

CCC - UCC

Provisions On Customs Debt



UCC
SIMPLICITY SERVICE SPEED

A MODERN FRAMEWORK
FOR CUSTOMS AND TRADE

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Community Customs Code

Incurrence of a customs debt through correct placement under a customs procedure

art. 201 CCC: release for free circulation / temporary admission

art. 216 CCC: non-originating goods

Incurrence of customs debt through non-compliance/non-fulfilment

art. 202 CCC: unlawful introduction

art. 203 CCC: unlawful removal from customs supervision

art. 204 CCC: non-fulfilment of obligations

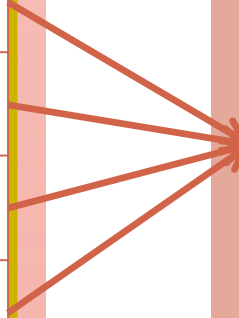
art. 205 CCC: consumption in a free-zone

Union Customs Code

art. 77 UCC

art. 78 UCC

art. 79 UCC



facts of incurrence

time of incurrence

art. 77 UCC

- a) **release for free circulation**
(also end-use)
- b) **temporary admission**
with partial relief

acceptance of a
customs declaration

art. 78 UCC

Use of duty-free non-originating goods
in the manufacture of preferential goods

acceptance of a
re-export declaration

art. 79 UCC

non-fulfilment of obligations with reference to:

- a)
 - introduction (exceptions Art. 83 (2) UCC)
 - customs supervision (unlawful removal)
 - movement
 - processing
 - storage
 - temporary storage
 - temporary admission, or
 - disposal
- b) end-use
- c)
 - conditions governing the placing of goods
under a customs procedure
 - granting exemption from duties
by virtue of end-use

- a) obligation isn't, or is not
any more fulfilled
- a) acceptance of a declaration
if it was subsequently
established that conditions
for customs procedure or
for exemption of customs
duties due to end-use have
not been fulfilled

customs debtor

art. 77 UCC

- **declarant**
- indirect representative
- provider of false information:
 - who knew of the incorrectness, or
 - who ought reasonably have known about the incorrectness

art. 78 UCC

art. 79 UCC

Art.79 (1) (a) and (b):

- **person who was required to fulfil obligations**
- **indirect representative** + (had knowledge/ ought reasonably have had knowledge)
- **person who participated in the act** + (had knowledge/ ought reasonably have had knowledge)
- **person who aquired or held the goods** + (had knowledge/ ought reasonably have had knowledge)

Art.79 (1) (c)

- **person who was required to fulfil obligations**
- **person who provided false information**, who knew of the incorrectnes or ought reasonably have had knowledge of the incorrectnes

release for free circulation and temporary admission

art. 201 CCC

[art. 77 UCC](#)

incurrance of a customs debt
through proper conduct

definitions

art. 5 (18) : customs debt

art. 5 (19) : debtor

art. 5 (20) : import duty

clarification

- The wording of art. 77 (1)(a) UCC points out that provisions regarding the incurrance of an import duty through proper conduct also apply for release for free circulation in the framework of end-use

harmonization of provisions regarding customs debt liability throughout the EU

- the provisions on customs debt liability have been harmonized EU-wide. If customs duties can't be collected in total or only partially because of incorrect data (information) within a customs declaration, that person becomes a customs debtor, who delivered

(provided) the data and had known or ought reasonably to have known about the incorrectness

- this means that also direct representatives or other persons can become customs debtors in case they were (co-) responsible for the false information and they knew or ought reasonably to have known about the incorrectness.

special provisions for non - originating goods

art. 216 CCC

[art. 78 UCC](#)

Incurrence of a customs debt on import where a prohibition of draw-back applies, or exemption from

definitions

art. 5 (18) : customs debt

art. 5 (19): debtor

art. 5 (20) : import duty

regulation on prohibition of draw-back

- the regulation with regard to incurrence of customs debts remained basically unchanged.

incurrence of customs debt through non-compliance or non-fulfilment

art. 202 CCC
art. 203 CCC
art. 204 CCC
art. 205 CCC

art. 79 UCC

incurrence of customs debt
through irregularities (non-
compliance or non-fulfilment)

definitions

art. 5 (18): customs debt

art. 5 (19) : debtor

art. 5 (20) : import duty

summary of facts of incurrence through irregularities

- the provisions regarding incurrence of customs debt previously contained in art. 202 - 205 CCC have now been summarized in art. 79 UCC.

elimination of the „unless“ regulation

- The „unless“ regulation as previously contained in art. 859 CCIP referring to art. 204 CCC as well as facts on non-incurrence pursuant to art. 206 CCC and art. 865a CCIP have not been taken over in the UCC. On the other hand, provisions on extinguishment of a customs debt have been extended (art. 124 UCC)

new provision on customs debt liability

- Pursuant to art. 79 (3)(b) UCC, representatives or other persons involved will become debtors in case they knew or ought reasonably to have known that a condition governing a customs procedure was not in fact fulfilled
- If import duties that incurred pursuant to art. 79(1)(c)

UCC cannot be collected in total or only partial because of incorrect data in the declaration, then that person will become debtor, who had to meet the requirements of a customs procedure or who had to fulfil the obligations

Deduction of an amount of import duty already paid

art. 143 CCC
art. 144 CCC
art. 208 CCC

art. 80 UCC

Deduction of an amount of import duty incurred through art.79 UCC already paid from the amount that incurred pursuant to art.77 UCC and that was and already paid

definitions

art. 5 (18) : customs debt

art. 254: end-use

- The provisions of art. 80 UCC are in accordance with the provisions of the previous art. 208 CCC

incurrence of a customs debt through proper conduct

art. 209 CCC: export of goods liable to export duty

art. 81 UCC

incurrence of a customs debt as a result of procedural irregularities

art. 210 CCC: unlawful exit from the customs territory

art. 211 CCC: non-fulfilment of conditions that would give the right to a total or partial relief from export duty

art. 82 UCC

Art. 81 UCC

placing of goods liable to export duty
a) into the export procedure, or
b) into the outward processing procedure

time

acceptance of the declaration

Art. 82 UCC

non-fulfilment of obligations with reference to

a) the exit of goods liable to export duty,
b) the conditions governing the exit under total or partial relief of export duty

