

Guide for residents and investors in relation to the Decree of the President of the Republic of Belarus of May 12, 2017 No 166 “On the improvement of the special legal regime of the China-Belarus industrial park “Great Stone””

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Introduction

This document describes the key points of the Regulation concerning special legal regime of the Park, approved by the Decree of the President of the Republic of Belarus of 12.05.2017 N 166 “On the improvement of the special legal regime of the China-Belarus industrial park “Great Stone”” (hereinafter - the Decree), which determines the specificities in relation to regulation of the Great Stone Industrial Park activity.

The preferential regime is valid until 2062.

The Industrial Park “Great Stone” is situated nearby the National airport and railway station, at the intersection of two highways M1/E30 and M2, at a distance of 500 km from the nearest ports of the Baltic sea, as well as 25 km from the capital of Belarus with possibility to use its scientific and labour potential.

Because Belarus is a member in the Eurasian Economic Union with free movement of goods, services, labour and capital within its borders, the goods made in the Park have easy access to the market of 193 million people.

Terms and definitions

In this document, the following terms and their definitions are used:

Great Stone Industrial park - is a territorial unit of the Republic of Belarus with the status of a special economic zone and special regime for doing business;

Investment project – an investment project implemented in the territory of the Industrial Park;

Investor of the Industrial Park - a person who finances the construction and (or) equipment of the Industrial Park facilities without being its resident;

Resident of the Industrial Park - a legal entity of the Republic of Belarus located in the territory of the Industrial Park, registered by the Park Administration as its resident in accordance with the legislation and implementing (planning to implement) an investment project in the Industrial Park.

I. General information

The Decree is made to create and regulate special regime, established only for the Great Stone Industrial Park. Another legislation of Belarus is applied as far as respective issues do not covered by the Decree. However, in case the legislation of Belarus establishes more preferential regulations related to other free (special) economic zones in Belarus, the relevant provisions will be applied to the Industrial Park (clause 5 of the Regulation).

Furthermore, apart of the guarantees of the investors` rights and protection of the investments established by the legislation of Belarus (Investments Act, membership in MIGA, bilateral intergovernmental agreements), the Decree guarantees the protection from negative changes in law for 10 years (stabilisation clause) (clauses 87, 88 of the Regulation).

It's also important to mention a moratorium on conducting inspections by the state bodies in relation to companies acting in the Industrial Park (only in exceptional cases with the permission of the Park Administration).

What are the aims of the Industrial Park?

The Industrial Park intended to attract investments and create competitive companies focused on the industrial and economic development in modern industries, including innovative production, research and development, trade, logistics, utilities sector and other fields (clause 3 of the Regulation). That is the development of the country`s economy and its export potential.

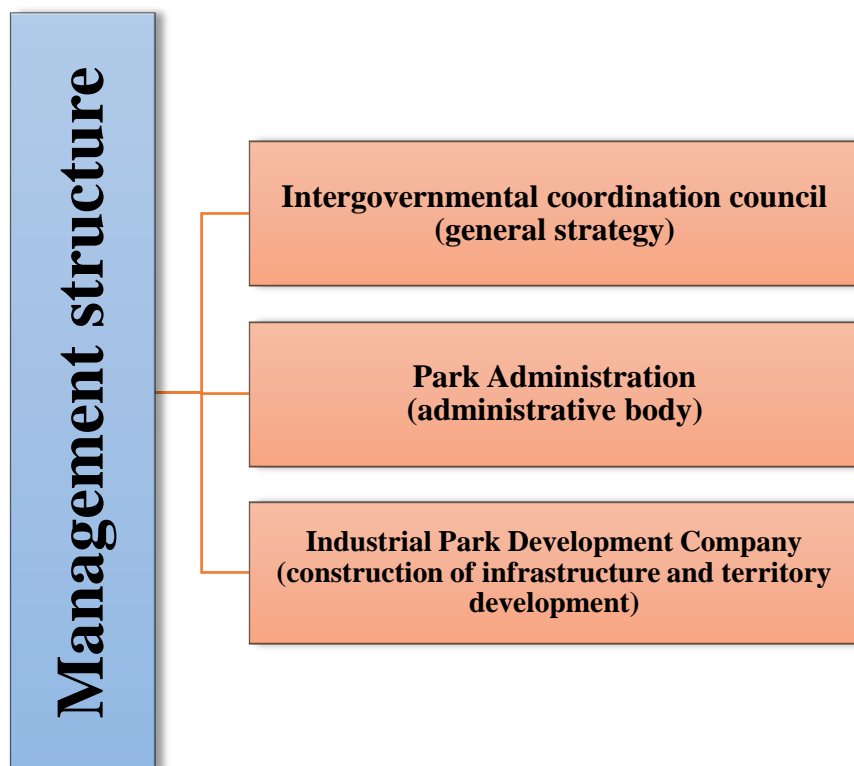
Thus, the companies functioning on the territory of the Industrial Park have the following tasks:

- creation of new jobs;
- assistance in social and economic development of the regions and export potential of Belarus in general (clause 3 of The Regulation).

II. Management structure of the Industrial Park

The Industrial Park has a three-level management structure.

Intergovernmental coordination council establishes the general strategy. However, Park Administration and Industrial Park Development Company (hereinafter - the Joint Company) are responsible for operational development of the Park.



What are the functions of the Park Administration?

The Park Administration is the state body of the Industrial Park, authorized to provide complex services to business entities on its territory and to coordinate the work of the state administrative bodies of Belarus related to the execution of administrative procedures, licensing, permitting procedures (services) and other procedures in the Industrial Park as a “one-stop service” provider.

“One-stop service” related to prompt and proper consideration of appeals from residents, investors and other entities, falling within the competence of the Park Administration, as well as administrative procedures, falling within the competence of other state bodies and organisations, but conducted by the Park Administration with an involvement of their employees (part 4 clause 4 of the Regulation).

It is important that all administrative procedures are carried out directly in the office of the Park Administration, located on the territory of the Industrial Park. This concept makes the adaptation of an investor in a foreign country easier and allows avoiding the possible bureaucracy.

Scope of procedures within the competence of “one-stop service” provider is determined by the Park Administration and approved by the Council of Ministers of the Republic of Belarus.

The Park Administration is accountable to the Council of Ministers of the Republic of Belarus (part 2, clause 11 of the Regulation). Any decisions that limit or break the rights, freedoms or legitimate interests of the citizens and legal entities can be appealed to court (part 19, clause 12 of the Regulation).

What are the functions of the Industrial Park Development Company?

Industrial Park Development Company is a private company (Closed joint-stock company). It was created to ensure development of the Industrial Park by means of creating the internal infrastructure (roads, electricity, gas, water, internet supply, sewage treatment and etc.), management of the Park facilities and development of land plots within its territory (part 2, clause 13 of the Regulation). Thus, it is possible to provide investors with the land plot ready for the project implementation, by this way decreasing the financial expenses and time spent on the preparation of the land plot and construction of all necessary infrastructure.

The Joint Company provides the following services:

- ✓ Water, gas, electricity supply and sewage treatment;
- ✓ Lease/purchase of the land plot, located on the territory of the Industrial Park;
- ✓ Lease/purchase of the immovables, owned by the Joint Company.

