

Legal basis

Executive Summary

A comprehensive guarantee under the UCC is an **umbrella guarantee** that can cover both **potential and existing customs debts**. For an existing debt, it can serve as an alternative to immediate payment. The legal framework is found mainly in Articles 89-95 UCC.

Comparison Table

Type of Customs Debt	Normal Guarantee	Reduction Options	Absolute Minimum	Waiver (0%) Possible?
Existing customs debt (already arisen, e.g. deferred payment)	100%	50% or 30%	30%	No
Potential customs debt (may arise under special procedures)	100%	50% or 30%	0% (if AEO-C + low risk)	Yes

The normal guarantee is based on the so-called reference amount. The reference amount is determined on the basis of the actual amount of import or export duties and other charges payable and/or that could become payable in the period between:

- **the placing of the goods under the relevant customs procedure** or into temporary storage, **and**
- **the discharge of that procedure or storage.**

Explanatory notes

The UCC distinguishes between:

1. Existing customs debt: a debt that has already arisen, for example when goods have been released for free circulation and the **import duties are due**, or when it is discovered afterwards that insufficient duties were levied.
2. Potential customs debt: a debt that **may arise** when using a procedure for which a guarantee is mandatory (e.g. under a T1 transit procedure: the risk that goods do not reach their intended customs office of destination).

For an existing customs debt, the customs authorities may **require immediate payment** or **allow the debtor to provide a guarantee** so that payment can be deferred.

The key articles are:

Article 89 UCC - obligation to provide a guarantee for potential or existing customs debts.

Article 95 UCC - a comprehensive guarantee may be used to cover several operations or procedures simultaneously.

Articles 92 et seq. UCC - rules on waivers, reductions and calculation of the guarantee amount.

Reduction of Guarantee under the UCC

General Rule

Article 89(3) UCC: A guarantee must normally cover 100% of the amount of the customs debt (existing or potential).

Article 95 UCC: A comprehensive guarantee may cover multiple debts/procedures, and reductions may be authorised by customs authorities under certain conditions.

Existing Customs Debts

Definition: Debts that have already arisen (e.g. duties payable after release for free circulation, or under a deferred payment arrangement).

Guarantee requirement:

Normally: 100% of the existing debt.

Reduction: Possible down to 30% minimum.

Waiver (0%): Not allowed.

Legal basis:

Article 84(3) UCC Delegated Regulation (2015/2446):

For existing customs debts, the amount of the comprehensive guarantee shall not be less than 30% of the amount of such debts.

Potential Customs Debts

Definition: Debts that may arise in the future under special procedures (e.g. transit, storage, inward processing, temporary admission).

Guarantee requirement:

Normally: 100% of the potential debt.

Reduction: May be authorised to 50% or 30% if the operator shows good compliance, solvency, and risk management.

Waiver (0%): Possible if strict conditions are met, typically requiring AEO-C authorisation and low risk.

Legal basis:

Articles 84-88 UCC Delegated Regulation, Articles 158-163 UCC Implementing Regulation.

Conditions for Reduction / Waiver

Customs authorities will assess:

- Compliance record (no serious/repeated infringements).
- Financial solvency (ability to meet obligations, often demonstrated by accounts/audit).
- Practical risk controls (internal systems to manage customs obligations).
- AEO status (AEO-C usually required for full waiver of potential debts).

Existing debts - stricter: minimum guarantee 30%, no waiver possible.

Potential debts - more flexible: reduction possible down to 0% (under strict conditions, typically AEO-C).

Setting the Reference Amount for a Comprehensive Guarantee

When a comprehensive guarantee is required for import or export duties and other charges that:

- cannot be established with certainty at the time the guarantee is given, or
- may vary in amount over time,

the reference amount must be determined as follows:

1. Duties and charges already incurred: The reference amount shall equal the actual amount of import or export duties and other charges payable.
2. Duties and charges that **may be incurred**: The reference amount shall equal the amount of import or export duties and other charges that could become payable in relation to each customs declaration or temporary storage declaration covered by the guarantee.

This applies to the period between:

- **the placing of the goods under the relevant customs procedure** or into temporary storage, **and**
- **the discharge of that procedure or storage.**