– moment of exiting the goods from the customs territory without declaration,

– moment when goods reach a destination other than that procedure that is granted a total or partial relief

– moment of expiry of the time-limit set for the production of evidence that the conditions entitling the goods to a relief have been fulfilled

debtor

art. 81 UCC

- **declarant**
- **indirect representative**
- **provider of false information**
 - who knew, or
 - who ought to have reasonably have known of the incorrectness

art. 82 UCC

- **person who was required to fulfil the obligations**
- indirect representative + (knew/ought reasonably to have known),
- person involved in the procedure + (was aware/ought reasonably have been aware).

export and outward processing

art. 145 CCC
art. 209 CCC

art. 81 UCC

inurrence of a export debt
through correct placement
under a customs procedure

Definitionen

art. 5 (18) : customs debt

art. 5 (19) : debtor

art. 5 (21) : export duty

clarification

- According to the wording of art. 81 UCC it is clarified that provisions for the inurrence of export customs debt through correct placement under a customs procedure also apply to the procedure of outward processing

extension of the set of possible debtors

- The set/group of possible debtors has been extended by art. 81 (3) sub 2 UCC. If duties have incurred pursuant to art. 81 (1) UCC because of incorrect data (information) in the declarations and can't be collected in total or only partial, then also that person will become debtor who provided/delivered the false data and who knew or ought reasonably has known about the incorrectness

incurrence of an export customs debt through non-compliance

art. 210 CCC
art. 211 CCC

art. 82 UCC

Incurrence of a export
customs debt through non-
compliance

definitions

art. 5 (18) : customs debt

Art. 5 (19) : debtor

Art. 5 (21): export duty

- The wording of provisions with reference to persons who can become debtors because of procedural irregularities has been re-drafted.

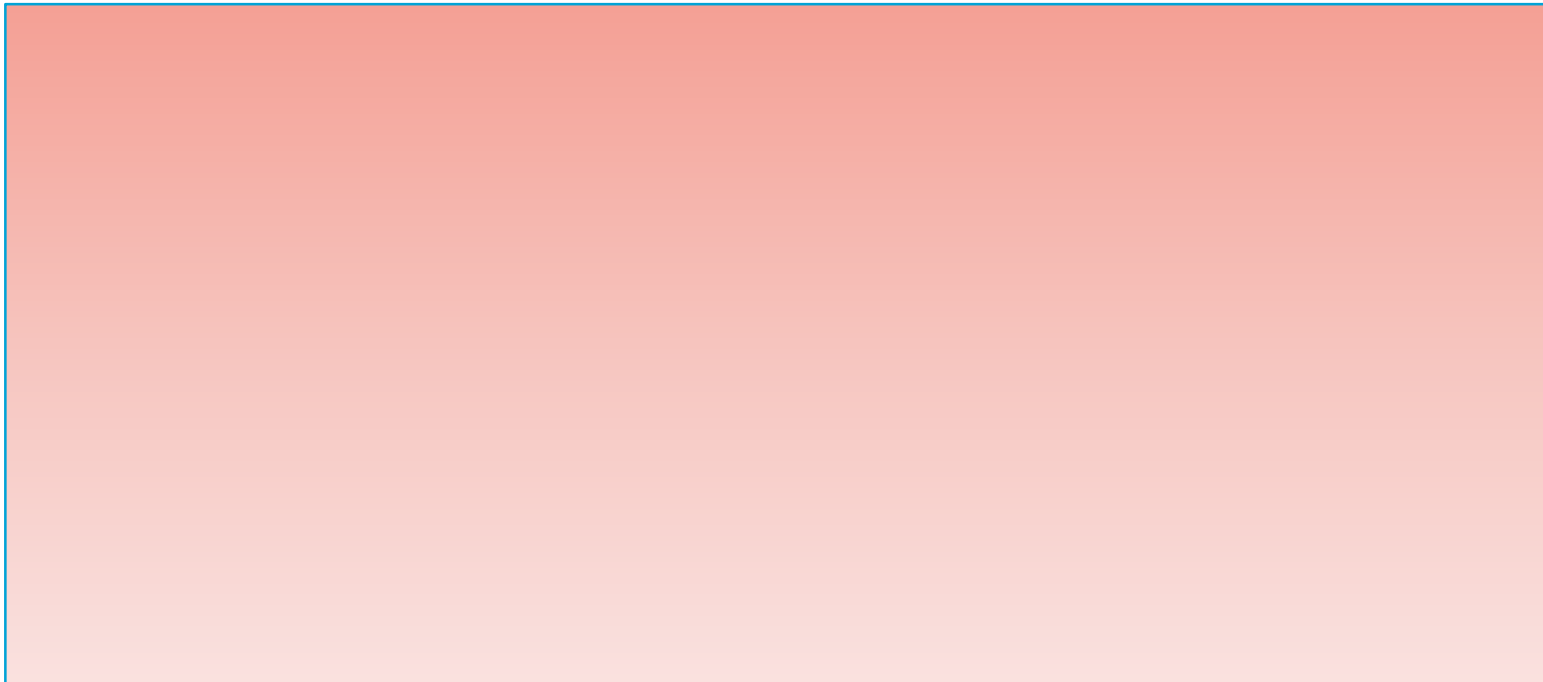
prohibitions and restrictions

art. 212 CCC

art. 83 UCC

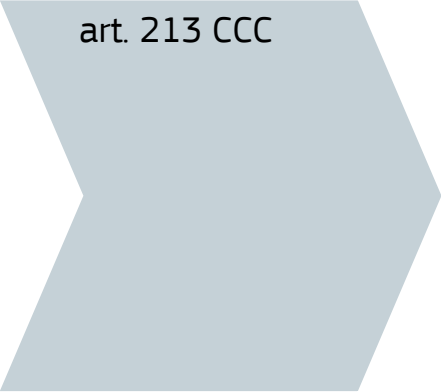
effects of relevant
prohibitions and restrictions
onto the incurrence of a
export-or import customs
debt

