



For the attention of Chief Executives

GI / 2 /2017

February 8, 2017

**Summary and Highlights of the 287th Meeting
of the FMM Council held on January 19, 2017**

No	ISSUES AND FMM'S VIEWS & ACTION TAKEN	For enquiries
1	<p><u>Employer Mandatory Commitment (EMC)</u></p> <p>Actions taken by FMM on the EMC included the following:</p> <ul style="list-style-type: none"> i. President issued press statements followed by a letter to YAB Deputy Prime Minister calling for urgent consultation with stakeholders in view of the significant cost impact to manufacturers; ii. Joined 164 other trade associations in a letter prepared by the ACCCIM and MEF calling on the Government to reconsider its decision and to meet urgently with the business sector; iii. Attended a meeting called by YB MITI Minister on January 3, 2017 to reinforce FMM's views on the issue; iv. Contacted the Prime Minister's Department, and was informed on January 5, 2017 that the Ministry of Human Resources (MOHR) was drawing up the guidelines and that a briefing would be held on January 10, 2017 morning; <p>Highlights of the EMC briefing by YB Senator Datuk Paul Low Seng Kuan, Minister in the Prime Minister's Department were:</p> <ul style="list-style-type: none"> v. The Government was looking at reforms to FW policy in stages: <ul style="list-style-type: none"> • <u>The Government recognises the need to streamline processes.</u> The Government would legalise documented illegals. Undocumented illegals would not be legalised but repatriated. The Government is very close to implementing the "single window" online recruitment system, which is a Government system. • <u>Employers must bear responsibility from the point of hiring until repatriation.</u> Agents and outsourcing companies would be removed. There must be equity between locals and FW in terms & conditions and benefits. • The EMC or now known as Employers Undertaking (EU) is to make employers take responsibility for the following: <ul style="list-style-type: none"> ✓ Pay levy in accordance to the Fee Act 1951 ✓ Provide employment/service contract in accordance to the Employment Act 1955 ✓ Pay salary, overtime, provide leave and rest day as well as other benefits in accordance to the Employment Act 1955 ✓ Comply with minimum wage requirements in accordance to the National Wages Consultative Council Act 2011 ✓ Provide accommodation and basic amenities in accordance to the Minimum Standard of Housing and Amenities Act 1990 	<p>Head Office, Business Environment (Cik Hema Thiruchelvam)</p>

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	<ul style="list-style-type: none"> ✓ Not to keep FW passport in accordance to the Passport Act 1966 ✓ Not to hire illegal FW in accordance to the Immigration Act 1959 ✓ Bear FW's medical bills when they are not able to settle ✓ Repatriate FW with chronic diseases, communicable diseases or unable to work ✓ Obtain check-out memo from Immigration before repatriation ✓ Comply with all other requirements on FW employment; <ul style="list-style-type: none"> ● Apart from levy obligation, employers have to adhere to all existing conditions /obligations when employing FW. The shifting of levy burden to employers only applies to new recruits effective January 1, 2017. For existing workers, employers can continue to make deductions from wages until the next work permit renewal; ● Subject to MOHR confirmation, employers can still make deductions from wages for housing, health insurance, medical check-up, etc. MOHR confirmed that deductions from wages were still subject to Section 24 of the Employment Act; ● An employer's levy obligation would stop for runaway FW on condition the employer makes the necessary report; <p>vi. The Government would use the levy to restructure industry. Different industries would have different levy rates. Levy would be differentiated according to the percentage of FW.</p> <p>vii. The Government would increase the penalty on employers hiring illegal FW. The Employment Restriction Act would be amended to increase the fine to RM100,000 per worker as an effective and real deterrent for both FW and employer; and revised the definition of illegals to include those self-employed.</p> <p>FMM reiterated its proposal on a holistic levy policy including ploughing back levy for automation, removal of conditions, etc. Changes to FW policy must be done holistically. A more structured and fixed policy on FW is needed to move forward. Government commitment is needed to provide a specific policy chart to prepare industries and plan accordingly. The Government is implementing levy restructuring in a piecemeal manner. The overnight implementation of changes to policy which have cost implications is damaging to industry especially under current economic conditions, which are less favourable. Small organisations are not able to take the cost impact. Even if the shifting of levy burden to employers is only for new workers, existing workers would demand similar treatment and this could create disharmony. The SME Association echoed this point.</p>	
2	<p><u>Annual FOMEMA Medical Examination for Foreign Workers</u></p> <p>a. FMM expressed concern that the exercise would be futile if workers ran away once they are deemed unfit. MOHR advised that charges for medical screening should not be too high;</p> <p>b. Submitted a Joint memorandum prepared by MEF with four other trade organisations on December 19, 2016 calling on YAB Prime Minister to review the decision, which has cost impact (an additional RM388 million a year) and would be disruptive to operations.</p>	Head Office, Business Environment (Cik Hema Thiruchelvam)
3	<p><u>Energy Tariff Updates</u></p> <p>a. The electricity tariff rebate of 1.52 sen/kWh applicable in the last six months was retained for the period January 1, 2017 to June 30, 2017. The rebate, amounting to RM766 million, is an Imbalance Cost Pass-Through (ICPT) rebate arising from savings in generation cost in the period July – December 2016 contributed by:</p> <ul style="list-style-type: none"> ● Reduction in liquefied natural gas (LNG) pricing; ● Higher performance of coal power plants; and ● Reduction in the use of gas for electricity generation. 	Head Office, Business Environment (Cik Hema Thiruchelvam)