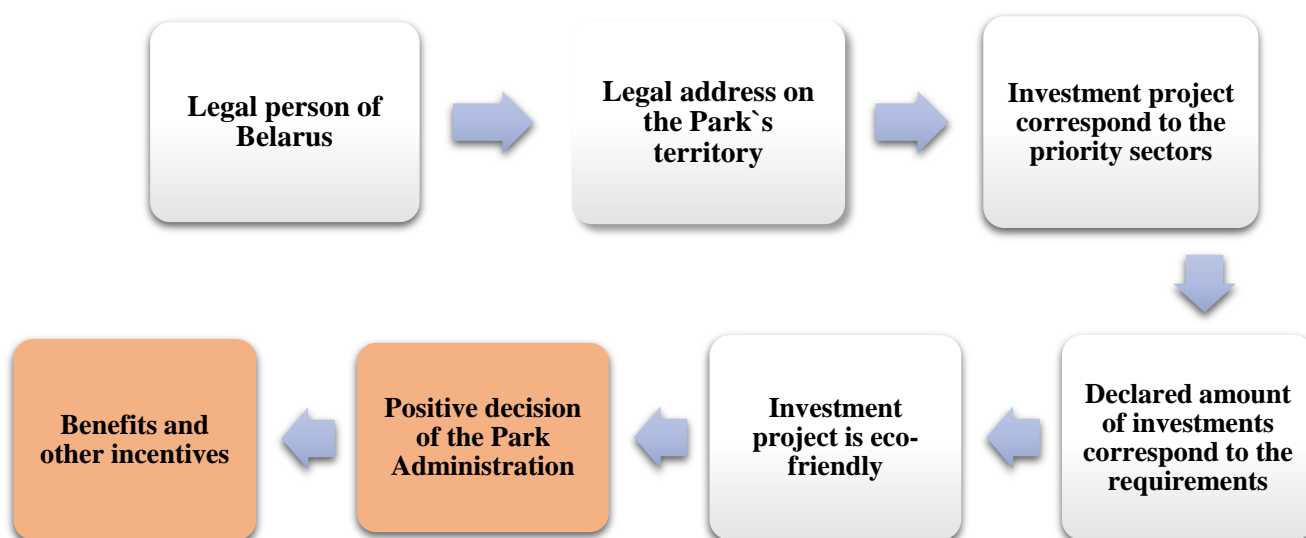
III. Who can do business on the Park`s territory?

Any national and foreign company is entitled to carry out activities in the Industrial Park at any stage of the development of its territory (clause 6 of the Regulation). However, only Park`s residents can enjoy special regime of doing business with all the preferences established by the Decree for the Industrial Park.

To become a resident of the Industrial Park (according to the decision of the Park Administration) it has to be a legal entity of Belarus with legal address on the territory of the Industrial Park, implementing (planning to implement) an investment project on the territory of the Park and corresponding to the following criteria:

✓ investment project intended to create and develop production units in the field of electronics and telecommunication, pharmaceuticals, fine chemistry, biotechnologies, engineering, new materials, integrated logistics, electronic commerce, Big data;

✓ declared amount of investments is not less than 5 million US dollars without limitation in time or 500 thousand US dollars within 3 years after the registration of resident (clause 7 of the Regulation).



Nevertheless, the Park Administration is entitled to make decision to register as a resident an effective and eco-friendly company with the project consistent to the main tasks of the Industrial Park, but does not comply with the aforecited requirements (part 5, clause 7 of the Regulation).

Furthermore, the companies, which are not the residents of the Industrial Park, are entitled to apply other preferential regulations, specified in the legal acts of Belarus (part 2, clause 6 of the Regulation).

For example, such a regime is specified by the Decree of the President of the Republic of Belarus of 07.05.2012 No 6 “On promotion of entrepreneurial activity on

the territory of medium, small urban settlements, countryside”. Within the framework of this regime, there are several benefits in relation to tax on profit, customs duties, VAT and etc.

Who is NOT allowed to do business on the territory of the park?

Registration as residents of the Industrial Park is not allowed to the legal entities, implementing (planning to implement) an investment project in the following fields:

- ✓ production, processing, storage, deactivation, sale of radioactive and other hazardous materials and wastes;
- ✓ drug trafficking, sale of psychotropic substances and their precursors;
- ✓ planting, cultivation, processing, storage, sale of crops containing poisonous substances;
- ✓ production of alcoholic beverages;
- ✓ production of tobacco products;
- ✓ production of blanks for value documents and securities, banknotes and coins, postage stamps;
- ✓ lotteries;
- ✓ preparation and broadcasting of radio and television programs, except for technical services related to radio and television;
- ✓ treatment of persons suffering from diseases that endanger public health;
- ✓ treatment of animals with highly dangerous diseases.

The benefits and incentives established by the Decree do not apply to the banks, non-bank financial institutions, insurance and microfinance organisations, as well as commercial organisations carrying out gambling activities and hosting electronic interactive games (clause 86 of the Regulation).

IV. Land matters

The land plots on the territory of the Industrial Park can be leased for a long-term (up to 99 years) or purchased. The opportunity to buy a land plot without an auction is unique in Belarus.

