



TWG ON TRADING ACROSS BORDERS

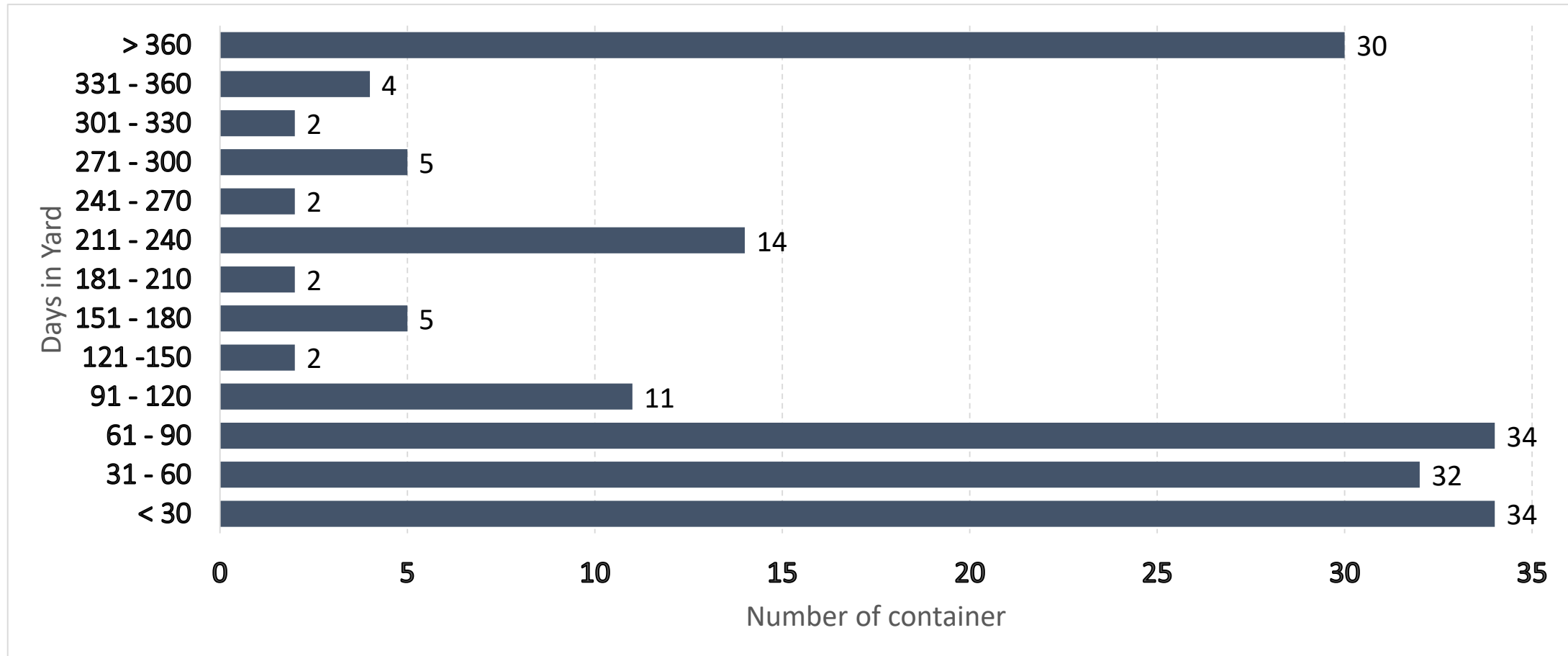
Matter arising –

2.2.3 Container Detention

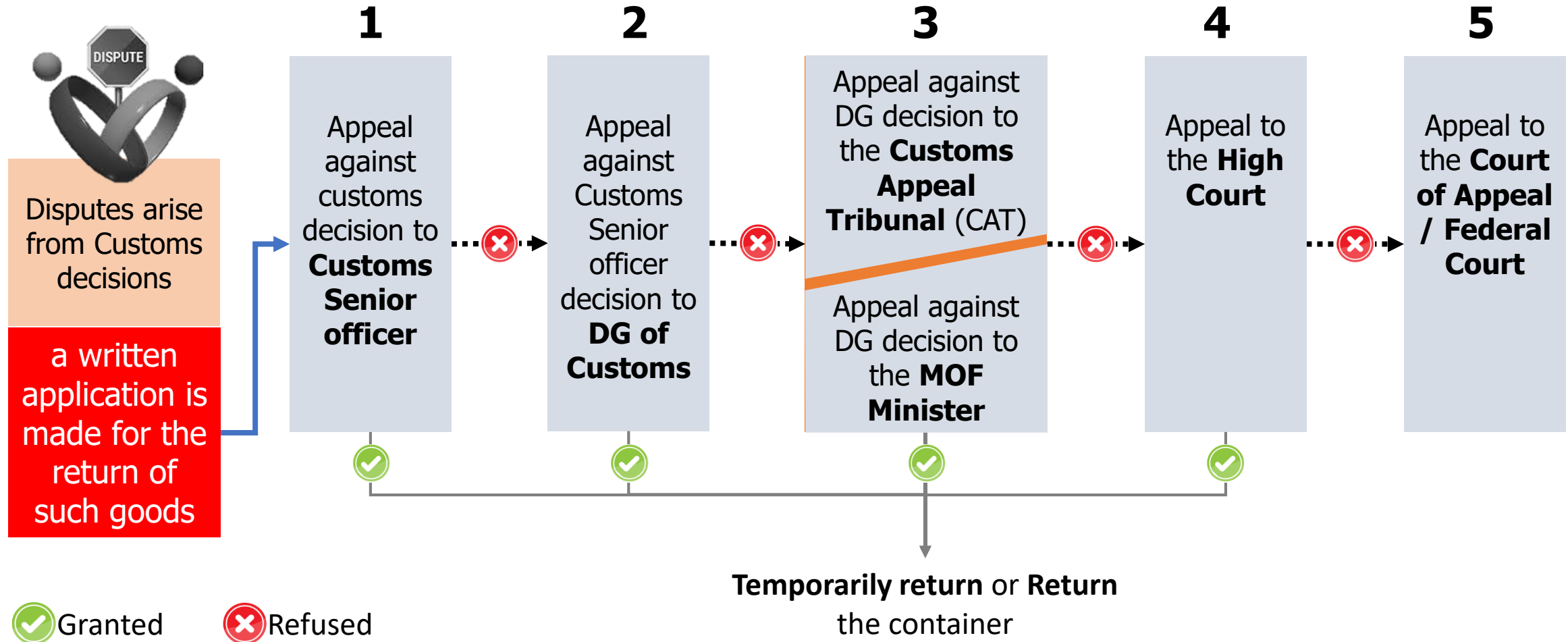
Objectives

- update list of container detained; and
- highlight findings and obtain decision on the recommendations.

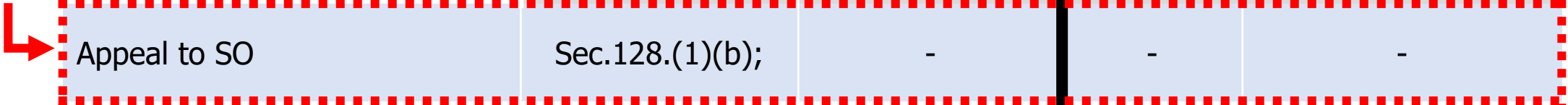
Containers under "Customs Hold" at Port Klang as at 29 April 2019



Customs dispute settlement process



Customs dispute settlement process (cont'd)

Opportunity for improvement	Customs Act 1967		Customs Appeal Guideline	
	SEIZURE	FORFEITURE	SEIZURE	FORFEITURE
 Appeal to SO	Sec.128.(1)(b);	-	-	-
Appeal against the decision of SO to the DG	-	Sec.90.(5);	-	No.3.5;
Appeal against the decision of DG to the MOF minister	-	Sec.129	-	No.2.2(1)(i); No.3.3;
Appeal against the decision of DG to the CAT	-	Sec.143; P.U.(A)210/2007	-	No.2.1(1);
Appeal against the decision of CAT to the High Court	-	Sec.141W;	-	No.3.1(6)(iii);
Appeal against the decision of MOF minister to the High Court	-	-	-	No.2.2(2);

NOTE: SO - Senior officer of Customs; DG - Director General of Customs; CAT - Customs Appeal Tribunal

Recommendations

- review and update the Customs appeal guideline;
- facilitate the release of detained container

Way forward

RMCD to review Customs appeal guideline in consultation with affected businesses and report back to TWG TAB.

Reference: Customs Act 1967

Control of agents

90. (5) Any person aggrieved by the decision of a senior officer of customs in respect of any of the following matters, that is to say—

(a) **refusal to grant permission;**

(b) the nature or the amount of security required from the agent;

(c) suspension or cancellation of the permission;