definitions



several Debtors

art. 213 CCC



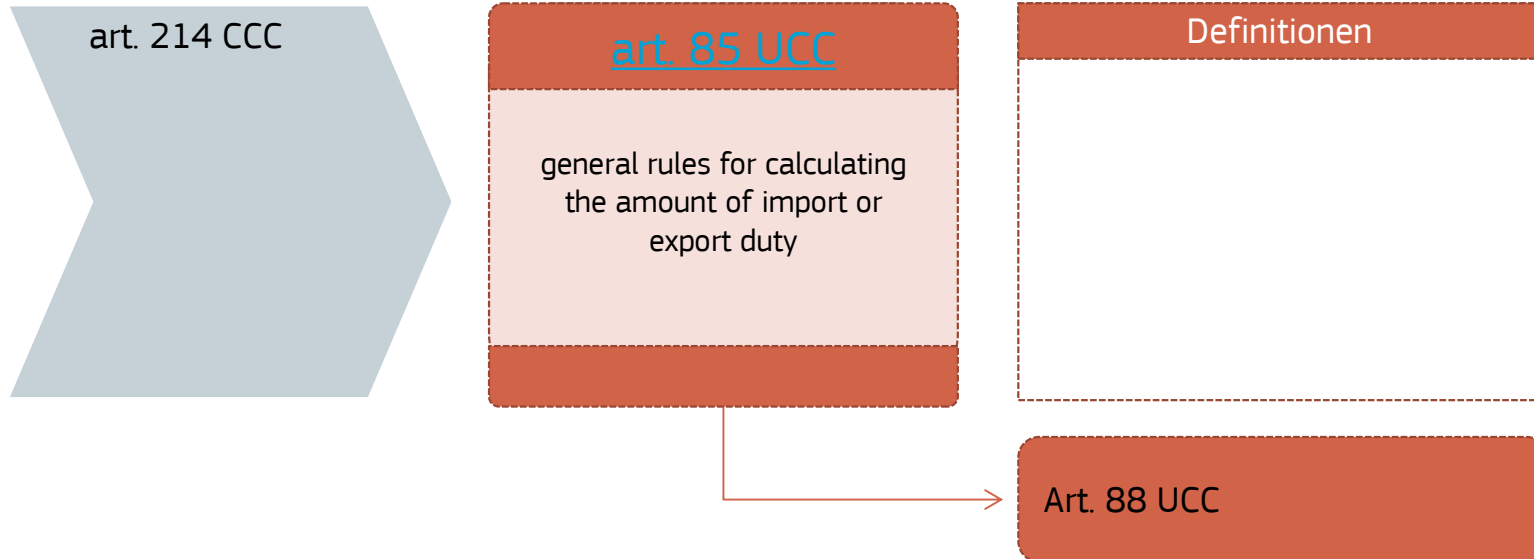
[art. 84 UCC](#)

provisions regarding joint and
several liability

definitions

Art. 5 (19) : customs debtor

general rules for calculating the amount of import or export duty

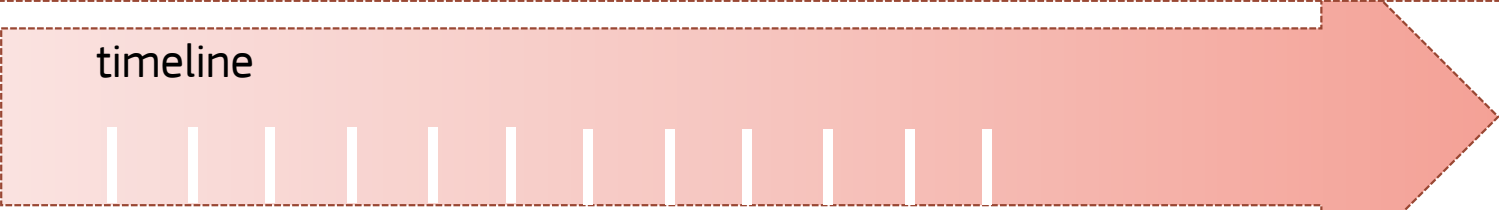


elimination of compensatory interest

- the provision regarding the collection of compensatory interest pursuant to art. 214 (3)3 CCC was dropped in the UCC.

