



# **HANDBOOK**

# **FOR**

# INTRASTAT DATA PPROVIDERS

# -Part II-

- Extended handbook -



NATIONAL INSTITUTE OF STATISTICS

**ROMANIA** 

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# **Table of contents**

1	The Link with Fiscal System (VAT and VIES)5			
1.1	General Guidelines5			
1.2	The link between Intrastat and fiscal system (VAT/VIES data)			
1.3	Particular Cases			
	1.3.1	Goods delivered for installation or assembly	7	
	1.3.2	Processing of goods		
	1.3.3	Sales to and purchases from private individuals	9	
	1.3.4	Financial leasing		
	1.3.5	Delivery/acquisition with the involvement of an agent	10	
	1.3.6	Triangular trade		
	1.3.7	Indirect exports		
	1.3.8	Indirect imports		
	1.3.9	Returned goods		
	1.3.10	Credit notes		
	1.3.11	Payments in advance		
	1.3.12	Newspapers and periodicals under subscription		
	1.3.13	Customized software on physical support		
	1.3.14	Distance selling		
	1.3.15	Spare parts		
2		ation of Nature of Transaction		
2.1		ction Code 1		
2.2				
	3 Transaction Code 3			
	Fransaction code 4			
	5 Transaction code 5			
2.6				
	2.7 Transaction Code 7			
		ction Code 9		
		ovements Not To Be Declared to Intrastat		
3.2		ar Cases		
		fshore installations		
		dustrial plants		
		essels and aircraft		
	3.2.4 Se	ea products	48	
		elivery of goods to vessels and aircraft		
		ectricity and gas		
	3.2.7 Staggered consignments			
	3.2.8 Military equipment			
		aste products		
		Spacecraft		
	3.2.11 F	Partial deliveries	52	



3.2.12 Software and Licences	52
4. Triangular trade	
4.1 Triangular Trade within EU Member States	
4.2 Triangular Trade where non-EU Countries are involved	
4.3 Triangular Trade between two Member States instead of three	
5. Processing activity of goods	
5.1 General Basis	
5.2 Bilateral Processing Goods	69
5.3 Multilateral Processing Goods	



# 1 The Link with Fiscal System (VAT and VIES)

#### 1.1 General Guidelines

The VAT return and the recapitulative declarations regarding dispatches/arrivals of intra-Community goods (form 390 - VIES) contain data very important to Intrastat system.

The data of the economic operators that are required to provide statistical information are verified on the basis of the values contained in the boxes on intra-Community transactions on the VAT returns and the recapitulative declarations regarding dispatches/arrivals of intra-Community goods (form 390 - VIES) made for Ministry of Public Finance.

Public institutions (hospitals, schools, religious institutions etc) which complete special VAT return and buying goods from other EU Member States whose annual value exceeds the statistical threshold are also required to submit Intrastat statistical declaration to the National Institute of Statistics (INS).

We would point out that the flow of information between the Ministry of Public Finance (MPF) and the NSI goes in one direction; INS receives data from Ministry of Public Finance but, conversely, no statistical information is sent to the Ministry of Public Finance.

The Intrastat statistical system is based largely on the fiscal data (the VAT and VIES data). It is important that the economic operators understand however that this link between the Intrastat system and fiscal system (VAT and VIES data) does not mean that the Intrastat and VAT/VIES data must be identical.

However, the methodology of both types of declaration (Intrastat and VAT/VIES) differs so that the entries in Intrastat and VAT do not always go in parallel.

In this chapter the differences and similarities between Intrastat and fiscal data (VAT and VIES) are explained.

When we refer to the VAT / VIES- Intrastat comparison, and in particular how they relate to each other, we would point out that only boxes regarding the intra-



<u>Community trade with goods</u> transactions from the VAT return and from the recapitulative declaration regarding dispatches/arrivals of intra-Community goods (form 390 - VIES) are concerned, which are being compared with the Intrastat declaration.

Different VAT rules apply to different types of sales. This chapter shows how these cases and other special cases are handled in Intrastat system.

This manual cannot be used as a source of information for the treatment of transactions for fiscal purposes. INS is not authorized to apply VAT legislation in Romania.

# **1.2** The link between Intrastat and fiscal system (VAT/VIES data)

As mentioned above, Intrastat statistical system is linked with the system of Value Added Tax (VAT system). This link is based on the fact that data from VAT and VIES are used in the Intrastat system in order to:

- Identification of economic operators responsible for submitting Intrastat declarations (called providers of statistical information PSIs);
- To check for the completeness of the data provided in the Intrastat declaration;
- To create the thresholds every year for the Intrastat statistical system;
- Intrastat data quality checks.
- To estimate data for the non-respondent economic operators and below statistical thresholds.

The Ministry of Public Finance provides to the NSI a minimum of information in order to monitor the intra-Community traders and verify the statistical data collected.

Economic operators that are required to submit Intrastat declaration are selected on the basis of the values contained on their VAT returns and the recapitulative declarations regarding dispatches/arrivals of intra-Community goods (form 390 - VIES). Thus, using the VAT and VIES data compared with data reported in the Intrastat declarations, INS can identify economic operators with intra-Community



trade, the volume of this trade and, therefore, to check whether economic operators obliged to participate in Intrastat did not fulfill this obligation.

However, the values on the VAT return/the recapitulative declaration regarding dispatches/arrivals of intra-Community goods (form 390 - VIES) and on the Intrastat declarations may differ depending on the nature of operations.

For example, the **introductions** of goods for processing under contract should be reported for Intrastat, but not declared for recapitulative declaration regarding dispatches/arrivals of intra-Community goods (form 390 - VIES) neither for VAT return.

**Deliveries** of goods after processing under contract should be reported for Intrastat at the total value, while for the recapitulative declaration regarding dispatches/arrivals of intra-Community goods (form 390 - VIES) and VAT return, economic operators must declare only the cost of processing activity (labor) in sections of their "Services" (See for further details *Chapter 5. Processing activity of goods*).

It is also important to note that partner Member State from VIES declaration may differ from partner Member State from Intrastat declaration because VIES partner Member State is defined based on fiscal flow (invoice) and in Intrastat is defined by the physical flow of goods.

#### 1.3 Particular Cases

### **1.3.1** Goods delivered for installation or assembly

The supplier of goods subject to an installation or assembly is responsible for assembly or installation of goods or he can authorize a third party to handle this task. From fiscal point of view, according to provisions of Fiscal Code, the place of delivery is considered to be the place where the goods are being installed or assembled, by the supplier or by other person on behalf of the supplier.

For Intrastat system, the goods traded in the framework of these transactions should be declared. If the invoice contains the total value of both goods and services, the value of the goods should be estimated from the total invoiced value. In this case the value declared in VIES will be higher because it will contain the value of goods and services.

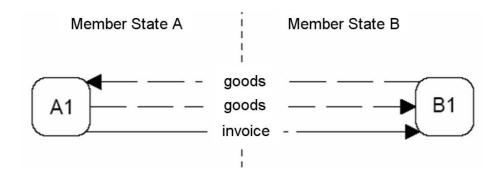


# **1.3.2** Processing of goods

# NOTE! (More details concerning the processing of goods can be found in *Chapter 5 Processing activity of goods*).

Goods are often delivered temporarily from one Member State (**B**) to another Member State (**A**) with the intention of having them processed there. After processing the goods are then sent back to the principal in the Member State of consignment (**B**).

This operation is named *bilateral processing goods*; it is a strict "there and back" movement of the goods (before and after processing of goods) between the same economic operators and the same Member States.



As far as *VAT* is concerned, neither of these is regarded as an intra-Community acquisition or supply. No amount is shown in VAT declaration neither in the recapitulative declaration regarding dispatches/arrivals of intra-Community goods (form 390 - VIES). Therefore, for *VAT purposes*, processing is regarded as a *service* to be shown in other boxes than used for the completion of the intra-community arrivals and dispatches of goods in the VAT return and in the recapitulative declaration regarding dispatches/arrivals of intra-Community goods (form 390 - VIES).

In *statistical* terms, *for Intrastat*, the dispatch or arrival of goods for processing must be declared at the total (estimated) value of the goods. Thus, introduction or delivery of goods for processing should be declared for Intrastat at market value (estimated) of the goods and dispatch or arrival of the goods after processing must be declared for Intrastat at market value (estimated) of the final product obtained from processing (value of the goods initially introduced/delivered for processing plus processing costs and other material that goes into processed product). **For further details concerning** 



processing of goods, please see *Chapter 5 Processing activity of goods* of this Handbook.

There are many particular cases of this bilateral processing of goods, which are treated under section 5.3 "Multilateral processing of goods".

# **1.3.3** Sales to and purchases from private individuals

Private individuals have not to report their intra-Community trade because they aren't registered for VAT purposes in the reporting Member State.

**Arrivals from private individuals**: If an economic operator, liable to report arrivals for Intrastat system, purchases goods from a private individual from another Member State, this trade should be reported in the Intrastat system. Nature of transaction code **1.1** should be reported in this instance.

**Dispatches to private individuals**: If an economic operator, liable to report dispatches, supplies goods to a private individual in another Member State, this trade should be reported. Nature of transaction code **1.1** should be reported in this instance.

# **1.3.4** Financial leasing

In a financial leasing contract, the lessee has the option to buy the goods at the end of the contract. When this option is taken, from fiscal point of view is considered as an intra-community dispatch / acquisition of goods.

At the end of the contract, *in the VAT return* will be recorded the residual value of the goods only in the case when the transfer of ownership took place and this transfer of ownership imply a dispatch of goods from one Member State to another. The amounts paid as instalments are treated as services and are not included in VAT return and in the recapitulative declaration regarding dispatches/arrivals of intra-Community goods (form 390 - VIES) in the boxes referring to intra community acquisitions/dispatches.

For Intrastat system, it should be declared the **total value** of the goods (the total amount paid, including residual value) at the moment of dispatch/arrival of the goods under a financial leasing contract.

#### Who has to declare for Intrastat?



Case 1: There are 2 companies involved: the supplier of the goods (EU) and the user of goods (RO). In this case, the user of goods should fill in and transmit to INS the Intrastat declaration, according to legal provisions in force.

These transactions should be included in Intrastat declaration under code of nature of transaction **1.4.-** "*Financial leasing*" at total value of the leasing contract.

Case 2: There are 3 companies involved: the supplier of the goods (EU), the leasing company (RO) and the user of goods (RO). In this case, the leasing company should fill in and transmit to INS the Intrastat declaration, according to legal provisions in force. These transactions should be included in Intrastat declaration under code of nature of transaction 1.1 "Outright/purchase/sale", at total value of the leasing contract.

Case 3: There are 4 companies involved: the supplier of the goods (EU), the leasing company (RO), the user of goods (RO) and a company which holds a warehouse in Romania which effectively receives the goods from the supplier (EU) before to be delivered to the final user (for example, a dealer, etc.). In this case, the company which effectively receives the goods should fill in and transmit to INS the Intrastat declaration according to legal provisions in force. These transactions should be included in Intrastat declaration under code of nature of transaction 1.1 "Outright/purchase/sale", at total value of the leasing contract.

# 1.3.5 Delivery/acquisition with the involvement of an agent

A commission agent (representative) acts in his own name and on behalf of his principal. There are therefore three "parties" involved in this transaction: the supplier of the goods, the commissioner and the acquirer of the goods. In addition, there is an invoice between the supplier and the commission agent and an invoice between the commission agent and the acquirer of the goods. The goods may go direct from the original supplier to the final acquirer of the goods. In this case, we are dealing with triangular trade; the goods may also be sent to the commission agent first and then to the final customer.

Where the value that has to be declared to Intrastat is concerned, the following should be noted:



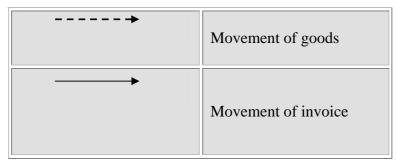
- If the principal is the supplier of the goods, the criterion for the charge in the first invoice is the value of goods less commission. *For Intrastat* this commission must be added (since for Intrastat the value of the goods must be declared).
- If the principal is the customer of the goods, the criterion for the charge in the second invoice is the amount of the goods plus the commission. *For Intrastat* this commission must be deducted (since for Intrastat the value of the goods must be declared).

Conclusion: Depending on who the supplier is and who has to make the declaration for Intrastat in the Member State concerned the result will be Intrastat data < fiscal data, Intrastat data = fiscal data or Intrastat data > fiscal data.

# **1.3.6** Triangular trade

A trader **B1** in Member State B is the intermediary in a triangular trade (or "chain sale"). **B1** in Member State B buys goods from a supplier **A1** in Member State A and then sells them to a customer **C1** in Member State C. An invoice goes from A1 to B1 and from B1 to C1. The goods go direct from the original supplier (A1 in Member State A) to the final customer C1 in Member State C.

For VAT, the intermediate supplier (B1) records both the intra-Community acquisition and the intra-Community supply. This transaction will be also recorded in the recapitulative declaration regarding dispatches /arrivals of intra-Community goods (form 390 - VIES) in the box "triangular trade". The intermediate supplier (B1) declares nothing for Intrastat since there has been any physical movement of goods in Member State B.



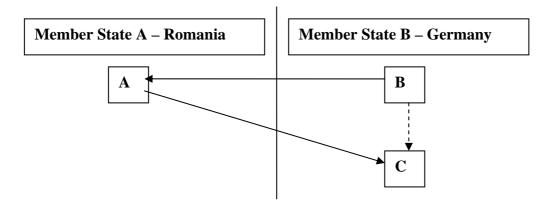
Case 1

Triangular trade with 2 Member States when the Member State of delivery is the same with the Member State of the seller



# The situation when a trader is from Romania and two economic operators in another Member State

Example: An economic operator **A** in Romania buy goods from a trader **B** in Germany, but its delivery is the operator **C** in Germany. The goods do not cross national border of Romania. The invoice is issued by the operator **B** in Germany to the operator **A** from Romania and this in turn issue an invoice to the operator **C** in Germany.



