

TITLE III
CUSTOMS DEBT AND GUARANTEES

CHAPTER 1

Incurrence of a customs debt

SECTION 1

CUSTOMS DEBT ON IMPORT

Disclaimer: NO DA foreseen.

SECTION 2

CUSTOMS DEBT ON EXPORT

Disclaimer: NO DA foreseen.

SECTION 3

PROVISIONS COMMON TO CUSTOMS DEBTS INCURRED ON IMPORT AND EXPORT

SUBSECTION 1

RULES FOR CALCULATION OF THE AMOUNT OF IMPORT OR EXPORT DUTY

Article DA-III-1-01 (313-1-01-DA)

Calculation of the amount of import duty on goods placed under the inward processing procedure

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 86(3)	Article 88(a)	Article 518	-	DA

1. In order to determine the amount of import duty to be charged on processed products in the case referred to in Article 86(3) of the Code, the proportion of goods placed under the inward processing procedure incorporated in the processed products shall be calculated in accordance with the quantitative scale method, or the value scale method as appropriate, or any other method giving similar results.

2. The quantitative scale method shall apply in the following cases:
 - (a) where only one kind of processed products is derived from the processing operations;
 - (b) where several kinds of processed products are derived from the processing operations and all elements of the goods placed under the procedure are found in each of those processed products.
3. In the case referred to in paragraph 2(a), the quantity of goods placed under the procedure deemed to be present in the quantity of processed products for which a customs debt is incurred shall be proportional to the latter category of products as a percentage of the total quantity of processed products.
4. In the case referred to in paragraph 2(b), the quantity of goods placed under the procedure deemed to be present in the quantity of a given processed products for which a customs debt is incurred shall be proportional to the following:
 - (a) the ratio between this specific kind of processed products, irrespective of whether a customs debt is incurred, and the total quantity of all processed products and
 - (b) the ratio between the quantity of processed products for which a customs debt is incurred and the total quantity of processed products of the same kind.
5. In deciding whether the conditions for applying the method referred to in paragraph 2 are fulfilled, losses shall not be taken into account.

Losses means the proportion of the goods placed under the procedure destroyed and lost during the processing operation, in particular by evaporation, desiccation, venting as gas or leaching. In the outward processing procedure secondary compensating products that constitute waste, scrap, residues, offcuts and remainders shall be treated as losses.

6. The value scale method shall apply where the quantitative scale method does not apply.

The quantity of the goods placed under the procedure deemed to be present in the quantity of a given processed product incurring a customs debt shall be proportional to the following:

- (a) the value of this specific kind of processed product, irrespective of whether a customs debt is incurred, as a percentage of the total value of all the processed products and
- (b) the value of the processed products for which a customs debt is incurred, as a percentage of the total value of processed products of that kind.

The value of each of the different processed products to be used for applying the value scale method shall be the recent ex-works price in the customs territory of the Union, or the recent selling price in the customs territory of the Union of identical or similar products, provided that these have not been influenced by the relationship between buyer and seller.

7. Where the value cannot be determined pursuant to paragraph 6, it shall be determined by any reasonable method.

Article DA-III-1-02 (313-1-02-DA)

Application of the end-use provisions to goods placed under inward processing

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 86(3)	Articles 88(a)	Article 547(a)	-	DA

1. In the case referred to in Article 86(3) of the Code, the amount of import duty corresponding to the customs debt on processed products resulting from the inward processing procedure, shall be determined by applying to the goods placed under that procedure a duty exemption or a reduced rate of duty on account of their specific use, which would have been applied to those goods if they had been placed under the end-use procedure.

2. Paragraph 1 shall apply if an authorisation to place those goods under the end-use procedure could have been issued and if the conditions for the duty exemption or the reduced rate of duty on account of their specific use would have been fulfilled at the time of acceptance of the customs declaration of their entry for the inward processing procedure.