general provisions for calculating the amount of import – or export duties

timeline



moment of incurrance of the
customs debt

moment cannot
be determined

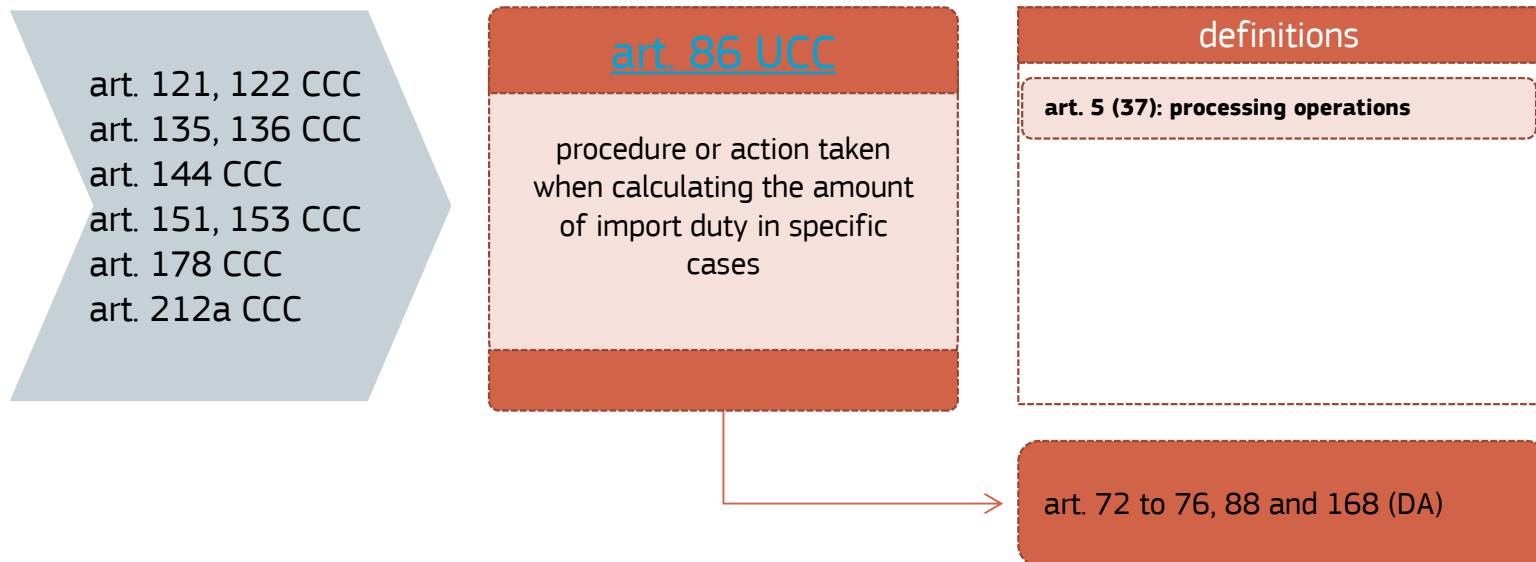
incurrance of customs debt is
determined by customs
authorities

moment is determined

art. 85 (1) UCC
decisive moment for
determining rules for calculation
regarding the amount of duty

art. 85 (2), (3) UCC
decisive moment for
determining rules for calculation
regarding the amount of duty
where it is not possible to determine a
prior moment

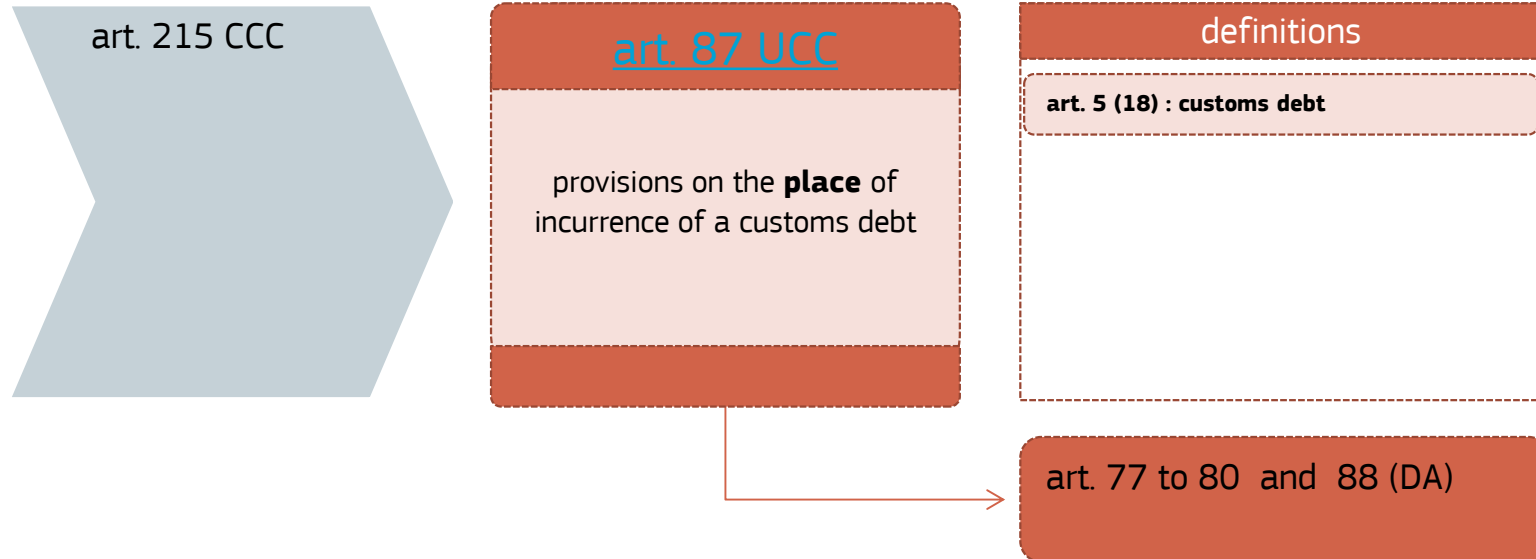
special rules for calculating the amount of import duty



summary of special rules for calculating the amount of import duty

- all rules for calculating were summarized in Art. 86 UCC
- pursuant to art.86(3) and (4) UCC there is now freedom of choice to clear customs for inward processing via tariff classification, or on basis of customs value, or of quantity, nature and origin **before or after** inward processing.
- the value-added-method is regarded as the standard procedure for the outward processing procedure, art. 86 (5) UCC.
- provisions of **art. 212a CCC** have been transferred to art. 86 (6) UCC.
- application of art. 86 (6) UCC is precluded only in cases of attempt of deception.
- the reference of art.212a CCC to the condition regarding the obvious negligence is not present in the UCC.

