CCC – UCC
REPAYMENT OR REMISSION
OF AN AMOUNT OF CUSTOMS DUTY
This presentation is of an explanatory and illustrative nature. This document does not constitute a legally binding act nor does it reflect a formal Commission position. Legal provisions of customs legislation take precedence over the contents of this document and should always be consulted. The authentic texts of the EU legal instruments are those published in the Official Journal of the European Union. There may also exist national instructions or explanatory notes in addition to this document.
Community Customs Code (CCC)

- Repayment or remission of an amount of customs duty
  - **art. 235 CCC**: definitions of repayment and remission

- Grounds for repayment or remission
  - **Art. 236 CCC**: Import/export duty not legally owed or entered in the accounts contrary to Art 220(2).
  - **Art. 237 CCC**: where customs declaration has been invalidated and customs duty paid.
  - **Art. 238 CCC**: defective goods or goods not in conformity with the terms of the contract.
  - **art. 239 CCC**: special situations

Union Customs Code (UCC)

- Definitions
  - Art. 5 (28) and (29) UCC

- Art. 116(1) UCC
**Grounds for repayment or remission**

a) Amount corresponding to the customs debt initially notified exceeds the amount payable.

b) Customs debt notified contrary to points c) or (d) of Article 102 (1)

Defective goods or goods not complying with the terms of the contract.

**Error by the competent authorities**

This error could not have been detected by the debtor acting in good faith. The condition relating to compliance to the provisions in regard with customs declaration is deleted.

**Equity**

Invalidation of a customs declaration (and customs duty paid)

**Time-limit to lodge an application Art. 121 UCC**

3 years from the date of notification of the customs debt

1 year from the date of notification of the customs debt

3 years from the date of notification of the customs debt

3 years from the date of notification of the customs debt.

within the period specified in the rules applicable to invalidation.

Period suspended if an appeal is lodged against the notification of the customs debt – Art 121 § 3 UCC
Art. 220 (2) (b) CCC

NO SUBSEQUENT ENTRY IN THE ACCOUNTS

does not exist anymore in UCC
on the basis of Article 119 of UCC, the
customs authority deals with remission or
repayment

The UCC: IA and DA
do not contain provisions
describing special situations,
currently provided in Art. 900-904 CCIP

except for Art 180 of the IA, which includes
the provisions of Art. 901 and 902 of the
current CCIP.
Community Customs Code and CCIP

APPLICANT

Art. 878 (1) CCIP:
Person who paid or is liable to pay those duties

Or his/her representative

Threshold for repayment/remission

Art. 240 CCC + 898 CCIP: More than EUR 10

But customs authorities may also grant repayment or remission if the amount at stake is EUR 10 or less

Union Customs Code and Delegated and Implementing Regulations

Art. 172 Implementing Regulation 2015/2447
Articles 18 and 19 UCC

Art. 116 (2) UCC
EUR 10 or more

Except where the person concerned requests the repayment or remission of a lower amount.
Community Customs Code and CCIP

**APPLICATION**

Art. 878 (2) CCIP:
Application shall be made, in one original and one copy, on a form conforming to the specimen and provisions in *Annex 111 of CCIP* or in plain-paper.

Competent customs authority to receive an application

Art. 879 CCIP:

the customs office of entry in the accounts,

*unless the customs authorities designated another office for this purpose;*

Union Customs Code and Delegated and Implementing Regulations

**Art. 92 (2)**
Delegated Regulation 2015/2446

May be made by means other than electronic data-processing techniques.

