

TRANSLATION

GENERAL INFORMATION

1.	Ministry	:	Finance
2.	Department	:	Royal Malaysian Customs
3.	Meeting Title	:	Customs-Private Sector Consultative Panel Meeting No. 1/2006.
4.	Date	:	6 February 2006
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.1/2005
Agenda 4		Discussion of Matters Arising
Agenda 5		Discussion of New Issues
Agenda 6		Other Matters

AGENDA 1

CHAIRMAN'S SPEECH

The Customs – Private Sector Consultative Panel no. 1/2006 was chaired by YBhg Dato' Haji Abd. Rahman bin Abd. Hamid, Director General of Customs, Malaysia. The Chairman informed that he had just chaired his weekly Monday meeting this morning with his Deputies to address issues relating to the operations of the Department.

Dato' Chairman congratulated YM Raja Abd Aziz Raja Musa from FMM on his appointment as the Private Sector Co-Chairman of the Consultative Panel.

As the new Chairman of the Consultative Panel, YBhg Dato' took the opportunity to welcome all present at the meeting. He expressed his sincere hopes and expectation that the panel members will play their role based on existing resources to benefit both the Department as the revenue collection agency, as well as for the development of the Nation. YBhg Dato' promised that he would continue to maintain an open door policy to all Panel Members to consider any proposals to meet the aboved objectives.

The Customs Department (RMC) is the first Government agency to believe in bilateral partnership between the Government and Private sector because it believes in the benefit derived for both parties from this joint co-operation. This is an old initiative that RMC underwent for the past 15 years, however the development of the smart partnership between Customs and private sector is seen to be undergoing various phases of development in the past few years.

For instance, the first phase in the 80s to 90s, the early stages of Customs and private sector relations, was not that positive whereby if Customs officers drank tea with an agent, it is always presumed negatively. However due to the open policy concept administered by the Department and the Government which began to realize that the nation needs to be moved not only by the public sector but also the private sector and both parties should work together to develop the nation. This situation gave rise to further improvement to the partnership which is more harmonized and more beneficial to the Department.

Relationship in the second phase was carried out through a more structured platform, for instance formal meetings such as this are convened many times a year not only at the national level but also at the state levels. The negative relationship between the Customs and private sector was replaced with a more trusting relationship as the result of this meeting. We see more participation of the private sector in events organized by Customs.

We now enjoy a more harmonized and stronger synergy between Customs and the Private Sector in the third phase. Private sector's views are more accepted by the public sector and there is joint realization from both parties that joint efforts can address any problems. For instance when imported goods are dumped into the country and the price is doubtful, the private sector approached the Customs Department to discuss the problems and to provide inputs to enable Customs to act efficiently and fast. Through the assistance from the private sector, Customs has managed to control fraud and smuggling activities.

Dato' Chairman is grateful for the letters praising the Customs Department and himself sent by the private sector to the Government, stakeholders and the Prime Minister. Aside from collecting revenue, Customs is also entrusted with the task of developing policies for industrial development. There are many areas which can be further developed by both parties to form a win-win situation. Other meetings addressing specific issues should also be held to discuss current and localized issues.

In these days, globalization not only open's up new markets but also exposes industries to far more challenging competition. For instance, China with more than 1 billion people has become one of the more attractive investment destination due to its low cost of doing business. Malaysian companies producing the same products as China have difficulty competing as products from China are cheaper. Local companies are also faced with dumping of imported counterfeit goods such as cigarettes which are under declared. At this point the partnership between Customs and the private sector is crucial to ensure that the adequate information on the description of the product is provided to Customs to help identify the counterfeit product from the original and the high quality product from the low quality product.

Dato' Chairman informed that he not only faces challenges to continue the development agenda carried out by the former Director General of Customs, Yang Berbahagia Tan Sri Abdul Halil bin Abd. Mutalib, who carried out his responsibility well but the Chairman also has to face everyday new challenges that comes his way. Therefore based on this commitment, the Chairman introduced the Department's 5 year development policy from 2006-2010 which is based on the development of ICTR. Customs would focus on the 4 development agendas of the ICTR. Private sectors' support and cooperation is crucial to ensure the success of ICTR. The development of ICTR is based on integrity, core business, technology and relationship with the 'rakyat'.

Integrity has been given priority by the Department as it is a revenue collection agency. Statistics indicate that Customs officers are among the least affected in ACA (corruption) cases. To the chairman, integrity is not only the abuse of power but also that personality has to be clean from cases of bribery, seen to be clean and smell clean. Integrity is a lifelong trait and once it is lost it is difficult to reclaim it.