The rebate has taken into account the review of piped gas price for the power sector which had been raised by RM1.50/mmBtu from RM19.70/mmBtu to RM21.20/mmBtu effective January 1, 2017;

- b. The Energy Commission (ST) announced on December 28, 2016 a rebate of RM0.40/mmBtu for the non-power sector in Peninsular Malaysia effective January 1 – June 30, 2017 as follows:

Tariff Category	Average Yearly Consumption (mmBtu)	RM/mmBtu	
		Current Tariff	New Tariff
A	Domestic	19.52	19.26
B	0 - 600	25.20	24.86
C	601 - 5,000	25.33	24.99
D	5,001 - 50,000	25.58	25.24
E	50,001 - 200,000	26.69	26.33
F	200,001 - 750,000	26.69	26.33
L	> 750,000	27.58	27.21
Average		27.05	26.71

- c. Gas Malaysia Berhad (GMB) had announced to Bursa Malaysia that ST had approved the average base tariffs for the regulatory period beginning January 1, 2017 to December 31, 2019 as follows:

Effective Period	2017		2018		2019	
	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Base Tariff (RM/mmBtu)	26.71	28.05	30.90	31.92	32.69	32.74

The Base Tariff would be adjusted according to the Gas Cost Pass-Through mechanism which passes through changes in gas costs every six months;

- d. FMM wrote to ST on December 29, 2016 to seek clarification on the projections for the base tariff, which was expected to increase every six months, resulting in a cumulative price increase of 22.6% by 2019. FMM reiterated the need to consider competitiveness vis-à-vis regional competitors, prevalent economic and business conditions when moving to market pricing. Until there is open market competition in the supply of energy fuel, the Government should maintain 10% discount for LNG imports and 15% discount from market price for locally sourced piped gas, which does not incur liquefaction, sea transportation and regasification costs. ST agreed to meet FMM to discuss the base tariff determination on January 24, 2017.

FMM would reinforce the following at ST's briefing on January 24, 2017 on Incentive Based Regulation (IBR) & GCPT as follows:

- i. Recognise that GCPT is in place and a mechanism to adjust Average Base Tariff
- ii. Gradual subsidy rationalisation should take into consideration regional competitiveness, prevalent economic and market conditions
- iii. Maintain a 10% discount for LNG imports and 15% discount from market price for locally sourced piped gas (no liquefaction, transportation & regasification costs)
- iv. Allocate NG based on a holistic view to reduce the country's carbon footprint:
 - a. Preference to industry - a more efficient gas user than the power sector
 - b. Plough back savings from subsidy rationalisation to reward efficient users & encourage EE/RE investments e.g. support co-generators, incentivise effective EE/RE programme
- v. To maintain the timeline to achieve market parity at year 2020;
- vi. To be more transparent in the pricing mechanism and components.

