

PROTOCOL
on the Procedure for Collection of Indirect Taxes
and the Mechanism for controlling
their Payments on Export and Import
of Goods, Performance of Works and Provision of Services

I. General Provisions

1. This Protocol has been developed in accordance with Articles 71 and 72 of the Treaty on the Eurasian Economic Union and determines the procedure for collection of indirect taxes and the mechanism of control over their payments on export and import of goods, performance of works and provision of services.

2. The terms used in this Protocol shall have the following meanings:

"audit services" means services for conducting audits of accounting, tax and financial reporting statements;

"accounting services" means services for setting, keeping, and reconstruction of accounting records, compilation and/or submission of tax, accounting and financial reporting statements;

"movable property" means property other than immovable property and vehicles;

"design services" means services for the design of artwork, the appearance of products, building façades, interiors of buildings; industrial design;

"import of goods" means the importation of goods by taxpayers (payers) to the territory of one Member State from the territory of another Member State;

"engineering services" means engineering and consultancy services for the preparation of the process of manufacture and sale of goods (works, services), preparation for construction and operation of industrial, infrastructure, agricultural and other facilities, as well as pre-design and design services (preparation of feasibility studies, design development, technical testing and analysis of test results);

"competent authorities" means ministries of finance and economy, tax and customs authorities of the Member States;

"consultancy services" means services for providing clarifications and recommendations and other forms of consultations, including identification and/or assessment of problems and/or possibilities of a person with regard to administrative, economic, financial (including tax and accounting) issues, as well as planning, organisation and implementation of business activities, and personnel management;

"indirect taxes" means the value added tax (hereinafter "VAT") and excise taxes (excise tax or excise duty);

"marketing services" means services related to research, analysis, planning and forecasting in the sphere of manufacture and circulation of goods (works, services) in order to identify measures to create the necessary economic conditions for the manufacture and circulation of goods (works, services), including descriptions of goods (works, services), development of pricing and advertising strategies;

"taxpayer (payer)" means a payer of taxes, levies and duties of the Member States (hereinafter "a taxpayer");

"scientific research" means research under customers' specifications;

"immovable property means land plots, subsoil areas, isolated water objects and all that is firmly connected to the land/ground, that is, facilities that may not be moved without disproportionate damage to their intended use, including forests, perennial plantings, buildings, structures, pipelines, power transmission lines, enterprises as property complexes and space facilities;

"zero VAT rate" means imposition of VAT at the rate of zero percent with the right to deduct (offset) corresponding amounts of VAT;

"research, development and design work" means development of samples of new products, design documentation for new products or new technologies;

"work" means activities yielding material results that may be used by juridical persons and/or natural persons;

"advertising services" means services for creating, distributing and posting information intended for an unspecified audience and designed to shape and maintain interest in a juridical or natural person, goods, trademarks, works and services, by any means and in any form;

"goods "means any movable and immovable property, vehicles, all kinds of energy marketed or intended for sale;

"vehicles" means air and sea vessels, inland navigation vessels, mixed (river and sea) vessels; railway or tramway rolling stock units; buses; motor vehicles, including trailers and semi-trailers; freight containers; dump trucks;

"service" means activities yielding intangible results that are sold or consumed in the course of the activities, as well as the transfer and provision of patents, licenses, trademarks, copyrights or other rights;

"data processing services" means services for collection and compilation of information, systematisation of information (data) arrays and putting the results of this information processing at disposal of a user;

"export of goods" means exportation of goods sold by a taxpayer from the territory of one Member State to the territory of another Member State;

"legal services" means services of a legal nature, including provision of consultations and clarifications, preparation and legal examination of documents, representation of clients in courts.

II. Procedure for Applying Indirect Taxes on Export of Goods

3. When exporting goods from the territory of one Member State to the territory of another Member State, the taxpayer of the Member State from the territory of which the goods are exported, a zero VAT rate and/or exemption from excise taxes upon submission to the tax authority of the documents provided for by paragraph 4 of this Protocol shall be applied.

When exporting goods from the territory of one Member State to the territory of another Member State, the taxpayer shall be entitled to tax deductions (offsets) in the procedure similar to that is provided for by the legislation of the Member State and applied in respect of goods exported from the territory of that Member State outside the Union.

The place of sale of goods shall be determined in accordance with the legislation of the Member States, unless otherwise determined in this paragraph.