In this case, the economic operator **A** in Romania should not declare anything for *Intrastat*.

For *fiscal* purposes, the economic operator **A** should declare this transaction in the recapitulative declarations regarding dispatches /arrivals of intra-Community goods (form 390 - VIES) (so that intra-Community acquisition and delivery).

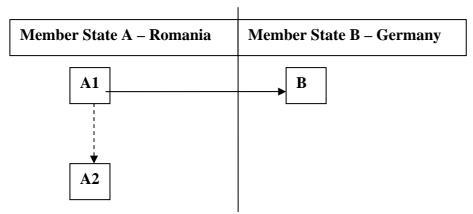
#### Case 2

Triangular trade with 2 Member States when the Member State of delivery is the same with the Member State of the seller

The situation when two economic operators are from Romania and a trader is in another Member State

 $\bigcirc$  Example: An economic operator **A1** in Romania sells goods to a trader **B** in Germany, but its delivery is the operator **A2** in Romania. The goods do not cross national border of Romania. The invoice is issued by the operator **A1** in Romania to the operator **B** in Germany.





In this case, the economic operator **A1** in Romania should not declare anything for *Intrastat*.

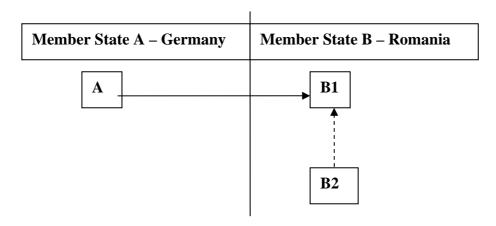
For *fiscal* purposes, the economic operator **A1** should declare a delivery in the recapitulative declarations regarding dispatches/arrivals of intra-Community goods (form 390 - VIES).

#### Case 3

Triangular trade with 2 Member States when the Member State of delivery is the same with the Member State of the buyer

The situation when two economic operators are from Romania and a trader is in another Member State

Example: An economic operator **A** in Germany sells goods to a trader **B1** in Romania, but the delivery is made by the operator **B2** in Romania with which firma **A** in Germany has signed a storage contract, so the goods do not cross national border of Romania. The invoice is issued by the operator **A** in Germany to the operator **B1** in Romania.



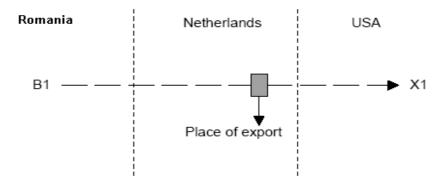


In this case, the economic operator **B1** in Romania should not declare anything for *Intrastat*.

For *fiscal* purposes, the economic operator **B1** should declare an acquisition in the recapitulative declarations regarding dispatches/arrivals of intra-Community goods (form 390 - VIES).

# **1.3.7** Indirect exports

An indirect export is an export to a third country (non-EU) country via another Member State, where the export customs documents are made out.



*□* Example

A Romanian enterprise exports goods to the USA but routes them (or has them routed) via the port of Rotterdam, where the export documents are made out by Dutch Customs.

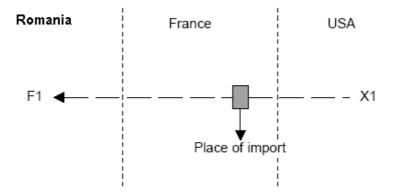
Since the export formalities are completed in Netherlands, in Romania does not exist the statistical part of that document, which is actually processed by the Dutch statistical service. As a result, the exporter has to make out an Intrastat declaration for the movement from Romania to the Netherlands, even if he is exporting goods to the USA.

Obviously this Intrastat declaration does not need to be made out if the Customs documents are prepared in Romania.

#### **1.3.8** Indirect imports

Conversely, goods can also be imported from an extra-community country (non-EU) into a Member State of the European Union via another Member State where the import formalities are made out. In this case we refer to an indirect import.





# *□* Example

A Romanian enterprise imports goods from the USA but the goods are imported and put into free circulation and use in the Port of Calais (France).

In this case *for Intrastat* a consignment to Romania from France has to be reported in France and an arrival from France has to be reported in Romania in order to complete the full goods flow.

For Customs, there is an import into France from USA and not into Romania.

# **1.3.9** Returned goods

Case 1: An economic operator obliged to fill in the Intrastat declaration only for arrival flow shall not report goods dispatched as returned, as these are intra community dispatches of goods.

Case 2: An economic operator obliged to fill in the Intrastat declaration only for dispatch flow shall not report for Intrastat received goods as returned, as these are intra-community arrivals of goods.

In the cases, 1 and 2 fiscal data are different than Intrastat data.

Case 3: An economic operator obliged to fill in the Intrastat declaration for both flows (arrivals and dispatches) shall report for Intrastat both goods dispatched/arrived as returned and goods dispatched/arrived for being replaced.

In case 3, if the return is accompanied by a cancellation invoice or credit note then fiscal data are different than Intrastat data. But if the return is not accompanied by a cancellation invoice or a credit note but the goods are re-invoiced then fiscal and Intrastat data can be equal.



#### **1.3.10** Credit notes

A **credit note** is a document sent by a seller to a buyer, stating that a certain amount has been credited to the buyer's account. Called also "credit memo", this one is issued in different situations to correct a mistake, such as: invoiced value is overstated, discount rate is not correctly applied, and goods are damaged during the warranty period or goods dont meet the quality requirements of the beneficiary and are returned.

In practice, the document "credit note" is issued by the supplier of goods, who after the sale give a commercial discount. This document is similar to a credit and correction invoice of an operation already made. Therefore, the document "credit note" shall also include information on the original document where was recorded the supply of goods or services.

# 1. The credit notes are reported in the Intrastat statistical declaration if they are in the following situations:

- If a credit note is issued for a returned commodity or a replacement delivery an Intrastat declaration shall be provided. If the return of the goods has already been declared for Intrastat, the credit note relating to those goods obviously does not need to be declared again (otherwise the movement of goods would be declared twice).
- If a credit note is issued relating to a discount, a price reduction, defective
  goods which do not return, or correction of invoice errors, Member States
  have ask the PSI to send a correction of its trade data only in the following
  cases:
- a) the deviation (+/-) between the correct invoiced or statistical value and the reported invoiced or statistical value is **equal or more than 3000 LEI**;
- b) the deviation (+/-) between **the correct net mass/quantity in** supplementary measure unit and the declared net mass/quantity in supplementary measure unit is equal or more than 10%.

For deviations less then (+/-) 3000 lei between the correct invoiced or statistical value and the reported invoiced or statistical value, the PSI has not the obligation to revised Intrastat declaration.



# 2. The credit notes are not reported in the Intrastat statistical declaration if they are in the following situations:

- represent financial bonuses received for reaching a plan (target) value or quantity for a certain period (several months) or annually by a firm;
- granted because the invoice was paid to the supplier before the due deadline
- granted by suppliers to promote products
- discounts granted in cumulative amount which cannot be deducted to which transaction of goods and reporting period refer.

These credit notes will be reported in form 390 – VIES according to the provisions of Tax Code.

# **1.3.11** Payments in advance

Payments in advance unaccompanied by a physical movement of goods **are not reported** in the **Intrastat** statistical declaration, but are reported in the form 390 – VIES according to the provisions of Tax Code.

# **1.3.12** Newspapers and periodicals under subscription

In the Intrastat statistical declaration is reported their value as they are sent and in the form 390 – VIES it is reported according to the provisions of Tax Code

# **1.3.13** Customized software on physical support

Is not reported in the Intrastat statistical declaration, but it is reported in the form 390 – VIES according to the provisions of Tax Code

### **1.3.14** Distance selling

Distance selling represents dispatches of goods by a supplier (economic operator registered for VAT in the reporting Member State) to an individual in another Member State which is not registered for VAT purposes, provided that the supplier is responsible for dispatching the goods.

From *fiscal* point of view, Member States set annual thresholds for this kind of transactions. The companies from EU Member States which perform distance selling have to register themselves for fiscal purposes in the Member State of destination of



the goods from the moment when they pass over the threshold established by fiscal law in the Member State of destination. When the supplier of the goods passes the fiscal threshold, the invoice issued to the buyer will contain the VAT applicable in the Member State of destination. If the supplier did not pass over the threshold established by fiscal law in the Member State of destination for distance selling, the invoice issued will contain the VAT applicable in the Member State of dispatch.

Distance selling has to be reported for Intrastat system starting with the month when the threshold was exceeded. The declaration is made as follow:

- **dispatches** shall be reported by the supplier of the goods, using nature of transaction codes **1.1**;
- **arrivals** from distance sellers above the Intrastat threshold shall be reported by the body responsible for the payment of the supplier's VAT obligations (tax representative) in the Member State of destination.

Arrivals from distance seller should be excluded for Intrastat system when the distance seller is below the VAT distance selling threshold in the Member State of destination.

Purchases by Romanian individuals in shops located in other Member States and purchases by individuals from other Member States in shops in Romania will not be reported to Intrastat.

# 1.3.15 Spare parts

**Spare parts** are goods that are integrated into a product as part of repair process (for example, a new engine in a car) in the country where repair is performed. These parts/goods are excluded from international trade statistics (even if an invoice is issued separately for spare partes).

IMPORTANT: Transactions in goods for and after repairs and spare parts used in repair process should not be declared in the Intrastat system.

To distinguish **repair** / **processing** / improvement operations, should consider the following:

*Processing* goods is defined as covering operations (transformation, construction, assembly, enhancement, renovation, modification, conversion) with the objective of



producing a new or really improved item. It should be noted that goods subjected to processing activities must be included in Intrastat and recorded with the **nature of transaction code 4** (with a view to processing) or **5** (following processing).

*Repair* entails the restoration of goods to their original function or condition. The objective of the repair operation is simply to maintain the goods in working order; this may involve some rebuilding or improvements but does not change the nature of the goods in any way.

The difference between "processing" and "repair" consist in the fact that:

- repair entails the "restoration" of the goods to their original function or condition (rebuilding, replacement or improvement), the objective of operation is simply to maintain the goods in working order but does not change the nature of the goods in any way.
- processing involves obtaining a new or a really improved item.

**Repairs** (goods dispatched / arrived from / to Romania a / from an EU Member State for repair and goods received / sent to / from Romania after repair and **spare parts** that are incorporated during repair) are **excluded from the Intrastat system.** 

Example: In March 2014, a Romanian company X purchased a machine from a French company Y. In August 2014, after several months of operation, the equipment has failed but is still in warranty period. Thus, in order to repair this equipment, the Romanian company X order a piece at the French company Y where was bought the equipment. Because the machine is still in warranty period, the French company send the piece free of charge to the company X from Romania.

Case a): Subsequently, the French company Y does not requires to the Romanian company to return the defective part;

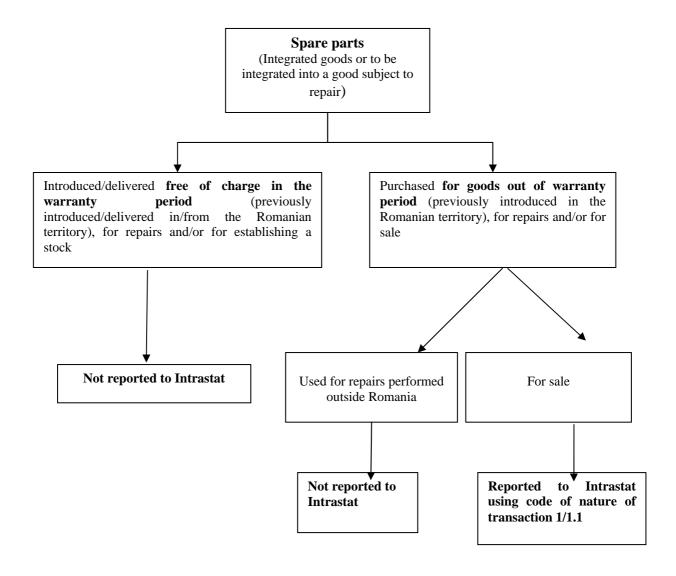
Case b): Subsequently, the French company Y requires to the Romanian company to return the defective part;

In both cases, the machine being in the warranty period, the spare parts destined for repair and/or replacement should **not be reported to Intrastat**, because can be considered as an integral part of the initial sales contract,



ATTENTION! If spare parts for a certain good are purchased / delivered with an invoice representing a purchase / sale either for their own use or to be sold, then they will be reported using the code of nature of transaction 1.1. and must be included in the international trade statistics.

**ATTENTION!** Spare parts **introduced free of charge** in Romania in order to constitute a **stock** of goods, related to goods previously introduced on the Romanian territory and **in warranty period should not be reported to Intrastat.** 





# **2** Codification of Nature of Transaction

Nature of transaction means all the features that make a difference between one transaction and another, particularly concerning a change in ownership of the dispatched/arrived goods, receiving compensation for it, purpose of its dispatch/arrival (e.g. for processing according to a contract or after such processing) and so on.

Two-digit codes and their explanations are presented in **Annex 3** of *Part I of the Basic Handbook*. However, in this section we proceed to a more detailed discussion about these codes and the way are categorised (based on the first digit of the type of transaction – column A form **Annex 3** from *Part I of the Basic Handbook*).

# **2.1** Transaction Code 1

All transactions involving an actual, anticipated or intended future transfer of ownership against compensation (financial or otherwise) - except transaction operations listed under codes 2, 7 and 8

The following transactions are covered:

- definite purchase/sale (code 11),
- goods movements between subsidiaries in different Member States ("inter-company transfer") (code 11),
- sale on consignment, on approval, or on trial (code 12),
- barter (payment in kind) (code 13),
- financial leasing and hire purchase (code 14),
- other (dispatch/arrival with a view to sale e.g. dispatch to warehouses and distribution centres in another Member State) (code 19).