place where a customs debt is incurred

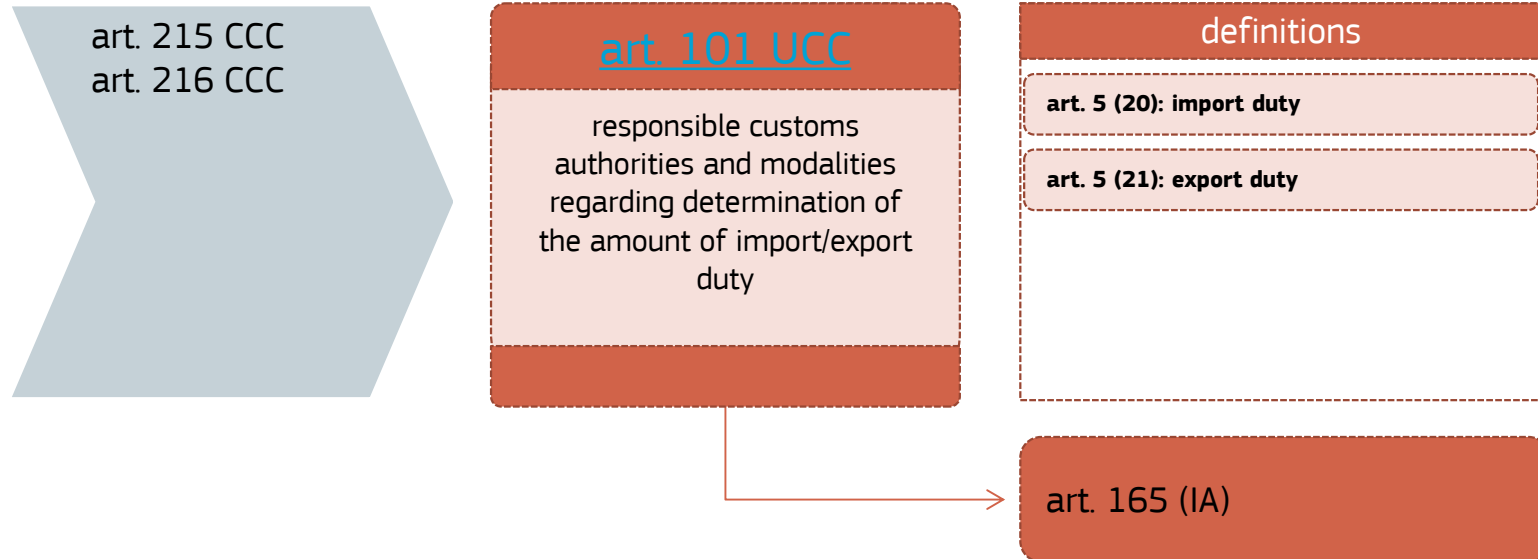


rise of the minimum amount

- customs debt shall be deemed to have been incurred through non-compliance (art. 79 and 82 UCC) in the member state where the finding was made in case the debt is **lower than 10.000 €** (formerly 5.000 €)

chapter 3

determination of the amount of import or export duty

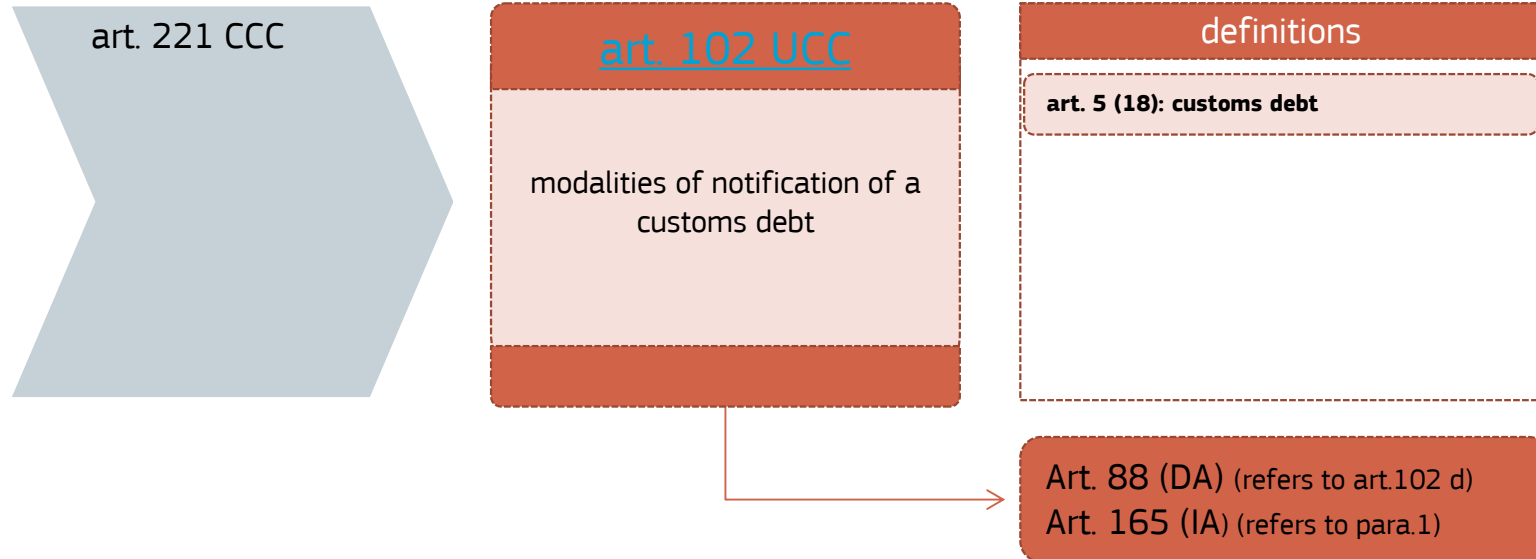


- the determination of the amount of import/export duties will continue to be conducted by customs authorities responsible for the place where the customs debt is incurred or is deemed to have been incurred