In the case of sale of goods by a taxpayer of one Member State to a taxpayer of another Member State, when conveyance (transportation) of

goods commences outside the Union and ends in another Member State, the place of sale of goods shall be deemed the territory of the Member State where the goods are placed under the customs procedure of release for domestic consumption.

4. In order to confirm the validity of application of a zero VAT rate and/or exemption from excise taxes, the taxpayer of the Member State from the territory of which the goods are exported shall submit to the tax authority the following documents (copies) with the tax declaration:

1) agreements (contracts) concluded with a taxpayer of another Member State or a taxpayer that is not a member of the Union (hereinafter "agreements (contracts)"), on the basis of which the goods are exported; in the case of a lease of goods or a credit on goods (commercial loan, material loan), lease agreements (contracts), credit on goods (commercial loan, material loan) agreements (contracts); agreements (contracts) for the manufacture of goods; tolling agreements (contracts);

2) a bank statement confirming the actual receipt of proceeds from the sale of exported goods at the account of the exporting taxpayer, unless otherwise provided for by the legislation of the Member State.

If the agreement (contract) provides for settlements in cash, found to conform to the legislation of the Member State from the territory of which the goods are exported, the taxpayer shall submit to the tax authority a bank statement (copy thereof) confirming the deposit of amounts received by the taxpayer onto its bank account and copies of cash receipts confirming the actual receipt of proceeds from the purchaser of the goods, unless otherwise provided for by the legislation of the Member State from the territory of which the goods are exported.

In the case of export of goods under a lease agreement (contract) providing for transfer of ownership for such goods to the lessee, the taxpayer shall submit to the tax authority a bank statement (copy thereof) confirming the actual receipt of lease payments (in compensation for the initial cost of the goods (leased items)) at the account of the exporting taxpayer, unless otherwise provided for by the legislation of the Member State.

In the case of foreign barter trade transactions or the provision of a credit on goods (commercial loan, material loan), the exporting taxpayer shall submit to the tax authority documents confirming the import of goods (performance of works, provision of services) received (acquired) under these transactions.

The documents referred to in this sub-paragraph shall not be submitted to the tax authority if their submitting is not provided for in the legislation of the Member State in respect of goods exported from the territory of that Member State outside the Union;

3) a statement of import of goods and payment of indirect taxes executed in the form provided for by an international interagency treaty and marked by the tax authority of the Member State to the territory of which the goods are imported indicating the payment of indirect taxes (release or other procedure for the fulfilment of tax obligations) (hereinafter "the statement") (in hard copy, in its original or in a copy, at the discretion of tax authorities of the Member States) or a list of statements (in hard copy or electronically with an electronic (digital) signature of the taxpayer).

The taxpayer shall include in the list of statements all details and information specified in the statements the information on which has been reported to the tax authorities in the form provided for by an international interagency treaty.

The form, filling procedure and format of the list of statements shall be as set by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States.

In the case of sale of goods exported from the territory of one Member State to the territory of another Member State and placing thereof under the customs procedure of a free customs zone or a free warehouse on the territory of another Member State, a copy of the customs declaration under which such goods are placed under the customs procedure of a free customs zone or a free warehouse, certified by the customs authority of another Member State, shall be submitted to the tax authority of the first Member State instead of the above statement.

4) transport (shipping) and/or other documents required by the legislation of the Member State and confirming the movement of goods from the territory of one Member State to the territory of another Member State. These documents shall not be submitted if execution of these documents is not provided for by the legislation of the Member State for certain types of movement of goods, including the movement of goods without the use of vehicles;

5) other documents confirming the validity of a zero VAT rate and/or exemption from excise taxes provided for by the legislation of the Member State from the territory of which the goods are exported.

The documents specified in this paragraph, except for the statement (the list of statements) shall not be submitted to the tax authority if non-presentation of documents confirming the validity of the application of a zero VAT rate and/or exemption from excise taxes with the tax declaration is consistent with the legislation of the Member State from the territory of which the goods are exported.

The documents provided for by this paragraph shall not be submitted with the relevant tax declaration for excise taxes if they have already been submitted with the VAT tax declaration, unless otherwise provided for by the legislation of the Member State.

All documents provided for by sub-paragraphs 1, 2, 4, 5 and the fourth indent of sub-paragraph 3 of this paragraph may be submitted in electronic form in the procedure determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States. The format of such documents shall be specified by tax authorities of the Member States or other regulatory legal acts of the Member States.