If this transaction does not involve a financial compensation or other, **transaction code 3** should be used.

Intended future transfer of ownership means that the trade operators intend at the time of the arrival/dispatch a transfer of ownership regardless of whether the transaction actually takes place. If a subsequent transfer of ownership does not take



place, a correction of **code 19** to **code 9** should only be requested if the transaction is of statistical relevance. If the goods return, the **transaction code 2** should be used.

"Transfer of ownership" means a transfer of ownership between an economic operator in the EU Member State of the Intrastat declaration and an economic operator in another country.

The "other country" may be an EU Member State or a non-EU Member State. Therefore the transfer of ownership itself is not necessary between an economic operator in the Member State of consignment and an economic operator in the Member State of destination (e.g. on being sold the goods are not sent to the buyer's Member State) or between two economic operators, each based in a different EU Member State (e.g. for indirect import or export).

#### This means:

- for declaration of *an arrival*: a transfer of ownership between an economic operator in the Member State of destination and an economic operator in another country;
- for declaration of *a consignment*: a transfer of ownership between an economic operator in the Member State of consignment and an economic operator in another country.

Since a transfer of ownership between an economic operator in the Member State of the Intrastat declaration and an economic operator in another country is concerned, it is therefore not necessary although this will mostly be the case for the Intrastat declarant "himself":

- for an *arrival*: is not necessary that the economic operator which submit data for Intrastat in the reporting Member State to be owner (now or in future) of the goods or
- for a *consignment*: is not necessary that the economic operator which submit data for Intrastat in the reporting Member State to dispose of (now or in future) ownership of the goods.



In other words, the transfer of ownership is not always between the Intrastat declarant "himself" and an economic operator in another country. It may also be another economic operator in the Member State of declaration who becomes owner or disposes of the goods.

General note on the use of transaction code 1 by tax representatives or persons registered direct for VAT purposes in Romania:

For goods movements declared by a tax representative or a person registered direct for VAT purposes (provided they are actually acting in this capacity) there is not always an actual or future transfer of ownership between an enterprise in the Member State of the Intrastat declaration and an enterprise in another country:

- For an *arrival*, there is only a transfer of ownership if the goods are sold (or will be sold) to an economic operator in Romania and
- For a *consignment*, there is only a transfer of ownership if the shipped goods are bought by an economic operator in Romania.

In these cases only the tax representative or the person registered direct for VAT purposes must declare the movement of goods movement using nature of **transaction** code 1.

Tax representatives or persons registered direct for VAT purposes will normally be regarded as acting in this capacity if they "themselves" do not become owners of the goods.

If the tax representatives or the persons registered direct for VAT purposes are not acting in that capacity – and become owners of the goods or disposes of themself – they must, of course, also use **nature of transaction code 1** for the goods movement and must report themself for Intrastat system (because they become the owners of the goods).

For the declaration of goods movements where there is no actual or future transfer of ownership between an economic operator in the Member State of the Intrastat declaration (Romania) and an economic operator in another country, it will be use other transaction codes.

More particularly:



#### - Consignment/arrival with a view to sale

This, therefore, normally concerns a future transfer of ownership. However, in practice it is **often not known** whether a transfer of ownership between an economic operator in the Member State of the Intrastat declaration and an economic operator in another country will take place because it is not known which country the buyer will be from. This buyer may be an economic operator in the Member State of destination, the Member State of consignment or another country. Depending on this, there may be a transfer of ownership in a Member State of declaration or not.

**NB:** the declaration in the Member State of consignment differs somewhat from the declaration in the Member State of destination in such a goods movement. So:

### a. Declaration in the Member State of consignment

a.1. If it is known that a transfer of ownership will not take place between an economic in a Member State of consignment and an economic in another country and the goods will return to the Member State of consignment:

If it is known that no transfer of ownership will take place and the goods will therefore return to the Member State of consignment, the consignment must be declared with **transaction code 9.** 

For instance: a Romanian economic operator supplies only customers in Romania from its stocks in Germany (provisioned from Romania). The consignment of these goods from Romania to its stocks in Germany must be declared with **nature of transaction code 9**. This is actually a transfer for purely logistical reasons (see transaction code 9). The later return consignment from these stocks to customers in the Member State of consignment (Romania) must also be declared with **nature of transaction code 9**.

<u>Note:</u> "transfer of ownership" means a transfer of ownership between an economic operator in the Member State of the Intrastat declaration and an economic operator in another country!

#### a.2. In all other cases:

However, since the intention is generally to sell the goods to an economic operator in another country, this consignment must be declared with **nature of transaction code** 



1 (i.e. a transfer of ownership between an enterprise in the Member State of consignment and an enterprise in another country).

Say the goods are returned to the Member State of consignment because, for instance, they cannot be sold or are sold to an economic operator in the Member State of consignment, the "original" transaction (indicated with nature of transaction code 1) only has to be corrected if it is statistically relevant (i.e. transaction code 9 instead of transaction code 1).

*□* Example

A Romanian company provides goods from its stocks in Germany to customers in Romania. The stocks in Germany consist of goods coming from Romania. So after they are sold (transfer of ownership between 2 enterprises in Romania) the goods return to the Member State of consignment (at the time of consignment he does not know who he is going to sell the goods to; it could also be a German enterprise).

Looked at in retrospect, this was not a transfer of ownership between an enterprise in the Member State of consignment and an enterprise in another country but simply a stock movement. The return of these goods must be declared with **transaction code 9**.

**Note:** Say that at the time of consignment it is already known that the goods will be returned to the Member State of consignment; this consignment and return must be declared with **transaction code 9** (i.e. it concerns a transfer abroad for purely logistical reasons).

#### b. Declaration in the Member State of destination

This concerns goods movements declared by tax representatives, and persons registered direct for VAT purposes. In these cases an economic operator in the Member State of Intrastat declaration (in this case the Member State of destination) only becomes owner of the goods if the purchased goods are to be sold to an economic operator in this Member State (a transfer of ownership between an economic operator in the Member State of destination and an economic operator in another country).

b.1. If it is known that an enterprise in the Member State of destination will become owner of the goods: the transaction code 1 will be used.



b.2. In all other cases: the arrival is declared with transaction code 9 (see use of transaction code 9). This is if it is not known whether an economic operator in the Member State of destination will become owner of the goods or not or if one is sure that no economic operator in the Member State of destination will become owner of the goods. If it emerges later that the goods have been sold to an economic operator in the Member State of destination and there has therefore been a transfer of ownership between an economic operator in the Member State of destination and an economic operator in another country, the original arrival must be corrected if this is statistically relevant (i.e. using transaction code 1 instead of transaction code 9 for the arrival).

# *□* Example

Goods are sent to a distribution centre from which **only** customers in that Member State will be supplied, naturally after the sale of these goods. This distribution centre itself does not become owner of the goods. If the distribution centre does become owner of the goods (in return for financial or other consideration) we have a case of final purchase/sale which must be declared with **transaction code 1**.

This consignment "with a view to sale" and this arrival in the Member State of destination must be declared to Intrastat with **code 1** because both cases (the consignment and the arrival) concern the future transfer of ownership between an enterprise in the Member State of declaration and an enterprise in another country.

Say this distribution centre supplies e.g. only EU Member States other than the Member State of destination and consignment, this consignment must be declared with transaction **code 1** (i.e. a transfer of ownership between an enterprise in the Member State of consignment and an enterprise in another country). However, the arrival must be declared in the Member State of the distribution centre with **transaction code 9** (i.e. there is no transfer of ownership (in the future) between an enterprise in the Member State of destination and an enterprise in another country; no enterprise in the Member State of destination will become owner of goods).

# *□* Example

Goods are sent to a distribution centre from which various Member States will be supplied; naturally after these goods are sold (it is not known which country the customers will be from).



#### - Declaration in the Member State of consignment:

The **consignment** must be declared to Intrastat with **transaction code 1**. If it emerges later that these goods return to the Member State of consignment because they have been sold to an enterprise in the Member State of consignment (e.g. supply – after being sold to an enterprise in the Member State of consignment – from a foreign stock) or because the goods cannot be sold, the return must be declared with **transaction code 9** and the consignment corrected if it is statistically relevant (i.e. **transaction code 9** instead of **1**).

## - Declaration in the Member State of destination:

The **arrival** must be declared to Intrastat with **transaction code 9**. If it emerges later that these goods have been sold to an enterprise in the Member State of destination, the arrival must be corrected if it is statistically relevant (i.e. **transaction code 1** instead of **transaction code 9** for the arrival).

General note on consignment/arrival "with a view to sale": if the final transfer of ownership takes place, care must be taken that the transaction is not declared again in Intrastat (unless a correction has to be made) since this will have already been declared with the consignment/arrival of the goods.

### - Sale on approval, on trial or on consignment (variants of "with a view to sale")

These are purchases/sales with a clause suspending a possible sale pending fulfilment of one or more conditions before it can be carried out. A sale can in fact be recorded as actually taking place only if there is a purchaser and if the parties agree on the purpose, the product and the price.

- In the event of a *purchase/sale on trial or approval*, the condition which suspends or defers the sale is that the purchaser wishes to see, examine or test the product before buying it. The goods are imported or exported in order to be sold. The sale is concluded only when the interested client considers that the outcome of the trial is positive. In the event of a purchase/sale on trial or on approval, the Intrastat declaration is made at the time of the sale. If the goods have been dispatched with a view to a sale but the sale does NOT take place, the movement of the



goods must not be shown in the declaration. This then actually concerns a temporary movement.

– A *dispatch on consignment* takes place as follows: person **A** gives the goods on consignment to person **B**, who seeks a buyer **C** on his own account. The A-B actual sale becomes only when **B** has found a buyer **C**. A dispatch on consignment consists of two contracts, A-B and B-C.

Intrastat declaration is made only at the time of the physical delivery or the acquisition of the goods and not when the contract (A-B or B-C) is drawn up.

### - Replacement of returned goods:

This only concerns the replacement of returned goods, which have been declared to Intrastat with **transaction code 2**. In practice returned goods often have to be replaced because they are damaged or because the delivery does not agree with the order etc.

Returns of goods or replacements of the returned goods of which the original transactions conforms to **transaction codes 3, 4, 5,7, 8** or **9** have to be registered under the same nature of transaction as the original one.

# - Financial leasing

**Financial leasing** represents the movement of goods based on a contract, when the lessee has all the rights, risks, rewards and responsibilities, and from economic point of view, can be considered de facto owner.

The goods acquired or sold to other EU Member States under financial leasing contract have to be recorded in the Intrastat declaration submitted for the month when the **physical dispatch / arrival** of the goods took place. The total value according to the contract should be indicated as value of the goods and the code for nature of transaction should be **1.4**.

Case 1: Direct leasing is a transaction which may involve two parties: the leasing company (the lessor)/supplier of the goods and the user of the goods (the lessee).



For Intrastat should report the supplier of the goods/the lessor and the user of the goods/the lessee.

*Œ* Example

There are two companies from 2 EU Member States, Romania and Finland which agree over a financial leasing contract by which the company A from Romania has to pay 5,400€in 18 month, which means 300 €for each month. The contract is signed on the 25th of April 2014.

According to the contract, company B in Finland should deliver the goods in 15 days after the date of signature. The goods are delivered on the 30th of April 2014 and arrived to company A on the 2nd of May 2014.

- o Company A from Romania submits Intrastat declaration for May: arrival of goods from Finland, with value of 5,400€
- o Company B from Finland submits Intrastat declaration for April: dispatch to Romania, with value 5,400 €

# Case 2: Indirect leasing is a transaction which may involve three parties:

- the leasing company (the lessor)
- the supplier of the goods
- the user of the goods (the lessee)

Leasing company (lessor) buys the goods from the producer or supplier and subsequently leases the goods to the lessee. The goods are delivered from the supplier to the lessee.

For Intrastat, <u>the leasing company</u> should submit Intrastat declaration according to legal provisions in force.

This transaction should be included in Intrastat declaration using **nature of transaction code 1.4.**-"Financial leasing", at total value of the leasing contract.

**Example** 

A company from Romania agrees on a financial leasing contract with a leasing company from Romania. A leasing company from Romania buys goods from an Italian company. Goods are dispatched from Italian company to Romanian company (the user of the goods / lessee).



In this case, Italian company will declare for Intrastat a dispatch of goods to Romania and the leasing company from Romania will declare for Intrastat an arrival from Italy.

This arrival of goods has to be recorded in the Intrastat declaration submitted by the leasing company for the month when the goods arrive in Romania. The total cost according to the contract should be indicated as "value of the goods" and the nature of transaction code should be **1.1.** 

#### Case 3: Indirect leasing is a transaction which may involve four parties:

- a company from Romania which holds a warehouse in Romania and receives the goods from an EU supplier and then it will supply the goods to the final user (e.g., a dealer)

- the leasing company (the lessor)
- the supplier of the goods
- the user of the goods (the lessee)

# *□* Example

A representative of a company from EU (a dealer) dispatch goods from an EU Member State to Romania and store the goods in Romania.

The supplier of the goods invoices the leasing company (the lessor) and the good is dispatched from Romania (the goods are dispatched from dealer to the user of the goods (the lessee).

In this case, the company which receives the goods (the dealer) must submit Intrastat declarations to INS, according to legal provisions in force.

#### *□* Example

A representative of an Italian company in Romania (a dealer) dispatch goods from Italia to Romania with a view to sale in Romania.

A company from Romania agrees on a financial leasing contract with a leasing company from Romania. The leasing company from Romania buys the good from the representative of the Italian company in Romania.