The second is *Core business*. The panel members were requested to convey this message to their association members. This year Customs achieved RM 25.1995 billion (Government Forecast RM 24.5billion) in revenue collection. In 2004, Customs collected RM 21.7 billion, an increase of 16.2%. One of the highest increase in history. But the question is, "Is 25.2 billion the correct figure?" – the taxes suppose to have been collected by Customs and taxes supposed to have been paid by the tax payers. The important role of Customs is to collect the correct taxes (*zero defect*). When we were collecting the revenue of RM 25.2 billion, the declared prices were as follows: television declared at RM 74 but the actual price RM 18,000, *pocket motorcycle* declared at 70 sen as a *toy* but sold at RM 2,000-3,000, *BMW 5 Series* declared in K8 with the price of RM 74.54. Based on the above prices, is the amount RM 25.2 billion collected accurate? Does it show that Customs had carried out its task efficiently. Customs does not collect the revenue for the Government but *for yourself, our people and everybody in this country*. The challenge is to collect the accurate amount of tax. All efforts will be taken to ensure that Customs' core business are achieved including ensuring the right classification and valuation as well as the control of zone His officers have been given portfolios to ensure that the Customs core business is carried out effectively. For your information. There are 420 smuggling cases through Port Klang alone amounting to RM 31 million. Assist Customs to carry out its core business by ensuring your members declare rational prices. Customs will not accept irrational prices declared.

The third is technology. We will further develop technology as technology can assist to expedite our work and improve our performance. The possible measures that may be initiated is to introduce pay tax first and verify later. Pilot test have been conducted in Johor and it has proven to be positive. Our verification team have been equipped with new vehicles. Customs is also allowed to send officers overseas to study prices in countries like Germany. We also work closely with other WCO member countries to obtain more accurate valuation prices.

The fourth – relations with 'rakyat' has 2 explanations. First only Malaysian citizens are appointed as Customs to ensure that their work is dedicated to the country. Secondly Customs would not be able to meet its objectives without the assistance of the 'rakyat'. To foster closer working relations with the 'rakyat' Customs will step up programmes with the 'rakyat'. Heavy vehicles have been donated to vocational schools while rice have been donated to the poor. Customs also wants to foster closer relations with the private sector. AKMAL has recently established a new wing to train the private sector. The private sector wing is expected to be operational by April 2006. Customs has also provided training to the private sector on GST. Dato' Chairman informed that all that have been said is from the heart and there is nothing to hide. This will be the guiding principle in Customs relationship with the private sector during his tenure.

AGENDA 2

Co-Chairman's Speech

Y.M. Raja Abd. Aziz bin Raja Musa introduce himself to the members of the Consultative Panel. YM Raja Abd Aziz is the Vice President of FMM and the FMM Customs Committee Chairman.

YM fully supported YBhg. Dato' Haji Abd. Rahman bin Abd. Hamid, Director General of Customs sentiments on *smartpartnership*. At the end of year 2004, Customs and FMM launched a *smartpartnership* programme. Numerous programmes were organized together for Customs officers in various stations. The programmes have assisted Customs to be exposed to the latest information on the illegal importation of the products. There is a need for *urgent control of under-declared products* as mentioned by the Director General. The *deposition of under-declared products* in Malaysia is widespread and thus have a negative impact on the domestic industry. The cooperation from Customs has been very encouraging. The Government has always seen the private sector as the pillar of the economy and therefore this cooperation should be established between all Government agencies especially between Customs and the industries.

With globalization, the private sector aims to achieve fair competition but with smuggling and under declaration, it would curb our efforts. YM also took the opportunity to congratulate Customs and the Chairman on the ICTR stand taken by Customs. With the right attitude from both parties the nation will achieve the highest level of development.

AGENDA 3

CONFIRMATION OF MINUTES OF MEETING NO. 1/2005

1. Amendment to the Minutes of Meeting No. 1/2005

A. AMENDMENT TO ACTION IN AGENDA 5 (DISCUSSION ON NEW ISSUES)

i. No. 12, Page 21 – Procedure on Inspection of Empty Containers

The word '**For Information**' under the Section "Action" is changed to 'Customs Division, Customs HQ and Customs Selangor'

2. Confirmation of Minutes No.1/2005

The minutes of the Customs – Private Sector Consultative Panel 1/2005 were confirmed by the members of the Customs – Private Sector Consultative Panel 1/2006.