5. Documents provided for by paragraph 4 of this Protocol shall be submitted to the tax authority within 180 calendar days from the date of shipment (transfer) of goods.

In case of non-presentation of these documents within the determined time limit, the indirect taxes shall be payable to the budget for the tax (reporting) period including the date of shipment of the goods, or any other tax (reporting) period determined by the legislation of the Member State with the right to deduct (offset) corresponding VAT amounts according to the legislation of the Member State from the territory of which the goods were exported.

For the purposes of VAT calculations in sales of goods, the date of shipment shall be the date of the first primary accounting (reporting) document issued to the purchaser of the goods (the first carrier) or the date of issuance of another binding document provided for by the legislation of the Member State for a VAT taxpayer.

For the purposes of calculations of excise taxes on excisable goods manufactured of own raw materials, the date of shipment of goods shall be

the date of the first primary accounting (reporting) document issued to the purchaser (consignee) of the goods; and on excisable tolling goods, the date of shipment shall be the signing date of the acceptance certificate for the excisable goods, unless otherwise provided for by the legislation of the Member State on the territory of which the excisable goods were manufactured.

In the case of non-payment, partial payment or delayed payment of indirect taxes in violation of the time limit determined in this paragraph, the tax authority shall recover such indirect taxes and penalties in the procedure and amount determined by the legislation of the Member State from the territory of which the goods were exported and shall apply means of securing the fulfilment of the obligations to pay indirect taxes, penalties and sanctions as determined by the legislation of that Member State.

In the case of presentation by a taxpayer of the documents provided for by paragraph 4 of this Protocol, the amount of indirect taxes paid shall be deducted (offset) or refunded in accordance with the legislation of the Member State from the territory of which the goods were exported, upon expiration of the time limit determined in this paragraph. The amounts of interest and penalties paid for violation of terms for payment of indirect taxes shall be non-refundable.

6. The volume of goods and excise rates in force on the date of shipment of excisable goods exported into the Member States and excise taxes shall be recorded in the relevant tax declaration on excise taxes.

7. The tax authority shall verify the validity of the application of a zero VAT rate and/or exemption from excise taxes and deductions (offsets) of these taxes and adopts (delivers) a respective decision under the legislation of the Member State from the territory of which the goods were exported.

In case of non-presentation of the statement to the tax authority, the tax authority shall be entitled to issue (adopt) a decision confirming the validity of the application of a zero VAT rate and/or exemption from excise taxes or deductions (offsets) of these taxes in respect of transactions for the sale of goods exported from the territory of one Member State into the territory of another Member State, if the tax authority of one Member State has available an electronic confirmation from the tax authority of another Member State certifying the actual payment of indirect taxes in full (or exemption from indirect taxes).

8. If the information on the movement of goods and payment of indirect taxes submitted by a taxpayer does not correspond to the data obtained within the exchange of information determined between tax authorities of the Member States, the tax authority shall recover indirect taxes and penalties in the procedure and amount provided for by the legislation of the Member State from the territory of which the goods were exported and shall apply means of securing the fulfilment of the obligations to pay indirect taxes, penalties and sanctions as determined by the legislation of that Member State.

9. The provisions of this section with regard to VAT shall also apply to goods representing results of works performed under manufacturing agreements (contracts) and exported from the territory of the Member State on the territory of which they were manufactured to the territory of another Member State. The above-mentioned goods shall not be regarded as tolling goods.

10. The tax base for excise taxation of goods representing results of works performed under tolling agreements (contracts) shall be represented as the volume and quantity (other indices) of excisable tolling goods, in kind, in respect of which fixed (specific) excise tax rates have been set, or the cost of

excisable tolling goods in respect of which ad valorem excise rates have been set.

11. The tax base for VAT on export of goods, when increased (decreased) due to an increase (decrease) in the price of goods sold or a reduction in the amount (volume) of goods sold in connection with their return due to inadequate quality and/or incomplete delivery, shall be adjusted in the tax (reporting) period in which the parties to the agreement (contract) change the price (agree the refund) of exported goods, unless otherwise provided for by the legislation of a Member State.