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4	<p><u>BNM Ruling on Foreign Exchange Rules</u></p> <p>a. On December 2, 2016, Bank Negara Malaysia issued a Supplementary Notice on Foreign Exchange Administration Rules – Measures to Promote the Development of the Malaysian Financial Market which took effect from December 5, 2016.</p> <p>b. Amongst others, the ruling requires exporters to convert 75% of their proceeds into Ringgit. FMM President appealed through the media and in an official letter to BNM Governor on December 8, 2016 to allow exporters to retain 50% of their foreign currency instead of 25%.</p> <p>c. BNM on December 13, 2016 informed that exporters may request to immediately reconvert export proceeds into foreign currency based on the same conversion rate entered on the same day for:</p> <ul style="list-style-type: none"> • Up to 6 months' value of import and foreign currency loan obligations; • Current international transactions; and • Permitted payment in foreign currency between residents up to March 31, 2017 for contracts entered upon prior to December 5, 2016. <p>BNM advised FMM members to refer to the FAQs for a better understanding of the Rules through the following link which would be updated from time to time: http://www.bnm.gov.my/documents/2016/faq_initiative_onshore_financial_market_v4.1.pdf.</p> <p>d. BNM vide a letter to FMM dated December 28, 2016 reiterated that exporters requiring foreign currency above the allowed limit have to apply to the Bank together with the relevant supporting documents to substantiate their request.</p>	Head Office, Business Environment (Cik Hema Thiruchelvam)
5	<p><u>PEMUDAH WGEI Meeting – January 10, 2017</u></p> <p>a. <u>Maintenance of Roads Leading to Ports</u> MOT has addressed the issue of maintenance of major highways to Pulau Indah with relevant stakeholders including Ministry of Works and will continue to monitor its progress.</p> <p>b. <u>Fall-back Procedures during Customs Information System (SMK) Breakdown</u> Port Klang Authority (PKA) agreed to provide the process flows/SOP that would apply during system breakdowns and disaster recoveries. PKA would share the new SOP at the WGEI meeting scheduled on February 14, 2017.</p> <p>c. <u>Closing Time Improvement for Exports of Electrical Machinery, Equipment and Parts</u> MITI highlighted that based on the outcomes of the workshop, reducing port closing time would be subject to hauliers' efficiency. The FGAB would meet with World Bank (WB) to obtain a detailed breakdown on WB's border and document compliance calculations along the logistics supply chain.</p> <p>d. <u>GST Registration</u> One of the pre-requisites for GST registration is that companies should have a bank account for refund and audit purposes. Customs agreed to rephrase the wordings to indicate that the GST registrant would need to provide an existing bank account number for registration.</p>	Head Office, International Trade Policy (Cik Shamini Sakthinathan)

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	<p>e. <u>Updates on SOCSO Portal</u> The SOSCO portal would soon allow employers to submit e-filings and e-payments with the expected time taken reduced by 12 hours. The schedule for implementation for employers for e-filing and e-payment via the portal is as follows:</p> <table border="1" data-bbox="301 241 1310 622"> <thead> <tr> <th rowspan="2">No</th> <th rowspan="2">Activities</th> <th rowspan="2">Cumulative Scores</th> <th colspan="2">Timeline (Month)</th> </tr> <tr> <th>Start</th> <th>Completed</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Employers with 500 or more employees will be required to use PORTAL PERKESO</td> <td>50%</td> <td>Mar 2017</td> <td>May 2017</td> </tr> <tr> <td>2</td> <td>All employers with more than 100 employees are required to use PORTAL PERKESO</td> <td>70%</td> <td>Jul 2017</td> <td>Dec 2017</td> </tr> <tr> <td>3</td> <td>All employers with below 500 employees and no requirement of printed Form 8A</td> <td>100%</td> <td>Jan 2018</td> <td>Dec 2018</td> </tr> </tbody> </table>	No	Activities	Cumulative Scores	Timeline (Month)		Start	Completed	1	Employers with 500 or more employees will be required to use PORTAL PERKESO	50%	Mar 2017	May 2017	2	All employers with more than 100 employees are required to use PORTAL PERKESO	70%	Jul 2017	Dec 2017	3	All employers with below 500 employees and no requirement of printed Form 8A	100%	Jan 2018	Dec 2018	
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6	<p><u>New Price Control and Anti-Profiteering Regulations</u></p> <p>The Ministry of Domestic Trade and Consumerism (MDTCC) has introduced a new regulation "The Price Control and Anti-Profiteering (Mechanism to Determine Unreasonably High Profit for Goods) Regulations 2016", which came into effect on January 1, 2017. A grace period would be allowed which would be announced by the Minister in due course.</p> <p>The regulation states the following:</p> <ol style="list-style-type: none"> It is confined to the food and beverages and non-durable household goods and personal care sector excluding cosmetics. Businesses to maintain Mark-up in percentage (%MU) or percentage Margin (%MG) on the first day of a financial year (fy) or calendar year (cy). The profit is deemed unreasonable if the %MU or %MG during any period in the fy or cy exceeds the %MU or %MG fixed on the first day of the fy/cy. <p>The Ministry would be engaging associations including FMM to explain the new regulation and its application in January 2017.</p>	Head Office, International Trade Policy (Cik Shamini Sakthinathan)																						
7	<p><u>Discussion on Implementation of the Demerit System – December 8, 2016</u></p> <p>The highlights of the meeting chaired by Senior Director, Investment Policy and Trade Facilitation, Ministry of International Trade and Industry (MITI), were as follows :</p> <ol style="list-style-type: none"> The Customs Department introduced the Demerit System (DS) in April 2016 covering forwarding agents/Customs Brokers. The new system imposed demerit points and compounds on forwarding agents guilty of offences under the Customs Act 1967. The forwarding agents/Customs Brokers would be issued suspension notices once they had accumulated 40 demerit points. It was highlighted that the demerit system had impacted the operations of logistics companies, particularly established international companies operating in Malaysia. The meeting agreed that the implementation of the DS and compounds should only be applied to smuggling, fraudulent activities and falsifying declarations with the intention of evading duties and taxes. The offences under Section 133 (1) on making incorrect declarations and Section 138 on other offences should be excluded from the DS as it was subject to the discretion of the Customs officers and difficult to implement. Following the meeting, the Customs Department informed that following industry feedback, a comprehensive review would be carried out to improve the DS. It also announced that all warning and suspension notices which had been issued since April 2016 would be withdrawn. No new notices would be issued pending the review. 	Head Office, International Trade Policy (Cik Shamini Sakthinathan)																						