AGENDA 4

DISCUSSION OF MATTERS ARISING

NO.	ISSUES	DECISION	ACTION
1.	<p>Section 22 of the Sales Tax Act 1972</p> <p>Pursuant to Section 22 of the Sales Tax Act, 1972, the sales tax chargeable under Section 6(a) shall be due at the time the taxable goods are sold, disposed of otherwise than by sale or first used otherwise than as material in the manufacture of taxable goods, by the taxable person.</p> <p>As a result, some sales tax offices interpret Section 22 to levy sales tax on intermediate taxable components and parts even though the final product is not taxable. Although the intermediate taxable components and parts are not sold or disposed of but used to manufacture the non-taxable final product, tax is imposed on the contention that they are "first used otherwise than as material in the manufacture of taxable goods." For example, the final products which are not subject to sales tax but whose components and parts are subject to sales tax are motor cycles, Digital Loop Carrier and Synchronous Digital Hierarchy.</p> <p>In view of the above, the Institute would like to seek clarification from the RCM as to whether the intermediate taxable components and parts which are used to manufacture non-taxable final products, are subject to sales tax.</p>	<p><u>Issue by MIA</u></p> <p>The Ministry of Finance has consented to remit the taxes for companies producing intermediate taxable goods that are used to manufacture non-taxable final products provided the intermediate products are produced by the manufacturers themselves (integrated process) and not purchased locally or imported. Therefore Treasury will still maintain the existing policy to levy sales tax on the intermediate products as provided for in the Act. Companies are requested to write to Treasury to appeal under Section 33 Sales Tax Act 1972 for remittance of the sales tax paid on the intermediate products. Approval would be granted by the Minister of Finance based on the merit of the case. Companies may also request for sales tax exemption on a yearly basis under Section 10, Sales tax Act 1972. The Secretariat and the Indirect Tax Division are to prepare a paper on the issue to be submitted to Treasury.</p>	Secretariat and Indirect Tax Division
2.	<p>Manufacture and Other Operations in Relations to Goods in Licensed Warehouse</p> <p>Under section 65A of the Customs Act, the current practice requires for submission of a requisition for permission to remove dutiable goods from a licensed manufacturing warehouse.</p>	<p><u>Issue by MICCI</u></p> <p>Panasonic HA Air Conditioning (M) Sdn. Bhd, Shah Alam, Selangor can apply to the Customs Division Head Office to obtain approval.</p>	For Notation

NO.	ISSUES	DECISION	ACTION
	<p>Recommendations</p> <p>It is proposed that instead of manual application to Customs for approval, the warehouse could be allowed to submit the application electronically i.e. via e-mail to the officer. This will expedite the process.</p>		
3.	<p>Exemption of Duty</p> <p>Under Section 65 and 65A of the Customs Act, there are various forms (Lampiran X, Lampiran Y, LMW licence and general bond) for application of exemption for all raw materials/components and machinery where the approval will be on a yearly basis.</p> <p>Recommendations</p> <p>It is suggested that Customs issue a standard format to LMW companies for the exemption where there is one common computerised system for all ports and that the approval be given on a two-year basis for all</p>	<p><u>Issue by MICCI</u></p> <p>A private company has developed the computerized system which is being implemented in Selangor as a pilot project. This system would require manufacturers to pay to utilize the system.</p> <p>The private company has been requested to present their system to the private sector for their feedback.</p> <p>In order to monitor that the rules stipulated in the approval letter are adhered to, approval for exemption for raw materials / components and machinery will still be on a yearly basis. However companies may appeal and be considered by Customs on a case by case basis.</p>	For Notation
4.	<p>Monthly Customs Report</p> <p>Records are required to be kept by the licensee of any warehouse of all goods received into and delivered from his warehouse.</p> <p>Recommendations</p> <p>It is proposed that Customs allow the company to forward to Customs the month end summary/ figures only. The full information will be kept by the company or alternatively, the details could be provided in electronic format to Customs, upon request.</p>	<p><u>Issue by MICCI</u></p> <p>The proposal was not considered. However the Department would permit for the records to be submitted in CD format.</p>	For Notation

