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Transit controls of military goods in seven European countries

Presentation to the sub-working group 'transit' at the
CSP7 preparatory meeting of the Arms Trade Treaty

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Flemish Peace Institute's work on 'transit'

- **2012:** analysis of transit control systems for strategic goods
 - Flanders, France, the Netherlands, Germany, United Kingdom
 - https://vlaamsvredesinstituut.eu/wp-content/uploads/2019/06/report_transit_of_strategic_goods_in_europe.pdf

- **2021:** analysis of transit control systems for conventional weapons
 - Belgium, the Netherlands, Germany, France, Spain, Denmark, United Kingdom
 - Possibilities and challenges for international cooperation and information exchange to optimize transit controls on controlled military goods



Zeebrugge

Ostend

Ghent

Antwerp

Brussels

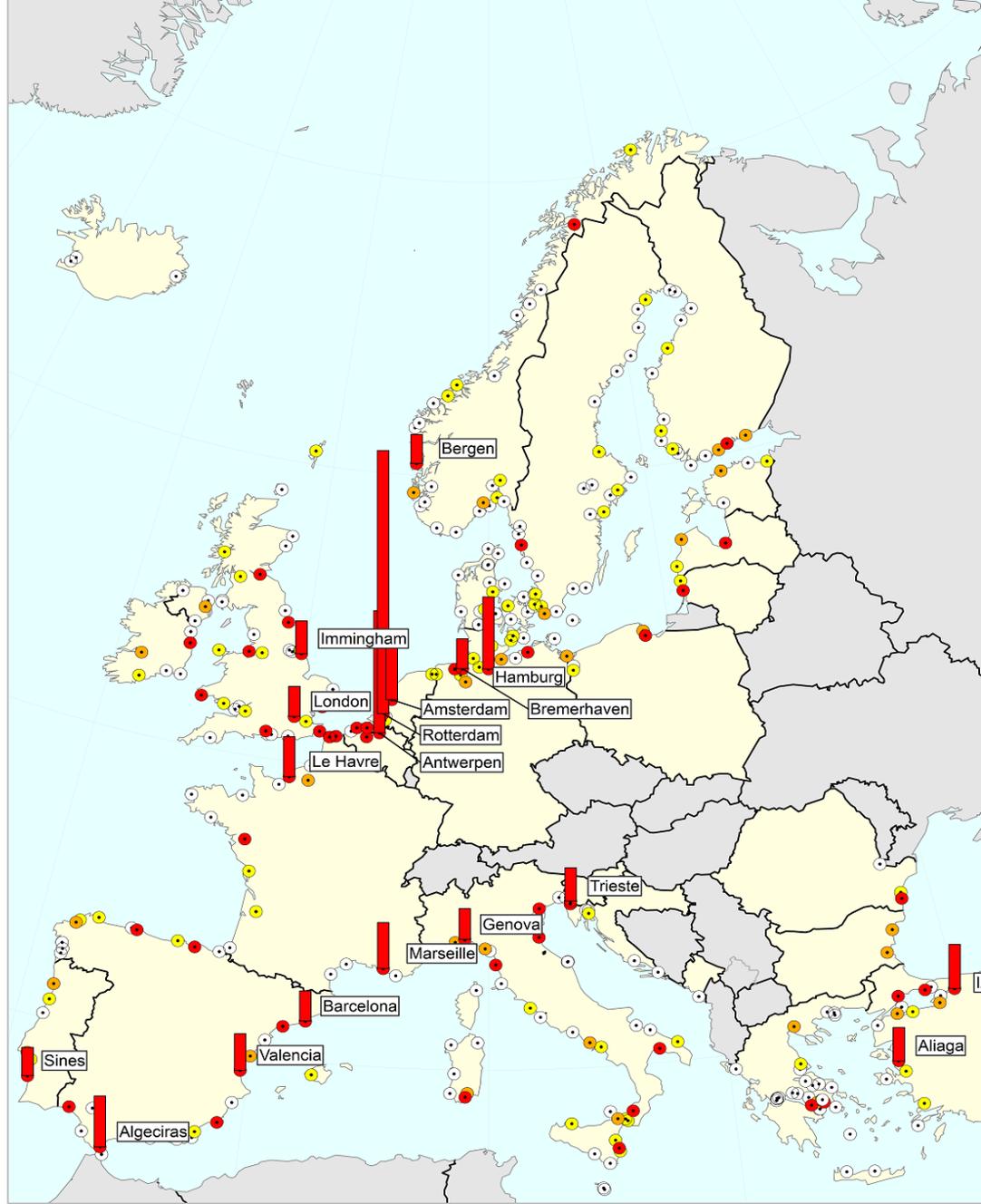
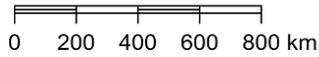
Brussels Airport

Top 20 cargo ports and other main cargo ports in 2017

(Gross weight of goods handled)

Top 20 ports are named and their handling activity shown as bars.