Article DA-III-1-02a

Application of the preferential tariff treatment to goods placed under inward processing

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 86(3)	Article 88(a)	None; Article 121(2) CCC	-	DA

If at the time of the acceptance of the declaration of placing of goods under the inward processing procedure the import goods fulfilled the conditions to qualify for preferential tariff treatment within tariff quotas or ceilings, they shall be eligible for any preferential tariff treatment existing in respect of identical goods at the time of acceptance of the declaration of release for free circulation.

Article DA-III-1-03 (313-1-03-DA)

Specific import duty on processed products resulting from outward processing

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 86(5)	Article 88(a)	none	-	DA

In cases of outward processing operations not covered by Articles 260 and 261 of the Code or where specific import duty is involved, the amount of the import duty shall be calculated on the basis of the cost of the processing operation undertaken outside the customs territory of

the Union, multiplied by the amount of import duty applicable to the processed products divided by the customs value of the processed products.

Article DA-III-1-04 (313-1-04-DA)

Derogation for the calculation of the amount of import duty on processed products resulting from inward processing

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 86(3) & 86(4)	Article 88(b)	None	-	DA

Article 86(3) of the Code in connection with paragraph 4 shall apply for the determination of the amount of import duty corresponding to a customs debt incurred for processed products resulting from the inward-processing procedure where the following conditions are fulfilled:

- (a) these processed products are imported directly by or on behalf of the relevant holder of the authorisation within a period of one year after their re-export;
- (b) where the goods placed under the inward-processing procedure were subject to a commercial or an agricultural policy measure or an anti-dumping duty, countervailing duty, safeguard duty, retaliation duty or similar duty and
- (c) where no examination of the economic conditions in the cases referred to in Article DA-VII-1-05 (710-05(1)(b)-DA), took place.

SUBSECTION 2

TIME LIMIT TO ESTABLISH THE PLACE WHERE THE CUSTOMS DEBT IS INCURRED

Article DA-III-1-05 (313-2-01-DA)

Union transit

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 87(2)	Article 88(c)	Article 450a	-	DA

For goods placed under the Union transit procedure, the time limit referred to in Article 87(2) of the Code shall be either of the following:

- (a) seven months from the latest date on which the goods should have been presented at the customs office of destination, unless before the expiry of that time limit a request to transfer recovery of the customs debt was sent to the authority responsible for the place where, according to the evidence obtained by the customs authority of the Member State of departure, the events from which the customs debt arises occur, in which case this period is extended with a maximum of one month;

- (b) where the customs authority of the Member State of departure has not been notified of the arrival of the goods, one month from the expiry of the time limit for the reply by the holder of the procedure to the request for the information needed to discharge the procedure, in case the holder of the procedure has provided insufficient or no information.

Article DA-III-1-06 (313-2-02-DA)

TIR

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 87(2)	Article 88(c)	Article 456(1) 2 nd subparagraph	-	DA

For goods placed under transit in accordance with the TIR Convention, the time limit referred to in Article 87(2) of the Code shall be seven months from the latest date on which the goods should have been presented at the customs office of destination or exit.

Article DA-III-1-07 (313-2-03-DA)

ATA

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 87(2)	Article 88(c)	none	-	DA

For goods placed under transit in accordance with the ATA Convention/Istanbul Convention, the time limit referred to in Article 87(2) of the Code shall be seven months from the date on which the goods should have been presented at the customs office of destination.

Article DA-III-1-08 (313-2-04-DA)

Cases other than transit

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 87(2)	Article 88(c)	none	-	DA

For goods placed under a special procedure other than transit or goods which are in temporary storage, the time limit referred to in Article 87(2) of the Code shall be seven months from:

- the expiry of the prescribed period for discharge of the special procedure,
- the expiry of the prescribed period for ending of temporary storage or,

- where no period for discharge has been prescribed, the date on which it has been established that the special procedure under which the goods were placed was not discharged properly following a movement of those goods between different places in the customs territory of the Union.