No specific form for the application

**Art. 92 (1)**
Delegated Regulation 2015/2446

Competent customs authority of the Member State where the customs debt was notified +

Art 11 Implementing Regulation 2015/2447
(communication to Commission list of customs authorities designated)
Art. 236 to 239 CCC
Art. 879 (2) CCIP

ON INITIATIVE OF CUSTOMS AUTHORITIES

Art. 236 CCC CCC

ON REQUEST

Art. 121 UCC

Art. 116 (4)
Not only for Articles 117 and 119 but also for Art. 120 UCC
Community Customs Code and CCIP

BREAKDOWN OF COMPETENCE BETWEEN COMMISSION AND MEMBER STATES

Art. 871 (1) and 905 (1) CCIP:
* where it considers that conditions are fulfilled and:
** there is an error or failure of the Commission or
** the case is related to the findings of Commission’s investigation or

** the amount is 500 000 € or more.

NO SUBMISSION TO COMMISSION

Art. 871 (2) and 905 (2) of CCIP:
On cases involving comparable issues of fact and law:
* decision already adopted by Commission
** case on consideration by Commission

Union Customs Code and Delegated and Implementing Regulations

Art. 116 (3)

first subparagraph UCC

* repayment or remission should be granted and conditions art 116 (3) a) or b) or c) or d) fulfilled

Art. 116 (3)

second subparagraph UCC

(same rules)
**Community Customs Code and CCIP**

**NO REPAYMENT OR REMISSION**

**Art. 236 CCC : If deception**

**Art 239 CCC : If deception / obvious negligence**

**PAYMENT OF INTERESTS**

**Art. 241 CCC :**
If decision of repayment is not implemented within 3 months from the date of adoption of that decision.

(interest shall also be paid where national provisions so stipulate)

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**Union Customs Code and Delegated and Implementing Regulations**

**Art. 116 (5) UCC**
When situation which led to the notification of customs debt results from deception

**Art. 116 (6) UCC**
If decision not implemented within 3 months from the date of adoption of that decision unless the failure to meet deadline was outside the control of customs authority

(Art. 116 (3) does not include a provision to allow payment of interest in cases where national provisions so stipulate)
Community Customs Code and CCIP

CONDITIONS FOR ACCEPTANCE

Art. 881 (1) CCIP:

Boxes 1 to 3 and if needed box 7 of Annex 111 CCIP

Art. 881 (2) CCIP:

2. Where paragraph 1 is applied, the said customs office shall set a time limit for the supply of any missing particulars and/or documents.

3. Where the time limit set by the customs office pursuant to paragraph 2 is not observed, the application shall be considered to have been withdrawn. The applicant shall be informed of this immediately.
ARE CONDITIONS OF ARTICLE 11 DELEGATED REGULATION FULFILLED?

Art. 11 Delegated Regulation 2015/2446

- * EORI number of the applicant (where required (see Art. 6 Delegated Regulation)

- * Applicant located in EU

- Application submitted to the competent customs authority

Application not accepted without RTBH (article 10 (a) delegated regulation 2015/2446 if this information is not provided
CONDITIONS FOR ACCEPTANCE - SECOND STEP -

DATA REQUIREMENTS TO BE PROVIDED IN THE APPLICATION

- Application code type (REP or REM),
- Title for recovery
- Applicant (and representative, if any) identification,
- Customs office where the customs debt has been notified,
- Commodity code
- Description of goods,
- Goods quantity
- Customs value
- Amount of import duty to be repaid or remitted
- Type of import customs duty to be repaid or remitted
- Legal basis

- Bank and account details
- Description of the grounds for repayment or remission
- Attached document
- Date, location and signature

If needed:
- Customs procedure (request for prior completion of formalities)
- Customs office responsible for the place where the goods are located

Data requirements provided for application in Annex A of delegated regulation 2015/2446 and formats and codes provided in Annex A of implementing regulation 2015/2447 shall apply to applications made by using an electronic data processing technique as well as to paper-based applications.
DATE OF ACCEPTANCE: if conditions of Art. 11 fulfilled, the date on which all the information required in accordance with Art 22 UCC was received by customs authority.