The good dispatched from Italia to Romania was accepted by the representative of the Italian company in Romania and later will be dispatched to the Romanian company (the user of the goods (the lessee)).



In this case the representative of the Italian company in Romania must declare to Intrastat the good as the financial leasing contract is referred. The leasing company and the user of the goods (the lessee) have not declare to Intrastat the good as the financial leasing contract is referred, because they accept or dispatch goods from/to a place inside Romania. This arrival of goods has to be recorded in the Intrastat declaration submitted by the representative of the Italian company in Romania for the month when the goods arrive in Romania; the total cost according to the contract should be indicated as value of the goods and the **code of nature of transaction** should be **1.1**.

In some cases, the duration and intention of the leasing or renting could represent an indication for the code of nature of transaction. As a rule, the financial leasing is defined as transfer of goods to the user for more than 2 years, with the intention of transfer of ownership at the end of the contract.

**N.B.**: **code of transaction 1** must also be used when an enterprise buys goods in its own name in another Member State and subsequently leases them to customers on the Romanian market (domestic transactions).

#### - Sale/purchase with commission (i.e. through a broker or agent)

The broker/agent should be noted not to be confused with commission agent. A broker or agent is limited to putting his principal in contact with a buyer or seller without intervening directly in concluding the transaction and charges commission for doing this.

This is a variant of a usual sale/purchase where **A** sells to **C** and where **B** (a broker or agent) acts in the name and on behalf of **A** and receives a commission from **A**. **A** set the price and the A-C transaction are given the **code 1.1**. **A** and **C** must declare for Intrastat.

# - A delivery/replacement with intervention of a commission agent

A commission agent acts in his own name and on behalf of his principal. A commission agent **B** intermediates in a sale of goods by **A** to **C**. The goods are sent by **A** direct to **C**. **A** issues **B** with an invoice and **B** invoices **C** for the goods. So here two



deliveries take place. Depending on which country **B** is based in, it is **A** and **B** or **B** and **C** who declare the goods movement in Intrastat with **transaction code 1.1**.

### **2.2** Transaction Code 2

Return of goods of which the original transaction conforms to the description of transaction code 1, replacement for goods without any compensation.

This code may only be used where a return concerns goods of which the original transaction conforms to the description of **transaction code 1**.

A return of goods - of which the original goods movement meets the description of transaction code 1 - must "always" be declared to Intrastat using transaction code 2, if the company is obliged to declare for the flow corresponding to the return of goods.

A return of goods or a replacement of the returned goods of which the original transaction conforms to **transaction codes 3, 4, 5, 7, 8 or 9** have to be registered under the same nature of transaction as the original one for the corresponding flow. A return of goods after arrival is a dispatch and a return after dispatch is an arrival. (Therefore, you declare a return of goods only if you are obliged to declare the return flow of goods).

The replacement of returned goods will be reported on the **transaction code 2.2** of nature of transaction, whether or not during the warranty period.

On the **nature of transaction code 2.3** will be reported goods for replacement in the warranty period, which have not been returned to the supplier. They will be reported to the Intrastat system at their market value, even if they are delivered free of charge or with a symbolic value.

### **2.3** Transaction Code 3

Non-temporary goods exchange operations without (financial or other) compensation involving a transfer of ownership

"Transfer of ownership" means a transfer of ownership between an economic operator in the Member State of the Intrastat declaration and an economic operator in another country.

It therefore concerns consignments or receipts *free of charge*. These include: consignments of goods under assistance programs partly or fully managed or financed



by the European Union, other government support, other assistance (private sector, nongovernmental organizations) and other deliveries/replacements free of charge. Under this code should also be declared goods received with a discount of 100%; the value indicated in the declaration should be the value of the goods before applying the discount.

In such cases the value must always be declared even if there is no invoice (use an estimate).

Donations and gifts also come under **transaction code 3**.

#### Transaction code 4 and 5

#### **2.4** Transaction code 4

This transaction code is used for operations "with a view to", processing other than under joint inter-governmental production programs. Processing can be against payment or free of charge. These operations don't involve a future transfer of ownership.

"Transfer of ownership" means a transfer of ownership between an economic operator in the Member State of the Intrastat declaration and an economic operator in another country.

# **2.5** Transaction code 5

This transaction code is used for operations "following" processing, other than under joint intergovernmental production programs. Processing can be against payment or free of charge. These operations don't involve a future transfer of ownership.

Returns of goods for which the original transaction has been registered under nature of transaction 4, shall be recorded under nature of transaction 5, whether the processing has not take place.

The transaction codes 4 and 5 are used in the cases presented below:

- *in the Member State where the processing take place:* if the goods introduced "with a view to" processing represent an intra-community arrival and compensatory goods following processing represent an intra-community dispatch (no matter to the Member State the compensatory goods are dispatched).



- in the Member State of the dispatcher: if the goods introduced "with a view to" processing represent an intra-community dispatch and compensatory goods following processing represent an intra-community arrival.

# Conditions which have to be met for using 4 and 5 transaction codes:

Not all he transaction of goods "with a view to" processing or "following" processing must be declared with transaction codes 4 and 5.

## Two conditions have to be met for using 4 and 5 transaction codes:

1. There is no transfer of ownership (now or in the future)

"Transfer of ownership" means transfer of ownership between a economic operator from the Member State where the Intrastat declaration is submitted, and a economic operator from other Member State.

Transaction codes 4 and 5 are used if only operations don't involve a transfer of ownership - between a company from the Member State where the Intrastat declaration is submitted and a company from other Member State (if operations involve a transfer of ownership: *see transaction code 1*).

There must always be an inward goods movement which is followed by a later outward goods movement in the Member State of declaration or vice versa (declaration of these movements of goods should not be made necessarily by the same Intrastat declarant), nature of transaction code 4.1, respectively 5.1. However, for nature of transaction 4.2 is accepted, after processing both a dispatch of goods to another country (nature of transaction 5.2), and a sale in the processing country (no Intrastat reporting, national trade).

Values to be declared:

- with transaction code **4**, the **value** is **the intrinsic value of the received or sent goods** (**raw materials, subassemblies etc.**) **for processing** (which are naturally not invoiced because the goods have not been changed by the owner).
- with transaction code 5, the value is the intrinsic value of the goods received or sent for processing, this means the value of the raw materials plus the cost of the service provided (manufacturing price) and the price of additional parts, which



is the value to be taken into account to see whether or not exceeded the statistical threshold for arrival / dispatch. (The invoice price only includes the cost of processing (if the processing is not free of charge) and the price of additional parts or materials; i.e. not the value of the goods, since the owner has not changed the goods).

**Example** 

Say fabrics are sent to make suits. The value of the suits to be declared is determined as follows: value of the fabrics + service provided (cost of processing) + price of additional materials such as: thread, buttons, lining material, zips etc.). Therefore, the additional materials do not have to be declared separately to Intrastat because they are now part of the suits.

Example of the declarable value

# - in the Member State of the service provider:

A raw material is imported from another Member State to be processed. There is no invoice because no transfer of ownership takes place. Nevertheless this arrival must be declared with **transaction code 4** and, as value, the intrinsic value of the goods received (the value of the goods in the received state). If this is unknown, you must inquire from the owner or give your own estimate (market price).

If, after the goods have been processed, they are returned to the Member State of consignment, this consignment must be declared with **transaction code 5** and, as value, the value of the goods (= the value of the received goods for processing+ manufacturing price + any additional materials).

### - in the Member State of the principal/consignor:

If goods are sent to another Member State to be processed there, this consignment must be declared with **transaction code 4** and, as value, the intrinsic value of the goods sent.

**ATTENTION:** If the goods come back after processing, this arrival must be declared with **transaction code 5** and, as value, the value of the goods received for processing, the manufacturing price plus any additional materials.

#### Note:



The inward and outward goods movements do not necessarily have to be declared by the same Intrastat declarant (i.e. it may be that in Member State A: Intrastat declarant A1 declares the arrival and an Intrastat declarant A2 declares the consignment). In practice it may occasionally (the cases are discussed under multilateral goods processing) occur that a goods movement declared in your declaration with transaction code 4 has to be followed by a later goods movement declared with transaction code 5 (naturally, if a compulsory declaration has to be made for both goods flows).

*□* Example

A1 from Member State A send steel plates to be galvanized abroad by B1 from Member State B.

If A1 stays the owner of the plates and they are reimported after being galvanized into the country of consignment, we are dealing with goods processing (**transaction codes** 4 or 5).

On the other hand, if B1 buys the plates to galvanize them on his own account, we are dealing with a normal purchase/sale (**transaction code 1**).

Example

**A1**, in Member State A, transfers the goods temporarily to **B1** in Member State B with the intention of having them processed there. After this processing a number of different situations may arise:

a. The processed goods return to the Member State of consignment. In this case the company which processing the goods declares the goods movements with **transaction codes 4** and **5**. The *consignment* of the goods for processing is declared with **transaction code 4** and the *arrival* of the processed goods is declared with **transaction code 5**.

- b. The processed goods in Member State B are forwarded in another Member State (Member State C), other than the Member State of the original consignment (Member State A). In this case the service provider in Member State B declares the goods movements as follow:
- the *arrival* of the goods for processing from Member State A, on **nature of** transaction code 4;



- the *dispatch* of the goods after processing to Member State C, on **nature of transaction code 5**.

In Member State A, as well as in Member State C, the dispatch of the goods for processing and the arrival of the goods after processing, shall be reported under **nature of transaction code 1**, instead of **transaction codes 4** and **5** (i.e. no inward goods movement which is followed by a later outward goods movement and vice versa).

- c. The processed goods stay in the country where they are processed. In this case the company which processing the goods declares the *arrival* of the goods for processing with **transaction code 1** instead of **transaction code 4**. The *consignment* of the goods for processing is also declared with **transaction code 1** instead of **transaction code 4** (i.e. no outward goods movement which is followed by a later inward goods movement).
- d. If a part of the goods arrived for processing (**code 4**) are bought before being processed by the company which processing the goods in the same reference period, that part will be reported under **code 1**.

*Example*: from 100 kg of goods received for being processed (code **4**) the company which processing the goods buys 80 kg before processing; those 80 kg receive **code 1** and the rest of 20 kg receive **code 4**.

## It should be kept in mind the following:

- Transaction code 4 does not concern to goods for such a processing operation where the processor acquires the goods in his ownership so that he sells it after processing as improved products. These are cases when the processor does not process the goods that the customer sent for processing but himself purchases goods for processing and subsequent sale. Such transactions are denoted with code 1.

For return of goods which has been arrived/dispatched for processing according to a contract (**transaction code 4**), but has not passed such processing, e.g. are not suitable for processing, processing has been cancelled for another reason and the like, the **code 4** shall be used. The subsequent arrival/dispatch of goods for processing shall be reported for Intrastat under **nature of transaction 4**.



**Scrap and wastes** from processing sent back according to a contract to the customer for this processing shall be denoted as well as processed products with **transaction** code 5.

- **Transaction code 5** does not concern movement of goods after such a processing operation when the processor has acquired the goods in his ownership to sell them as improved products after processing. These are cases when the processor has not processed improved the goods which a customer sent for processing pursuant to a contract, but he himself has purchased the goods for processing and subsequent sale. Such transactions are denoted with **code 1**.

# - The transaction code 5 also shall be used when

- Sending/receiving scrap and waste from processing pursuant to a contract;
- Sending/receiving substitute goods for goods originally dispatched/arrived after processing according to a contract (e.g. when sending/receiving substitute goods for goods that has been processed wrongly);
- Sending/receiving goods that have been arrived/sent after processing according to a contract in another Member State (after passive/active processing) and are returned back (e.g. because of objections against wrong processing).
- It might be difficult to report codes 41 and 42 correctly, as at the time of import the exact destination of the goods after processing might not be known. Also, the final products might have several different destinations (for example distribution from the processing country). Part of the goods might return to the dispatching country, moved to other countries, or sold in the processing country. Similar problems might arise at the time of export after processing (codes 51 and 52), whenever the final product consist of materials coming from several countries. Therefore PSI should make suitable estimations in order to determine the proper NoT codes according to the share of the different country sources and destinations. If in exceptional cases such estimation is not possible, the application of code 42 and 52 is preferred.



# **2.6** Transaction Code 6

Particular transactions coded for national purposes

In Romania, this code shall not be used in Intrastat statistical system.

# 2.7 Transaction Code 7

Operations under joint defence project or other joint intergovernmental production program

This code must be used for a joint production program. This is a program for which contractors from different countries join forces to carry out a major project.

**Example:** 

A chassis of the HST (high-speed train) is manufactured in Member State **A** and is then sent to Member State **B** where the chassis is given a superstructure. The goods are then sent to Member State **C** to install air conditioning. These goods movements must be declared with **transaction code 7** in Member State A, B and C.

# 2.8 Transaction Code 8

Supply of construction materials and equipments for work that are part of a general building or engineering contract

**Supply of construction materials based on a general building contract** This transaction code can be used only for transactions for which no separate invoicing of the goods is required but rather invoicing for all the work (the value to be declared covers only the goods and if appropriate this value has to be estimated). If there are separate invoices for the goods, the transactions must be shown under **code 1**.

Dispatch or arrival building material and equipment that are part of a supply of a complete building and they are not invoiced independently shall be marked with code on the **transaction code 8**. These are items for which a summary invoice has been issued containing the total value of goods classified in various codes of the combined nomenclature and transported mostly in more shipments, even within several monitored periods.



# **2.9** Transaction Code 9

Other exchanges of goods

Under this transaction code are reported movements of goods where there is no actual, anticipated or intended future transfer of ownership and the movements cannot be classed under the other transaction codes.