CHAPTER 2

Guarantee for a potential or existing customs debt

SECTION 1

GENERAL PROVISIONS

Article DA-III-2-01 (321-03-DA)

Cases where no guarantee shall be required for goods placed under the temporary admission procedure

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 89(8)(c)	Article 99(a)	Article 581(1)	ex Annex 77	DA

The placing of goods under the temporary admission procedure shall not be subject to the provision of a guarantee in the following situations:

- (a) where the customs declaration may be made orally or by any other act;
- (b) in the case of materials belonging to airlines, shipping or railway companies or postal services and used by them in international traffic subject to those materials being distinctively marked;
- (c) in the case of packings imported empty, carrying indelible non-removable markings;
- (d) where the previous holder of the authorisation for temporary admission declared the goods for the procedure in accordance with Articles DA-V-2-03 and Articles DA-V-2-04a (522-4-03-DA and 522-4-04-DA) and the goods are subsequently placed under temporary admission for the same purpose.

Article DA-III-2-02 (321-06-DA)

Guarantee in the form of an undertaking by a guarantor

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 94	Article 31(b) & 99(b)	Articles 342, 348(2) & 384	-	DA

1. Where the guarantee is provided in the form of an undertaking by a guarantor, the guarantor shall indicate an address for service or appoint an agent in each Member State, except where the second subparagraph of Article 89(2) of the Code applies.

2. The revocation of the approval or cancellation of the undertaking of the guarantor shall take effect on the 16th day following the date on which a decision on the revocation or cancellation is received by the guarantor or, accordingly, by the customs office of guarantee.

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 6(3)(a)	Article 7(b)	Article 347(4)	ex Annex 5	DA

3. Where an individual guarantee is provided in the form of an undertaking by a guarantor in the form of individual guarantee vouchers it may, in accordance with Article 6(3)(a) of the Code, be in a form other than by data processing techniques if acceptable to the customs authorities.

Article DA-III-2-03 (321-07-DA)

Forms of guarantee other than cash deposit or undertaking given by a guarantor

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 92(1) (c)	Article 99(b)	Article 857	-	DA

1. The forms of guarantee referred to in Article 92(1)(c) of the Code, shall be the following:

- (a) the creation of a mortgage, a charge on land, an antichresis or other right deemed equivalent to a right pertaining to immovable property;
- (b) the cession of a claim, the pledging, with or without surrendering possession, of goods, securities or claims or a savings bank book or entry in the national debt register;
- (c) the assumption of joint contractual liability for the full amount of the debt by a third party approved for that purpose by the customs authorities or the lodging of a bill of exchange the payment of which is guaranteed by such third party;
- (d) a cash deposit or means of payment deemed equivalent thereto other than in euro or the currency of the Member State in which the guarantee is required;
- (e) participation, subject to payment of a contribution, in a general guarantee scheme administered by the customs authorities.

2. The forms of guarantee referred to in paragraph 1 shall not be accepted for the placing of goods under the Union transit procedure.

3. The Member State shall determine the circumstances in which and the conditions under which the forms of guarantee referred to in paragraph 1, if applicable in that Member State, are accepted.

SECTION 2

COMPREHENSIVE GUARANTEE AND GUARANTEE WAIVER

Article DA-III-2-04 (322-07-DA)

Reduction of the level of the comprehensive guarantee and guarantee waiver

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 95(2)	Article 99(c)	Article 380 for Community transit	-	DA

1. An authorisation to use a comprehensive guarantee with a reduced amount as referred to in Article 95(2) of the Code shall be granted where the applicant demonstrates that he fulfils, accordingly, the following conditions:

- (a) for the purposes of reduction to 50 % of the reference amount:
 - (i) maintain an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held and which will facilitate audit-based customs control. The accounting system shall maintain a historical record of data that provides an audit trail from the moment the data enters the file;
 - (ii) have an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions;
 - (iii) the applicant is not subject to bankruptcy proceedings;
 - (iv) during the last three years preceding the submission of the application the applicant has fulfilled his financial obligations regarding payments of customs duty and all other duty, taxes or charges which are collected on or in connection with the import or export of goods;
 - (v) the applicant can demonstrate sufficient financial standing to meet his obligations, including having no negative net assets, except if they can be covered;
 - (vi) the applicant can demonstrate sufficient financial resources to meet his obligations, for the part of the reference amount not covered by the guarantee;
- (b) for the purposes of reduction to 30 % of the reference amount:
 - (i) maintain an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held and which will facilitate audit-based customs control. The accounting system shall maintain a historical record of data that provides an audit trail from the moment the data enters the file;
 - (ii) have an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions;