Timelimit for acceptance: 30 days

Absence of communication from customs authority during 30 days

From the date of receipt of the application for repayment or remission

Art. 12(2) implementing regulation 2015/2447
Applicant requested for providing missing data

Time-limit: 30 days from the date he received the request

Date of submission

Acceptance

Date of receipt of the missing data if provided in time

Missing data requested not provided in time: NON ACCEPTANCE
AFTER ACCEPTANCE:

Time-limit to take decision: 120 days

Art. 13(1) delegated regulation 2015/2446
Applicant can be requested for providing additional information in order to reach decision

Time-limit: 30 days from the date the applicant received the request

Art. 175 implementing Regulation 2015/2447
(mutual assistance between the customs authorities)
Time-limit for answering 30 days
Art. 93 and 95 delegated regulation
Annex 3306 and 3307

Extension of the time-limit of 120 days for the same period
(no decision within time-limits: right of appeal (art. 44 (1) UCC)
The file transmitted shall include the following:
- a summary of the case;
- detailed information that conditions of Art. 119 and 120 of the Code are fulfilled;
- the statement signed by the person concerned or a statement by the MS certifying that the person concerned is deemed to have read the file and to have nothing to add.
Decisions taken by the Commission

Art. 98 (3) and (5) Delegated Regulation 2015/2446

To the Member State concerned
- Acknowledges receipt of the file as soon it received it
  - (same rules than currently)
- If needed, requests additional information to Member State concerned
  - (same rules than currently)

To all the Members States
- Makes available a copy of the summary of the file of the case within 15 days from the date it received the file.
  - (same rules than currently)
Decisions taken by the Commission

Art. 119 UCC

Art. 120 UCC

Customs authority realizes that the Commission is already considering a case involving comparable issues in fact and law

- Error or failure of the Commission
- Customs debt relates to findings of Commission's investigation
- Amount of import customs duty EURO 500 000 or more

Art. 116 (3) UCC

Person concerned informed of the suspension of the time-limit period of 120 days until Member State received notification of the Commission’s decision on case involving comparable issues in fact and law.

Art 97 2nd subparagraph of Delegated Regulation 2015/2446

Commission (DG TAXUD – A1)
Art. 98 (6) Delegated Regulation 2015/2446

To the Member State concerned

Returns the file and the case shall be deemed never to have been submitted to the Commission

If the file is obviously incomplete since it contains nothing that would justify its consideration by the Commission

If under the second subparagraph of Article 116 (3) of the Code, the case should not have been submitted to the Commission

If the Member State concerned has transmitted new information of a nature to alter substantially the presentation of facts or the legal assessment of the case while the Commission is still considering the file.
Art. 99
Delegated
Regulation
2015/2446
Commission
Right to be
Heard
(RTBH)

To the person concerned
It shall communicate its objection in writing together with a reference to all the documents and information on which its bases those objections.

The person concerned can express his point of view in writing to the Commission within a period of 30 days from the date he has received the communication.

To the Member State concerned
Inform of its intention and the sending of the communication.
Decisions taken by the Commission

Art. 100
Delegated Regulation 2015/2446

Time-limit to take decision: 9 months

In case additional information requested / investigation conducted / RTBH - the period is extended by the corresponding period of time

Person concerned informed by the Commission of this extension

Decision on the basis of Art 116 (3) UCC adopted by the Commission by means of implementing act.

This implementing act is adopted in accordance with the advisory procedure referred to in Art. 285 (2) UCC*

Committee shall deliver an opinion
If there is a vote, the opinion is delivered by simple majority of its component members.
Art. 4 Regulation 182/2011

* Art 285 UCC: Commission is assisted by the Customs Code Committee within the meaning of regulation (EU) n° 182/2011
Decisions taken by the Commission

**Art. 100** Delegated Regulation 2015/2446

Commission

**Art 101** Delegated Regulation 2015/2446

Time-limit to take decision: 9 months

Notifies of its decision as soon as possible and in any event within 30 days of the expiry of the period of 9 months.

**The Member State concerned**

Issues a decision on the basis of the Commission’s decision and inform the Commission by sending to it a copy of the decision.

