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INVESTIGATION AND PROSECUTION
UNDER THE CUSTOMS ACT
1967

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ABSTRACT

However courageous the Custom Officers are in fulfilling their duty, it would render futile with lack of knowledge on their legal powers and limitations. In this computer age Custom Officers had to be more alert as rapid industrialisation creates complex cases not foreseen by the author of the Act.

It has to be remembered that smugglers are always one step forward than the custom officers but let's not hope the gap grows wider with complex technologies.

Custom Officers shouldering the burden of ensuring no loss to government revenue by practise of unscrupulous businessman has to know off-hand his powers when acting against these irresponsible criminals who design ways and means to evade or pay less taxes.

This project paper seeks to examine with the guidance of case-laws the powers of custom officers in the course of investigation and attempt to provide guideline to prosecuting officers.

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INTRODUCTIONA. The Royal Malaysian Customs And Excise Department

The Royal Malaysian Customs & Excise Department¹ (The Department) is one of the Government Machineries responsible for the Collection of Government's Revenue and is directly under the Ministry of Finance. The role of the Department is to ensure an efficient workforce are employed to safeguard the Governments revenue and its success are also attributed to the existence of an efficient preventive unit within the Department.

The department can broadly be divided in 2 sections namely the Revenue Division and the Preventive Division. The Revenue division is directly involved in the collection of duties and taxes² while the Preventive division is the nucleus of the departments law enforcement agency responsible for the prevention and/or detection of any violation against any written laws enforced by the department³. Thus, investigations and prosecutions are the direct concern of the Preventive Branch.⁴ The Preventive Branch is headed by the Deputy Director General (Preventive) who is directly responsible to the Director General in all matters pertaining to prevention and detection of all violations against the laws administered by the department.