(iii) ensure that employees are made aware of the need to inform the customs authorities whenever compliance difficulties are discovered and establish suitable contacts to inform the customs authorities of such occurrences;

(iv) the applicant is not subject to bankruptcy proceedings;

(v) during the last three years preceding the submission of the application the applicant has fulfilled his financial obligations regarding payments of customs duty and all other duty, taxes or charges which are collected on or in connection with the import or export of goods;

(vi) the applicant can demonstrate sufficient financial standing to meet his obligations, including having no negative net assets, except if they can be covered;

(vii) the applicant can demonstrate sufficient financial resources to meet his obligations, for the part of the reference amount not covered by the guarantee.

2. For the purposes of Article 95(2) of the Code, a guarantee waiver shall be granted where the applicant demonstrates that he fulfils the following requirements:

- (a) maintain an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held and which will facilitate audit-based customs control. The accounting system shall maintain a historical record of data that provides an audit trail from the moment the data enters the file;
- (b) allow the customs authority physical or electronic access to its customs and, where appropriate, transport records;
- (c) have a logistical system which distinguishes between Union and non-Union goods;
- (d) have an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions;
- (e) where applicable, have satisfactory procedures in place for the handling of licences and authorisations connected to commercial policy measures or to trade in agricultural products;
- (f) have satisfactory procedures in place for the archiving of the economic operator's records and information and for protection against the loss of information;
- (g) ensure that employees are made aware of the need to inform the customs authorities whenever compliance difficulties are discovered and establish suitable contacts to inform the customs authorities of such occurrences;
- (h) have appropriate information technology security measures in place to protect the applicant's computer system from unauthorised intrusion and to secure the applicant's documentation;
- (i) the applicant is not subject to bankruptcy proceedings;
- (j) during the last three years preceding the submission of the application the applicant has fulfilled his financial obligations regarding payments of customs duty and all other duty, taxes or charges which are collected on or in connection with the import or export of goods;

(k) the applicant can demonstrate sufficient financial standing to meet his obligations, including having no negative net assets, except if they can be covered.

SECTION 3

PROVISIONS FOR THE UNION TRANSIT PROCEDURE AND THE PROCEDURE UNDER CPD/ATA OR EATA CARNETS

Article DA-III-2-05 (323-1-09-DA)

Release of the guarantor's obligations – Union transit

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 98	Articles 99(d)	Article 450c	-	DA

1. Under the Union transit procedure, the guarantee shall be released and the guarantor thus released from his obligations unless:

(a) the customs authorities of the Member State of departure, within nine months of the expiry of the prescribed time limit for presentation of the goods at the customs office of destination, notify the guarantor that the procedure has not been discharged;

(b) the customs authorities competent for the place where the customs debt is incurred, within three years of the expiry of the prescribed time limit for presenting the goods at the customs office of destination, notify the guarantor that he is, or might be, required to pay the amount of the customs debt for which he is liable in respect of the Union transit operation in question.

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 6(2), 6(3)(a)	Articles 7(a), 7(b)		32-04, 32-05	DA

2. In accordance with Article 6(3)(a) of the Code, the notification as referred to in point (a) and (b) of paragraph 1 may be sent by means other than electronic data-processing techniques.

The common data requirements for the notification to the guarantor of the non-discharge of the Union transit procedure are set out in Annex 32-04.

The common data requirements for the notification to the guarantor of his liability in respect of the Union transit procedure are set out in Annex 32-05.

Article DA-III-2-06 (331-10-DA)

CPD Carnet – Notification of the non-discharge

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 98	Article 99(d)		-	DA

The guarantee shall be released and the guaranteeing association thus released from its obligations one year from the date of expiry of the validity of the CPD carnet, unless the customs authorities establish that the temporary admission procedure has not been discharged for goods covered by a CPD carnet, and notifies it to the guaranteeing association, before that date.

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 6(3)(a)	Article 7(b)			DA

The customs authorities may, in accordance with Article 6(3)(a) of the Code notify the guaranteeing association of the non-discharge of the CPD carnet by any appropriate means.

Article DA-III-3-03 (331-11-DA)

ATA/CPD - Claim for payment from the guaranteeing association

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 98	Article 99(d)	Articles 459-460		DA

1. The guarantee shall be released and the guaranteeing association thus released from its obligations one year from the date of expiry of the validity of the ATA or eATA carnet, unless the customs authorities establish that a customs debt has been incurred for goods covered by an ATA or eATA carnet, and sends the claim for payment to the guaranteeing association, before that date.

The coordinating customs office making the claim shall at the same time, as far as possible, send to the coordinating office in the jurisdiction of which the office of temporary admission is situated, an information memo.

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 6(3)(a) & 6(2)	Article 7(b) & 7(a)	Article 450c&460	33-01, 33-03, 33-04 (ex Annex 59&60)	DA

The common data requirements of the claim for payment are set out in Annex 33-01. The common data requirements of the information memo sent to the customs office of temporary admission are set out in Annex 33-03 (ex-Annex 59). In accordance with Article 6(3)(a) of the Code, the information memo may be sent by means other than data processing techniques.

The amount of duties and taxes arising from the claim shall be calculated by means of the model taxation form.

The common data requirements of the model taxation form are set out in Annex 33-04 (ex-Annex 60). In accordance with Article 6(3)(a) of the Code, the model taxation form may be sent by means other than data-processing techniques.

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 98	Article 99(d)	Articles 459-460		DA

2. The guarantee shall be released and the guaranteeing association thus released from its obligations one year after the notification referred to in Article DA-III-2-06, unless the customs authorities establish that a customs debt has been incurred for goods covered by a CPD carnet, and notify it to the guaranteeing association, before that date.

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 6(3)(a) & 6(2)	Article 7(b) & 7(a)	Article 450c	33-02	DA

The common data requirements of the notification are set out in Annex 33-02. In accordance with Article 6(3)(a) of the Code, the notification may be sent by means other than electronic data-processing techniques.

CHAPTER 3

Recovery and payment of duty and repayment and remission of the amount of import and export duty

SECTION 1

DETERMINATION OF THE AMOUNT OF IMPORT OR EXPORT DUTY, NOTIFICATION OF THE CUSTOMS DEBT AND ENTRY IN THE ACCOUNTS

SUBSECTION 1

GENERAL PROVISIONS

Disclaimer: NO DA foreseen.

SUBSECTION 2

SPECIFIC PROVISIONS

Disclaimer: NO DA foreseen.

SUBSECTION 3

NOTIFICATION OF THE CUSTOMS DEBT AND CLAIM FOR PAYMENT FROM GUARANTEEING ASSOCIATION

Articles DA-III-3-01 (331-07-DA)

Means of notification of the customs debt

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Articles 6(3)(a)	Article 7(b)	-	-	DA

In accordance with Article 6(3)(a) of the Code, the notification of the customs debt may be made by means other than electronic data-processing techniques.

Article DA-III-3-02 (331-09-DA)

Exemption from notification of the customs debt

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 102(1)(d)	Article 106	Articles 868	-	DA

1. The customs authorities shall not notify the customs debt incurred through non-compliance where the amount of import or export duty concerned is less than EUR 10.
2. Where the customs debt was initially notified with an amount of import or export duty which is less than the amount of import or export duty payable, there shall be no notification of the customs debt for the difference between those amounts if it is less than EUR 10.
3. The amount of EUR 10 referred to in paragraphs 1 and 2 shall correspond to each recovery action.

SECTION 2

PAYMENT OF THE AMOUNT OF IMPORT OR EXPORT DUTY

Article DA-III-3-04 (332-03-DA)

Suspension of the time limit for payment in case of application for remission

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 108(3)(a)	Article 115	Article 876a	-	DA

1. The customs authorities shall suspend the debtor's obligation to pay the amount of import or export duty until they have taken a decision on the application for remission made in accordance with Article 121 of the Code, provided that, where the goods are no longer under customs supervision a guarantee is lodged for the amount concerned, and the following conditions are fulfilled:
 - (a) where an application has been presented for remission pursuant to Article 118, 119 or 120 of the Code, the customs authorities consider that the conditions laid down in the relevant provision are likely to be met;
 - (b) where an application has been presented for remission pursuant to Article 117 of the Code and the customs authorities consider that the conditions as referred to in Article 45(2) of the Code are likely to be met.
2. By derogation from paragraph 1(a), the customs authorities shall not require a guarantee if it is established, on the basis of a documented assessment, that it would be likely to cause the debtor serious economic or social difficulties.

Article DA-III-3-05 (332-04-DA)

Suspension of the time limit for payment where goods are to be confiscated, destroyed or abandoned to the State

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 108(3)(b)	Article 115	Article 876a	-	DA

Where goods are to be confiscated, destroyed or abandoned to the State, the customs authorities shall suspend the debtor's obligation to pay the amount of import or export duty if they consider that the conditions for confiscation, destruction or abandonment are likely to be met and the goods are still under customs supervision.

Article DA-III-3-06 (332-05-DA)

Suspension of the time limit for payment where the customs debt incurred through non-compliance

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 108(3)(c)	Article 115	Article 876a	-	DA

1. Where a customs debt is incurred under Article 79 of the Code, the customs authorities shall suspend the obligation of the person referred to in paragraph 3(a) of that Article to pay the amount of import or export duty where at least one other debtor has been identified in accordance with Article 79(3)(b) or (c) of the Code and the amount concerned has also been notified to him in accordance with Article 102 of the Code.
2. The suspension shall be granted only on the condition that the person referred to in Article 79(3)(a) of the Code is not also covered by one of the other points of that paragraph and no deception or obvious negligence may be attributed to that person.
3. The duration of the suspension shall be limited to one year. However, this period may be extended by the customs authorities for justified reasons.
4. The suspension shall be conditional on the lodging by the person for whose benefit it is granted of a valid guarantee for the amount of the import or export duty at stake, except in either of the following situations:
 - (a) a guarantee covering the whole amount of import or export duty at stake already exists and the guarantor has not been released from his undertakings;
 - (b) it is established, on the basis of a documented assessment, that the requirement of a guarantee would be likely to cause the debtor serious economic or social difficulties.

SECTION 3

REPAYMENT AND REMISSION

SUBSECTION 1

GENERAL PROVISIONS AND PROCEDURE

Article DA-III-3-07 (333-02-DA)

Application for repayment or remission

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 22(1)	Article 24(a)	Articles 878(1) & 879(1), 881	Annex A (ex-Annex 111)	DA

1. By way of derogation from the third subparagraph of Article 22(1) of the Code, the application for repayment or remission ('application') shall be submitted to the customs authorities of the place where the customs debt was notified.

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Articles 6(3)(a) & 103	Article 7(b)		Annex A	DA

2. In accordance with Article 6(3)(a) of the Code, applications may be made by means other than electronic data -processing techniques.

Article DA-III-3-09 (333-06-DA)

Supplementary information

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Articles 6(2) & 6(3)(a)	Article 7(a) and 7(b)	Articles 885, 899(4), 910-911	Annex 33-06 (ex Annex 112)	DA

The common data requirements for the request of supplementary information where goods are situated in another Member State are set out in Annex 33-06 (ex-Annex 112).

In accordance with Article 6(3)(a) of the Code, applications, the request for information may be made by means other than electronic data -processing techniques.

Article DA-III-3-10 (333-08-DA)

Notification of the decision on repayment or remission

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Articles 6(3)(a)	Article 7(b)	Articles 886	33-07	DA

In accordance with Article 6(3)(a) of the Code, the decision on repayment or remission may be notified to the applicant by means other than electronic data-processing techniques.

Article DA-III-3-11 (333-09-DA)

Formalities related to the decision on repayment or remission

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 22(4)	Article 24(d)	Articles 886, 893	-	DA

1. The decision-taking customs authority shall set a deadline, no later than 60 day from the date of the notification of the decision to repay or remit import duties or export duties, for completion of the customs formalities to which the repayment or remission of duties is subject.

2. Failure to observe the deadline referred to in paragraph 1 shall result in loss of entitlement to repayment or remission except where the debtor proves that he was prevented from meeting this deadline by unforeseeable circumstances or force majeure.

Article DA-III-3-12 (333-10-DA)

Completion of formalities where goods are situated in another Member State

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 6(2)&(3)(a)	Article 7(a)&(b)	Articles 887, 888, 912	Annex 33-07 (ex-Annex 113)	DA

In accordance with Article 6(3)(a) of the Code, where the application relates to goods which are situated in a Member State other than that in which the customs debt was notified, information sent from the monitoring customs office to the decision-taking customs authority on the completion of formalities may be sent by means other than electronic data-processing techniques.

The common data requirements for the information referred to in this article are set out in Annex 33-07 (ex-Annex 113).

Article DA-III-3-13 (333-21-DA)

Extension of the time limit for taking a decision

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 22(3)	Article 24(c)	Article 899(2) 2 nd subpar	-	DA

Where the first subparagraph of Article 116(3) of the Code or point (b) of the second subparagraph of Article 116(3) of the Code applies, the time limit for taking the decision shall be extended until the end of the procedure initiated in accordance with those provisions.

SUBSECTION 2

DECISIONS TO BE TAKEN BY THE COMMISSION

Article DA-III-3-14 (333-24-DA)

Submission of the case

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 116(3)	Article 122	Articles 871, 872, 905, 906	-	DA

1. When a Member State submits a case to the Commission in accordance with the first subparagraph of Article 116(3) of the Code, it shall transmit a file containing all the information required for the Commission to take its decision.
2. The file shall include the following:
 - (a) a summary of the case;
 - (b) detailed information establishing that the conditions referred to in Articles 119 or 120 of the Code are fulfilled and in particular those referring to the behaviour, professional experience, good faith and diligence, of the debtor concerned;
 - (c) a statement, signed by the debtor for repayment or remission, certifying that he has read the file and either stating that he has nothing to add or listing all the additional information that he considers should be included.
3. As soon as it receives the file the Commission shall inform the Member State concerned accordingly.
4. Where the information transmitted by the Member State is not sufficient to take a decision on the case concerned, the Commission may request that additional information be supplied.

5. The Commission shall return the file to the Member State and the procedure referred to in Articles DA-III-3-15 to DA-III-3-18 (333-25-DA to 333-28-DA) shall be deemed never to have been initiated in any of the following situations:

- (a) the file shows that there is a disagreement between the Member State that has transmitted the file and the person who signed the statement referred to in paragraph 2(c) as regards the account of the facts;
- (b) the file is obviously incomplete since it contains nothing that would justify its consideration by the Commission;
- (c) the case should not have been submitted in accordance with Article 116(3) first subparagraph of the Code;
- (d) new information of a nature to alter substantially the presentation of the facts or the legal assessment of the case has been transmitted by the Member State to the Commission while it is considering the file.

6. The Commission shall make available to all Member States a copy of the summary of the case within 15 days from the date on which it received the file.

Article DA-III-3-15 (333-25-DA)

Right for the debtor to express his point of view

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 116(3)	Article 122	Articles 872a, 906a	-	DA

1. Where the Commission intends to take an unfavourable decision, it shall communicate its objections to the debtor in writing, together with a reference to all the documents and information on which it bases those objections. It shall inform the debtor of his right to have access to his file.

2. The debtor shall express his point of view in writing within 30 days from the date on which he received the communication referred to in paragraph 1. If he does not express his point of view within that period, it shall be deemed that he has waived the right to express his point of view.

Article DA-III-3-16 (333-26-DA)

Time-limits

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 116(3)	Article 122	Articles 873, 907	-	DA

1. Within nine months from the date on which the file referred to in Article DA-III-3-14(1) (333-24(1)-DA) is received by the Commission, the Commission shall decide whether or not repayment or remission is justified.