may, within one month from the date on which the decision is notified to him, appeal to the Director General, whose decision shall be final.

Return or disposal of movable property

115. (1) Where any movable property has been seized under this Act, a senior officer of customs may, at his discretion—

(a) **temporarily return** the movable property to the owner; or

(b) **return** the movable property to the owner thereof.... —

(c) sell or destroy the movable property,....

Reference: Customs Act 1967

Goods seized in respect of which there is no prosecution, or the proceeds of sale thereof, are forfeited if not claimed within one month

128. (1) If there be no prosecution with regard to any goods seized under this Act, such goods or the proceeds of sale of such goods which are held pursuant to paragraph 115(1)(c) shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of seizure of the goods unless, before such expiration—
(a) a claim to such goods or the proceeds of sale of such goods is made under subsection (2);
(b) a written application is made for the return of such goods under paragraph 115(1)(a) or (b); or
(c) such goods are returned under the said paragraph (a) or (b).

Goods or amount forfeited may be delivered or refunded to the owner or other person

129. The Minister may, upon application made to him in writing through the Director General, order—
(a) any goods seized under this Act; or
(b) any amount secured under paragraph 115(1)(a) or (b) or the amount realized by sale under paragraph 115(1)(c);

whether forfeited, or taken and deemed to be forfeited, pursuant to section 127 or 128, to be delivered or refunded, as the case may be, to the owner or other person entitled thereto or payment of such amount and upon such terms and conditions as he may deem fit:
