

Notification in accordance with Section 17 of the Federal Statistics Act (BStatG) and with the General Data Protection Regulation (EU) 2016/679 (GDPR)¹

Purpose, type and scope of the survey

The purpose of intra-Community trade statistics is to provide current data on Germany's intra-Community trade in a wide variety of breakdowns. Such results are needed by the Community bodies, national governments, economic and business associations, institutes of market research and market monitoring as well as businesses to analyse competitiveness at the European level, the dependency on imports and exports of individual products and in various branches and also the price trends in intra-Community trade. The sole goal of statistical monitoring is to reflect the actual movements of goods between Germany and the other EU Member States. Only when goods are delivered from Germany to another Member State or moved from another Member State to Germany, a statistical declaration must be submitted for intra-Community trade statistics.

Legal basis, obligation to provide information

The legal basis is provided by:

- Regulation (EC) No 638/2004 relating to the trading of goods between Member States - Basic Regulation,
- Regulation (EC) No 1982/2004 implementing Regulation (EC) No 638/2004 - Implementing Regulation,
- Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff²,
- Regulation (EU) No 1106/2012 implementing Regulation (EC) No 471/2009 as regards the update of the
- nomenclature of countries and territories,
- Foreign Trade Statistics Act (AHStatGes),
- Ordinance for the Implementation of the Foreign Trade Statistics Act (AHStatDV),
- in conjunction with the Federal Statistics Act (BStatG).

Data are collected as specified in Article 9 of the Basic Regulation.

The obligation to provide information is laid down in Article 7 of the Basic Regulation in conjunction with Section 18 subsection (1) and Section 15 of the Federal Statistics Act. The entities indicated therein are responsible for providing information.

The exemption thresholds below which respondents are exempted from providing information for the purposes of intra-Community trade statistics in accordance with Article 10 para. 1 to 3 of the Basic Regulation will be 500,000 (five hundred thousand) euros for dispatches and 800,000 (eight hundred thousand) euros for arrivals (each related to the value of the trade in goods of the previous calendar year). If the thresholds are exceeded in the current calendar year, the obligation to submit declarations will begin in the calendar month when the thresholds are exceeded for the first time. In addition, declarations will have to be submitted for the following calendar year as a whole. No separate notification will be sent in the case of termination or reapplication of the obligation to provide information.

¹ <https://www.destatis.de/DE/Methoden/Rechtsgrundlagen/Statistikbereiche/Wirtschaft/Aussenhandel/aussenhandel.html> and https://www.destatis.de/DE/Methoden/Rechtsgrundlagen/Statistikbereiche/Inhalte/010_BStatG.pdf?__blob=publicationFile and https://www.bmjv.de/DE/Themen/FokusThemen/DSGVO/_documents/Amtsblatt_EU_DSGVO.pdf;jsessionid=2AC77E60A610337DE6A0DB68C5CAFC46.2_cid297?__blob=publicationFile&v=1

² The up-to-date version of the Commodity Classification for Foreign Trade Statistics is available at: https://www.destatis.de/DE/Themen/Wirtschaft/Aussenhandel/_inhalt.html#sprg236150 „Warenverzeichnis für die Außenhandelsstatistik 2020“.

In accordance with Article 2 of the Implementing Regulation, the movements of goods listed in its Annex 1 are exempted from declaration.

Pursuant to Section 11a subsection (2) of the Federal Statistics Act, all enterprises and establishments are obliged to transmit their data electronically to the statistical offices. For this purpose, the online procedures provided by the statistical offices must be used. In justified instances, an exemption from online reporting may be agreed for a limited period of time upon simple request. However, the obligation to provide the required information continues to apply.

Pursuant to Section 11a subsection (1) of the Federal Statistics Act (BStatG), agencies performing public administration duties and transmitting data by means of standardised electronic data exchange formats are also obliged to use these formats to transmit data to the statistical offices. Where these agencies do not apply standardised procedures for data exchange, electronic procedures must be used as agreed by the statistical offices and the agencies concerned.

If respondents provide no information or provide information which is incomplete, incorrect or late, they can be encouraged to provide the information through imposition of a coercive penalty pursuant to the Federal Law on Administrative Enforcement.

Pursuant to Section 23 of the Federal Statistics Act, a regulatory offence is committed by anyone who

- contrary to Section 15 subsection (1), second sentence, subsections (2) and (5), first sentence, of the Federal Statistics Act wilfully or negligently provides no information, or provides information which is late, incomplete or untrue,
- contrary to Section 15 subsection (3) of the Federal Statistics Act does not give a reply in the prescribed format, or
- contrary to Section 11a subsection (2), first sentence, of the Federal Statistics Act does not use a procedure mentioned therein.

The regulatory offence is punishable by a fine not exceeding five thousand euros.

Pursuant to Section 15 subsection (7) of the Federal Statistics Act, objections and rescissory actions against the summons to provide information will have no suspensive effect.

Where the provision of survey information is voluntary, consent to the processing of such voluntary data can be revoked at any time. The revocation will only apply in the future. Any processing of information prior to the revocation will not be affected by it.

Confidentiality

The individual data collected are always kept confidential in accordance with Section 16 of the Federal Statistics Act (BStatG). Individual data may be passed on only in exceptional cases explicitly regulated by law or if the parties responsible for providing information have given their consent.

Individual data may always be transmitted to:

- public agencies and institutions within the system of official statistics which are entrusted with the production of federal or European statistics (e.g. the statistical offices of the Länder, the Bundesbank, the Statistical Office of the European Union (Eurostat)),
- service providers with whom a contractual relationship exists (e.g. Federal Information Technology Centre (ITZBund), Werum).

For utilisation in communicating with the legislative bodies and for planning purposes, but not for regulating individual cases, tables presenting statistical results may be transmitted to the competent supreme federal and Land authorities by the Federal Statistical Office in accordance with Section 11 subsection (1) of the Foreign Trade Statistics Act (AHStatGes), even if table elements record only one individual case.

For the Federal Government's reporting on its export policy regarding conventional military equipment, data regarding the designation of goods pursuant to Section 3 number 2 of the Act may be transmitted to the competent supreme federal authorities by the Federal Statistical Office in accordance with Section 11 subsection (2) of the Foreign Trade Statistics Act (AHStatGes), to the extent that these data are used to classify the goods as civil goods or conventional military equipment.

Pursuant to Section 16 subsection (6) of the Federal Statistics Act, institutions of higher education or other institutions tasked with independent scientific research may, for the purpose of carrying out scientific projects, be provided

1. with individual data if attributing the anonymised individual data to the relevant respondents or persons concerned requires unreasonable effort in terms of time, cost and manpower (de facto anonymised individual data), with access to individual data not including name and address (formally anonymised individual data)
2. within specially protected areas of the Federal Statistical Office and the statistical offices of the Länder, if effective measures are in place to safeguard confidentiality.

Pursuant to Section 47 of the Act Against Restraints of Competition (GWB), aggregated individual data of the percentage shares of the largest enterprise groups, enterprises, local units or kind-of-activity units of the respective economic sector are submitted to the Monopolies Commission for the purpose of assessing the development of business concentration. Such aggregated individual data must neither refer to less than three units nor permit conclusions relating to aggregated data for less than three units. Persons receiving individual data are also obliged to maintain confidentiality.

Auxiliary variables, deletion, list of intra-Community operators

The name, address, telephone and fax numbers and also the e-mail address of the respondents as well as their VAT number of the advance turnover tax return and their VAT identification number, together with contact details for queries (names and other contact data), are auxiliary variables that are only used for the technical conduct of the survey. These auxiliary variables will be deleted from the data records containing the information on the survey variables after the survey and auxiliary variables have been checked for conclusiveness and completeness. Information on the survey variables is processed and stored for as long as necessary to comply with the legal obligations.

The name, address, telephone and fax numbers and also the e-mail address of the respondents as well as their VAT number of the advance turnover tax return and their VAT identification number, together with the survey variables identifying the direction of flow (arrival, dispatch) and the value of goods, are used to maintain, for statistical purposes, the register of intra-Community operators in accordance with Article 8 of the Basic Regulation.

Rights of the respondents, contact details of the data protection officers, right to lodge a complaint

Respondents whose personal data are processed have the right to request

- access and information as per Article 15 of the General Data Protection Regulation,
- rectification as per Article 16 of the General Data Protection Regulation,
- erasure as per Article 17 of the General Data Protection Regulation, and
- restriction of processing as per Article 18 of the General Data Protection Regulation

with regard to their respective personal data, or they may object to the processing of their personal data as per Article 21 of the General Data Protection Regulation.

If the above rights are exercised, the competent public agency will check whether the relevant legal requirements are met. The person making the request may be asked to prove his or her identity before further measures are taken.

Questions and complaints concerning compliance with legal data protection rules may be addressed at any time to the official data protection commissioners of the statistical offices of the Federation and the Länder or to the competent data protection supervisory authorities. Their contact data are available at: <https://www.statistikportal.de/de/datenschutz>.