In order to get land plot residents and investors of the Industrial Park shall apply to the Joint Company (clause 21 of the Regulation). Lease (sale and purchase) contract shall be concluded with Joint Company.

HOW TO GET THE LAND PLOT?

1) Investor/resident apply to the Joint Company with a justification proposal of size and purposes of the land plot.¹²

2) The Joint Company as it possible according to the urban planning documentation and current land-use shall select the land plot and agree its location with the investor.

3) The Joint Company shall apply to the Park Administration for the land plot allotment. The Decree provides a list of events decreasing financial expenses and time spent for the formation of land plot (clause 16 of the Regulation). The procedure should not take more than 1 month.

4) Investor/resident shall conclude land lease (sublease)/sale-purchase agreement with the Joint Company.

The Joint Company has a right to provide the land plots on its lease (ownership) to the investors and residents at any stage of the Park`s territorial development (part 2, clause 21 of the Regulation). While following sublease shall be agreed with the Park Administration.

Further subletting of sublet land plots by the residents of the Industrial Park and its investors requires the written consent of the Park Administration and the Joint Company (clause 22 of the Regulation).

Investors and residents of the Industrial Park according to the permission of the Joint Company are entitled to transfer their land plots or their leasehold in pledge to the banks or other entities, including non-residents of Belarus according to the list, approved by the Council of Ministers of the Republic of Belarus (clause 23 of the Regulation).

Residents/investors of the Industrial Park are obliged to start construction within 2 years from the date of the Park Administration's decision to permit design and survey work (clause 24 of the Regulation).

¹ There are no any limitations in relation to minimum or maximum size of a land plot. However, investor shall justify required size, including number of immovables and other objects to be on the land plot.

² Land plots can be sold or leased for specific purpose (for instance, construction of plant in the field of biotechnology). In the event of resale of the land plot with changes in its use the approval of the Park Administration and Joint Company is required.

V. Construction and commissioning

The Decree provides with a maximum freedom in relation to design and construction of the Industrial Park facilities. First of all, The construction of the industrial park facilities can be carried out in parallel with the development, expertise and approval of the necessary design documentation at each stage of the construction after obtaining positive conclusion of the state expertise (construction and ecology) for the architectural design project (clause 29 of the Regulations).

Secondly, the development and approval of project documentation, construction, commissioning and operation of the Industrial Park facilities may be carried out according to the technical regulations (standards), similar to the European Union regulations or the People's Republic of China regulations if it has passed Belarus state expertise, including state ecological expertise, without mandatory adaptation of this documentation to the regulations (standards) of Belarus. In case of adaptation of design documentation, the state expertise assesses only its compliance with the mandatory statutory requirements of Belarus for mechanical strength and stability, and environmental protection (clause 27 of the Regulations).

During the commissioning, the facility is assessed against the following criteria only: compliance to the approved design and permissive documentation, achievement of the technical and economic parameters indicated in the project documentation and preparedness of the engineering infrastructure (clause 34 of the Regulations).

Moreover, the Decree provides with the following benefits to accelerate the pace for object`s construction and to reduce costs of the Park`s residents and investors (clause 26 of the Regulations):

- the selection of the participants in the construction and suppliers of goods is carried out without the application of procurement and tenders procedures, competitive bidding, negotiations and other procedures according to law of Belarus;

- free pricing applied to goods (works, services) in the field of construction;

- the customers for the construction are not obliged to obtain certificates of compliance, other supporting documents;

- no conformity attestation of buildings, design documentation, construction materials and products, construction services in the National System for Conformity Attestation of the Republic of Belarus is required;

- simplified commissioning procedure (with less steps required) is applied in relation to constructed facilities due to possibility to use “one-stop service”.