The following transactions must be declared with **transaction code 9**:

- Goods which come under a hire contract or operational leasing must be declared under **transaction code 9.1** if the contract term exceeds 24 months. These goods shal be reported to Intrastat in the month when the goods arrive or are dispatched, at total value of the good.
- Goods which come under a hire contract or operational leasing for which the contract term is less than 24 months are exempted from declaration. If the goods do not return within the period of 24 months, then they must be declared under **transaction code 9.1** in the month in which it becomes absolutely certain that the goods will remain in the Member State of destination for longer than 24 months, at present value (amortized) estimated (taking into account wear due to use or any other factor that may affect the value).
- Transfer of goods without transfer of ownership to another Member State for purely logistical reasons with the intention of returning them in the course of time to the Member State of consignment (e.g. pure stock movements) (**code 9.9**).
- Return of goods referred to in point above to the Member State of consignment. Again there is no transfer of ownership. This return must be declared by both the consignor and the consignee of these returned goods with **transaction code 9**.
- Certain movements of goods declared by tax representatives or persons registered direct for VAT purposes: if they are acting as tax representatives or as persons registered direct for VAT purposes, a consignment and an arrival must be declared with **transaction code 9**, except in the following cases:
- o the goods sent to another EU Member State were bought from an economic operator in Romania. In this case the consignment must be declared to Intrastat with **transaction code 1** (i.e. there is a transfer of ownership);



- o the goods received from another EU Member State were or will be sold to an economic operator in Romania. In this case the arrival must be declared to Intrastat with **transaction code 1** (there has been or will be a transfer of ownership). If an arrival is concerned "with a view to sale" and at the time of arrival it is not known whether an enterprise in the Member State of destination will become owner of the goods (i.e. a transfer of ownership), this arrival must be declared with **transaction code 9**. This arrival may be corrected later (i.e. **transaction code 1** instead of **transaction code 9**) once it is known that an enterprise in the Member State of destination is becoming or has become owner of the goods;
- The movement of goods concerns processing. In this case it must be declared to Intrastat with **transaction codes 4** or **5**.

Note that movement of goods "with a view to" repair or that have been repaired and operations with parts used in repair should not be declared to Intrastat system.

<u>Important:</u> To distinguish repair operations from processing / process / development operations, make the following clarifications:

Processing is defined as covering operations (transformation, construction, assembly, enhancement, renovation, modification, conversion) with the objective of producing a new or really improved item. It should be noted that goods subjected to processing activities must be included in Intrastat and recorded with **nature of transaction code**4 (with a view to processing) or 5 (following processing).

The difference between "processing" and "repair" is that repair entails the "restoration" of goods to their original function or condition. The objective of the repair operation is simply to maintain the goods in working order; this may involve some rebuilding, replacement or enhancements but does not change the nature of the goods in any way.

Associated spare parts are goods which are integrated in a repaired commodity as part of the repair (e.g. a new engine in a car) in the Member State where the repair is carried out. These parts/goods are excluded from reporting. This is also the case if an invoice is issued separately for the part(s).

However, spare parts for a certain good are purchased / delivered with an invoice representing a purchase / sale either for their own use or to be sold, then they should be included in the international trade statistics.



# **3** Specific Movements and Goods

## 3.1 Good Movements Not To Be Declared to Intrastat

Particularly, intra-Community good movements **not** to be declared to Intrastat are:

- Monetary gold
- Means of payment which are legal tender and securities, including means which are payments for services such as postage, taxes, user fees;
- Goods for and following temporary use, provided all the following conditions are met:
- o no processing is planned or made
- o the expected duration of the temporary use is not longer than 24 months
- the dispatch/arrival has not to be declared as a delivery/acquisition for VAT purposes,

# e.g.:

- goods intended for fairs and exhibitions,
- theatrical scenery,
- merry-go-rounds and other fairgrounds attractions,
- professional equipment,
- cinematographic films, (not covered by a contract of sale / purchase, for example, documentary films, promotion, etc.).
- apparatus and equipment for experimental purposes,
- animals for show, breeding, racing, etc.,
- containers, pallets, packing and equipment connected with transport, moving in connection with a commercial operation, which themselves are not a subject of commercial operation,
- goods for the repair of the means of transport, containers and related transport equipment and parts replaced during the repairs,
- goods on hire (free-of-charge movement of goods), hiring and operational leasing for o period of time exceeding 2 years,



- plant and equipment for civil engineering works,
- goods destined for examination, analysis or test purposes
- Goods moving between:
- o a Member State and its territorial enclaves in other Member States, and
- o the host Member State and territorial enclaves of other Member States or international organizations (such as NATO, United Nations).

Territorial enclaves include embassies and national armed forces stationed outside the territory of the mother country;

- Goods used as carriers of information such as floppy disks, computer tapes, films, plans, audio and videotapes, CD-ROMs with stored computer software, where developed to order for a particular client or where they are not subject of a commercial transaction, as well as complements for a previous delivery e.g. updates for which the consignee is not invoiced.
- Goods supplied free of charge which are themselves not the subject of a commercial transaction, provided that the movement is with the sole intention of preparing or supporting an intended subsequent trade transaction by demonstrating the characteristics of goods or services such as:
- o advertising material;
- o commercial samples without commercial value.
- Goods for repair and after repair and replacement parts that are incorporated in the framework of the repair and replaced defective parts. A repair entails the restoration of goods to their original function or condition. The objective of the operation is simply to maintain the goods in working order; this may involve some rebuilding or enhancements but does not change the nature of the goods in any way.
- Means of transport travelling in the course of their work, including spacecraft launchers at the time of launching.

### 3.2 Particular Cases

For Intrastat purposes, dispatch and arrival of goods that are considering their special features important for reporting the data, either because of the goods movement itself



or its nature, are deemed special goods and their movements. Showing data on dispatch or arrival of special goods or their special movements is performed or can be performed with certain exceptions against generally applicable rules.

# Specific goods and movements are:

- Offshore installations
- Industrial plants
- Vessels and aircrafts
- Sea products
- Delivery and supplies of goods to vessels and aircrafts
- Electricity and gas
- Staggered consignments
- Military equipment
- Waste
- Spacecrafts
- Partial deliveries
- Software and information media.

#### 3.2.1 Offshore installations

This part presents the procedure for entering data in the Intrastat declaration on arrival goods from offshore installations on sea, or on dispatch of goods to offshore installations.

"Offshore installations" means equipment and devices installed and stationary in the sea outside the statistical territory (which includes the territorial waters) of any Member State (i.e. oil platforms, research platform and/or devices installed on high sea).

For statistical purposes, offshore installations are considered to be owned by the Member State which has exclusive rights to exploit the seabed or subsoil where they are located. This ownership should determine the partner country to be recorded in the statistics.



"Goods delivered to offshore installations" –refers to the delivery of products for the consumption of the crew and for the operation of engines, machines and other equipment of the offshore installation;

"Goods obtained from or produced by offshore installations" –refers to products extracted from the seabed or subsoil or produced by the installation.

#### As **arrival** in Romania have to be declared:

- Deliveries of goods to another Member State to an offshore installation established in an area where Romania has exclusive rights to exploit that seabed or subsoil;
- Deliveries of goods from an installation established in an area where another EU Member State has the exclusive rights to exploit that seabed or subsoil to Romania;
- Deliveries of goods from an offshore installation established in an area where another EU Member State has the exclusive righst to exploit that seabed or subsoil to an offshore installation in an area in which Romania has exclusive rights to exploit that seabed or subsoil.

## **Example**

Consumables sent from Romania to a UK offshore installation would be treated in the UK as an arrival from Romania, and in Romania as a dispatch to the UK.

Spare parts sent from a Romanian offshore installation to a French offshore installation would be treated in France as an arrival from Romania, and in Romania as a dispatch to France.

# As **dispatches** from Romania have to be declared:

- Deliveries of goods from an installation established in an area where Romania has the exclusive righst to exploit that seabed or subsoil to another EU Member State or
- Deliveries of goods from Romania to an installation established in an area where another EU Member State has the exclusive rights to exploit that seabed or subsoil.
- Deliveries of goods from an installation established in an area where Romania has the exclusive righst to exploit that seabed or subsoil to an installation established



in an area where another EU Member State has the exclusive righst to exploit that seabed or subsoil;

# **Example**

Food sent from a UK offshore installation to a Romanian offshore installation would be treated in the UK as a dispatch to Romania, and in Romania as an arrival from the UK.

Member States shall use the following commodity codes for goods delivered to the offshore installations:

- **9931 24 00**: goods from the CN chapters 1 to 24,
- **9931 27 00:** goods from CN Chapter 27,
- **9931 99 00:** goods classified elsewhere.

The investment goods for the construction or technical improvement of the offshore installation or goods acquired or produced by offshore installation shall be recorded with an appropriate CN codes.

# 3.2.2 Industrial plants

"Industrial plant" is a combination of machines, apparatus, appliances, equipment, instruments and materials which together make up large-scale, stationary units producing goods or providing services;

"Component part" means a delivery for an industrial plant which is made up of goods which all belong to the same chapter of the CN.

Statistics on trade between Member States may cover only dispatches and arrivals of component parts used for the construction of industrial plants or the re-use of industrial plants.

The reference period is the month when the transaction actually takes place for deliver the components (and other goods). If some components are dispatched, as staggered consignments according to Art. 16 from Regulation 1982/2004, they have to be reported only once in the month when the last staggered consignment takes place. This is because the components of an industrial plant could be delivered together or unassembled along more than one month, due to transport or commercial reasons.



#### 3.2.3 Vessels and aircraft

Arrivals and dispatches of vessels and aircraft should be reported to Intrastat at the time when the transfer of economic ownership takes place. Economic ownership of a vessel or aircraft is the right of a taxable person to claim benefits associated with use of a vessel or aircraft during an economic activity under accepted risks.

Arrivals and dispatches of vessels or aircraft for or after processing under contract should be reported but not for repairs.

The partner country in case of transactions with vessels and aircrafts is:

- In case of *arrival*, an EU Member State which manufactured a vessel or aircraft if a vessel or aircraft, is new and manufactured in the EU. In other cases, the partner country is the country / EU Member State where is established the taxable person who transfers the economic ownership. When placing a vessel or aircraft for processing, the partner is the EU member state where the taxable person is established exercising economic ownership of the vessel / aircraft.
- In case of *dispatch*, the EU Member State where the taxable person is established which transfer economic ownership. If sending a vessel or aircraft after processing, the partner is the EU member state that carries out processing.

The data on the following transactions are to be submitted:

- The devolution of economic property right to a vessel or aircraft from another EU Member State taxable person to a Romanian taxable person. The mentioned transaction is treated as *arrival*;
- The devolution of economic property right to a vessel or aircraft from Romanian taxable person to another EU Member State taxable person. The mentioned transaction is treated as *dispatch*. If a vessel or aircraft is new, dispatches are registered in this EU Member State which produced a vessel or aircraft;
- Dispatch / Arrival of a vessel or aircraft to processing or arrival / dispatch after processing.



# 3.2.4 Sea products

Sea products refer to fishery products, minerals, salvage and all other products that a sea-faring vessel has not yet landed. Sea products which have been caught in the open sea and sold in the EU harbors or to the EU ships are to be reported to Intrastat as *dispatches*. Sea products which were bought in the EU harbors or from the EU ships are to be reported to Intrastat as *arrivals*. Sea products are considered to belong to the member state where the taxable person which exercises the economic ownership of the vessel is established.

The principles for reporting on sea products are the following:

- **Definition of partner country**: Fish catch shall be assigned to the country where the taxable person which exercises the economic ownership of the vessel is established. Note that the country is not determined by the place of capture of the fishery product. No matter where it is caught (in the territorial waters or economic zone of the flag country, in international waters or in the waters of a foreign country) it is the nationality of the taxable person which exercises the economic ownership of the vessel is established that determines the nationality of the catch.
- Trade flow: For Intrastat system, both outgoing and ingoing flows shall be recorded.
- o *Arrival* should be reported when a vessel from another Member State lands fishery product in Romania or when they are acquired by vessels registered in Romania from vessels registered in another Member State.
- o *Dispatch* should be reported when a national vessel lands fishery product in the port of another Member State or when they are acquired by vessels registered in another Member State from vessels registered in Romania.

## 3.2.5 Delivery of goods to vessels and aircraft

Deliveries to vessels and aircraft refers to the deliveries of goods (e.g. foods etc.) for the crew and passengers as well as goods required for the operation of engines, machinery or other equipment on the vessel or aircraft (e.g. fuel, oil and lubricants). The vessel or aircraft is considered to belong to this Member State where the natural or legal person which exercises the economic ownership of the vessel is established.



Statistics relating to the trading of goods between Member States shall cover only dispatches of provisions, fuel, oil and other goods delivered on the territory of the reporting Member State to vessels and aircraft belonging to another Member State. Member State of destination is the Member State where the natural or legal person which exercises the economic ownership of the vessel supplied is established.

Delivery of durable goods and equipment which remain on the vessel or aircraft should be reported according to the normal detailed Intrastat (for intra-EU trade) declaration using the appropriate CN commodity code. This might include for instance the delivery of bed linen or of musical instruments for the musicians of the ship, or TV sets for the cabins or other durable goods. Goods which will be sold to private individuals and which are not necessarily consumed on board (tax free shops) should not be reported as deliveries to vessels and aircraft. This might include perfumes, watches, toys, etc. which have to be declared with their respective commodity code as they are not goods covered by the definition of goods delivered to vessels and aircraft.

Simplified provisions for the delivery of goods fully apply for Intrastat only. Moreover, the reporting obligation relates only for dispatches, i.e. the vessels and aircraft whose economic owner is established in the reporting Member State and which were supplied with goods for consumption in foreign harbours/airports do not need to provide arrival declarations.

Member States shall use the following commodity codes for goods delivered to vessels and aircraft:

— **9930 24 00:** goods from CN chapters 1 to 24,

— **9930 27 00:** goods from CN chapter 27,

— **9930 99 00:** goods classified elsewhere.