concept of self-monitoring

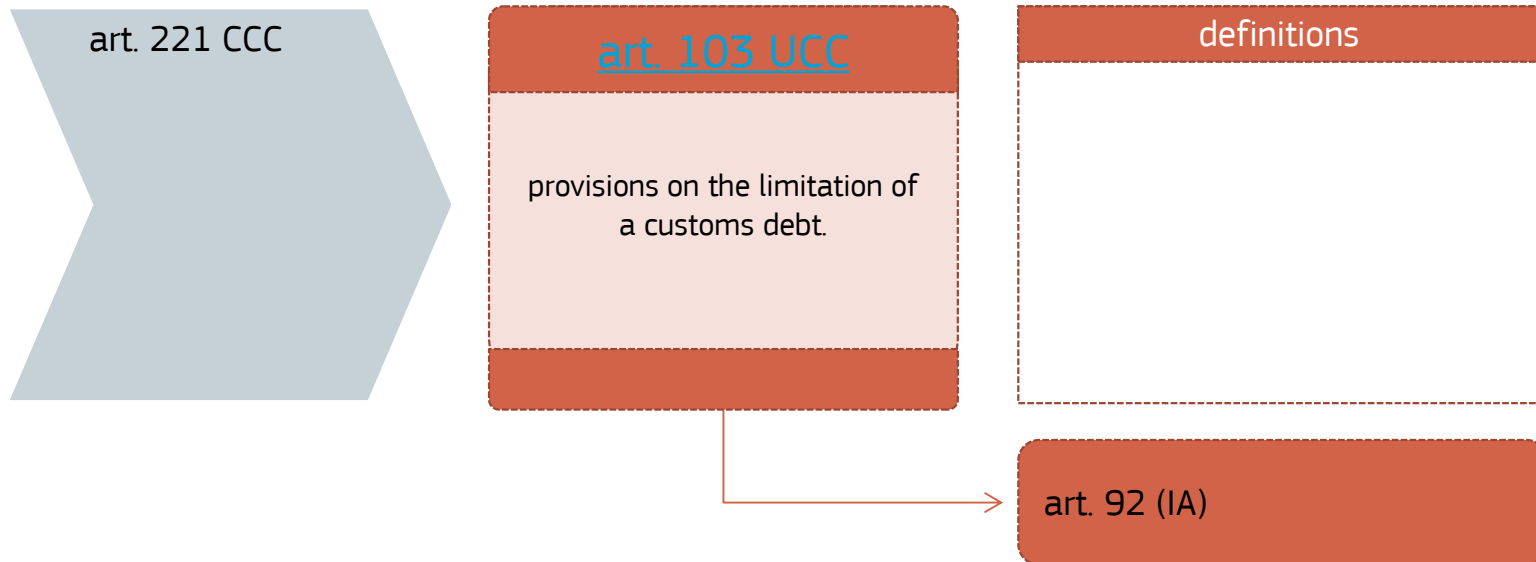
- without prejudice to subsequent monitoring customs authorities may accept the amount of import/export duty payable determined by the declarant

notification of the customs debt



- notification will continue to be carried out in accordance with national provisions of the customs authority that imposes the duty
- exemption from the obligation to notify: if the amount of import/export duty to be paid corresponds to the amount declared in the customs declaration. In this case the release will be regarded as notification towards the debtor, art. 102 (2) UCC.
- in case a notification would prejudice a criminal investigation, customs authorities may defer that notification until it no longer prejudices the investigation, art. 102 (2) subpara. 2 UCC.

limitation of the customs debt



new regulation regarding period of limitation

- If a customs debt incurs because of an act that was liable to give rise to criminal court proceedings the period of limitation shall be extended to a minimum of **5** and a maximum of **10** years in accordance with national law.
- periods of limitation will be suspended, if
 - a. an appeal is lodged in accordance with art. 44 UCC,
 - b. customs authorities communicate to the debtor in accordance with art.22 (6) UCC the grounds on which they intend to notify the customs debt (right to be heard)
 - c. in cases of reinstatement of the original customs debt pursuant to art. 116 (7) UCC : from the moment of lodging the application for refund up to the moment of the (wrongfully) granted refund