VI. Taxation

Residents of the Industrial Park can enjoy unprecedented economic incentives in taxation.

| BENEFITS | BELARUS | INDUSTRIAL PARK (Priority projects) ³ | OTHER PROJECTS |
|------------------------|---|--|---|
| 1. TAX BENEFITS | | | |
| Income tax | 18% | Exemption for 10 years from the moment of appearance of gross profit, then (until 2062)-50% from existing rate. ⁴ | Exemption for 7 years ³ |
| Property tax | 1% | Exemption until 2062. | Exemption for 7 years |
| Land tax | Depending on the cadastral value of the land plot | Exemption until 2062. | Depending on the cadastral value of the land plot |
| Value added tax | 20% (0% when exporting the goods, including EAEU countries). | 20% (0% when exporting the goods, including EAEU countries). | 20% (0% when exporting the goods, including EAEU countries). |
| | Deduction within the VAT for the sale of goods (work, services), property rights. | Deduction within the VAT for the sale of goods (work, services), property rights. | Deduction within the VAT for the sale of goods (work, services), property rights. |
| | | Return from the budget in full amount of taxes paid on the acquisition (import) of goods (works, services), property rights for the design, construction, equipping of the park facilities. ⁵ | |

³ Priority projects are implemented in the field of electronics and telecommunication, pharmaceuticals, fine chemistry, biotechnologies, mechanical engineering, new materials, integrated logistics, e-commerce, Big data with declared amount of investments of not less than 5 million USD without limitation in time or not less than 500 thousand USD within 3 years.

⁴ In order to get this benefit it is necessary to have the certificate of goods (works, services) of own manufacture, issued by the Belarusian Chamber of Commerce and Industry.

⁵ In practice, the company pays VAT, but paid amount shall be returned to the Industrial Park resident based on the list of goods purchased (imported) for the investment project implementation that approved by the Park Administration (clause 46 of the Regulations).

| | | | |
|--|-----|---|-----|
| VAT on purchase / sale / lease, financial lease (leasing) of real estate, including land | 20% | Exemption ⁶ | 20% |
| VAT in the case of the provision of work (services), property rights | 20% | Exemption from VAT in case of providing residents of the industrial park with works (services), property rights. ⁷ | 20% |
| Tax on dividends | 15% | 0% within 5 years starting from the first calendar year in which dividends are accrued. | 15% |

2. CUSTOMS BENEFITS

| | | | |
|--|--|--|--|
| VAT and customs duties on goods <u>for the implementation of the project</u> | VAT-20%- the amount of tax depends on the type of the product (from 5 % to 20%). | 0% for: - equipment (spare parts to it); - raw materials and materials , provided that such are not produced in the EAEU countries (produced in insufficient quantities or do not meet the technical specifications of the project) when agreed with the Park Administration. | 0% on goods, included into the statutory fund |
| VAT and customs duties on raw materials, materials, components <u>for production</u> | VAT-20%- the amount of tax depends on the type of the product (from 5 % to 20%). | 0% for export outside the boundaries of the EAEU (customs procedure for a free customs zone). | VAT - 20%, the amount of duty depends on the type of goods (from 5% to 20%). |
| VAT on raw materials, other materials, components <u>for production</u> | VAT – 20% | 0% for the goods produced from imported raw materials and materials from the territory of EAEU | VAT – 20% |

3. BENEFITS IN RELATION TO LABOUR

| | | | |
|---|-----|----|-----|
| Income tax from individuals (employees) | 13% | 9% | 13% |
|---|-----|----|-----|

⁶ In the agreements between the Joint Company and residents/investors or other participants in relation to land plots located on the territory of the Industrial Park VAT is not applied.

⁷ Including services (works) rendered by foreign companies, acting without permanent office.

| | | | |
|---|--|---|--|
| Deductions to the social protection fund | 35% of the employee's salary With an employee's salary of 1000 USD deductions will be 1000*0,35=350 USD | 0% for foreign citizens. For citizens of the Republic of Belarus 35% of the average wage in the country (in April 2017 - 405 USD) With an employee's salary of 1000 USD deductions will be 405*0,35=142 USD | 35% of the employee's salary With an employee's salary of 1000 USD deductions will be 1000*0,35=350 USD |
| The state fee for issuing a special permit for the right to work in the Republic of Belarus, for attracting foreign labour | ≈70 USD for one foreign citizen; ≈750 USD | Exempted | ≈70 USD for one foreign citizen; ≈750 USD |