When exporting goods (leased items) from the territory of one Member State to the territory of another Member State under a lease agreement (contract) providing a transfer of ownership to the lessee, under a credit on goods (commercial loan, material loan) agreement (contract), or an agreement (contract) for the manufacture of goods, a zero VAT rate and/or exemption from excise duties (if such transaction is subject to excise duties under the legislation of the Member State) shall be applied upon submission to the tax authority of the documents provided for by paragraph 4 of this Protocol.

The VAT tax base for goods (leased items) exported from the territory of one Member State to the territory of another Member State under a lease agreement (contract) envisaging a transfer of ownership to the lessee shall be determined as of the date specified in the lease agreement (contract) for each lease payment, in the amount of the initial cost of goods (leased items) under each lease payment.

Tax deductions (offsets) shall be executed in the procedure provided for by the legislation of a Member State to the extent attributable to the cost of goods (leased items) under each lease payment.

The VAT tax base for goods exported from the territory of one Member State to the territory of another Member State under a credit on goods (commercial loan, material loan) agreement (contract) shall be represented by the cost of goods transferred (provided) provided for by the agreement (contract), if no cost is specified therein, by the cost indicated in the shipping documents, and if no cost is specified in the agreement (contract) and shipping documents, by the cost of goods recorded in accounting records.

12. In order to ensure complete payment of indirect taxes, the legislation of the Member State governing the pricing principles for taxation purposes may be applied.

III. Procedure for Collection of Indirect Taxes on Import of Goods

13. Indirect taxes on goods imported into the territory of one Member State from the territory of another Member State (except as determined in paragraph 27 of this Protocol and/or for placing imported goods under the customs procedure of a free customs zone or a free warehouse) shall be levied by the tax authority of the Member State into the territory of which the goods were imported at the place of registration of taxpayers, owners of the goods, including taxpayers applying special tax treatments, including with account of the specific features provided for by paragraphs 13.1-13.5 of this Protocol.

For the purposes of this section, the owner of the goods shall be a person exercising the right of ownership with respect to the goods or a person to which the right of ownership for the goods is transferred under the agreement (contract).

13.1. If the goods are acquired under an agreement (contract) between a taxpayer of one Member State and a taxpayer of another Member State, indirect taxes shall be paid by the taxpayer of the Member State into the territory of which the goods are imported, owner of the goods, or, if provided for by the legislation of the Member State, by a commission agent, mandatary or agent.

13.2. If the goods are acquired under an agreement (contract) between a taxpayer of one Member State and a taxpayer of another Member State and imported from the territory of a third Member State, indirect taxes shall be paid by the taxpayer of the Member State into the territory of which the goods are imported, the owner of the goods.

13.3. If the goods are sold by a taxpayer of one Member State through a commission agent, mandatary or agent to a taxpayer of another Member State and imported from the territory of the first or a third Member State, indirect taxes shall be paid by the taxpayer of the Member State into the territory of which the goods are imported, the owner of the goods, or, if provided for by the legislation of the Member State, by a commission agent, mandatary or agent.

13.4. If a taxpayer of one Member State acquires goods previously imported into the territory of that Member State by a taxpayer of another Member State, with outstanding indirect taxes available for such goods, these indirect taxes shall be paid by the taxpayer of the Member State into the territory of which the goods are imported, the owner of the goods, or, if provided for by the legislation of the Member State, by a commission agent, mandatary or agent (if the goods are sold by the taxpayer of another Member State via a commission agent, mandatary or agent).

If a taxpayer of one Member State acquires goods previously imported into the territory of that Member State by a commission agent, mandatary or agent (taxpayer of that Member State) under a commission, mandate or agency agreement (contract) concluded with a taxpayer of another Member State, with outstanding indirect taxes available for such goods, these indirect taxes shall be paid by the taxpayer of the Member State into the territory of which the goods are imported, the owner of the goods, or, if provided for by the legislation of the Member State, by the commission agent, mandatary or agent that imported the goods.

13.5. If the goods are acquired under an agreement (contract) between a taxpayer of one Member State and a taxpayer of a state that is not a member of the Union and imported from the territory of another Member State, indirect taxes shall be paid by the taxpayer of the Member State into the territory of which the goods are imported, the owner of the goods, or, if provided for by the legislation of the Member State, by a commission agent, mandatary or agent (if the goods are sold via a commission agent, mandatary or agent).

14. For the purposes of VAT payment, the tax base shall be determined on the date of registration of the taxpayer's imported goods (but not later than the time limit determined by the legislation of the Member State into the territory of which the goods are imported) on the basis of the cost of purchased goods (including goods produced under a manufacturing agreement (contract)), as well as goods received under a credit on goods (commercial loan, material loan) agreement (contract), tolling goods and excise taxes payable on excisable goods.

The cost of purchased goods (including goods produced under a manufacturing agreement (contract)) shall be taken as the transaction price to

be paid to the supplier for the goods (works, services) under the terms of the agreement (contract).

The cost of goods obtained under a barter agreement (contract), as well as under a credit on goods (commercial loan, material loan) agreement (contract), shall be represented by the cost of goods specified in the agreement (contract), if no cost is specified in the agreement (contract), by the cost indicated in the shipping documents, and if no cost is specified in the agreement (contract) and shipping documents, by the cost of goods indicated in accounting records.

For the purposes of determining the tax base, the cost of goods (including goods produced under a manufacturing agreement (contract)) expressed in foreign currencies shall be converted into the local currency at the exchange rate of the national (central) bank of the Member State on the date of acceptance of the goods for registration.

The tax base for the import of tolling products into the territory of one Member State from the territory of another Member State shall be taken as the cost of tolling and excise taxes payable on excisable tolling products. The cost of tolling expressed in foreign currencies shall be converted into local currency at the exchange rate of the national (central) bank of the Member State on the date of acceptance of tolling products for registration.

15. The tax base for the import of goods (leased items) into the territory of one Member State from the territory of another Member State under a lease agreement (contract) providing the transfer of ownership to the lessee shall be specified as the portion of the cost of goods (leased items) provided for by the lease agreement (contract) as on its payment date (regardless of the actual amount and date of payment). Lease payment in foreign currencies shall be converted into local currency at the exchange rate of the national

(central) bank of the Member State on the date corresponding to the time (date) of determining the tax base.

16. The tax base for excise taxes shall be represented by the amount and quantity (other indices) of imported excise goods, including tolling goods, in kind, for which fixed (specific) rates of excise taxes have been set, or the cost of imported excisable goods, including tolling goods, with respect to which ad valorem excise rates have been set.

The tax base for the calculation of excise duties shall be determined on the date of registration of imported excisable goods, including tolling goods, by the taxpayer (but not later than the time limit determined by the legislation of the Member State into the territory of which the excisable goods are imported).

17. The amount of indirect taxes payable on goods imported into the territory of one Member State from the territory of another Member State shall be calculated by the taxpayer at the tax rates set by the legislation of the Member State into the territory of which the excisable goods are imported.

18. In order to ensure complete payment of indirect taxes, the legislation of the Member State governing the pricing principles for taxation purposes may be applied.

19. Indirect taxes, excluding excise taxes on marked excisable goods, shall be paid not later than on the 20th day of the month following the month:
of acceptance of imported goods for registration;
of the date of payment provided for by the lease agreement (contract).

Excise taxes on marked excisable goods shall be paid within the terms determined by the legislation of the Member State.

20. The taxpayer shall submit to the tax authority the respective tax declaration in the form determined by the legislation of the Member State or

in the form approved by the competent authority of the Member State into the territory of which the goods are imported, including under a lease agreement (contract), not later than on the 20th day of the month following the month of registration of imported goods (the date of payment provided for by the lease agreement (contract)). With the tax declaration, the taxpayer shall submit to the tax authority the following documents:

1) a statement in hard copy (four copies) and in electronic form or a statement in electronic form with an electronic (digital) signature of the taxpayer;

2) a bank statement confirming the actual payment of indirect taxes on imported goods, or any other document confirming the fulfilment of tax obligations to pay indirect taxes, if provided for by the legislation of the Member State. If a taxpayer has paid (recovered) excess amounts of taxes, duties or indirect taxes to be refunded (offset) both, at the importation of goods into the territory of one Member State from the territory of another Member State and at the sale of goods (works, services) on the territory of the Member State, the tax authority shall adopt (deliver) a decision on offsetting thereof in payment of indirect taxes on imported goods in accordance with the legislation of the Member State into the territory of which the goods are imported. In this case, a bank statement (copy thereof) confirming the actual payment of indirect taxes on imported goods shall not be submitted. In case of a lease agreement (contract), the documents referred to in this sub-paragraph shall be submitted when due under the lease agreement (contract);

3) transport (shipping) and/or other documents required by the legislation of the Member State and confirming the movement of goods from the territory of one Member State to the territory of another Member State.

These documents shall not be submitted if execution of these documents is not provided for by the legislation of the Member State for certain types of movement of goods, including the movement of goods without the use of vehicles;

4) detailed tax invoices drawn up in accordance with the legislation of the Member State when shipping the goods, if execution thereof (invoicing) is provided for by the legislation of the Member State.

If the legislation of the Member State does not provide for the execution of a detailed tax invoice (invoicing) or if the goods are purchased from a taxpayer of a non-member state, other document(s) issued (made out) by the seller and confirming the cost of goods imported shall be submitted to the tax authority instead of the detailed tax invoice;

5) agreements (contracts) under which the goods imported into the territory of a Member State from the territory of another Member State are purchased; in the case of a lease of goods (leased items), lease agreements (contracts); in the case of a credit on goods (commercial loan, material loan), credit on goods (commercial loan, material loan) agreements (contracts); as well as manufacturing or tolling agreements (contracts);

6) an information statement (in the cases provided for by paragraphs 13.2 - 13.5 of this Protocol), submitted to the taxpayer of one Member State by the taxpayer of another Member State or by a taxpayer of a non-member state (signed by the manager (individual entrepreneur) and certified with the company seal) that sells the goods previously imported from the territory of a third Member State, containing the following information on the taxpayer of the third Member State and the agreement (contract) concluded with the taxpayer of that third Member State on the acquisition of imported goods:

taxpayer identification number in the Member State;

full name of the taxpayer (organisation (individual entrepreneur)) of the Member State;

location (residence) of the taxpayer in the Member State;

number and date of the agreement (contract);

number and date of the specifications.

If the taxpayer of the Member State selling the goods is not the owner of the goods sold (is a commission agent, mandatary or agent), the information specified in indents two to six of this sub-paragraph shall be submitted in respect of the owner of the goods sold.

If the information statement is submitted in a foreign language, a Russian translation must be required.

Information statements shall not be submitted if the information required under this sub-paragraph is contained in the agreement (contract) referred to in sub-paragraph 5 of this paragraph;

7) commission, mandate or agency agreements (contracts) (if concluded);

8) agreements (contracts), under which the goods imported into the territory of a Member State from the territory of another Member State were purchased, under commission, mandate or agency agreements (contracts) (in the cases provided for by paragraphs 13.2 - 13.5 of this Protocol, except when indirect taxes are paid by the commission agent, mandatary or agent).

Documents referred to in sub-paragraphs 2 – 8 of this paragraph may be submitted as copies certified in the procedure determined by the legislation of a Member State or in electronic form under the procedure determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States. The format of the said

documents shall be determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States.

In case of a lease agreement (contract), at the first VAT payment, the taxpayer shall submit to the tax authority all documents specified in sub-paragraphs 1 – 8 of this paragraph. Thereafter, the taxpayer shall submit to the tax authority the documents (copies thereof) indicated in sub-paragraphs 1 and 2 of this paragraph, simultaneously with the tax declaration.

Documents referred to in this paragraph, except for the statements and information statements, shall not be submitted to the tax authority if non-presentation thereof simultaneously with the tax declaration is in accordance with the legislation of the Member State into the territory of which the goods are imported.

21. An updated (substituted) statement shall be submitted either in hard copy (four copies) and in electronic form or in electronic form with an electronic (digital) signature of the taxpayer. Simultaneously with the updated (substituted) statement, the documents provided for by sub-paragraphs 2 - 8 of paragraph 20 of this Protocol shall be provided, if they have not been previously presented to the tax authority.

If submitting the updated (substituted) statement does not entail changes to the previously submitted tax declaration, the taxpayer shall not submit a revised (additional) tax declaration, unless otherwise determined by the legislation of a Member State. Submission of such an updated statement shall not entail the reconstruction of previously deductible VAT amounts paid when importing the goods.

An updated (substituted) statement shall not be submitted in the cases determined by the legislation of the Member State.

22. In cases of non-payment, not full payment of indirect taxes on imported goods or payment of such taxes on a later date as against the date determined in paragraph 19 of this Protocol, as well as upon detecting facts of non-submitting tax declarations, their submitting with violation of the period determined in paragraph 20 of this Protocol or in cases of non-compliance of the data specified in the tax declarations with the data obtained within the exchange of information between tax authorities of the Member States, the tax authority shall recover the indirect taxes and penalties in the procedure and amount determined by the legislation of the Member State into the territory of which the goods are imported and shall apply means of securing the fulfilment of the obligations to pay indirect taxes, penalties and sanctions as determined by the legislation of that Member State.