## 3.2.6 Electricity and gas

Arrivals and dispatches of electricity and natural gas should be declared in Intrastat declaration.

For intra-Community trade statistics, the collection of electricity and natural gas data become more complex, due to the nature of goods and supplementary provisions are necessary in order to facilitate the measurement of commercial flows. In Intrastat



statistical system, data is collected from legal persons who concluded a contract for supplying/purchase of electricity or natural gas from which the deliveries originated and / or arrivals of electricity / gas over the national border of Romania.

# **Example:**

- The company **A** in Romania concluded a contract for supplying/purchase of electricity with company **B** from another EU Member State in Germany.

Case 1: The place of supply of electricity is known: the electricity is supplied from Romania to United Kingdom. In this case, the Intrastat declaration is to be reported as country of destination - United Kingdom (Member State where electricity is delivered), any place where electricity crosses the national border of Romania. The main condition to be fulfilled for these transactions to be reported in Intrastat declaration is that goods to cross the national frontier of Romania.

Case 2: The place of supply of electricity is an EU member state but it is not known exactly what this state is. In this case, the Intrastat declaration is to be reported as country of destination, the Member State of the contract (in our example Germany), in any place where electricity / natural gas crosses the national border of Romania. The main condition to be fulfilled for these transactions to be reported in Intrastat declaration is that goods to cross the national frontier of Romania.

## 3.2.7 Staggered consignments

By "staggered consignments" means arrivals and dispatches of goods (machinery, equipment, vehicles) which for commercial or transport reasons have been disassembled into part components to be delivered in several consignments during several reporting periods.

The data on arrivals and dispatches of staggered consignments should be reported only once, i.e. only for the month of the last arrival or dispatch of consignment. The good must be declared using CN at 8 digits level specific for the whole machinery at the total value. If the value of the good is collected in a currency other than LEI, the amount should be converted into LEI. The transformation is based on the exchange rate set by National Bank of Romania on the day that last component of the good arrived. That provision applies even if payments in stages as deposit, progress payment or final payment occur. The objective of the provisions on staggered



consignments is to make declaration simpler for the PSI. A PSI has the possibility to aggregate multiple movements to one record in the month of the last consignment. However, the following conditions have to be met:

- The shipment is between a single dispatcher and a single consignee;
- The delay between the first and last shipment is only for logistical reasons;
- All components shall when assembled form a single, complete and classifiable commodity under a single CN8 code.

Therefore, the following transactions cannot be reported as staggered consignments:

- Movements of stock
- Components diverted to another use
- The supply of spare parts.

# 3.2.8 Military equipment

Military goods are all goods intended for military use, e.g. arms, trucks, cars, aircraft, fuel, or any supplies for armed forces.

Exchange of military goods between EU Member States is subject to the Intrastat reporting under the common rules.

## 3.2.9 Waste products

Waste products obtained from manufacturing process like waste of sugar manufacture, slag and other waste from manufacture of iron or steel, waste and scrap of plastic, ferrous waste and scrap, and sold or purchased are treated like all other traded goods. Movements of not traded waste products, in particular rubbish and building rubble are considered as specific movements and as such declarable to Intrastat, too.

# 3.2.10 Spacecraft

The spacecrafts are the space devices (e.g. satellites) which are moving in the space beyond the globe atmosphere.

The ownership of a spacecraft belongs to natural or legal person exercising their economic ownership of a spacecraft.



The data on the following activities should be submitted to Intrastat:

- Dispatches and arrivals of spacecraft before or after processing under contract.
- The launching into space of a spacecraft which was the subject of a transfer of ownership from a natural or legal entity established in one member state **A** to a natural or legal entity established in another member state **B** can be considered as:
- o *Dispatch* in the Member State A where the spacecraft was built;
- o *Arrival* in the Member State B in which the new owner is established.

### 3.2.11 Partial deliveries

Partial deliveries refer to consignments of goods to be allocated one commodity code, mostly comprehensive machine and appliances deliveries delivered and possibly also invoiced in several stages, for example due to reasons connected to transportation technology.

Partial deliveries are declared in the month when the goods were arrived / dispatched in / from Romania regardless of when they are invoiced.

The all-in price of the goods shall be indicated as the value in the reference month and the transaction code is 1.1.

### 3.2.12 Software and Licences

Software and licences are recorded under the CN code of the carrier of information.

The following **should be reported** to Intrastat:

• Computer software developed for general or commercial use or packaged sets containing diskettes or CD-ROMs with stored with data developed for general or commercial use, either with the users' manual or without it (the purchase of Windows 2xxx, Linux and Mac software; should be reported the total value (support CD/DVD/USB + software).

The term "general or commercial use" refers to products (such as CD-ROMs) with stored computer software (such as operating system) and/or data publicly available to any user which can buy 'off-the-shelf' from the supplier. These items are usually produced in a standard form to carry out the same applications or functions and may



be supplied with a manual and software licence. Such are goods to be recorded under the CN code of the carrier of the information.

- Hardware sold together with support, software and software licences: Example: purchase of a PC equipped with software & licences. The total value of the goods (Hardware + support/software / software licences) should be reported under the CN code of the hardware.
- Goods supplementing mass-produced software: Example: updates for software in cases where the price for the supply wasn't included when the software was initially purchased / sold and a separate invoice is not produced, it will be reported for Intrastat only a physical movement takes place (delivery of a CD).
- Audio- and videotapes recorded for general or commercial purposes.
- Banking cards, fidelity cards, discount cards and other types of cards

The following types of software and information media which **are not to be reported** to Intrastat:

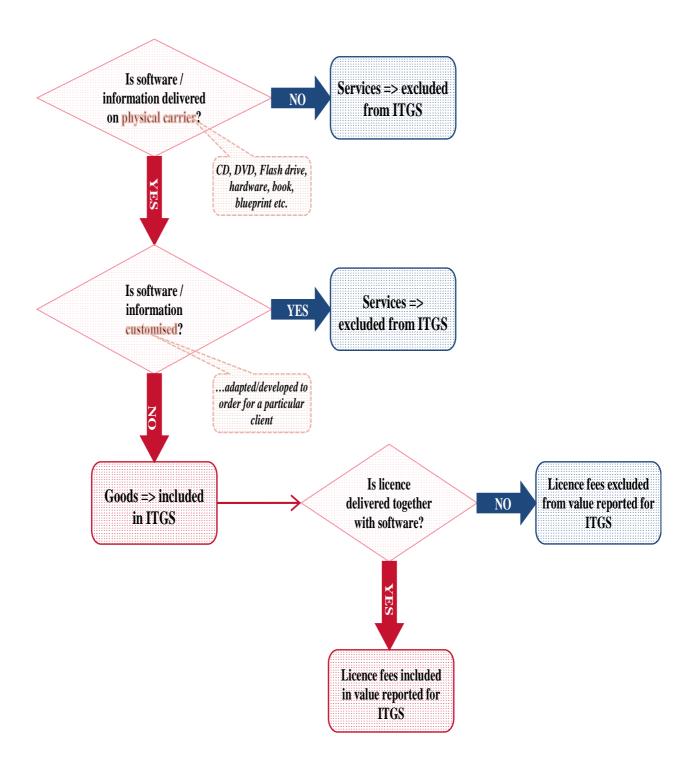
- Diskettes or CD-ROMs with stored computer software and/or data developed to order:
- Goods supplementing mass-produced software: Example: updates for a software in cases where the price for the supply was already included when the software was initially purchased/sold and a separate invoice is produced.
- Audio- and videotapes containing original recordings master type, for multiplication.
- Supply/Purchase of software not involving a physical movement of goods: for example: purchase/supply of additional licences or rights invoiced for the use of previously purchased / supplied software and are not accompanied by a physical movement of goods, delivery of software by Internet, will not be reported to Intrastat.
- Supply/Purchase of software together with a maintenance contract: Maintenance services of software should not be reported when they are the subject of a proper contract and listed individually on the invoice.
- Customized software etc. Carriers of customised information (such as diskettes, CD-ROMs) containing software or other customised information developed



to order for a particular client are excluded from ITGS, but recorded under services. Customised software refers to software that is developed to order for a particular client and made to special requirements, either as unique programs or adaptations from standard programs. Other customised information includes customised blueprints, audio and videotapes containing original recordings ('master tapes'), authors' drafts of books and inter-company data and accounts.

• Software applications downloaded from Internet or received by e-mail against payment are considered as services and shall not be reported for Intrastat (e-commerce, e-market).







# 4. Triangular trade

The term of "triangular trade" is used to refer to transactions between Romania and another Member State while a principal in the transaction is based elsewhere. Whatever the financial and invoicing arrangements in such cases, *Intrastat declaration must exclusively be made in accordance with the physical movement of the goods*. If goods do not physically enter or leave Romania, no declaration is appropriate here, but declarations will be required in the actual EU countries of dispatch and arrival. Consequently notwithstanding how the submission and payment of invoices is organised, only an actual flow of a commodity should be noted in the Intrastat report. If a commodity has not actually entered or left an EU Member State, this should not be reported.

In triangular trade there are 3 parties: the consignor/original seller, the intermediary /intermediate trader and the consignee/final buyer. The goods go direct from the original seller to the final buyer. In triangular trade there are various situations in which a transaction is made involving three enterprises in two or even three countries, one of which can be Non-Member State of the Community. There are therefore many variants, which are a combination of the cases set out below.

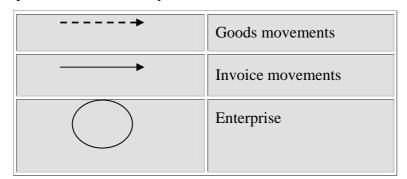
For the diagrams in this section the following letters and arrows are used:

**A, B, C:** 3 different Member States of the EU.

**X:** country **not** belonging to the EU (e.g. United States)

A1, A2, B1, B2, C1, C2... enterprises from A, B, C, ...

X1, X2: enterprises from the country X



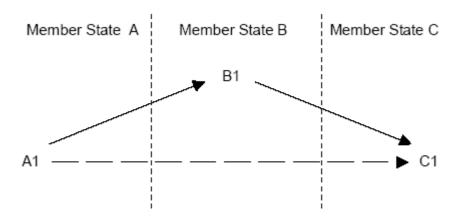


# 4.1 Triangular Trade within EU Member States

Triangular trade with 3 EU Member States is also known as a "real" triangular trade.

Example – Current triangular trade (3 EU Member States)

An enterprise in Member State B (B1) buys goods from A1 in Member State A and sells them to C1 in Member State C. An invoice goes from A1 to B1 and from B1 to C1. However, the goods go direct from A1 to C1. The enterprise A1 in Member State A submits an Intrastat declaration for this delivery. The country of destination is the Member State C. Enterprise A1 has to submit an Intrastat Declaration for the dispatches in Member Sate A and enterprise C1 an Intrastat Declaration for the arrivals in Member Sate C. The B1 enterprise does not have to report this commodity transaction to Intrastat in Member State B, since these commodities have never passed through B.

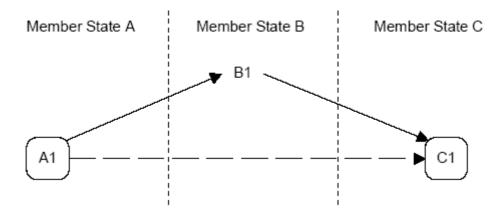


Situation without identification for VAT purposes: application of the simplification rule for triangular trade (transport in the A1-B1 relationship)

## **Example**

An enterprise in Member State B (**B1**) buys goods from **A1** in Member State A and sells them to **C1** in Member State C. An invoice goes from **A1** to **B1** and from **B1** to **C1**. However, the goods go direct from **A1** to **C1**.





In this case there is *an Intrastat declaration* for the movement A1-C1: **A1** in Member State A has to declare dispatch with Member State of destination C, **B1** in Member State B has nothing to declare (no goods movement) and **C1** in Member State C has to declare arrival with Member State of origin A.

For fiscal purposes, **B1** will include this triangular trade in his form 390 - VIES. The difference between the VAT declaration and the Intrastat declaration of **B1** can be explained in this way. In this case Intrastat will be smaller than VAT for both flows from **B1**.

# Situation with identification for VAT purposes in the Member State of consignment/arrival

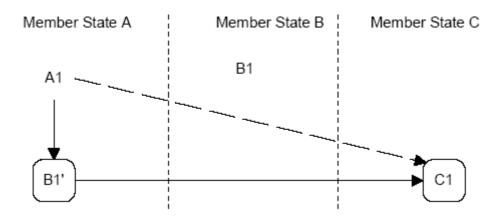
Registration for VAT purposes can be by direct VAT registration or by appointing a tax representative. Enterprises not based in the EU cannot opt for direct VAT registration.

Tax representative / direct VAT registration in the Member State of consignment (transport in relationship B1-C1)

## *□* Example

The intermediary in Member State B (**B1**) appoints a tax representative in Member State A or registers direct for VAT purposes. We shall call the tax representative or the person registered direct for VAT purposes **B1**'. The invoice goes from A1 to B1' in Member State A, who in his turn, sends an invoice to **C1** in Member State C. The goods go direct from A1 to C1.



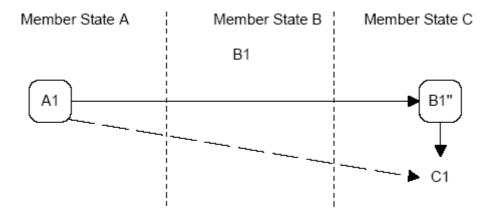


In this case, there is an Intrastat declaration for the movement A1-C1: **A1** in Member State A and **B1** in Member State B have nothing to declare, **B1'** in Member State A has to declare dispatch with Member State of destination C and **C1** in Member State C has to declare arrival with Member State of origin A.