5.	<p>Master Exemption List</p> <p>Upstream Oil and Gas Companies operating in Malaysia under PSC terms with PETRONAS undertakes exploration, development and production activities.</p> <p>In every activity (exploration, development or production), materials and equipments generic to the upstream oil and gas activities will be used and has to be imported into the country. Some of these materials and equipments used are proprietary and process warranty requires the generic item to be used.</p> <p>The operators are able to obtain duties exemption as accorded under Section 107 of the Import Duties Exemption Order 1988 and Section 90 of the Sales Tax Exemption Order 1980 for items that are contained in the Master Exemption List (MEL). MEL provides not only easy import and export process for the Oil and Gas Upstream operations where speed of the process is critical in the operation, but as well it provides an incentive to investors to at least reduce their financial exposure, as the cost of drilling one well is very high.</p> <p>However as MEL was developed 25 years ago and with the passage of time, the tariff codes and descriptions used for items (during importation or exportation) differ from that of the MEL although the items are the same. The descriptions now no longer fit with new terminology introduced over the years. Frequently the operators' submission to Customs stations at the gazetted supply bases and other import stations are challenged as due the differences in tariff code and description.</p> <p>Recommendations</p> <p>To take into account new product development and new terminology, there is a need to review MEL with respect to the list of items covered to include new products required for the industry exploration, development and production activities as well as their tariff codes. Concurrently,</p>	<p><u>Issued by MICCI</u></p> <p>The issue was referred to the Chairman of the Petroleum Committee, Tax Analysis Division, Ministry of Finance in its 12th meeting dated 28 December 2005. The Chairman advised MICCI to write in directly to the Tax Analysis Division on the proposal to update the Master Exemption List (MEL). The Secretariat has informed MICCI on this matter in its letter dated 25 January 2006.</p>	<p>For Notation</p>
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	descriptions of existing items should also be updated.		
6.	<p>Procedure on Inspection of Empty Containers</p> <p>The current practice of inspection of empty containers is for Customs to inspect 5 or 10% of declared empty units. The process is delaying delivery of containers to shippers as time is taken to declare and for physical inspection by Customs especially when shipping lines are faced with a shortage of equipment; empty repo has to be arranged from other ports and when the expected time of arrival of the nominated vessel is 24 to 48 hours away. The shipper has to pack the container and arrange with the haulier to transport the container back to the terminal 12 hours prior to the vessel arrival to ensure connection. This can be difficult when the bookings comprise several containers under one bill of lading.</p> <p>Recommendations</p> <p>It is suggested that the current practice be replaced with random inspection by Customs especially if information is received from their intelligence unit of any wrongdoing. The inspection could be carried out at the terminal gate at the time of delivery to the named shipper.</p>	<p><u>Issue by MICCI</u></p> <p>A directive KE.BB(80)657/01 dated 26 May 2005 was issued by Selangor State Customs Director to inform that the empty containers would be inspected based on 'tail board inspection' when the container exits the port's Free Zone. The container doors may also remain open when leaving the port's Free Zone.</p>	For Notation
7.	<p>Service Tax Exemption On Intra-Group Services</p> <p>Under the Service Tax (Amendment)(NO. 2) Regulations 2002, certain taxable services rendered by a company to another within the same group of companies shall not be regarded as taxable services and therefore exempted from service tax. However, where the company provides any the said services to another person outside the group of companies, service tax exemption would not apply to the same services rendered within the group.</p> <p>MIT are of the view that this is a major limitation on the much appreciated service tax exemption on intra-group services, as in</p>	<p><u>Issue by MIT</u></p> <p>Base on discussions with Treasury, the decision remains unchanged. If the same services are provided to companies outside the group, the services would be subjected to Service Tax including services rendered within the same group.</p> <p>MIT has been issued with a letter KE.HF(11)379/02/(19) dated 23 January 2006 explaining the action made by Indirect Tax Division Head Office.</p>	For Notation

	<p>practice, it is not uncommon for the centralised services within a group to be extended to third parties, especially associated companies. In most instances, the portion of services provided to these parties is insignificant as compared to that provided to the other companies within the group. It would be inequitable to deny service tax exemption on the whole range of intra-group services due to the insignificant portion of the same rendered to a party outside the group. This issue was brought up during the 1/2003 dialogue and it was agreed that a meeting between MIT and the RCM would be held in order to clarify the issue.</p> <p>MIT would therefore strongly urge the RCM to reconsider the restriction imposed and we would be more than happy to clarify the issue with the RCM</p>		
8.	<p>Requirement for Forwarding Agents to Declare and Clear Cargo</p> <p>With SMK Dagang Net system, many companies have become direct users of the e-declare system whereby companies declare import / export consignments directly with Customs and request agents to clear their cargo on their behalf. In Johor, direct users are required to declare and clear their consignments themselves. Clearance of cargo by 3rd party is not permitted. The Johor Association of Forwarding Agents has requested Customs Department to prevent direct users from using agents to clear their cargo as the agents do not want to be held liable for wrong declaration of cargo by the direct user.</p> <p>Recommendations</p> <p>It is noted that Customs Departments in Penang and Port Klang permit forwarding agents to carry out cargo clearance on direct users' behalf. FMM request that the current procedure in Johor be streamlined to that of Penang and Port Klang.</p>	<p><u>Issued by FMM</u></p> <p>Customs Division Head Office has issued a letter KE.HE (-)379/12 Klt.5 (14) dated 11 August 2005 to all states / stations to permit forwarding agents to clear the cargo on behalf of the 'Direct Users' provided there is an authorization letter from the 'Direct users'.</p>	<p>For Notation</p>