4. BENEFITS IN CONSTRUCTION

| | | | |
|--|---|-----------|---|
| Construction (including design) by foreign standards | Forbidden | Allowed | Forbidden |
| Implementation of the functions of the customer in construction without the presence of special permits (certificate of conformity) | Forbidden | Allowed | Forbidden |
| Parallel design and construction | Forbidden (with an exception of projects on individual Decrees of the President of the Republic of Belarus) | Allowed | Forbidden (with an exception of projects on individual Decrees of the President of the Republic of Belarus) |
| Compensatory payments for harmful impact on objects of flora and fauna during construction | Depending on the size and location of the land | Exemption | Depending on the size and location of the land |

| | | | |
|---|---|--|---|
| Simplified procedure for acceptance of constructed facilities in operation | Forbidden (with an exception of projects on individual Decrees of the President of the Republic of Belarus) | Allowed | Forbidden (with an exception of projects on individual Decrees of the President of the Republic of Belarus) |
| 5. OTHER BENEFITS | | | |
| Mandatory sale of foreign currency earnings | 30% | No | No |
| Opening accounts in a foreign bank | With permission from the National Bank. | Allowed. | With permission from the National Bank. |
| Term of completion of foreign trade operation | Export-180days Import-90days | Not limited. | Export-180days Import-90days |
| Visa-free regime | 5 days | 180 days at the request of the Park Administration. | 5 days |
| Guarantee of safety regime | No special rules. | Stabilisation clause (10 years). Consideration of administrative cases only by the court. Moratorium on conducting inspections (only in exceptional cases with the permission of the Park Administration). | No special rules. |

VII. Labour and migration law

Apart from benefits granted to residents in relation to taxation, the Decree provides with other incentives for labour attraction, including the following:

✓ Work and rest schedule of employees of residents, investors and other participants in the territory of the Industrial Park is determined by local regulations, which may set the terms, other than specified by the laws of Belarus, but should not be less beneficial for employees (clause 54 of the Regulations).

✓ The Industrial Park investors and participants in the construction of the Industrial Park facilities are entitled to employ under the labor contracts the foreign nationals (clause 55 of the Regulations).

✓ Mandatory insurance contributions (35% from the salary) are not applied to the part of the salary exceeding the single average salary of employees in Belarus (clause 59 of the Regulations). However, employees are entitled do not apply this benefit.

✓ Foreign citizens are released from payment of mandatory insurance contributions. Pension support of these foreign workers shall be made according to the legislation of their residence (clause 60 of the Regulations).

As a standard rule **in Belarus**, calculations shall be made by the following way:

With an employee's salary of 1,000 USD, contributions will be

$$1000 * 0.35 = 350 \text{ USD}$$

In the Industrial Park calculations can be made by the following way:

0% for foreign citizens

For citizens of Belarus calculations depend from the average wage in the country (that is 405 USD in April 2017)

With an employee's salary of 1,000 USD, contributions will be

$$405 * 0.35 = 142 \text{ USD}$$

✓ On the basis of application of Park Administration made to the State Border Committee VISA-free regime (for up to 180 days in each calendar year) is applied to foreign citizens attracted by the Park residents/investors for implementation of investment projects (clauses 62-63 of the Regulations).

No need to pay state fee for (clauses 56, 58 of the Regulation):

✓ the issue and extension of the permits for the recruitment of foreign labor (usually paid by the company-employer);

✓ the issue and extension of the permits for employment in the Republic of Belarus for the foreign nationals (usually paid by the company-employer);

✓ registration of temporary stay (usually paid by a foreign citizen);

✓ the issue of the permits for temporary residence in the Republic of Belarus (usually paid by a foreign citizen).

VIII. Special features of customs regulation

Resident can enjoy special legal order established on the territory of the Industrial Park that allows using customs procedure of free customs zone within its borders.

Foreign goods can be placed under the customs procedure of free customs zone without payment of **customs duties and taxes**. However, as a general rule use of customs procedure of free customs zone has several restrictions (for instance, it is impossible to sell goods of the resident, who placed them under the customs procedure of free customs zone to other persons without completion of procedure and without payment of customs duties).