23. When imported goods are returned in the month of their registration, the transactions for import of these goods shall not be recorded in the tax declaration if the goods are returned due to inadequate quality and/or incomplete delivery.

Return of goods due to inadequate quality and/or incomplete delivery shall be confirmed by the claim agreed by the parties to the agreement (contract), as well as by documents corresponding to subsequent transactions with such goods. These documents may include transfer and acceptance certificates for the goods (if the returned goods are not transported), transport (shipping) documents (if the returned goods are transported), destruction certificates or other documents. In the case of partial return of such goods, the above documents (copies thereof) shall be submitted to the tax authority simultaneously with the documents provided for by paragraph 20 of this Protocol.

When imported goods are returned on the above grounds upon expiration of the month in which they were accepted for registration, the taxpayer shall submit to the tax authority a corresponding updated (additional) tax declaration and documents (copies thereof) referred to in the second indent of this paragraph.

The documents referred to in the second indent of this paragraph may be submitted in electronic form in the procedure determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States. The format of such documents shall be specified by tax authorities of the Member States or other regulatory legal acts of the Member States.

In the case of a partial return of goods due to inadequate quality and/or incomplete delivery, an updated (substituted) statement shall be presented to the tax authority without information on the partially returned goods. The statement shall be submitted either in hard copy (four copies) and in electronic form or in electronic form with an electronic (digital) signature of the taxpayer.

In the case of a full return due to inadequate quality and/or incomplete delivery of goods the details of which were recorded in the previously submitted statement, the updated (substituted) statement shall not be submitted to the tax authority. The taxpayer shall inform the tax authorities on the details of the previously submitted statement containing information on the goods returned in full in the form and procedure determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States.

In case of a partial or full return of goods due to inadequate quality and/or incomplete delivery, the VAT previously paid on the import of these

goods and subject to deduction shall be paid in the tax period in which the goods are returned, unless otherwise provided for by the legislation of the Member State.

24. In case of an increase of the cost of imported goods upon expiration of the month in which the goods were accepted for registration by the taxpayer, the tax base for the purposes of VAT payment shall be increased by the difference between the updated and the previous cost of the imported goods. The VAT payment and submission of tax declaration shall be completed not later than on the 20th day of the month following the month in which the parties to the agreement (contract) changed the price of imported goods.

The difference between the updated and the previous cost of the acquired imported goods shall be recorded in the tax declaration submitted by the taxpayer to the tax authority simultaneously with the following:

a statement (indicating the difference between the updated and the previous cost) in hard copy (four copies) and in electronic form or in electronic form with an electronic (digital) signature of the taxpayer;

the agreement (contract) or other document specified by the parties to the agreement (contract) confirming the increase in the price of imported goods, and an adjustment detailed tax invoice (if provided for by the legislation of the Member State). These documents may be submitted as copies certified in the procedure determined by the legislation of a Member State or in electronic form in the procedure determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States. The format of the said documents shall be determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member States.

25. When goods imported into the territory of a Member State in accordance with its legislation without the payment of indirect taxes are used for purposes other than those for which the exemption or alternative payment procedure are granted, the import of such goods shall be subject to indirect taxes in the procedure determined by this section.

26. The amounts of indirect taxes paid (offset) on goods imported into the territory of one Member State from the territory of another Member State shall be subject to deduction (offset) in the procedure provided for by the legislation of the Member State into the territory of which the goods are imported.

27. Excise taxes on goods subject to excise marking (accounting and control marks, labels) shall be levied by the customs authorities of the Member State, unless otherwise provided for by the legislation of the Member State.

IV. Procedure for Collection of Indirect Taxes in the Performance of Works and Provision of Services

28. Indirect taxes on the performance of works and provision of services shall be collected on the territory of a Member State which is recognised as the place of sale of the works and services (with the exception of the works referred to in paragraph 31 of this Protocol).

In the performance of works or provision of services, the tax base, the rates of indirect taxes, the procedure for their collection and tax exemptions (immunity from taxation) shall be in accordance with the legislation of the Member State the territory of which is recognised as the place of sale of the works and services, unless otherwise determined in this section.