9.	<p>CEPT</p> <p>FMFF representative highlighted when there is review of the tax /duty on CEPT goods, the importers are required to pay the tax / duty retrospectively, for example for paper.</p>	<p><u>Issue by FMFF</u></p> <p>During the period that the CEPT rates are being reviewed, importers can pay the old rates under protest. Drawback claims can be made when the new rates are gazetted.</p>	<p>For Notation</p>
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AGENDA 5

DISCUSSION OF NEW ISSUES

NO.	ISSUES	DECISION	ACTION
1.	Exemption Application by Holding Company Is there any consideration for the holding company (HQ) to apply for duty exemption on behalf of its subsidiary.? Can the holding company sells exempted imported materials to their subsidiary companies in Malaysia ?	<u>Issue by NSILC</u> MIDA grants duty / tax exemptions while the Ministry of Finance determines the conditions of the exemption which is stated in the approval letter. Companies that have been granted the approval would need to scrutinize the conditions stated by Treasury.	For Notation
2.	Restriction on Status of Company If the above can be done, is there any restriction on the status of the holding company, to apply on behalf of subsidiary company and also sells by the HQ to the subsidiary company ?	<u>Issue by NSILC</u> MIDA grants duty / tax exemptions for imported raw materials while the Ministry of Finance determines the conditions of the exemption which is stated in the approval letter. Companies that have been granted the approval would need to scrutinize the conditions stated by Treasury.	For Notation
3.	Re export of Imported Goods Is there any restriction on goods imported to subsidiary company with duty exempted and re exported again to other overseas companies with the same condition?	<u>Issue by NSILC</u> The Company should examine the conditions stipulated by the Ministry of Finance to determine if the imported goods that have been granted the exemption of duty / tax may be re-exported. If the condition for re-exportation is not stated in the approval letter, the company would have to apply for it from the Ministry of Finance.	For Notation

4.	<p>Harmonisation of Tariff Code</p> <p>The harmonization of tariff codes within ASEAN member countries will give great impact to all companies operating within Asean. This will boosts up economic and trading among member companies. Currently, there is no clear indication when this harmonization of tariff codes among ASEAN will be implemented. Is there any definite plan to finalise the harmonization of the code?</p>	<p><u>Issue by NSILC</u></p> <p>The Customs Duties (Goods of ASEAN Countries Origin) (ASEAN Harmonised Tariff Nomenclature and Common Effective Preferential Tariff) Order 2004 came into effect on 1 January 2004.</p> <p>Tariff among ASEAN member countries are harmonised at the 8 digit level. To further simplify and standardise the existing nomenclature, the AHTN version 2002/1 is being reviewed and a new version, AHTN 2007 is scheduled to be implemented by January 1, 2007.</p> <p>There are extractions from a few lines of the AHTN (2002/1) to meet the National requirements.</p> <p>Malaysia, Thailand and Philippines use the “Alternative Rule” while Myanmar and Indonesia use 10 digit to suit each country’s requirements.</p> <p>Efforts are being made to improve and simplify the existing AHTN. The ASEAN member countries have met 4 times in 2005 through the AHTN Review Committee to review the AHTN (2002/1).</p>	For Notation
5.	<p>IPC Application Renewal Procedure</p> <p>Company applying for IPC status for the first time shall forward their application to MIDA. After receive the status from MIDA, the company has to apply to Customs for actual operation of the IPC implementation. MIDA did not have any expiry period when granted for the status. As for Customs rule, is there any expiry date for companies to reapply and what are the documents required by Customs to submit for the renewal.?</p>	<p><u>Issue by NSILC</u></p> <p>(a) The period of approval will follow the period of the GPB/GBA license to ensure that companies adhere to conditions that have been determined.</p> <p>(b) Documents that need to be attached when making a new application are as</p>	For Notation

		<p>follows:</p> <ul style="list-style-type: none"> i. Application letter from the company ii. Attachments indicating quantity and list of goods iii. Work Process Flow Chart iv. One year period of validity from the date of application v. Copies of GPB/GBA license 	
6.	<p>Different Ruling Interpretation Adopted by Different Officers</p> <p>Controversy occurs when different standard is adopted by different officers from different customs office base.</p> <p>Recommendations</p> <p>Royal Malaysian Customs Headquarters should standardize the ruling and publish a booklet, database or release the ruling on the official website for everyone to access and thus reduce the conflict..</p>	<p><u>Issue by ACCCIM</u></p> <p>All classification letters issued by State Customs Departments will be disseminated to other Technical Services Division in Branches and Classification, Tariffs and Gazette Division in Head Office to standardize dismapping and to avoid overlapping.</p> <p>Rulings on classification issued by a State would have to be accepted by other states according to the suitability of the case. However if there is a dispute on the tariff code, where the Assessment Officer does not agree to the ruling issued by any State Technical Services Division / Branch, the Assessment officer would have to prepare a report on the classification ruling for Head Office's decision.</p> <p>The list of classification letters issued by Classification, Tariff and Gazette Division Head Office would be forwarded to Public Relations Unit to be inserted in the Customs website.</p>	For Notation