**For all the Member States**

If decision favourable, Commission may specify in the decision the conditions on which customs authorities are to repay or remit duty in cases involving comparable issues of fact and law.
Consequence of a failure of the Commission to take or to notify decision

Art. 102
Delegated Regulation 2015/2446

Commission

Failure to take decision within the time-limit provided in Art 100 delegated regulation 2015/2446

Failure to notify the decision within the time-limit provided in Art 101 (1) delegated regulation 2015/2446

To the Member State in question

Customs authority competent to take the decision shall take a decision favourable to the person concerned.
Decisions taken by Members States

- Art. 117 UCC
- Art 118 UCC
- Art 116 (1), last subparagraph, UCC

Members States always competent to take a decision

Art 119 UCC
Art. 120 UCC

Members States always competent to take a negative decision

Time-limit to take decision from the date of acceptance: 120 days

Favourable decision

If needed, person concerned informed of the extension of the time-limit period of 120 days
Art. 13 Delegated Regulation

Unfavourable decision intended

Customs authorities are required to examine the merits of the application in the light of the others grounds for repayment or remission referred to in Art 116 UCC - Art 121 (2) UCC.

Right to be heard
Art 22 (6) UCC and Art 8 Delegated and Implementing Regulations 2015/2446 and 2015/2447

Negative decision indicating right to appeal
Decisions taken by Members States

Decision on repayment and remission are not concerned by the UCC CUSTOMS DECISIONS SYSTEM

Decision on repayment and remission may be notified to the person concerned by means other than electronic data-processing techniques – Art. 94 Delegated Regulation.

Data requirements provided for decision in Annex A delegated regulation 2015/2446 and formats and codes provided in Annex A implementing regulation 2015/2447 shall apply to decisions made by using an electronic data processing technique as well as to paper-based decisions.

**DATA REQUIREMENTS**

- Type of decision (REP or REM)
- Decision-taking customs authority
- Identification of the holder of the decision (*EORI* number – where required (see Art. 6 Delegated Regulation – and name and address if paper-based decision))
- Identification of the representative, if any
- Title of recovery
- Customs office where the customs debt was notified
- Legal basis
- Customs value
- Type of import duty
- Amount of import duty to be repaid or remitted
- Place, date and signature or authentication
- Customs office responsible for the place where the goods are located
- Comments of the customs office responsible for the place where the goods are located
- Customs procedure (articles other than Article 116 (1), 1st paragraph, (a) UCC)
- Prior completion of formalities
- Use or destination of goods
- Time-limit for completion of formalities
- Statement of the decision-taking customs authority
- Description of the grounds for repayment or remission (where the grounds are different from those of the application, detailed description of the justification that forms the basis of the decision).

**Art 173 of Implementing Regulation 2015/2447**:

« Repayment or remission shall be subject to the presentation of goods. Where the goods cannot be presented to the customs authorities, the customs authority competent to take the decision shall grant the repayment or the remission only where it has evidence showing that the goods in question are the goods in respect of which the repayment or remission has been requested ». 
Community Customs Code (CCC)

Article 242

Where a customs debt has been remitted or the corresponding amount of duty repaid in error, the original debt shall again become payable. Any interest paid under Article 241 must be reimbursed.

Union Customs Code (UCC)

Article 116 (7)

7. Where the customs authorities have granted repayment or remission in error, the original customs debt shall be reinstated insofar as it is not time-barred under Article 103.

In such cases, any interest paid under the second subparagraph of paragraph 6 shall be reimbursed.
First and third quarter of each year Communication to Commission TAXUD- A1 list of cases where articles 220 (2)(b) or 236 in conjunction with art 220 (2)(b or Art 899 (2) CCIP have been applied where the amount repaid or remit is more than EURO 50 000 €

If no decision taken : « Not applicable »:

Art 181 (3) (same rules)
Community Customs Code and CCIP

INFORMATION HOLD AT THE DISPOSAL OF THE COMMISSION DG BUDGET

Art. 870 (1) and 904a (1) of CCIP:

On request hold at the disposal of the Commission DG BUDGET list of cases where articles 220 (2)(b) or 236 in conjunction with art 220 (2)(b or Art 899(2) CCIP have been applied where the amount repaid or remit is equal or less than EURO 50 000 €

Union Customs Code and delegated and implementing regulations

Art. 121 (4) UCC

Art 181 (4) Implementing Regulation 2015/2447

(same rules)