Tax representative / Person registered direct for VAT purposes in the Member State of destination (transport in A1-B1 relationship)

# *□* Example

The intermediary in Member State B (**B1**) appoints a tax representative in Member State **C** or registers direct for VAT purposes. We call the tax representative or the person registered direct for VAT purposes **B1**". The invoice goes from A1 to B1" who then sends an invoice to C1. However, the goods go direct from A1 to C1.



In this case, there is an Intrastat declaration for the movement A1-C1: A1 in Member State A has to declare dispatch with Member State of destination C, B1 in Member



State B has nothing to declare, **B1**" in Member State C has to declare arrival with Member State of origin A and **C1** in Member State C has nothing to declare.

# 4.2 Triangular Trade where non-EU Countries are involved

Triangular trade can affect comparisons of both intra- and extra-EU trade. An example illustrating a problem linked to indirect movements where non-EU countries are involved is given below. The phenomenon described is known as the "*Rotterdam*" effect.

*□* Example

Japanese goods are imported into Europe; they are released for free circulation in the Netherlands, and then dispatched to Romania (Member State of consumption). For such an operation, the various recordings will be as follows:

For Community statistics, three operations are recorded:

- import of goods originating in Japan (with the Netherlands as the declaring Member State, since the customs declaration is made there);
- dispatch (intra) from the Netherlands to Romania;
- arrival (intra) in Romania.

For Netherlands national statistics, no trade is recorded, as the import from Japan and dispatch to Romania is regarded as transit trade.

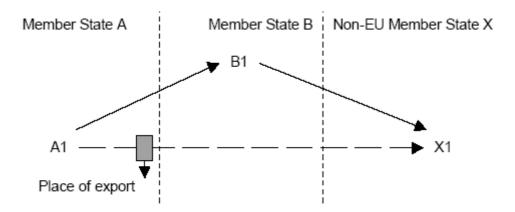
For Romanian national statistics, will be recorded Japan as country of origin and Netherlands as Member State of dispatch.

# Country of destination is not an EU Member State

*□* Example

**B1** in Member State B buys goods from **A1** in Member State A and sells them to **X1** in a non-EU Member State X. The goods go direct from **A1** to **X1**.





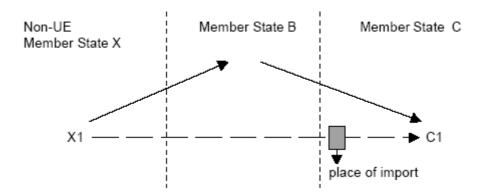
In this case A1 acts as the exporter. A1 has to submit a conventional export document (Single Administrative Document). It is enough for B1 to receive a copy. Neither B1 nor A1 have to declare this goods movement for Intrastat even if there is an invoice from A1 to B1.

In this case there is no Intrastat declaration to be submitted.

# Country of departure is a non-EU Member State

*□* Example

**B1** in Member State B buys goods from **X1** in the non-EU Member State X and sells them to **C1** in Member State C. The goods go direct from **X1** to **C1**.



C1 is reported as the consignee at the time of import and he has to submit a conventional import document (only the Single Administrative Customs). In this case it is enough for B1 to receive a copy. Neither B1 nor C1 have to declare this goods movement for Intrastat if there is an invoice from B1 to C1. There is no Intrastat declaration to be submitted.

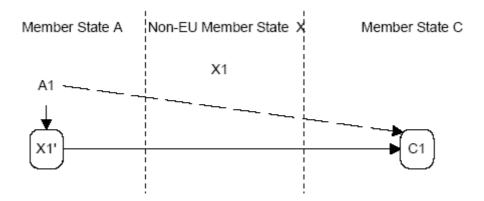


# Country of the intermediary is a non-EU Member State

# *□* Example

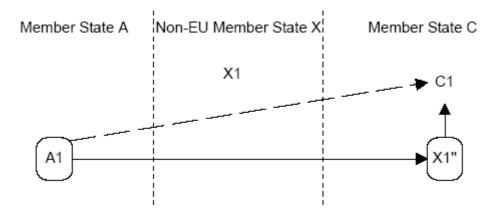
The country of the intermediary (X) is a non-EU Member State. The intermediary (X1) is obliged to have a tax representative in the Member State of departure of the goods (if the transport is a condition of the contractual relationship X1-C1) or in the Member State of destination of the goods (if the transport is a condition of the relationship A1 - X1).

# a) Situation with tax representative in Member State A (= X1')



In this case there is an Intrastat declaration for the movement A1- C1: A1 has nothing to declare, X1' has to declare dispatch with Member State of Destination C and C1 has to declare an arrival with Member State of origin A.

# b) Situation with tax representative in Member State C (=X1")



In this case there is an Intrastat declaration for the movement A1-C1: A1 in Member State A has to declare dispatch with Member State of destination C, X1'' in Member

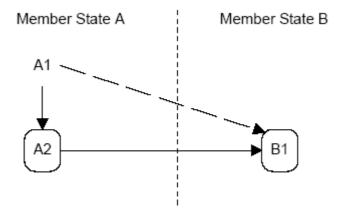


State C has to declare arrival with Member State of origin A, while C1 in Member State C has nothing to declare.

# 4.3 Triangular Trade between two Member States instead of three With goods movement between two Member States

## **Case 1:**

A2 buys goods from A1 in Member State A. A2 sells these goods to B1 in Member State B. The goods go direct from A1 to B1.

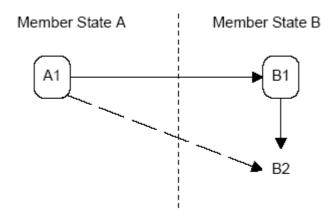


In this case there is an Intrastat declaration for the movement A1-B1: A1 in Member State A has nothing to declare for Intrastat, A2 in Member State A has to declare dispatch with Member State of destination B, while B1 in Member State B has to declare arrival with Member State of origin A.

## Case 2:

**B1** buys goods from **A1** in Member State A. **B1** sells these goods to **B2** in Member State B. The goods go direct from **A1** to **B2**.

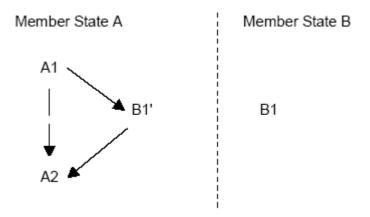




In this case there is an Intrastat declaration for the movement A1-B2: **A1** in Member State A has to declare dispatch with Member State of destination B, **B1** in Member State B has to declare arrival with Member State of origin A, while **B2** in Member State B has nothing to declare

# Without goods movement between two Member States

A1 in Member State A sells goods to B1 in Member State B. B1 sells these goods to A2 in Member State A. The goods are sent direct from A1 to A2. The intermediary (B1) has to register for VAT in Member State A. We call the tax representative or the person registered direct for VAT in Member State A, B1'. In this case nothing has to be declared for Intrastat because the goods have not left Member State A.



In this case there is nothing to declare for Intrastat purposes.



# 5. Processing activity of goods

#### 5.1 General Basis

Processing goods covers operations (transformation, construction, assembly enhancement, renovation, modification, conversion) with the objective of producing a new or a really improved item.

The difference between "processing" and "repair" consist in the fact that a repair entails the "restoration" of the goods to their original function or condition. The objective of operation is simply to maintain the goods in working order; this may involve some rebuilding, replacement or enhacements but does not change the nature of the goods in any way.

# Examples:

# Processing

- Assembly/reconstruction of goods after transport;
- Conservation, e.g. by adding preservatives;
- Treatment e.g. against parasites or rust,
- Mixing goods of different qualities to produce goods of a new quality;
- Bottling of liquid, e.g. wine from barrels;
- Making up of textiles into products, e.g. clothing, handbags, curtains;
- Dilution or concentration of liquids e.g. orange juice.
- Chemical processing of pharmaceutical, industrial products etc.
- Assembling of components parts of ships and aircrafts

## - Repair

- Pure replacement of part of a good indicates that a repair transaction have been carried out. On the other hand, if it results in an improved good, it is a processing activity.
- Repair of damage to goods incurred during transport;



- Repainting should be considered as repair / maintenance. But, the painting of an unpainted good should be treated as processing.
- Charging of batteries.

#### - Services

- For aircraft, technical maintenance activities which are carried out due to legal requirements (e.g. controls, mandatory periodic replacements);
- Sharpening, simple grinding or cutting
- Simple ironing, washing, cleaning, drying operation;
- Simple packaging operations;
- Simple sorting, sifting, weighing, dividing and filtering of goods;
- testing, adjusting, regulating or certification of goods (e.g. aircraft, machines, apparatus, vehicles)

For Intrastat system shall be reported only processing activities; reparations and services shall be excluded from the system.

Bilateral processing goods if there are two parties, i.e. the processor and the principal. In this case there is a strict there-and-back movement of the goods (before and after goods processing) between the same parties and the same Member States.

There are also many variations of this, e.g. after the goods processing the goods are sent to a buyer; this buyer may be in the Member State of the service provider, the principal or another Member State etc. This chapter will discuss who has to make the declaration for Intrastat in these situations.

In determining who has to make the declaration for Intrastat for the goods movements "with a view to and/or after goods processing" in the Member State where the goods processing takes place the following must be taken into account:

## • *VAT legislation:*

**The general VAT rule** is that the processing is taxed in the country where the service is provided. The principal must therefore be registered for VAT purposes in this Member State. The registration for VAT purposes can be done by direct VAT registration or by appointing a tax representative.



However, there is a **simplification rule** to the general VAT rule which can only be applied **if** the goods **leave the country where the service is provided after the processing has taken place.** In this case the principal gives a different VAT number of another Member State than that where the service is provided and he is not taxed in the Member State where the service is provided but in the Member State of the quoted VAT number.

## • *Consequences for Intrastat:*

If the principal works with a tax representative or a direct VAT registration in the Member State of the processor (who will be invoiced for the processing) the tax representative or the person registered direct for VAT purposes "himself" registers all cross-border goods movements relating to this goods processing in the Intrastat declaration in the Member State of the processor (i.e. instead of the processor who in fact receives and/or sends the goods).

A processor only has to declare the goods movements for Intrastat for which he invoices the processing to another EU Member State (i.e. to a VAT number in another EU Member State).

**Not all** goods movements "with a view to" and "after" goods processing may be declared with transaction code 4 or transaction code 5.

The following two conditions must be met in order to use transaction codes 4 and 5:

- 1. There is no future transfer of ownership between an enterprise in the Member State of declaration and an enterprise in another country.
- 2. There must always be an inward goods movement which is followed by a later outward goods movement to the Member State of declaration or vice versa (the declaration of these movements is not necessarily made by the same Intrastat declarant).

In case the materials to be processed partly come without and partly with change of ownership the following principle to distinguish "processing under contract" and "processing activities on a processor's own account" for the purpose of ITGS shall be applied:

- when the value of material provided by the ordering party without transfer of ownership is *significant*, then the transaction should be treated as processing under



contract and should use **nature of transaction code 4.1 or 4.2** for the goods for processing and **transaction code 5.1 or 5.2**. for the goods after processing.

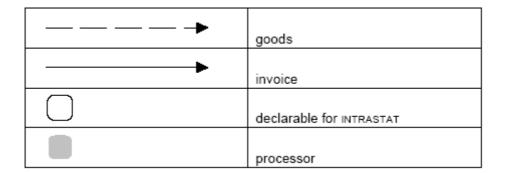
- when the value of material provided by the ordering party without transfer of ownership is *negligible*, then the transaction should be treated as processing activities on a processor's own account and should use for goods for processing (negligible quantity) **transaction code 9.9** and for goods after processing, **transaction code 1.1** (the value of the good after processing will contains the value of goods processed, including also the value of goods delivered by the beneficiary).

# **Legend of the graphics**

The following letters and arrows are used for the diagrams in this chapter:

A, B, C: 3 different Member States of the European Union.

A1, A2, B1, B2, C1, C2, etc enterprises of A, B, C etc



Different EU Member States are always involved in the situations discussed. Romania can represent each Member State (Member State A, B or C). The table under the diagram shows who has to make a declaration for Intrastat in each country. The table has been drawn up from the standpoint of the Romanian Intrastat obligations and VAT.

It should be kept in mind that this manual cannot be used as a reference source for dealings between the Intrastat declarant and the VAT authority. The INS is not authorized to explain VAT legislation.



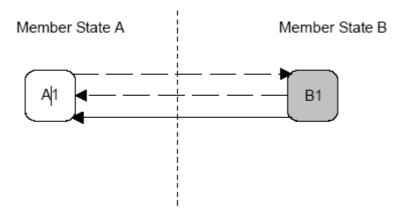
# **5.2 Bilateral Processing Goods**

## **Definition**

Goods are sent temporarily to a processor in another Member State for processing and after processing they come back to the principal in the Member State of the consignor.

# One single processing goods

A1 sends goods temporarily to B1 in Member State B with the intention of having them processed there. After processing the goods are then returned to A1 in the Member State of consignment. The processing is done on behalf of A1. In this case A1 can use the simplification rule (after processing the goods leave the country where the service has been provided) and therefore gives his VAT number of Member State A to B1. B1 invoices the processing operations to A1. The service is taxable in Member State A.



In this case there is an Intrastat declaration for the movements A1-B1 and B1-A1:

- A1 in Member State A has to declare consignment with Member State of destination B (value of the goods before processing) and arrival with Member State of origin B (value of the goods after processing);
- **B1** in Member State B has to declare arrival with Member State of origin A (value of the goods before processing) and consignment with Member State of destination A (value of the goods after processing).



# **5.3 Multilateral Processing Goods**

These are variants of bilateral processing goods: i.e. goods are sent to a processor (or processors) in another Member State and, after processing, the goods come back to the Member State of the consignor or the goods are sent to a different Member State etc.

