



## **Challenges of complex projects performed in the Exclusive Economic Zones of Romania and Bulgaria**

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# Exclusive Economic Zone of Romania and Bulgaria

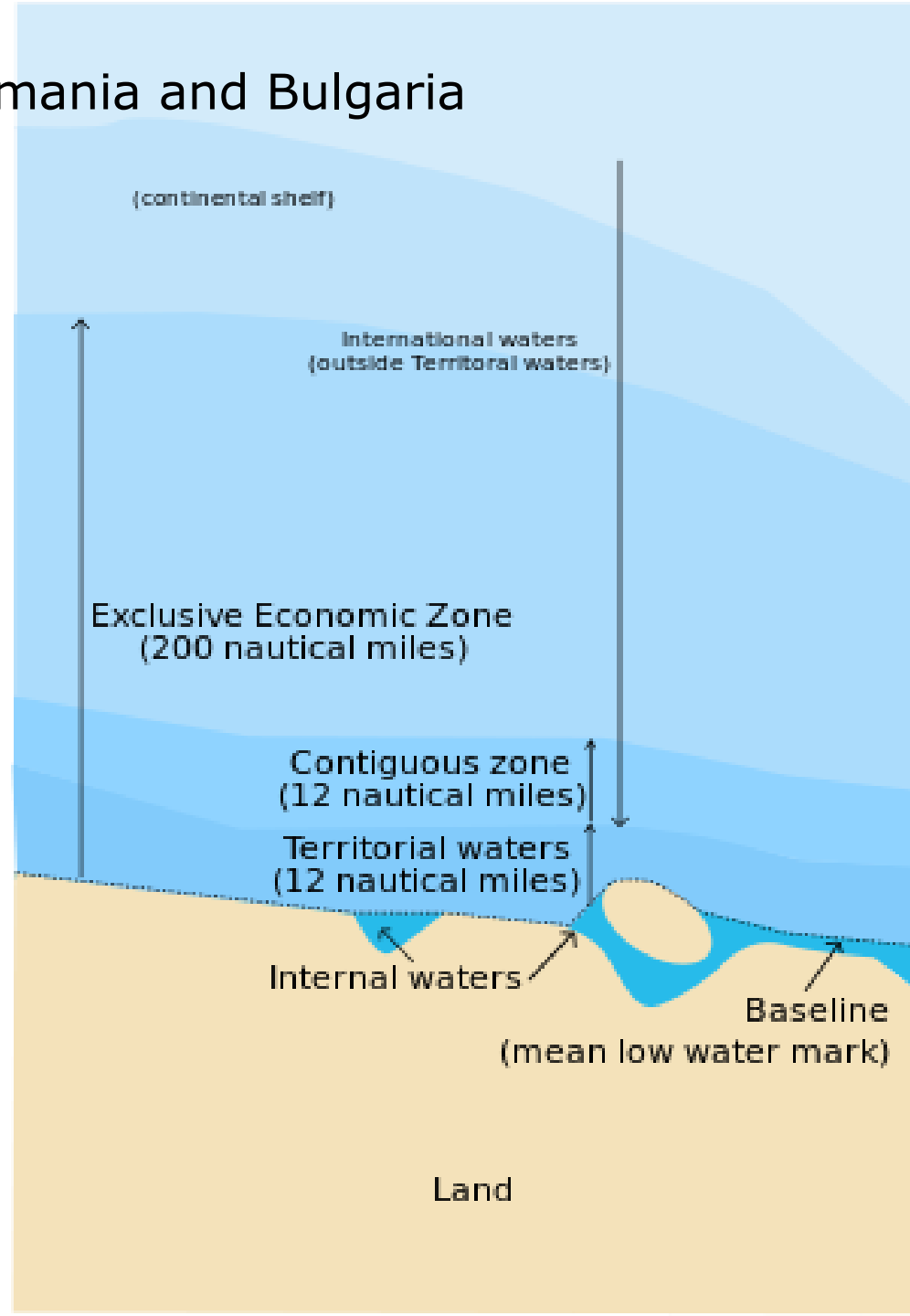
## Where are the limits ?

### Territorial sea

Part on inland marine waters which does not exceed 12 nautical miles measured from the baselines

### Exclusive Economic Zone (EEZ) of Romania and Bulgaria

Maritime area of the shore in the Black Sea, situated beyond the limit of the territorial waters, but within 200 nautical miles, measured from the baselines



# Customs & excise duties

## Territoriality in Romania – In a nutshell

### Customs

- The territory of Romania, the contiguous area, the continental shelf and the exclusive economic zone over which Romania exercises its sovereign rights and jurisdiction based on its legislation and in accordance with the rules and principles of international law.

### Excise duties

- The territory of Romania, the contiguous area, the continental shelf and the exclusive economic zone over which Romania exercises its sovereign rights and jurisdiction based on its legislation and in accordance with the rules and principles of international law.

# Exclusive Economic Zone of Romania

## Customs & excise challenges

### Customs duties

- EU goods intended to be used offshore (i.e. inside the EEZ) are not subject to export customs formalities when are transported to the project location within the EEZ.
- Non-EU goods to be used within EEZ of Romania have to be customs cleared (payment of customs duties or apply for exemption)



EEZ

### Excise duties

- Excise duties exemption for fuel used for navigation in EEZ of Romania
- Excise duties for fuel used to power the rig and the drilling engine
- Excise duties payment for fuel/OBM/base oil used in EEZ, unless specific exemption is requested based on prior authorisation



# Excise duties exemptions Romania

## Fuel used by special vessels during offshore projects

Fuel for PSVs/Tugboats:  

**Fuel supplied to the PSVs/Tugboats is exempt from excise duty provided that:**

- the supply is performed from a tax warehouse directly to the vessel;
- the operator holds navigation certificate for the vessel;
- the fuel is marked and colored;
- navigation occur in the EU waters;
- navigation is for commercial purposes (not for private pleasure) meaning for consideration. For example, the fuel for supply vessels purchased based on a BIMCO agreement cannot benefit from excise duties exemption since such vessels are chartered for making transport activities for its own needs and not for providing services for consideration → **ECJ cases C-79/10 and C-250/10**

Fuel for Drilling rig:  

**Propulsion system (navigation)**

- Excise duties exempt ? → Drilling rig/platform is considered a ship ?