The Decree simplifies use of the procedure of free customs zone by the following way:

✓ it is possible to transfer the following objects **without completion of customs procedure and payment of customs duties**:

- goods placed under the customs procedure of free customs zone by the participants of *construction* of the Industrial Park facilities for the purposes of construction of such objects;
- goods placed under the customs procedure of free customs zone by the other persons under the conditions that ownership of such goods are not passed;
- immovable property determined by the Park Administration that were constructed and equipped with the use of goods placed under the customs procedure of free customs zone in the event of their transfer to another Park resident for temporary use;

✓ Free customs zone of one resident can be determined within the territory of free customs zone for another resident if special control regime for access to be made;

✓ Goods imported by the Park`s residents for the investment projects implementation can be delivered directly from the borders *to the customs control zone created within the Park`s territory*;

✓ Technological equipment and its components and spare parts, raw and other materials, imported into the territory of Belarus for exclusive use on the territory of Belarus in order to implement the investment projects related to the construction and equipment of the Industrial Park facilities are exempted from import customs duties and value added tax *on the basis of decision of Park Administration* in relation to the purposes of imported goods (clause 66 of the Regulations);

✓ The goods, manufactured (produced) using foreign goods, placed under the customs procedure of the free customs zone, shall be exempt from the value added tax if they are placed *by the Industrial Park residents* under the customs procedure of release for domestic consumption (clause 71 of the Regulations).

Moreover, since the Customs code of EAEU will have entered into force (01.01.2018) the Park acquires the status of “territorial” special economic zone (hereinafter “SEZ”). It provides with widen scope of incentives and simplifications both in logistics as well as manufacturing activity (please, see below).

**Benefits for “territorial” SEZ specified by
the Customs code of EAEU**

| No | Type | Regulatory environment |
|----|--|---|
| 1. | Duty-free export of goods to the other part of the Union for the implementation of “technological chains” | Cases and conditions to be set by Eurasian Economic Commission |
| 2. | Failure to provide electronic preliminary information while importing goods | National legislation |
| 3. | Consumption of goods, not related to processing (“household consumption”) | Cases and method to complete customs procedure of free customs zone to be set by National legislation |
| 4. | Declaration of goods by non-residents of SEZ | Cases (companies) to be set by National legislation |
| 5. | Prolongation of terms to submit customs declaration for up to 4 month from the moment of import of goods into the territory of SEZ | Cases to be set by National legislation |
| 6. | Identification of features of arrival and departure of goods | National legislation |
| 7. | The possibility of import and export of goods to/from the SEZ without permission (notification) of the customs authority | |
| 8 | No need to pay customs duties in respect of foreign goods in the event of their loss | |

IX. Currency control and regulation of foreign trade activity

Currency control is not applied to the residents of the Industrial Park, including:

- ✓ no restrictions in relation to currency exchange operations in the domestic foreign exchange market;
- ✓ no restrictions in relation to purposes of buying foreign currency in the domestic foreign exchange market;
- ✓ requirement of mandatory sale of foreign currency received from their operation in the Industrial Park is not applied;
- ✓ opening of foreign bank accounts is allowed without the permission of National bank;
- ✓ without permission of National bank it is allowed to buy shares, a share in the statutory fund or a unit in the non-resident's property; purchase of securities of foreign company; purchase of property located outside of Belarus; transfer of funds to foreign banks or to non-residents on trust; granting of loans to non-residents; receipt of credits/loans from non-residents (clause 74 of the Regulations).
- ✓ no deadlines and other restrictions for completion of foreign trade operations (clause 75 of the Regulation);
- ✓ no restriction to form statutory fund from the deposit in foreign currency.

X. Conditions for sale of goods (works, services) produced on the territory of the Industrial Park

Besides that according to general legislation in some cases the State can control prices, residents of the Industrial Park are allowed to use free pricing for goods (works, services) of own manufacture distributed within and outside Belarus (clause 78 of the Regulations).

Moreover, quotas and other quantitative restrictions established by law are not applied for goods (works, services) of own manufacture as well as for imported goods (works, services) in relation to their manufacture (supply) (clause 79 of the Regulations).

XI. Other incentives

In Belarus, it is necessary to make a Statistical reporting. Residents of the Industrial Park shall provide statistical reporting on the minimum list approved by the National Statistics Committee (clause 80 of the Regulations) and are entitled to use e-document management and do not need to keep paper-based document management (clause 81 of the Regulations).

According to the decision of the Joint Company, some residents may have discount for electricity (clause 83 of the Regulations).