		A 3G system has been approved and in the event of a dispute, it would be conveyed to Head Office for immediate action.	
7.	<p><u>Goods and Services Tax</u></p> <p>GST is to be implemented with effect 1 January 2007 and registration will commence in July 2006.</p> <p>Questions</p> <ul style="list-style-type: none"> a) When will the Act/Regulation relating to GST be released? b) Will there be any seminars/ workshops organized by the Customs Dept? c) When will brochures/ catalogues on GST be made available for the public? d) Will ample time will be given for the public to prepare themselves? <p>Recommendations</p> <p>As a first step, provide Seminars/Workshops (free of charge) to Professional Bodies such as MAICSA, MIA, MIT, etc., so that their members can be better informed on the impending changes.</p>	<p><u>Issue by MICSA</u></p> <ul style="list-style-type: none"> a) The Act / Regulations would be announced after the Act is approved by the Parliament. It is expected to be discussed at Parliamentary session in April 2006. b) Seminars/workshops will be organized by Customs after the Act has been approved by Parliament and the main focus will be on the aspect of implementation. c) After the Act has been approved by the Parliament. d) The Government will ensure that all parties are prepared for the implementation of GST. <p>After the Public Consultancy meeting in July 2005, the GST Development Team provided training / presentations at seminars / workshops organised by Associations or Professional Groups free of charge. Until December 2005, 100 seminars/talks have been organized and all private sectors may contact the Team for any assistance.</p>	For Notation

8.	<p>Filling of Customs Form K1A</p> <p>Most importers, consignees and forwarding agents are not familiar with Borang Kastam 1A (Valuation Form) and are facing problems in completing it.</p> <p>Recommendations</p> <p>Customs should organize short courses for the benefit of importers on how to complete these forms.</p>	<p><u>Issue by MICSA</u></p> <p>The Secretariat will obtain the list of companies that would be requiring the course and would forward it to Technical Services Division, Head Office for further action. The Public Relation Unit would insert the guidelines of completing the Form K1A in the Customs website soonest possible. Technical Services Division, Head Office would prepare a completed K1A as a sample to be placed in the office and provide Associations with copies.</p>	<p>Teknik Services Division, Head Office and Secretariat</p>
9.	<p>Submission of Customs Form K1A</p> <p>K1A is to be submitted together with K1 if the value is more than RM10,000. Importers are facing problems in preparing and submitting K1A for each consignment as this may delay obtaining clearance for their consignments. This problem is acute among importers who import consignments frequently.</p> <p>Recommendations</p> <p>One week grace period to be given to submit these forms (K1A) so as not to delay their consignments</p>	<p><u>Issue by MISCA</u></p> <p>The K1A form provides information on the imported goods required for Customs purposes such as certain value related information not indicated in the invoice. Therefore the K1A Forms must be declared in advance or together with the K1 forms at the point of importation as the importers are aware of the value of the imported goods.</p> <p>Other than the requirement to complete the Form K1A for value of goods above RM10, 000 per consignment, the importer would be required to declare the Form K1A only once for every buyer /seller contract / agreement. The Form K1A need not be produced for other importations.</p>	<p>For Notation</p>

10.	<p>Customs Form K1 signed by Forwarding Agents</p> <p>K1 forms are declared by forwarding agents vide EDI. Some import stations request the forms to be signed by forwarding agents whilst other stations state that it is not necessary.</p> <p>Recommendations</p> <p>Standardise the procedure so that agents and importers are aware of the specific requirements.</p>	<p><u>Issue by MICSA</u></p> <p>A directive KE.HK(-)145/09(15) dated 14.7.2005 has been issued by the Department to all Stations at the State levels to inform that the Customs hardcopy / declaration form submitted via SMK electronically and registered in the system would not require the signature of the declarant (importer / exporter / agent).</p>	For Notation
11.	<p>Exemption Clauses on K1 to be signed by the Importers</p> <p>Some import stations require the exemption clauses claimed on K1 to be signed by the importers whilst some stations say it is not necessary.</p> <p>Recommendations</p> <p>Standardise the procedures at all import stations</p>	<p><u>Issue by MICSA</u></p> <p>The Department has agreed in the SMK Dagang Net Interface Project 2/2003 meeting on 29th April 2003 that all forms declared using the EDI (SMK) would not required the importers signature. However, the forms declared manually would still require the importers' signature.</p>	For Notation
12.	<p>Appeals</p> <p>The practice now is that any claim for sales tax/service tax by the Customs Dept must be paid first even if there is an appeal with the Director General or Ministry of Finance which takes some time to be resolved.</p> <p>Recommendations</p> <p>It is burdensome on licencees who have filed valid appeal but are required to pay first. All appeals to DG should be decided within 3 months and payment should only be made only after the outcome of the Appeal is known</p>	<p><u>Issue by MICSA</u></p> <p>According to the Department's latest policy decision as stated in Perintah Tetap Kewangan Bil. 3 – perenggan 7.2(i), if the debtor makes an appeal (remission) to Treasury, the Station / Division would need to continue to collect on the claim bills issued by the Department so that ABT can be reduced. When the appeal has been approved, the licensee would have to make a claim to drawback the money as approved by the related Regulations.</p> <p>A letter KE.HF(11)379/02/(20) dated 23 January 2006 which explains the action by Indirect Tax Division, Head Office has been sent to MICSA.</p>	For Notation