**Drilling engine**

- Fuel not consumed for navigation purposes → Taxable – payment of excise duties
- Fuel consumed to produce electric energy → Excise duty exempt
- Fuel consumed during rig maintenance period → Excise duties refund available

# Customs & excise duties

## Territoriality in Bulgaria – In a nutshell

### Customs

- The territory of EU, including its territorial waters, the inland maritime waters and the airspace.

VS.

### Excise duties

- The territory of Bulgaria, including its geographical territory, the continental shelf and the exclusive economic zone of Bulgaria.

# Exclusive Economic Zone of Bulgaria

## Customs & excise challenges

### Customs duties

- EU goods intended to be used offshore (i.e. inside the EEZ) are subject to export customs formalities when are transported to the project location within the EEZ.
- Non-EU goods to be used within EEZ of Romania are not subject to customs clearance (payment of customs duties or apply for exemption) –
  - use of bonded warehouse for the shore base or
  - direct shipment to the rig



EEZ

### Excise duties

- Excise duties exemption for fuel used for navigation in EEZ of Bulgaria – generally applicable
- Excise duties payment for fuel/OBM/base oil used in EEZ (general rule)
- Excise duties exemption – already possible for OBM/base oil for mud



# Excise duties exemptions Bulgaria

## Fuel used by special vessels during offshore drilling

Fuel for PSVs/Tugboats:  

**Fuel supplied to the PSVs/Tugboats is exempt from excise duty provided that:**

- navigation is for commercial purposes and not for private entertainment purposes;
- the fuel is marked;
- A certificate is obtained, containing information on the fuel quantities and the marking substance;
- It is reported as export for customs purposes.

Fuel for Drilling rig:

**Propulsion system (navigation)**

- Excise duties exempt ? → Drilling rig/platform is considered a ship ?

**Drilling engine**



- Fuel not consumed for navigation purposes → Taxable – payment of excise duties
- Fuel consumed to produce electric energy → Excise duty exempt



# Importation of non-EU equipment

- ✓ Offshore projects → [use of non-EU equipment in RO/EEZ](#)
- ✓ Non-EU equipment → need to be placed under a customs procedure

## **Release for free circulation (40 00)**

- Non-EU equipment can be released for free circulation in Romania.
- Once released for free circulation, equipment will gain EU status;
- Involves payment of related customs duties and import VAT;
- Requires submission of a customs declaration to the responsible customs office and obtaining of customs clearance;
- Customs duties may be reduced or exempt → if equipment is incorporated in the drilling rig → under [end-use procedure](#) → economy of customs duties.

VS.

## **Temporary admission relief (53 00)**

- Non-EU equipment can be used in Romania/EEZ for a limited period of time (no more than 24 months) with total or partial relief from customs duties if placed under TA regime → economy of customs duties;
- Goods remain non-EU;
- Authorization is needed to place equipment under such procedure;
- Equipment must remain in an unaltered state when under temporary admission, except normal depreciation
- After usage, equipment will need to be placed under another customs procedure or re-exported to outside the EU.

# Oil based mud – OBM used for drilling

## Are excise duties due ?

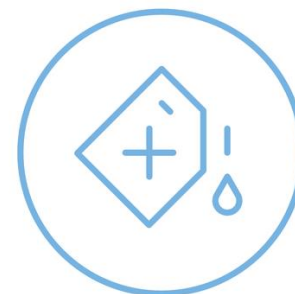
- ✓ Excisable nature of OBM used in drilling activities → determined by the content of oil (i.e. ESCAID, EDC) found in the final mixture:

- **If base oil content found in the final OBM mixture is:**

< **70%** ? → no excisable OBM → Product remains classified as a chemical substance under NC code 3824.

> **70%** ? → excisable OBM → Product classified under NC code 2710 → remains an energy product. Tax warehouse for production is needed.

! **Excise duties exemption** available for pure base oil used in production of OBM → end-user permit need to be hold by user of the base oil



# Recent developments of the Customs system in Bulgaria

## E-registration for customs purposes

- Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on [electronic identification](#) and trust services for [electronic transactions](#) in the internal market;
- Development of an entirely [new account](#) of the companies that are dealing with customs formalities in Bulgaria in a [brand new web application](#) of the [customs authorities](#);
- Qualified electronic signature ([QES](#)) – requirements and specifics due to the [technical requirements](#) of the electronic system of the customs;
- Representation.

[In force in Bulgaria as of January 2018](#)



# Conclusions & recommendations

- ✓ Essential to have in mind when performing offshore projects – up to 12 miles or beyond 12 miles;
- ✓ Be sure of your tax position as the amounts involved are very high;
- ✓ Analyze in advance the optimal customs procedure applicable to your equipment/goods;
- ✓ Check whether you need to pay customs duties for non-EU goods/equipment. Check if exemption is available.
- ✓ Check and apply for excise duties exemptions/refunds for fuel used during operations (navigation/producing electricity/rig maintenance);
- ✓ Determine excisable nature of the OBM to be used drilling operations;
- ✓ Check and apply excise duty exemption for pure base oil used for OBM production:
- ✓ Apply for excise authorizations in due time;



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