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8	<p><u>GST Technical Committee 4/2016 – December 22, 2016</u></p> <p>Customs responses to issues raised by FMM and main issues concerning FMM members at the meeting chaired by Director of GST Division, Royal Malaysian Customs Department.</p> <table border="1"> <thead> <tr> <th>No</th> <th>Response from Customs Department</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td> <p><u>Submission of K9 Requires Tax Invoice in Replacement of Commercial Invoice</u></p> <p>Informed that for movement of goods, a full tax invoice should be issued for the total amount of the goods sold and this would trigger the time of supply. The full tax invoice should be submitted with the K9 declaration.</p> </td> </tr> <tr> <td>2.</td> <td> <p><u>Outstanding Input Tax Claims</u></p> <p>Highlighted that Customs Department has cleared the backlog of refunds. However, there were companies that amended their returns after filing, thus delaying the refund process. FMM was requested to forward the details of the companies with pending refunds to the Customs Department for verification.</p> </td> </tr> <tr> <td>3.</td> <td> <p><u>Renewal of Approved Traders Scheme (ATS) License</u></p> <p>Informed that the renewal of the license would be possible 6 months prior to expiry. ATS companies are expected to submit their renewal applications as soon as possible as they would be subject to a thorough vetting process.</p> </td> </tr> <tr> <td>4.</td> <td> <p><u>Finance Act 2016</u></p> <p>Highlighted that the following areas would affect the GST Act:</p> <ul style="list-style-type: none"> • Disallow the registered person from issuing tax invoices which indicated a GST of 6% was charged for zero-rated supply or exempt supply; • When goods are removed from free zone to Principal Customs Areas including to another free zone, it would be treated as an importation into Malaysia. However, movement of goods from one free zone to another free zone, designated area or a warehouse under Section 70, the payment of GST would be suspended; • The time of supply of imported services shall be treated to have been made at the following dates whichever is the earlier: (a) the date when any payment is made by the recipient; or (b) the date when any invoice is received from the supplier who belongs in a country other than Malaysia or who carries out business outside Malaysia; and • Impose penalty on the amount of tax that remains unpaid instead of the amount of tax due and payable. </td> </tr> </tbody> </table>	No	Response from Customs Department	1.	<p><u>Submission of K9 Requires Tax Invoice in Replacement of Commercial Invoice</u></p> <p>Informed that for movement of goods, a full tax invoice should be issued for the total amount of the goods sold and this would trigger the time of supply. The full tax invoice should be submitted with the K9 declaration.</p>	2.	<p><u>Outstanding Input Tax Claims</u></p> <p>Highlighted that Customs Department has cleared the backlog of refunds. However, there were companies that amended their returns after filing, thus delaying the refund process. FMM was requested to forward the details of the companies with pending refunds to the Customs Department for verification.</p>	3.	<p><u>Renewal of Approved Traders Scheme (ATS) License</u></p> <p>Informed that the renewal of the license would be possible 6 months prior to expiry. ATS companies are expected to submit their renewal applications as soon as possible as they would be subject to a thorough vetting process.</p>	4.	<p><u>Finance Act 2016</u></p> <p>Highlighted that the following areas would affect the GST Act:</p> <ul style="list-style-type: none"> • Disallow the registered person from issuing tax invoices which indicated a GST of 6% was charged for zero-rated supply or exempt supply; • When goods are removed from free zone to Principal Customs Areas including to another free zone, it would be treated as an importation into Malaysia. However, movement of goods from one free zone to another free zone, designated area or a warehouse under Section 70, the payment of GST would be suspended; • The time of supply of imported services shall be treated to have been made at the following dates whichever is the earlier: (a) the date when any payment is made by the recipient; or (b) the date when any invoice is received from the supplier who belongs in a country other than Malaysia or who carries out business outside Malaysia; and • Impose penalty on the amount of tax that remains unpaid instead of the amount of tax due and payable. 	<p>Head Office, International Trade Policy (Cik Shamini Sakthinathan)</p>
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Han Mong Ying
Company Secretary

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For enquiries on the above issues, please contact the Division/Branch-in-charge at the FMM Secretariat: -

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Perak Branch	05-5488660	Eastern Branch	09-5156857
Selangor Branch	03-55694171	Sabah Rep. Office	088-447580
Negeri Sembilan Branch	06-6031616	Sarawak Rep. Office	082-332784