29. The territory of a Member State shall be deemed the place of sale of the works and services if:

1) the works and services are directly related to immovable property located on the territory of that Member State.

The provisions of this sub-paragraph shall also apply to lease, rent and other types of charter of immovable property;

2) the works and services are directly related to movable property or vehicles located on the territory of that Member State;

3) the services in the sphere of culture, art, education (training), physical culture, tourism, leisure and sports are provided on the territory of that Member State;

4) the taxpayer of that Member State is the buyer of :

consultancy, legal, accounting, auditing, engineering, advertising, design, marketing, data processing services, as well as scientific research, design and experimental and technological and experimental (technological) works;

works and services for the development of computer programmes and databases (computer software and information products), adaptations and modifications thereof, support for such programs and databases;

recruitment services for the staff working at the location of the purchaser.

The provisions of this sub-paragraph shall also apply to:

transfer, granting, assignment of patents, licenses and other documents certifying state-protected industrial property rights, trademarks, trade names, service marks, copyright, related rights or other similar rights;

rent, lease and other types of charter of movable property, except for the rent, lease and other types of charter of vehicles;

provision of services by a person recruiting on its behalf for the main party to an agreement (contract) or on behalf of the main party to an agreement (contract) another person to perform the works, services provided for in this sub-paragraph;

5) the works are performed or the services are provided by the taxpayer of that Member State, unless otherwise provided for by sub-paragraphs 1- 4 of this paragraph.

The provisions of this sub-paragraph shall also apply to rent, lease and other types of vehicles chartering.

30. The following documents shall be deemed confirming the place of sale of works or services:

agreement (contract) for the execution of works or provision of services concluded between taxpayers of the Member States;

documents confirming the execution of works, provision of services;

other documents required by the legislation of the Member States.

31. When conducting tolling operations in respect of customer-supplied goods imported into the territory of a Member State from the territory of another Member State with subsequent exportation of tolling products to the territory of another state, the procedure for collecting VAT and controlling its payment shall be as specified under section II of this Protocol, unless otherwise determined in this section. In this case, the VAT base shall be determined as the cost of tolling operations performed.

32. In order to confirm the validity of application of a zero VAT rate to the performance of works referred to in paragraph 31 of this Protocol, the following documents (copies thereof) shall be submitted in hard copy to the tax authorities, simultaneously with the tax declaration:

1) agreement (contract) between taxpayers of the Member States;

2) documents confirming the fact of execution of works;

3) documents confirming the export (import) of goods referred to in paragraph 31 of this Protocol;

4) a statement (in hard copy, in its original or in a copy, at the discretion of tax authorities of the Member States) or a list of statements (in hard copy or electronically with an electronic (digital) signature of the taxpayer).

The list of statements shall be submitted in the procedure determined by sub-paragraph 3 of paragraph 4 of this Protocol.

In the case of export of tolling products outside the Union, the statement (the list of statements) shall not be provided to the tax authority.

In the case of export of tolling products from the territory of one Member State to the territory of another Member State and placing thereof under the customs procedure of a free customs zone or a free warehouse on the territory of another Member State, a copy of the customs declaration under which such goods are placed under the customs procedure of a free customs zone or a free warehouse, certified by the customs authority of another Member State, shall be submitted to the tax authority of the first Member State instead of the above statement (list of statements).

5) a customs declaration confirming the export of tolling products outside the Union;

6) other documents provided for by the legislation of the Member States.

All documents provided for by sub-paragraphs 1, 2, 3, 5, 6 and the fourth indent of sub-paragraph 4 of this paragraph may be submitted in electronic form in the procedure determined by regulatory legal acts of tax authorities of the Member States or other regulatory legal acts of the Member

States. The format of such documents shall be specified by tax authorities of the Member States or other regulatory legal acts of the Member States.

The documents provided for by this paragraph, except for the statement (the list of statements) shall not be submitted to the tax authority if non-submission of documents confirming the validity of the application of a zero VAT rate and/or exemption from excise taxes simultaneously with the tax declaration is consistent with the legislation of the Member State on the territory of which the goods are tolled.

33. If a taxpayer performs/provides several types of works/services the taxation of which is governed by this section, and the performance/provision of certain works/services is auxiliary to the performance/provision of other works/services, the place of sale of main works/services shall also be regarded as the place of sale of auxiliary works/services.