entry in the accounts

art. 217 CCC

art. 104 UCC

Definitionen

modalities of entry into the
accounts



time of entry in the accounts

art. 218 CCC
art. 219 CCC
art. 220 CCC

art. 105 UZCC

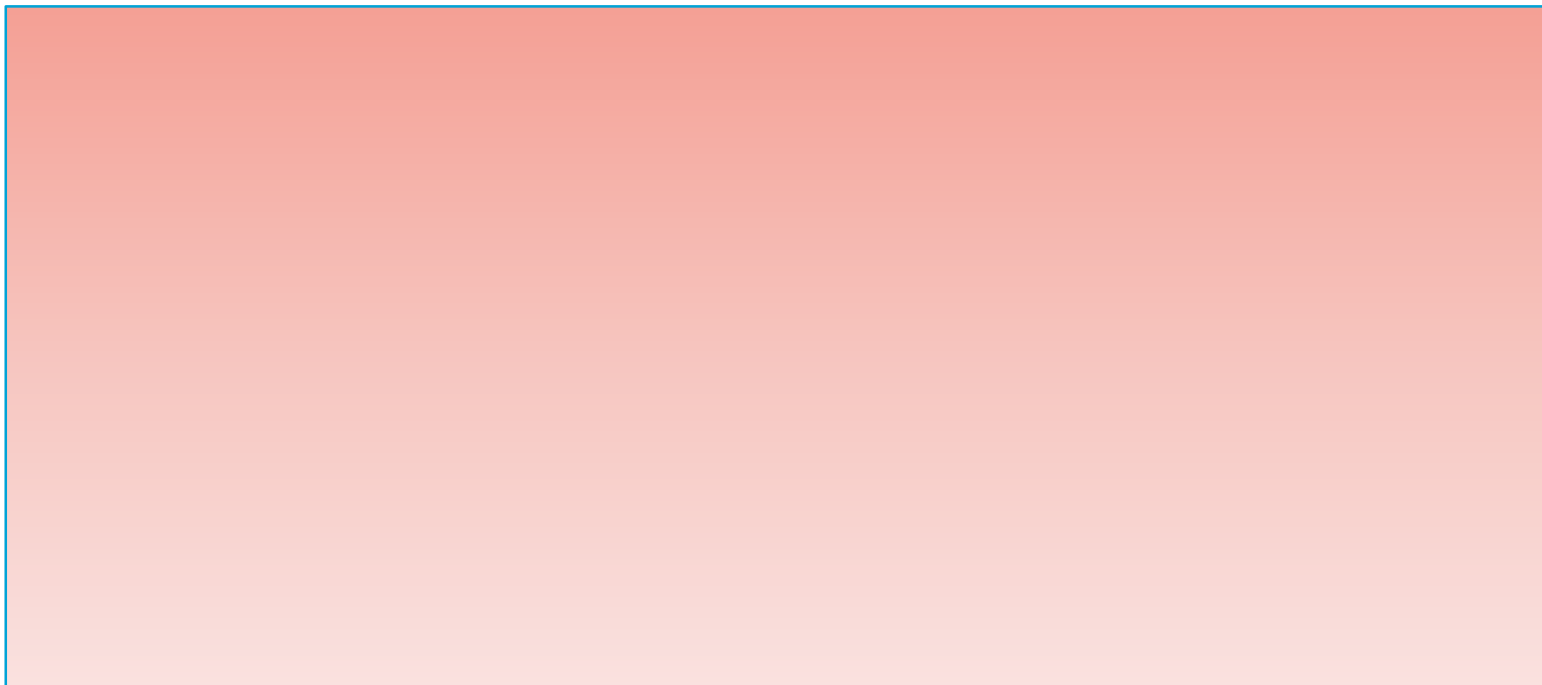
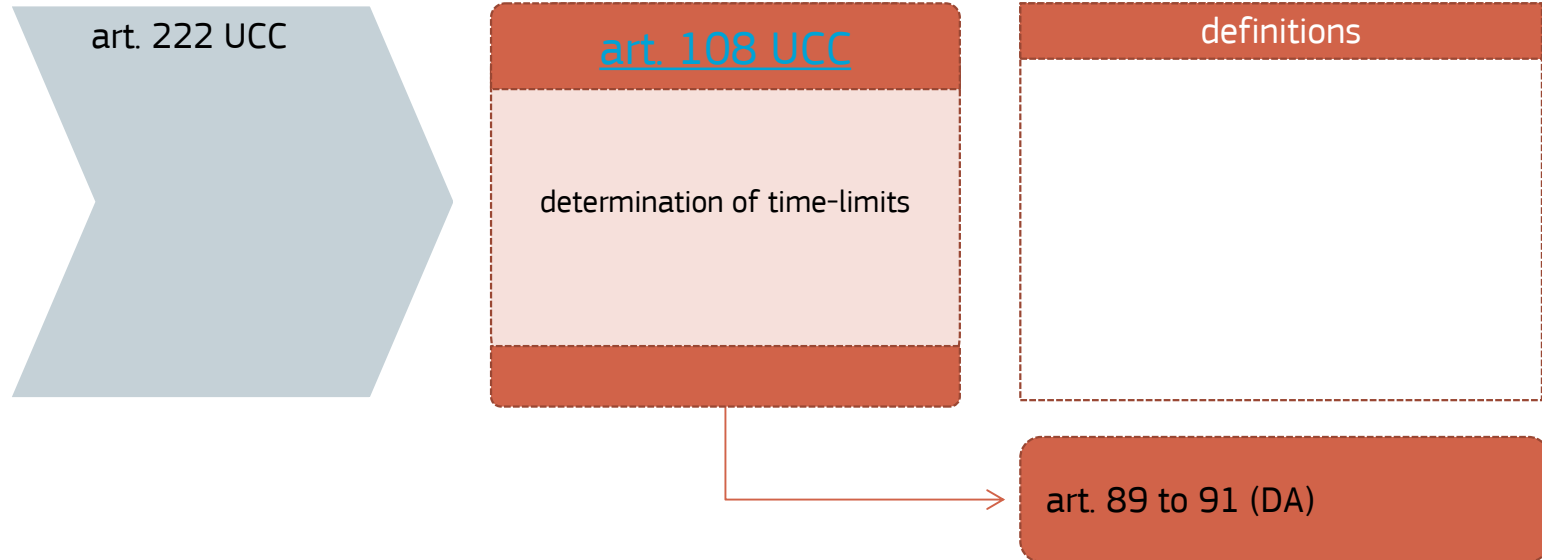
time of entry in the accounts

definitions

New:

- entry may be deferred in the cases referring to art. 102 (3) subpara. 2 UCC until such time as the notification of a customs debt no longer prejudices a criminal investigation.

general time-limits for payment and suspension of the time-limit for payment



payment

art. 223 CCC
art. 230 CCC
art. 231 CCC

[art 109 UCC](#)

possible methods of payment

definitions



deferment of payment

art. 224 CCC
art. 225 CCC
art. 226 CCC

art 110 UCC

conditions for authorization
of a deferment of payment

definitions

New:

- **elimination of the grant to collect of „other charges“**
- **the possibility to collect other charges as i.e. „handling of files“ has been omitted**

periods for which payment is deferred

art. 227 CCC



art 111 UCC

determination of a time-limit
for deferment

definitions



other payment facilities

art. 229 CCC

[art 112 UCC](#)

provisions on other payment facilities

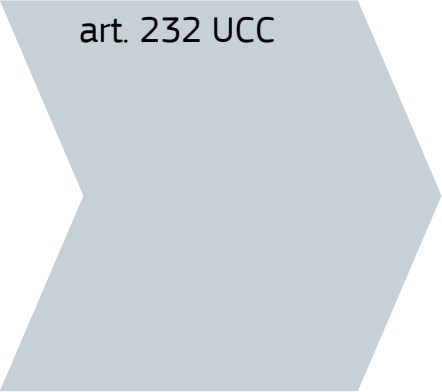
definitions

harmonization of provisions regarding the charging of credit interest

- The interest rate whose currency **is** the EURO may only be increased by one percentage point above the credit interest rate published in the Official Journal of the European Union, C series.
- provisions regarding member states whose currency is **not** the EURO are laid down in art. 112 (2) subpara. 3 UCC
- customs authorities shall refrain from charging credit interest where the amount for each recovery action is less than 10 EURO

enforcement of payment

art. 232 UCC



art. 113 UCC

commissioning enforcement
of import/export duty that
has not been paid within the
prescribed period

definitions



interest on arrears

art. 232 CCC

[art. 114 UCC](#)

provisions on determination
of interests on arrears

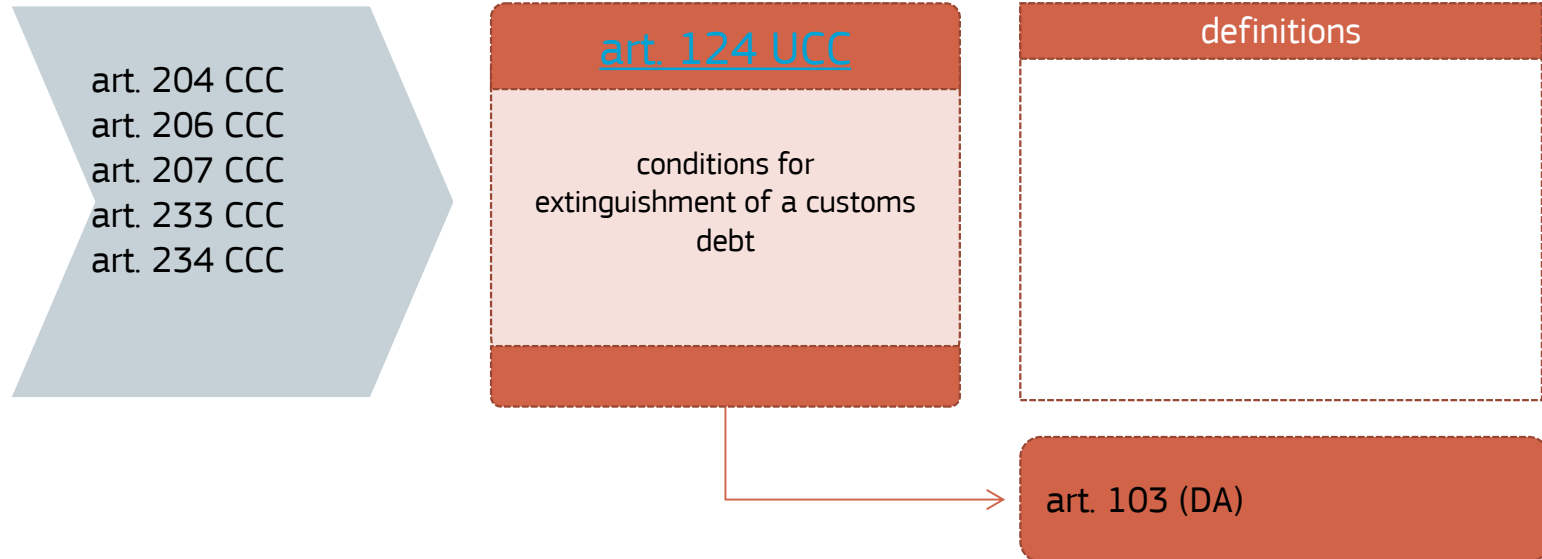
definitions

harmonization of provisions on payment of interest rates

- the interest rate of a member state whose currency **is** the EURO may only be increased by two percentage points above the credit interest rate published in the Official Journal of the European Union, C series.
- provisions regarding member states whose currency is **not** the EURO are laid down in art. 114 (1) subp. 3 UCC
- customs authorities shall refrain from charging interest on arrears where the amount for each recovery action is less than 10 EURO

chapter 4

extinguishment of a customs debt



- all options of extinguishment of a customs debt that has incurred have been summarized in art. 124 UCC
- the condition of art. 233 CCC saying that a customs debt will only be regarded as extinguished at the moment of seizure and confiscation of the goods in question, if the goods were confiscated **before** release, has been omitted in Art. 124(1)(e) UCC
- art. 124 (1) (g) UCC is in accordance with art. 206 CCC
- art. 124 (1) (h) UCC contains the former „unless“ – regulation of art. 204 CCC and extends it to cases of incurrence because of non-compliance.
- art. 103 DA provides an exhaustive list of those cases;
- in art. 103 DA cases of non – compliance in the framework of temporary storage are being explicitly involved mentioned pursuant to art. 124 (1) (k) and (6) UCC a customs debt incurred through art.79 UCC shall always be extinguished, if evidence is provided that the goods have not been used or consumed and have not been taken out of the customs territory, and, above that, **there has not been any attempt at deception**

application of penalties

(-)

art 125 UCC

independence of legal
admissibility of penalties
because of non-compliance
towards the provisions
regarding the extinguishment of
customs debts

definitions