2. Where the detailed information referred to in Article DA-III-3-14(2)(b) (333-24(2)(b)-DA) or the statement referred to in Article DA-III-3-14(2)(c) (333-24(2)(c)-DA) is not included in the file, the period referred to in paragraph 1 shall be counted from the date the Commission received them. The Commission shall notify the debtor accordingly.

3. Where the Commission has found it necessary to request additional information from the Member State, the period referred to in paragraph 1 shall be extended by a period equivalent to that between the date the Commission sent the request for additional information and the date it received that information. The Commission shall notify the applicant of the extension.

4. Where the Commission conducts investigations in order to take a decision, the period referred to in paragraph 1 shall be extended by the time necessary to complete the investigations. Such an extension shall not exceed nine months. The Commission shall notify the Member State and the debtor of the dates on which investigations are opened and closed.

5. In the case referred to in Article DA-III-3-15 (333-25-DA) the period referred to in paragraph 1 shall be extended by 30 days.

Article DA-III-3-17 (333-27-DA)

Notification of the decision and empowerment

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 116(3)	Article 122	Articles 874-875, 908	-	DA

1. The Commission shall notify the Member State concerned of its decision as soon as possible and in any event within 30 days of the expiry of the period specified in Article DA-III-3-16(1) (333-26(1)-DA).

2. The decision-taking customs authority shall issue a decision on the basis of the Commission's decision notified in accordance with paragraph 1.

The Member State to which the decision-taking customs authority belongs shall inform the Commission accordingly by sending to it a copy of the decision concerned.

3. Where the decision referred to in Article DA-III-3-16(1) (333-26(1)-DA) is favourable to the debtor the Commission may specify the conditions under which the customs authorities may repay or remit duty in cases involving comparable issues of fact and of law.

Article DA-III-3-18 (333-28-DA)

Consequences of a failure to take a decision or notify

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 116(3)	Article 122	Articles 876,909	-	DA

If the Commission does not take a decision within the time limit provided for in Article DA-III-3-16 (333-26-DA), or does not notify a decision to the Member State in question within the time limit provided for in DA-III-3-17(1) (Article 333-27-DA), the decision-taking customs authority shall take a decision favourable to the debtor.

CHAPTER 4

Extinguishment of a customs debt

SECTION 1

IRRETRIEVABLE LOSS

Disclaimer: NO DA foreseen.

SECTION 2

FAILURES WHICH HAVE NO SIGNIFICANT EFFECT ON THE CORRECT OPERATION OF THE CUSTOMS PROCEDURE CONCERNED

Article DA-III-4-01 (342-01-DA)

List of failures which have no significant effect on the correct operation of the customs procedure

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 124(1)(h)(i)	Article 126	Articles 859, 865(2), 865a, 900(1(a)-(b))	-	DA

1. For the purpose of Article 124(1)(h)(i) of the Code it shall be considered that there is a failure with no significant effect on the correct operation of the customs procedure concerned in any of the following situations:

- (a) exceeding a time limit, where the time limit would have been extended had an extension been applied for in time;
- (b) where a customs debt has been incurred for goods placed under a special procedure or in temporary storage pursuant to Article 79(1)(a) or (c) of the Code and those goods were subsequently released for free circulation or, in case of a transit procedure the customs supervision subsequently has been restored for these goods;
- (c) in the case of goods placed under a special procedure other than transit and free zone or goods which are in temporary storage, any error concerning the particulars in the customs declaration discharging the procedure or, accordingly, ending the temporary storage provided this error has no impact on the discharge of the procedure or the end of the temporary storage;;
- (d) where a customs debt has been incurred pursuant to Article 79(1)(a) or (b) of the Code, on condition that the person concerned informs the competent customs authorities about the non-compliance before either the customs debt

has been notified or the customs authorities have informed that person that they intend to perform a control.

2. In the cases referred to in paragraph 1(a), (b) and (c), the condition laid down in Article 124(1)(h)(ii) of the Code is deemed to be fulfilled.