFF</u></b></p> <p>KDRM will study this issue.</p> <p><b><u>Action : Customs Division</u></b></p>
19.	<p><b>Import door to door services</b></p> <p>Current process:-</p> <p>Forwarding agent obtain importation clearance without the requirement for approval for appointment of agent with the condition invoice</p>	<p><b><u>Issue by FMFF</u></b></p> <p>This directive was issued before SMK was implemented in Penang. Now, after the implementation of SMK in Penang, this problem will no longer exist. Customs Division will take the necessary action to standardize</p>

BIL	Issues	Decision/ Actions
	<p>or the house airway bill has the words “DTD” or “DDU” or “DDP” or “FHD”</p> <p>The latest directive from the Deputy Director of Penang State Customs Department that forwarding agents are required to produce application letter which is attached with letter, e-mail or faxes from the overseas seller. The approval is valid for 3 months only.</p> <p>FMFF proposes that the original facility with the requirement for invoice or house airway bill indicating the words “DTD” or “DDU” or “DDP” or “FHD”.</p> <p>Incoterm which is used by the buyers and sellers is a type of payment made and cannot be manipulated.</p> <p>For information on importation the incoterm “FOB” &amp; “CIF” still exist with application for appointment of Forwarding Agent.</p> <p>This facility and approval must be given based on air and sea mode.</p>	<p>the implementation.</p> <p><b><u>For Information</u></b></p>
20.	<p><b>Export Routing Order</b></p> <p>Current process</p> <p>Forwarding agents are required to produce application letter together with the letter, e-mail, faxes from the overseas buyer. The approval is granted for a period of 6 months.</p> <p>FMFF proposes that the application and the approval are given only once because the forwarding agent is required to go through the process every time it is renewed.</p> <p>The facility and approval must be given for air and sea mode.</p>	<p><b><u>Issue by FMFF</u></b></p> <p>This directive was issued before SMK was implemented in Penang. Now, after the implementation of SMK in Penang, this problem will no longer exist. Customs Division will take the necessary action to standardize the implementation.</p> <p><b><u>For Information</u></b></p>
21.	<p><b>Transportation Company dealing with KDRM</b></p> <p>Transportation companies appointed by forwarding agents to clear Customs declaration forms and transportation of import and export goods is not permitted to deal with Customs.</p>	<p><b><u>Issue by FMFF</u></b></p> <p>KDRM does not agree with this proposal because it is not in accordance with Section 90 of the Customs Act 1967.</p> <p><b><u>For Information</u></b></p>

BIL	Issues	Decision/ Actions
	FMFF proposes that forwarding agents be allowed to provide a list of staff, identity card and signatures of the transportation company which would be dealing with Customs for clearance purposes.	
22.	<p><b>Activities in Free Commercial Zone.</b></p> <p>Off late Preventive Division of Royal Malaysian Customs had been very active in detaining cargoes meant for export which are not for local market. These items are basically value added in terms of repacking, relabelling, trading etc. These activities are approved by the zone authorities. However we had cases whereby Preventive Division together with Ministry of Domestic Trade &amp; Consumers personnel detaining these reexport consignments in the zone thus giving rise to uncertainty in regards to the so called "free" activities in FCZ. Due to these actions Port Klang in particular is losing a lot of reexport and transshipment cargoes to our neighbouring countries like Singapore, Thailand, Dubai, Brunei and also Vietnam. Royal Malaysian Customs need to be transparent in their modus operandi as far as the free zone activities are concerned so that the forwarders could advise the international clients of the do's and don'ts in the free zone. Of course we are also against any unscrupulous practices that affects the country what more if it is under the prohibition orders.</p>	<p><b><u>Issue by FMFF</u></b></p> <p>Action taken by KDRM under Akta Hakcipta 1987, Akta Perihal Dagangan 1972, Akta Capdagangan 1976 or other laws is when there are goods produced from illegal activities in the Free Zone i.e. piracy, forgery, deceptive labels, etc. which is then exported overseas because it can tarnish the country's image. To date only one related case has been reported.</p> <p><b><u>For Information</u></b></p>
23.	<p><b>Customs Agents Course by UUM</b></p> <p>a. 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.</p> <p>b. 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</p>	<p><b><u>Issue by FMFF &amp; AFAM</u></b></p> <p>KDRM has signed the Memorandum of Understanding (MOU) with UUM in June 2006. Therefore KDRM proposes that FMFF/ AFAM/ PPLBS discuss with UUM. AKMAL is willing to coordinate the discussion on this issue.</p> <p><b><u>Action: FMFF/ AFAM/ PPLBS/ AKMAL</u></b></p>



BIL	Issues	Decision/ Actions
	<p>Director General of Customs (Management) on 6<sup>th</sup> 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 he has not replied.</p> <p><b>Recommendations</b></p> <p>RMC to immediately terminate UUM as we were not briefed and the course of RM1980 is exorbitant.</p>	
24.	<p><b>‘Freight Forwarder’ not regulated by KDRM</b></p> <p>Shipping and forwarding agents in Malaysia are controlled under section 90(6) of the Customs Act 1967. But in Selangor the ‘freight forwarder’ is not controlled by KDRM and they are permitted to register goods with KDRM through the PKCS/SMK system. KDRM will take action on the shipping and forwarding agents if there are mistakes. The question is if the freight forwarder is at fault, how would KDRM identify and take action on them. This industry requires a policy which can be implemented nationwide.</p>	<p><b><u>Issue by FOMSA</u></b></p> <p>Bahagian Kastam &amp; Bahagian Perancangan Korporat will study the issue.</p> <p><b><u>Action: Customs &amp; Corporate Divisions</u></b></p>
25.	<p><b>Agent Security Access System</b></p> <p>According to Customs new policy, only a Manager and a staff dealing with KDRM is required to attend courses and pass the Customs Agents Course. However, when attending the course, the lecturers have informed that the Agent Security Access System (ASAS) is only issued to staff that have attended the Customs courses. This policy contradicts with Customs new policy. We hope that this issue is explained so that there are no confusions for agents in Malaysia.</p>	<p><b><u>Issue by FOMSA</u></b></p> <p>Every forwarding agent approved by KDRM can apply for ASAS for staffs which have been accredited to deal with Customs without having to sit for the Customs Agents course and the examinations.</p> <p><b><u>For Information</u></b></p>

## ADJOURNMENT OF MEETING

Adjournment : The meeting was adjourned at 1.25pm  
Next Meeting : Will be hosted by FMM. Date and Time to be confirmed

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(Iskandar Bin Jaafar)  
Secretary Customs-Private  
Sector Consultative Panel  
1/2007  
Date: 14 August 2007

.....  
( DATO' HJ. IBRAHIM BIN HJ. JAAPAR )  
representing Chairman  
Customs- Private Sector Consultative  
1/2007  
Date: 14 August 2007.