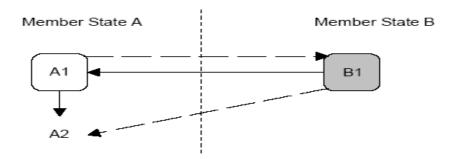
# a. Goods are returned to the original Member State of consignment

# Once only processing goods

A1 sends goods temporarily to B1 in Member State B with the intention of having them processed there. After processing the goods are then sent to a customer A2 in Member State A. The processing is done on behalf of A1.

In this case **A1** can use the simplification rule and therefore gives his VAT number of Member State A to **B1**. **B1** invoices the service to A1 and the service is taxable in Member State A.

The delivery of the goods to **A2** is regarded as a national transaction between **A1** and A2 (sale/purchase) with the VAT which is applicable in Member State A.



In this case there is an Intrastat declaration for the movements A1-B1 and B1-A1:

- A1 in Member State A has to declare consignment with Member State of destination B (value of the goods before processing) and arrival with Member State of origin B (value of the goods after processing);
- A2 in Member State A has nothing to declare (national transaction);



• **B1** in Member State B has to declare arrival with Member State of origin A (value of the goods before processing) and consignment with Member State of destination A (value of the goods after processing).

**NB:** The declaration is submitted by **A1** and **B1**.

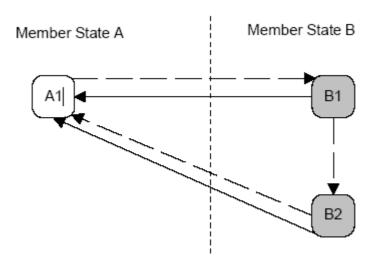
**A1** in the Member State A will declare a consignement with nature of transaction code **4.1**, which is used for processing of goods that will be returned in the member state from where they were delivered originally.

**B1** in Member State B will declare the introduction of goods with the code of Nature of Transaction **4.1** (because after processing, goods will be returned to the Member State from where they were originally sent) and the delivery of the processed goods with the code of nature of transaction code **5.1** (because processed goods are returned to the Member State where they were originally dispatched).

## **Double processing goods**

A1 sends goods to B1 for first processing and B1 then sends them to B2 for second processing. The processed product is sent by B2 to A1. In this case A1 can use the simplification rule and therefore gives his VAT number of Member State A to B1. B1 and B2 each invoice the service to A1.

The services are taxable in Member State A.





In this case there is an Intrastat declaration for the movements A1-B1 and B2-A1:

- A1 in Member State A has to declare consignment with Member State of destination B (value of the goods before processing) and arrival with Member State of origin B (value of the goods after processing);
- **B1** in Member State B has to declare arrival with Member State of origin A (value of the goods before processing);
- **B2** in Member State B has to declare consignment with Member State of destination A.

**NB: A1** in the Member State A will declare a dispatch with nature of transaction code **4.1**, which is used for processing of goods that will be returned in the member state from where they were delivered originally.

**B1** in Member State B will declare the introduction of goods with the code of Nature of Transaction **4.1** (because after processing, goods will be returned to the Member State from where they were originally sent).

**B2** in Member State B will declare the delivery of the processed goods with the code of nature of transaction code **5.1** (because processed goods are returned to the Member State where they were originally dispatched).

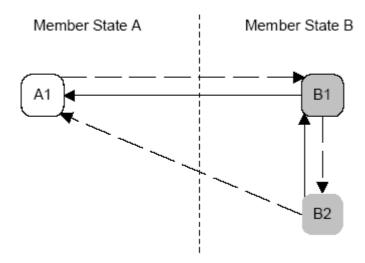
# Double processing in which one processor is subcontractor of the other

This is the same situation as above, with the difference that **B2** (the second processor) is a subcontractor of **B1** (the first processor). **B2** therefore does the processing on behalf of **B1** and sends the finished goods direct to **A1**.

The declarant in Member State B is **B1** because a declaration is made for **A1** and **B1** as if this were bilateral goods processing.

In this case **A1** can use the simplification rule and therefore gives his VAT number of Member State A to **B1**. **B1** invoices the service to **A1** and the service is taxable in Member State A. The transaction between **B1** and **B2** is a national transaction.





In this case there is an Intrastat declaration for the movements A1-B1 and B2-A1:

- A1 in Member State A has to declare consignment with Member State of destination B (value of the goods before processing) and arrival with Member State of origin B (value of the goods after processing);
- **B1** in Member State B has to declare arrival with Member State of origin A (value of the goods before processing) and dispatch with Member State of destination A (value of the goods after processing);
- **B2** in Member State B has nothing to declare.

**NB: A1** in the Member State A will declare a consignement with nature of transaction code **4.1**, which is used for processing of goods that will be returned in the member state from where they were delivered originally.

**B1** in Member State B will declare the introduction of goods with the code of nature of transaction **4.1** (because after processing, goods will be returned to the Member State from where they were originally sent) and the delivery of the processed goods with the code of nature of transaction code **5.1** (because processed goods are returned to the Member State where they were originally dispatched).

# b. Goods are not returned to the original Member State of consignment

Goods processing done on behalf of the seller



The supplier first sends the goods to the processor before sending them to a foreign customer; the goods processing is done on behalf of the seller.

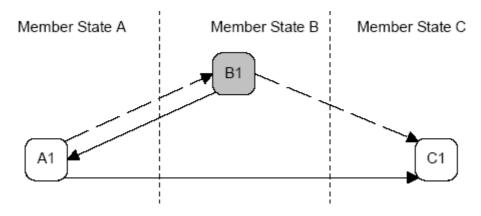
GOODS PROCESSING: NOT IN THE MEMBER STATE OF THE BUYER AND NOT IN THE MEMBER STATE OF THE SELLER (THREE MEMBER STATES)

**A1** sells goods to **C1**. A1 first sends the goods to **B1** for processing (the processing is done on behalf of A1). After processing the goods are sent to Member State C.

### In this case:

- A1 can use the simplification rule and therefore gives his VAT number of Member State A to B1.
- **B1** invoices the service to A1 and the processing operation is taxable in Member State A.

Here, the goods movements for A1 and C1 follow the rules of intra-Community goods movements.



In this case there is an Intrastat declaration for the movements A1-B1 and B1-C1:

- A1 in Member State A has to declare consignment with Member State of destination B (value of the goods before processing);
- **B1** in Member State B has to declare arrival with Member State of origin A (value of the goods before processing) and dispatch with Member State of destination C (value of the goods after processing);
- C1 in Member State C has to declare arrival with Member State of origin B (value of the goods after processing).

NB: The declaration is made by A1 and C1 with transaction code 1, not with codes 4 and 5, which are meant for goods processing, because there is a transfer of ownership

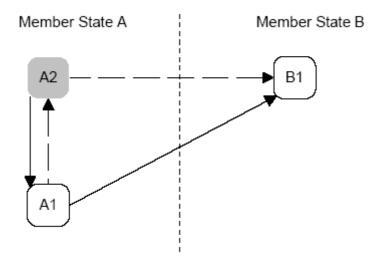


(C1 becomes owner of the goods and A1 is no longer owner of the goods). B1 has to declare arrival of the goods with transaction code 4.2 in Member State B and consignment the goods after processing with transaction code 5.2.

GOODS PROCESSING: IN THE MEMBER STATE OF THE SELLER (TWO MEMBER STATES)

A1 sells goods to B1. A1 first sends the goods to A2 in Member State A for processing (the processing is done on behalf of A1). After processing the goods are sent to B1 in Member State B. The finished product is delivered to B1. A2 invoices A1 for the cost of processing.

The consignment of the goods from A1 to A2 is a national transaction between A1 and A2 in Member State A.



In this case there is an Intrastat declaration for the movements A2-B1:

- A1 in Member State A has to declare consignment with Member State of destination B (value of the goods after processing);
- **A2** in Member State A has nothing to declare;
- **B1** in Member State B has to declare arrival with Member State of origin A (value of the goods after processing).



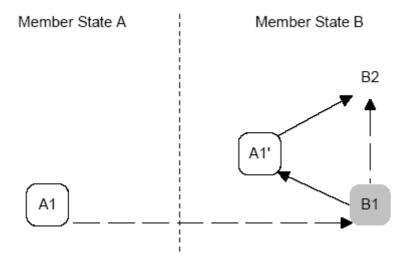
NB: The declaration is made by A1 and B1 with transaction code 1, not with codes 4 and 5 which are meant for goods processing, because there is a transfer of ownership (B1 becomes owner of the goods and A1 is no longer owner of the goods).

GOODS PROCESSING: IN THE MEMBER STATE OF THE BUYER (TWO MEMBER STATES)

A1 sells goods to B2 in Member State B. A1 first sends the goods to B1 in Member State B for processing (the processing is done on behalf of A1). After processing the goods are sent to B2 in Member State B.

In this case **A1** cannot use the simplification rule (after processing, the goods do not leave the country where the service is provided). The principal **A1** must be registered for VAT purposes in the Member State where the service is actually provided (Member State B) (this can be done by direct VAT registration or by appointing a tax representative). We call the tax representative or the person registered direct for VAT purposes in Member State B **A1**'. The finished product is delivered to **B2**. **B1** invoices **A1**' for the processing cost.

The transactions between B1 - A1' and A1' - B2 are national transactions.



In this case there is an Intrastat declaration for the movements A1-B1:

• A1 in Member State A has to declare consignment with Member State of destination B (value of the goods before processing);



- **A1'** in Member State B has to declare arrival with Member State of origin A (value of the goods before processing);
- **B1** in Member State B has nothing to declare;
- **B2** in Member State B has nothing to declare.

NB: The declaration is made by A1 and A1' with transaction code 1, not with codes 4 and 5, which are meant for goods processing, because there is a transfer of ownership (B2 becomes owner of the goods and A1 is no longer owner of the goods).

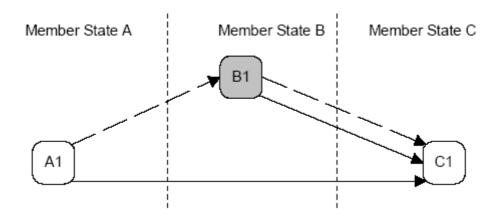
Goods processing is done on behalf of the buyer

The customer asks the foreign supplier to send the goods to a processor; the goods processing is done on behalf of the buyer.

GOODS PROCESSING: NOT IN THE MEMBER STATE OF THE BUYER AND NOT IN THE MEMBER STATE OF THE SELLER (THREE MEMBER STATES)

C1 buys goods from A1. C1 asks A1 to send these goods to B1 in Member State B for processing (the processing is done on behalf of C1). After processing the goods are sent to Member State C.

Here, the goods movements for A1 and C1 follow the rules of intra-Community goods movements.



In this case there is an Intrastat declaration for the movements A1-B1 and B1- C1:

- A1 in Member State A has to declare consignment with Member State of destination B (value of the goods before processing);

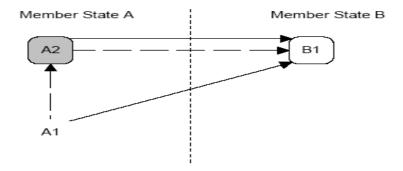


- **B1** in Member State B has to declare arrival with Member State of origin A (value of the goods before processing) and consignment with Member State of destination C (value of the goods after processing);
- C1 in Member State C has to declare arrival with Member State of origin B (value of the goods after processing).

**NB:** The declaration is made by **A1** and **C1** with transaction code **1**, not with codes **4** and **5**, which are meant for goods processing, because there is a transfer of ownership (**C1** becomes owner of the goods and **A1** is no longer owner of the goods). **B1** has to complete Intrastat declaration with transaction code **4.2** and **5.2**.

GOODS PROCESSING: IN THE MEMBER STATE OF THE SELLER (TWO MEMBER STATES)

**B1** buys goods from **A1**. **B1** asks **A1** to send these goods to **A2** in Member State A for processing (the processing is done on behalf of **B1**). After processing the goods are sent to Member State B.



In this case there is an Intrastat declaration for the movements A2-B1:

- **A1** in Member State A has nothing to declare;
- A2 in Member State A has to declare consignment with Member State of destination B (value of the goods after processing);
- **B1** in Member State B has to declare arrival with Member State of origin A (value of the goods after processing).

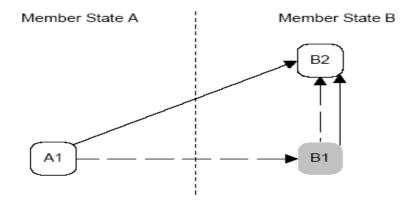
**NB:** The declaration is made by **A2** and **B1** with transaction code **1**, not with codes **4** and **5**, which are meant for goods processing, because there is a transfer of ownership (**B1** becomes owner of the goods and **A1** is no longer owner of the goods).



GOODS PROCESSING: IN THE MEMBER STATE OF THE BUYER (TWO MEMBER STATES)

**B2** buys goods from **A1** in Member State A. **B2** asks **A1** to send these goods to **B1** in Member State B for processing (the processing is done on behalf of **B2**). After processing the goods are sent to **B2**. **B1** invoices the service to **B2**.

The transaction between **B2** and **B1** is a national transaction. **B1** invoices the service to **B2**.



In this case there is an Intrastat declaration for the movements A1-B1.

- A1 in Member State A has to declare consignment with Member State of destination B (value of the goods before processing);
- **B1** in Member State B has nothing to declare;
- **B2** in Member State B arrival with Member State of origin A (value of the goods before processing).

<u>NB:</u> The declaration is made by **A1** and **B2** with transaction code **1**, not with codes **4** and **5**, which are meant for goods processing, because there is a transfer of ownership (**B2** becomes owner of the goods and **A1** is no longer owner of the goods).