13.	<p>Customs Code For ICT Products</p> <p>The fast changing nature of technology coupled with the convergence of IT and communications brought a new plethora of products and services coming to the market. This poses new challenges in terms of classifying the products. Here are a list of some products that may fall into these categories.</p> <p>In the meantime, we would also like confirmation on the codes for the following items:</p> <p>Item Code</p> <p>MP3 player 8520 90 900</p> <p>Photo Printers 9009 21 000</p> <p>Power supply 8504 40 900</p> <p>Storage media – CF cards 8523 90 900</p> <p>Credit Card Machine 8471 90 000</p> <p>Internet telephony gateway 8517 50 000</p> <p>Proposal</p> <p>We propose that Customs and the ICT industry set up a special committee to study and recommend the code for new products that come into Malaysia.</p>	<p><u>Issue by PIKOM</u></p> <p>PIKOM would need to produce samples of the goods to the Senior Officer of the State Technical Division to obtain a classification ruling. If there is a dispute the case would be referred to Technical Division, head Office. KDRM encourages round table discussions between the private sector and the Senior Officers in Technical Division Head Office to obtain rulings for all goods including latest ICT products.</p>	For Notation
14	<p>Long Detention of empty containers at Port Klang</p> <p>The Association would like to discuss the issue of inspection of empty containers that were landed in Port Klang and subsequently reshipped as empty repositioning to other Malaysian or Asian ports (the empty containers have never left the terminal at all).</p>	<p><u>Issue by ISOA</u></p> <p>Empty containers that are not moved from the Ports (Free Zone) to the principal Customs Area would be subject to Customs inspection. Preventive Division, Head Office would try</p>	For Notation

	<p>The current practice is that Carriers need to declare the empty repositioning boxes and Royal Malaysian Customs will pick a few boxes out of every shipment for inspection.</p> <p>Proposal</p> <p>In order to facilitate quick processing of customs declaration, we would kindly request your good office that inspection be carried out by Royal Malaysian Customs only if there is suspected 'wrong doing' based on their intelligence report. Otherwise, such empty containers for repositioning need not be subjected to inspection.</p>	<p>to release the containers that are linked to fraud / smuggling cases soonest possible.</p>	
15.	<p>Recommendations by Confederation of Malaysian Tobacco Manufacturers</p> <p>1. Duty Free</p> <ul style="list-style-type: none"> • Review the existing holders of import permits and cancel all those doubtful holders that continue to contribute toward the growth of contraband. • Conduct audits on all imported duty free stocks and ensure their total imports can tally with their sales volumes and stock holding. • Cancel all import permits for those importing international brands produced domestically by the multinational manufacturers. • Make local forwarders be more accountable for the cargo they clear from the various ports. This way they are forced to report cash payments and those with fictitious company names and addresses on the Customs Declaration forms. <p>2. Domestic Sales</p> <ul style="list-style-type: none"> • Conduct regular raids on retail outlets selling cigarettes, which do not have security markings or banderol. • Request importers to show (a) quantities imported, proof of payment of the above taxes and how they can retail such products at lower than the tax component (i.e. prices below the import duty, excise duty and sales tax 	<p><u>Issue by MICCI</u></p> <p>Customs looks at this matter very seriously and would continue to carry out ongoing actions on the proposals highlighted.</p>	<p>For Notation</p>