-  100 million tonnes
-  1 - 5 Mio
-  5 - 10 Mio
-  10 - 20 Mio
-  > 20 Mio



Source: Eurostat (online data code: [mar_mg_aa_pwhd](#))

Administrative boundaries: © E
Cartography: Eurostat — GISCO

'Transit' in export control legislation

- Most systems use broad definition, de facto including both transit and transshipment:
 - “Transport of goods exclusively brought into the territory of **Belgium** to be transported to another country via said territory”
 - “Transport of goods from foreign economic territories through the (**German**) economic territory, without their entering the market of the economic territory.”
 - “Transport of goods that enter **Dutch** territory only to be transported via that territory to a destination outside Dutch territory”
 - “Transport between countries other than **Denmark**”
 - “Transport from border to border between two countries, of which at least one is not an EU MS” (**France**)
 - “‘in transit’ means imported into the **United Kingdom** for transit or transshipment, which means transit through the United Kingdom or transshipment with a view to re-exportation of the goods or transshipment of the goods for use as stores”.
- Specific linkage to definitions in Customs law in Walloon Region & Spain

'Transshipment' in export control legislation

- Transshipment in most countries included under the legal definition, but not explicitly defined in legislation
 - **Flanders**
 - the goods are loaded from one mode of transport onto another
 - the goods are unloaded from one mode of transport and subsequently reloaded onto the same mode of transport
 - **France**
 - Distinction based on the question whether goods touch ground in French ports ('mise à terre')
 - **Spain & Walloon Region:** refer to concepts in EU Customs Code
 - Customs warehousing or free zone procedure
 - External transit procedure

Which transactions need a transit license?

- All systems have clauses to **forbid** transit to embargoed countries and of certain military items (cluster munition, anti-personnel mines)
- **Systematic licence obligation** for transshipment or for specific types of military goods...
 - Type of military goods
 - Germany: transit & transshipment of **War Weapons**
 - Type of military goods combined with countries of destination or of origin of the controlled goods
 - UK: '3-tier' regime

Which transactions need a transit license?

- ...in combination with flexible licencing regimes and exemptions
- Use of general/open licences or global licences
 - The Netherlands: transshipment destined to or originating from allied or friendly countries
 - UK: transshipment within 30 days of arrival (with certain limitations)
 - Germany: transport of war weapons between two EU MS
 - France: global licence for transit
- Exemptions based on country of destination
 - Flanders: transshipment destined for EEA-countries, NATO-members and certain WA-members
- Transport between two EU MS or their armed forces exempted from licence obligations

Which transactions need a transit license?

- Ad hoc or catch-all clause for transit in several systems
 - Flanders (since 2017) for transit when:
 - goods destined for country under Flemish, EU, OSCE or UN arms embargo
 - goods intended for commission of genocide, crimes against humanity or war crimes
 - transit contrary to international obligations of Flemish Region and Belgium
 - transit constitute a threat to public order or safety or to essential security interests of Flemish Region, Belgium, or other EU MS, NATO or friendly countries or allies
 - The Netherlands (for exempted transit to and from friendly countries):
 - If in the interest of the international rule of law or international obligations
 - If deemed necessary for the protection of vital national security interests
 - France & Germany
 - Public security reasons, national security interests or international obligations

Some basic conclusions and food-for-thought

- Broad legal basis to define 'transit' >< more narrow approach to transactions systematically and effectively controlled, combined with exemptions and possibilities for ad-hoc licencing
 - Combination of both aspects to understand policy choices of the country
 - Substantial differences in countries' approaches on controlled transit regarding goods, modes of transport and countries of origin/destination
- Need for increased transparency to have more efficient and effective controls on transit of controlled military goods
 - On the organisation, scope and competent authorities of transit controls
 - On issued and denied transit licences

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