	<p>component of price too.</p> <ul style="list-style-type: none"> • Ensure adequate publicity on Royal Customs Department action against errant retailers in order to send out the proper signals to would be law-breakers. • Stop cigarettes from being a duty free item in Labuan, Langkawi and Tioman except at airports and all ports of entries and at all duty free shops and emporiums 		
16.	<p>Movement of Dutiable Goods from Peninsular Malaysia to East Malaysia</p> <ul style="list-style-type: none"> • At present, local manufacturers suffer cash flow disadvantage compared to importers as importers could use Customs No. 8 to transport excisable goods from Peninsular Malaysia to bonded warehouse in East Malaysia without payment of import duty, excise duty and sales tax whilst local manufacturers have to pay excise duty before the goods are transported to East Malaysia. • As such, if excise duty unpaid cigarettes could be moved from Peninsular Malaysia to East Malaysia without payment of excise duty, this would result in better cash flow management as excise duty need not be paid first in Peninsular Malaysia and the cigarettes distributed only much later in East Malaysia. • Current Customs' practice of not allowing the movement of cigarettes from Peninsular Malaysia to East Malaysia without payment of excise duty is not in line with the spirit of simplifying the Customs procedures for movement of goods. If we set up an excise bonded warehouse in East Malaysia, then we should be allowed to move the excise duty unpaid cigarettes from an excise bonded warehouse in Peninsular Malaysia without payment of excise duty. 	<p><u>Issue by MICCI</u></p> <p>Customs does not agree to the proposal as the current situation does not permit, that is this facility cannot be granted until a more controlled situation / system is established. A detail and comprehensive study would have to be conducted before a decision can be made. If need be, a meeting with MICCI, Confederation of Malaysian Tobacco Manufacturers (CMTM), Customs Division and Indirect Tax Division would be organized.</p>	<p>MICCI, CMTM, Customs Division and Indirect Tax Division</p>

	<ul style="list-style-type: none">• Since the movement of prohibited goods can be allowed, then we are of the opinion that there is no reason why the movement of excise duty unpaid cigarettes should be disallowed. The procedures for the movement of cigarettes should be standardized with these procedures.• Companies should be committed to adopt strict documentary control and other procedural mechanisms to ensure that there would be no leakage of duties. Companies could also submit a bank guarantee amounting to 110% of the duties involved as security.• As such, the principle of movement of goods between bonded areas using Excise No. 8 should be extended to the movement of cigarettes between bonded areas.		
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AGENDA 6

OTHER MATTERS

BIL	PERKARA	KEPUTUSAN	TINDAKAN
1.	Representatives from FMM had highlighted its paper on the <i>Operational Concerns of GST</i>	Y Bhg. Dato' Zahela bt Hamzah informed that a separate meeting would be held with FMM to discuss the paper.	For Notation
2.	Representative from AFAM informed that old issues that have been noted in the minutes under For Notation have yet to be resolved. AFAM hoped that under the new leadership these issues would be addressed. The representative also highlighted 8 other issues on Customs procedure for further action.	Customs would try to address old issues soonest possible but there are areas which are beyond the control of Customs i.e. unwritten directives by certain parties. The Chairman suggested that AFAM meet with Customs to find solutions to the problems.	For Notation
3.	Representative from FMFF highlighted 2 issues on Customs procedures for further action.	Both the issues will be discussed in a meeting to be held in Selangor next week.	For Notation

AGENDA 7

CLOSING REMARKS AND ADJOURNMENT

Co – Chairman Closing Remarks

Y. M. Raja Abd. Aziz bin Raja Musa thanked Royal Malaysian Customs for organizing this meeting and for the members of the Panel for the time and effort to attend the meeting. YM Raja Abd Aziz express FMM's wishes to host the next Consultative Panel meeting at FMM Head Office in Bandar Sri Damansara, Kuala Lumpur.

Closing Remarks by Chairman

In closing, Dato' Chairman expressed his wishes that we remain strong not on numbers but based on cooperation. He hoped that in future Panel meetings, policy issues be raised instead of operational issues i.e. approval applications because this meeting is for policy matters and not implementation issues. He advised that implementation issues that can be settled at the Customs HQ or station level should be addressed immediately and not wait for 6 months for the next meeting.

Dato' Chairman urged the panel members to propose issues relating to Customs policies to ensure meetings with more quality. For instance the issue of insurance bond replacing bank guarantee requires further comprehensive study before a decision can be made. Since this is the first meeting all issues will be accepted. However for future meetings, the Deputy Director General of Customs will be vetting the issues and identify only policy issues or Panel members may present their working paper. Dato' Chairman thanked all present and took the opportunity to invite the private sector to attend the 24th World Customs Day to be held on March 13, 2006 in Putrajaya.

ADJOURNMENT OF MEETING

Adjournment : The meeting was adjourned at 1.15 p.m.

Next meeting : To be hosted by FMM.
Date and venue to be advised.

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(**ABD. GANI BIN OTHMAN**)

Secretary,
Customs-Private Sector
Consultative Panel Meeting 1/2006.

Tarikh: 31 Mac 2006

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(**DATO' HAJI ABD. RAHMAN BIN ABD. HAMID**)

Chairman,
Customs-Private Sector Consultative Panel Meeting
1/2006.

Tarikh: 31 Mac 2006